

Peter Jakobsen
Public Spending Directorate
Rathgael House
Balloo Road
Bangor
BT19 7PR

11 October 2017

Dear Sir,

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

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

I enclose herewith a copy of the RHI Inquiry's Terms of Reference. You will no doubt be aware that the RHI Inquiry is currently conducting its investigations into the matters set out in its Terms of Reference. These investigations include gathering in of all of the relevant documentation from relevant departments, organisations and individuals as well as requiring individuals who have been, or who may have been, involved in the range of matters which come within the Inquiry's Terms of Reference to provide written evidence to the Inquiry Panel.

In keeping with the approach we are taking with other individuals, the RHI Inquiry is now issuing to you a Statutory Notice (known as a 'Section 21 Notice') pursuant to its powers to compel the provision of evidence in the form of a written statement in relation to the matters falling within its Terms of Reference.

The Section 21 Notice enclosed with this letter requires you to provide evidence to the RHI Inquiry Panel in the form of a written statement addressing the matters identified in the Schedule to the Section 21 Notice. As the text of the Section 21 Notice explains, you are required by law to comply with it.

The aim of the enclosed Notice is to require you to provide all relevant evidence you have within your knowledge, information or belief which is pertinent to the Inquiry's Terms of Reference. The Schedule to the enclosed Section 21 Notice provides further detail as to the matters which should be covered in the written evidence which is required from you. In the event that there is a category of information in respect of which you have no evidence which you can provide, please state this in your response. Where you can provide evidence, the more comprehensive your statement is, the less likely it may be that the Inquiry will have to revert to you at a later stage for clarification, although in many cases this is likely to be necessary to some degree.

It is vital that the witness statement you provide to the Inquiry is your own evidence, absent the influence of others; that it is comprehensive; and that it fully explains your involvement in the matters about which you have been asked.

As you may be aware, the Inquiry has already required the provision of a statement setting out the respective corporate positions of both the Department for the Economy and the Department of Finance in relation to the RHI Scheme. However, the Inquiry Panel is also interested in the roles played by individual civil servants who were, or may have been, involved with the Scheme. Moreover, the Inquiry Panel recognise that individual officials may have a different perspective from, or may even disagree with certain aspects of, the position adopted by their Department (or former Department). The statement which is required from you pursuant to the enclosed Notice is your opportunity to explain what you did in relation to the RHI Scheme, if anything, and why you did it; and also to make the Inquiry aware of any concerns you may have about the actions or omissions of others.

I appreciate that you may require or desire access to some documentation in order to assist you in preparing your statement. In particular, you may wish to see documentation to which you previously had access but now no longer have access in your current post. If that applies in your case, I understand that the Department of Finance (DoF) is making arrangements to permit such access, at least in the first instance. You should contact Emer Morelli, Head of Supply, to organise this. She is contactable at Emer.Morelli@finance-ni.gov.uk. I have informed Ms Morelli that you may be making contact with her to arrange access to documentation; but there is, of course, no obligation upon you to do so.

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

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

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

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

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

Yours faithfully

A handwritten signature in black ink, appearing to read 'Patrick Butler', with a stylized flourish at the end.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE
[No 511 of 2017]

Background

1. Summarise your occupational history, qualifications, and experience.
2. Summarise your role(s) within the Department of Finance (previously the Department of Finance and Personnel) ('the Department' / 'your Department') including (a) the dates between which you held each role and what each role entailed, as well as (b) details of how each role related, if at all, to the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland ('the RHI Scheme').
3. Explain, insofar as is relevant to any involvement you had with the RHI Scheme, to whom you were accountable and/or reported in the Department and who, if anyone, was accountable, and/or reported, to you.

DFP CED

4. Please explain the purpose and functions of Central Expenditure Directorate in DFP.
5. Please explain how the Directorate was structured during your time as head of CED.
6. Please explain the purpose and functions of the DFP CED official engaged in working with AME.

DFP CED and the HMT NI Spending Team

7. Please describe the nature and purpose of the relationship between DFP CED and the HMT NI Spending Team.

8. To the best of your knowledge and belief please explain how the HMT NI Spending Team was structured, what its role was, and how it interacted with DFP.

9. With whom, in the HMT NI Spending Team, did you deal with, what grade were they, and for what purpose were you dealing with them?

10. How much of your time was spent interacting with the HMT NI Spending Team? Please explain how this relationship functioned in practical terms.

The RHI Scheme – Involvement with the Scheme or with Officials in respect of it

11. Set out in detail the involvement that you had in, or relating to or touching upon, the RHI Scheme and, in particular, the following issues:
 - a. The creation of the Scheme;

 - b. The funding of the Scheme;

 - c. The administration/operation of the Scheme;

 - d. Any problems or difficulties (such as, for example, actual or projected overspend) which emerged in respect of the Scheme (including, but not limited to, the causing or permitting, identification, consideration [whether by the Public Accounts Committee or otherwise] and/or remediation of any such problems);

 - e. The amendment, suspension or closure of the Scheme;

in each instance providing:

- i. Details of any relevant interactions with Civil Servants (whether in your own Department, DETI, DECC, HM Treasury, or elsewhere), Committees (such as the Public Accounts Committee), Ministers, Special Advisers, MLAs, politicians, political parties and other potentially relevant persons (e.g. consultants, the renewable heating industry, actual or potential applicants for accreditation under the Scheme, journalists, etc.);
 - ii. Where you made any decision, or gave any advice, in respect of any of the matters set out at paragraphs a. to c. above, the reasons for that decision or that advice (as the case may be); and
 - iii. Details of any documents which are of significance or particular relevance (which should be annexed to the witness statement if you have access to the documentation which permits you to do so; or, otherwise, which are identified in clear terms).
12. If different from your answer to the previous question, set out in detail the involvement that you now consider you *ought properly to have had*, in, or relating to, the RHI Scheme and the issues mentioned in the previous question as well as the reasons why you did not, in fact, have such involvement.
13. Clarify whether, at any time, you became aware of actual or potential problems, anomalies, loopholes, risks, flaws, misunderstandings, or other issues in respect of the RHI Scheme, its administration, operation and/or funding, and, if you did, please provide the following details:
- a. The precise problems etc. of which you became aware;
 - b. The date on / by which you first became aware of each one;
 - c. The means by which you became so aware;

- d. The action (if any) actually taken by you in respect of each such problem etc. (e.g. raising the issue with DETI, etc.) including details of the date(s) of any step(s) taken by you and the name(s) and role(s) of any other person(s) with whom you engaged;
- e. (If different from your answer to the previous question) the action that you now consider you ought properly to have taken, as well as the reasons why you did not, in fact, take such action at the relevant time.

14. Identify, in respect of the role(s) you performed relevant to the RHI Scheme, any documents which you consider to be of significance or particular relevance (same should be annexed to your witness statement, if you have access to them, or else identified in terms that include details of the person or body whom you believe holds the said documents).

HMT. Jon Parker's email of 15 April 2011 [WIT-30248]

15. It appears to the Inquiry that Mike Brennan copied you into his email to Stuart Stevenson (DFP Supply), forwarding the email of Jon Parker (of HMT) of 15 April 2011. As to this:
- a. What role were you performing at the time you were copied into the email?
 - b. What role was Agnes Lennon performing?
 - c. What role was Joanne McBurney performing?
 - d. Prior to receipt of this email had you ever before come across non-standard AME with potential DEL consequences (or capped AME)? If the answer is 'yes', please provide details.

- e. Did this form of funding carry greater risk for Northern Ireland departments than standard AME?
- f. If the answer is 'yes', then please explain what the greater risks were.
- g. If the answer is 'yes', then please set out all steps taken by DFP (if any) to guard against the greater risks?
- h. Of what discussions are you aware taking place between DFP and HMT about how this non-standard AME (or capped AME) (as disclosed by HMT in April 2011) should be managed? When did any such discussions take place, between whom, and how (if at all) were they recorded?
- i. What steps (if any) did you take to manage the fact that RHI funding was non-standard AME?
- j. What steps (if any) do you say could have been taken by DFP to manage the fact that this particular funding was non-standard AME?
- k. What steps (if any) do you say should have been taken by DFP to manage the fact that this particular funding was non-standard AME?
- l. What steps (if any) do you say should have been taken by DETI to manage the fact that this particular funding was non-standard AME? To your knowledge, were these steps taken? What steps (if any) did DFP take to ensure that DETI was making appropriate arrangements to manage this type of funding?
- m. What, if anything, did you do to flag the 15 April 2011 email from HMT's Jon Parker within DFP and/or DETI?

DFP Joanne McBurney's email of 7 February 2012 [DOF-02434]

16. It appears to the Inquiry that, on 7 February 2012, Joanne McBurney sent an email to Agnes Lennon which said:

“Keith [Jarett, in HMT NI Spending Team – added for identification by the Inquiry] said we should run the scheme past him which I’m not sure would have happened. But I’m not inclined to raise it again I would just like to know for my own information what actually happened. I presume you didn’t pick it up from the settlement letter therefore we must have come across it from another angle.”

As to this please explain:

- a. When were you first aware that Keith Jarrett (HMT NI Spending Team) had communicated that the scheme should be run past him?
- b. What were the reasons, as you understood them, as to why Keith Jarrett wanted the scheme run past him?
- c. If you were not aware of this communication from Keith Jarrett at the time, should the fact he had communicated that the scheme should be run past him have been communicated to you? Please explain the basis of your answer.
- d. Joanne McBurney’s email, of 7 February 2012, suggests that by that date DFP had not run the scheme past Keith Jarrett in the HMT NI Spending Team. Did you know at the time this was the case? If you didn’t know, but the matter had been brought to your attention at the time, what you would have done and why? Please explain the basis of your answer.
- e. Do you know why, as of 7 February 2012, Joanne McBurney was not inclined to run the scheme past Keith Jarrett?

- f. In your view now, should the RHI Scheme have been run past Keith Jarrett in the HMT NI Spending Team?
- g. From your experience, what benefits, if any, might have accrued from running the RHI Scheme past Keith Jarrett in the HMT NI Spending Team? Please explain the basis for your answer.

DETI Finance Jeff Partridge's emails of 11 December 2013 and 10 January 2014 [WIT-18730]

17. It appears to the Inquiry that, on 11 December 2013, Jeff Partridge emailed colleagues in DETI to say that:

"DFP have advised that AME budgets are formulated using the information provided in AME forecasting exercises, and there is no separate bidding process. Therefore, for RHI the current profile is £6.35m 2014/15, £9.5m 2015/16, £13.5m 2016/17, £18.5m 2017/18, £24.5m 2018/19 and £31.0m 2019/20."

In the same vein, on 10 January 2014, Jeff Partridge emailed DETI's Trevor Cooper to say that:

"In relation to AME RHI Budgets, I actually checked this out with DFP last month (short memory lapse on my part!), and it was confirmed that the AME forecasting exercises are used to formulate the Northern Ireland AME budgets. Coincidentally, DFP have this week confirmed the AME Budget 2014 exercise (attached) which shows AME budgets from 2014-15 to 2019-20 and includes the full RHI projections provided by Energy

Division.”

As to this:

- a. Which person, or which combination of people, in DFP provided this information to Jeff Partridge in DETI Finance?
- b. Was the information, which Jeff Partridge recorded that he had been provided with, accurate? Please explain the basis for your answer.
- c. Why was Jeff Partridge not told that, rather than AME forecasting exercises determining DETI's RHI budget, it was a non-standard form of AME that had both a cap, and DEL consequences for breaching the cap?
- d. Should Jeff Partridge not have been informed of what is set out at c. above? Please explain the basis for your answer.

DETI Finance Bernie Brankin's email of 24 August 2015 [WIT-02741]

18. It appears to the Inquiry that, on 24 August 2015, on foot of a conversation with DFP, Bernie Brankin informed DETI Energy Division's John Mills as follows:

“Finance Branch put forward a technical adjustment in the June Monitoring Technical exercise to increase RHI AME in 2015-16 in line with forecast requirements in this financial year. DFP and Treasury approved this technical adjustment. I have checked with DFP to ensure

that we definitely have secured the required budget cover in 2015-16 as initially DFP advised that they would not help us until all RHI issues had been resolved. I have confirmed with DFP that the RHI AME budget in 2015-16 has been increased to

reflect the £23.178m forecast requirements for the current financial year. However, RHI AME is not standard AME. DECC has confirmed that penalties are applied for overspending.”

As to this:

- a. Please explain the concepts of (i) a ‘monitoring technical exercise’ and (ii) a ‘technical adjustment’ in this context; along with a brief description of how these processes work in practice.
- b. Please explain what discussions were had between DFP and HMT about DETI’s RHI budget for 2015/16, including:
 - i. Who any such discussions were between;
 - ii. When they occurred; and
 - iii. What the discussions entailed.
- c. Please explain how it was possible, given that DETI’s RHI budget was supposed to be capped to a Barnett share of the DECC GB RHI budget (with DEL consequences for exceeding the cap), for DETI’s 2015/16 RHI budget to be increased through two monitoring rounds from an initial £12.8m (a Barnett 2.98% share of DECC’s £430m GB RHI 2015/16 budget) to an eventual approximate £30m?
- d. Please set out what discussions were had between DFP and HMT about the two 2015/16 monitoring round increases that saw the DETI RHI budget increase from an initial £12.8m (a Barnett equivalent to the DECC’s £430m GB RHI 2015/16 budget – see [WIT-18707]) to an eventual approximate £30m?

DoF Supply Angela Millar’s email of 10 November 2016 [DOF-41476/7] and paragraph 8.f. of Joanne McBurney’s Inquiry statement of 15 September 2017 [WIT-42220]

19. In paragraph 8.f. of Joanne McBurney's Inquiry statement of 15 September 2017 [WIT-42220], she indicates that *"it was apparent that HMT had neglected to notify us [DFP – added for identification by the Inquiry] of a cap on AME funding for the scheme in 2015-2016"*. As to this:
- a. Is it the case that HMT neglected to inform you of a cap on AME funding for the NI RHI Scheme for 2015/16, or that there was in fact no cap to inform you about? Please explain the basis of your answer.
 - b. Please provide an account of all discussions had with HMT about how it came to be that DFP was either not informed of an NI RHI budget cap for 2015/16, or that there was no such cap. Please include who had the discussions, and when they were had.
 - c. In light of what DFP (and/or DETI) had previously been told about the arrangements for the funding of the NI RHI Scheme, was there any obligation on DFP to raise the issue of a cap with HMT? Please explain the basis for your answer.

HMT treatment of RHI funding

20. Trevor Cooper, of DETI Finance, has said to the Inquiry (see paragraph 24 of his statement to the Inquiry of 15 September 2017 [WIT-18541]) that:

"the funding should have been separately ring-fenced by Treasury at the outset of the Scheme. In addition, the nature of the funding should have been flagged in budget guidelines issued by Treasury and DFP and in monitoring, budget and forecasting commissioning exercises within DETI"

- a. What do you say about the assertion that the *"funding should have been separately ring-fenced by Treasury at the outset of the Scheme"*? Please explain the basis for your answer.

- b. What do you say about the assertion that *“the nature of the funding should have been flagged in budget guidelines issued by Treasury and DFP”*? Please explain the basis for your answer.

Promotion of the RHI Scheme

21. Specify whether you promoted the RHI Scheme and/or encouraged any third party to seek accreditation under the Scheme, assisted any third party in so doing, or provided any third party with information knowing that they might apply, or consider applying, or that they might advise, encourage, assist, or cause other persons to apply, or consider applying, for accreditation under the Scheme. In respect of any such instance, please provide full details including (but not limited to) the third party concerned and the date of any steps taken by you in that regard.

Lobbying and pressure

22. Identify any instances, to your knowledge or belief, of lobbying or encouragement of Ministers, Special Advisers, Civil Servants or other relevant persons in relation to the terms of the Scheme and/or the introduction, non-introduction, variation or delay of the introduction of cost controls into the RHI Scheme (including, but not limited to, the amendment of tariffs, tiering, degression and Scheme suspension or closure) at any stage.
23. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on you in relation to any aspect of the RHI Scheme (including details of the person exerting the influence or pressure, the approximate date of same).

24. Identify any instances, to your knowledge or belief, where influence or pressure was exerted upon someone else in relation to the RHI Scheme (including details of the person exerting the influence or pressure, the person upon whom same was exerted, the approximate date of same, and how you came to be aware of it).

Standards of conduct and conflict of interest

25. Identify any instances, to your knowledge or belief, where a Minister, Special Adviser, Civil Servant or any other person involved in the RHI Scheme (including, if applicable, yourself):
- a. Breached relevant standards (including, but not limited to, the Nolan Principles, the Ministerial Code of Conduct, the Civil Service Code of Conduct, the Code of Conduct for Special Advisers and/or terms or conditions of employment or service) or acted in a way incompatible with their duties (including, but not limited to, by means of making premature or unauthorised disclosures);
 - b. Acted in circumstances relating to or touching upon the Scheme in any way where they had a real or perceived conflict of interest;

in respect of any such instances, providing details and specifying the basis for any belief that there has been a breach of a relevant standard or duty or that a conflict of interest arose.

26. Specify whether, to your knowledge, you have any connection to a person or body receiving payment under the RHI Scheme or benefiting commercially from the Scheme in some other way (for instance, by supplying equipment, plant, fuel or other goods or services used by Scheme claimants). In this request, a 'connection' includes (but is not limited to) circumstances where the Scheme

claimant or beneficiary is a relative, friend, close acquaintance, business associate or (in the case of politicians or special advisers) donor or supporter (either to or of you or your political party).

Whistle-blowing and raising of concerns

27. Identify any instances of which you are aware of whistle-blowing in relation to the NI RHI Scheme, or disclosures made in the public interest raising concerns about the Scheme, setting out details of when this occurred, to whom and by whom any relevant disclosure was made and how it was dealt with.
28. In particular, provide an account of how you dealt with any disclosures raising concerns about the Scheme made or communicated to you at any time. In relation to each such instance, identify precisely how the concerns were communicated to you.

General

29. Summarise the risks, problems, flaws, anomalies, loopholes, or other issues that you consider existed in the RHI Scheme (as enacted on 31 October 2012) and its operation.
30. Set out what responsibility, if any, you consider your Department (and, in particular, your Division, Branch, etc.) bears for any of the said risks, problems, flaws, anomalies, loopholes, or other issues or for any issues that have emerged in the RHI Scheme during the period of its operation.
31. Set out what responsibility, if any, you consider other persons or bodies bear for any of the said risks, problems, flaws, anomalies, loopholes, or other issues or for any issues that have emerged in the RHI Scheme during the period of its operation.

32. Provide any further evidence within your knowledge or belief which is relevant to the matters which the RHI Inquiry is investigating as set out in the RHI Inquiry's Terms of Reference.

NOTE:

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



INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME

RHI REF: s.21 Notice No. 510 & 511 of 2017

DATE: 30 October 2017

Witness Statement of: Peter Jakobsen

I, Peter Jakobsen, will say as follows: -

Background

1. **Occupational History**

I joined the Northern Ireland Civil Service (NICS) in September 2002 and have been employed in the NICS until present.

Qualifications

My qualifications include:

- BSc Econ (major economics / minor politics), First Class honours (Queens University, Belfast).
- MSc Applied Economics, Distinction (University of Ulster).

Experience

My experience until 2010 was working as an economist in various roles within the NICS. Since 2010 I moved to roles more focused on public expenditure, whilst retaining my economist status.

2. I have performed a number of roles within DFP / DoF:

In October 2004, I moved on promotion to the Department of Finance and Personnel (DFP) as Deputy Principal Economist where I joined the Strategic Policy Division. My role involved applying economics to a number of cross cutting policy



areas including public sector pay policy; tax policy; the performance of the Northern Ireland economy; UK fiscal policy; and Northern Ireland Fiscal Deficit Report. My role also included advice and briefing to Ministers on a range of economic issues. This role had no involvement with the RHI scheme.

In October 2006, I was promoted to Principal Economist (Grade 7) and remained in the Strategic Policy Division in DFP. My role as Head of Branch included leading on a range of cross cutting economic policy areas, delivering a programme of economic research and providing briefing and advice to Ministers on economic issues. This role had no involvement with the RHI scheme.

From August 2010 until October 2013, I worked in Central Expenditure Division (CED) as a Principal Economist. My main role was management of the in-year budget position. This focused on managing the Executive's in-year monitoring round process, which facilitated reallocation of resources during the financial year. My role had no involvement with the RHI scheme.

From October 2013 to September 2014, I was temporarily promoted to Head of CED (Grade 5). My role involved leading on the strategic management of the Executive's Budget and liaison with HM Treasury (HMT) on budgetary matters. My role had no direct involvement with the RHI scheme. However, my Division was responsible for providing the Office of Budget Responsibility (OBR) with AME forecasts and for returning monthly outturn and forecast outturn returns to HMT.

From September 2014 until present I have worked in Supply Division in DFP / Department of Finance (DoF). Initially this was at the Principal Economist Grade, but since January 2016 on a temporary promotion to Senior Principal Economist (Grade 6). In my current role, I have lead on establishing a £100 million Investment Fund with the aim of promoting private sector investment, jobs and growth in Northern Ireland. I have also been the Department of Education (and before May 2016 the Department for Employment and Learning) Supply Officer. In this role I have been responsible for assessing Value for Money of major projects and general liaison on budgetary matters for these departments. This role had no involvement with the RHI scheme.



3. To the best of my recollection I have had no personal involvement with the RHI scheme. I am now aware that I was copied into an e-mail regarding the scheme in April 2011. However, my role at the time did not have any involvement with the RHI scheme and I believe I was sent the e-mail for information only. My line manager at the time was Mike Brennan, Head of CED.

DFP CED

4. The purpose of CED is to provide strategic advice to the Minister of Finance on the planning, management and control of the Executive's public expenditure position. The functions include: Leading on the Executive's Budget process; managing the NI Executive's in-year monitoring rounds and the entire NI Block throughout the financial year; collating information on departmental outturn positions for the purpose of reporting to the Minister, Executive, Finance Committee and HMT; providing advice to NI departments on technical budgeting issues; managing use of the Reinvestment and Reform Initiative Borrowing facility; negotiating with HMT on public expenditure issues; reporting monthly Outturn and Forecast Outturn to HMT on behalf of the NI Executive; and reporting departmental AME forecasts, on behalf of the NI Executive, to the OBR.
5. During my 10 month period as temporary Head of CED (Oct 2013-Sept 2014), I had three Grade 7s working to me. They were Jeff McGuinness, Stephen Barrett and Agnes Lennon. We were supported by a team of approximately 10 staff. I reported to Mike Brennan, the then Public Spending Director in DFP.
6. My understanding is that the purpose of the individual in CED working on AME is principally to co-ordinate the AME returns commissioned by the OBR. This role includes providing clarification, in liaison with relevant departments, on any questions posed by the OBR in relation to the NI AME forecasts.

DFP CED and the HMT NI Spending Team

7. The nature and purpose of the relationship between DFP CED and the HMT NI Spending Team was to liaise on public expenditure issues, including the impact on



NI of UK fiscal events such as Budgets and Autumn Statements.

8. During my time in CED (from 2010 to 2014) the HMT NI Spending Team had different individuals leading liaison with CED. To the best of my knowledge and belief, the HMT Spending team would have been led by a “Head of Devolved Spending Team”, supported by a small team of one or two individuals. Whilst, I do not feel I have full insight into the role of the HMT NI Spending Team, to the best of my knowledge and belief its role was to liaise with the Devolved Administrations on public expenditure issues and act as the first point of contact in HMT. Interaction with CED would have been mainly through phone calls or e-mail correspondence.
9. During my time in CED the “Head of Devolved Spending Team” changed several times. To the best of my recollection individuals included Mark Parkinson, David Withey and Jon Donaghy. I don't know exactly what grade these individuals were. These individuals would have been my main point of contact in HMT on public expenditure issues.
10. I personally spent a small proportion of my time interacting with the HMT NI Spending Team. I would have dealt mainly with the “Head of Devolved Spending Team” but also on occasions with Keith Jarrett who worked in the Devolved Spending Team and to the best of my knowledge reported to the Head of the Team. The interaction was on various public expenditure issues, in particular in the context of the HMT Statement of Funding Policy, which sets out how the Devolved Administrations are funded.

The RHI Scheme – Involvement with the Scheme or with Officials in respect of it

11.
 - a. I was not involved with the creation of the scheme.
 - b. I was not involved with the funding of the scheme as my role during that time in CED involved managing the Executive's in year monitoring process. My role focused on the Departmental Expenditure Limit (DEL) side of the



Executive's budget and not AME. To the best of my recollection, other than the email from Mike Brennan dated 15 April 2011 (see WIT-30248), no issues were raised directly with me at that time around potential impact on the DEL budget.

- c. I have had no involvement with the administration / operation of the scheme.
- d. During my time in CED, I was not aware of any problems or difficulties in relation to the Scheme. After I left CED, I attended a stock take meeting with HMT on 8 December 2015. The HMT official present was Jon Donaghy. However, my participation in this meeting was to discuss with HMT the development of a NI Investment Fund. Whilst I was present during the entire meeting, I did not contribute to the RHI discussion. My recollection is that funding of the RHI scheme was discussed. To the best of my recollection the spike in costs was raised by DFP officials, although I do not recall if any conclusion was reached on the funding issue.
- e. I had no involvement with the amendment, suspension or closure of the Scheme.

in each instance providing:

- i. To the best of my recollection, I have had no interactions with anyone in relation to the Scheme, apart from being copied in to the e-mail from Mike Brennan to Stuart Stevenson and others in 2011 (WIT-30248) and being present at the 8 December 2015 meeting with HMT.
- ii. I made no decisions or gave any advice in relation to the Scheme.
- iii. I am not aware of any documents of significance or relevance to the Scheme.

12. I do not believe I ought to have had any involvement with the RHI Scheme. As detailed above, my role in CED until my temporary promotion in 2013 centred on



the in-year Monitoring process. During the 10 month period on temporary promotion to Head of CED during 2013 and 2014, to the best of my recollection no funding issues in relation to the RHI scheme was raised with me by my staff or anyone else in the department.

13. During my time in CED, to the best of my recollection I was not aware of any actual or potential problems, anomalies, loopholes, risks, flaws, misunderstandings, or other issues in respect of the RHI scheme, its administration, operation and / or funding. I believe I became aware of problems with the Scheme in autumn 2015, in particular due to media coverage.
- a. Not applicable.
 - b. Not applicable.
 - c. Not applicable.
 - d. Not applicable.
 - e. Not applicable.
14. I am not aware of any documents I consider of significance or relevance to the RHI Scheme.

HMT Jon Parker's email of 15 April 2011 [WIT-30248]

- 15.
- a. I was managing the Executive's in-year budget position. This focused on management of the so-called in-year Monitoring Rounds, which reallocated DEL funding amongst departments during the 2011-12 financial year. I was not responsible for AME forecasting or resource budget setting for future years. Jon Parker's e-mail refers to a 'risk sharing arrangement' and a potential impact on future DEL budgets in DECC and NI. However, this was in relation to future years and not relevant to myself as I was managing the



in-year position. If RHI costs then were to escalate during a particular future financial year, over and above that built into budgets, I would have been required to address the issue. However, in 2011 there was no indication that RHI costs would even occur in that financial year as the RHI Scheme was not yet operational and Jon Parker's e-mail was therefore not relevant to my particular responsibilities at that time.

- b. To the best of my recollection, Agnes Lennon's main role was managing the AME returns to the OBR.
- c. To the best of my recollection, Joanne McBurney's main role was managing the Executive's budget setting process.
- d. No, to the best of my recollection I had not before come across non-standard AME. However, I was aware of the concept from the 'HMT Statement of Funding Policy' that: *"Increases in Annually Managed Expenditure programme spending, which arise from policy decisions taken by the respective devolved administrations, will be met from their respective budgets"*.
- e. I believe the risk carried for departments would depend on the specific circumstances of the Scheme it funded. At the time I had no knowledge of the RHI Scheme and was not in a position to make a judgement on the risks.
- f. I don't believe I had sufficient knowledge of the RHI Scheme to determine the risks.
- g. I don't believe I had sufficient knowledge of the RHI Scheme to determine the risks and have no knowledge of any steps taken by DFP at the time.
- h. To the best of my recollection, I was not aware during my time in CED of any discussions between DFP and HMT about how this non-standard AME should be managed. However, I did attend a meeting between HMT and Public Spending Directorate on 8 December 2015, where funding of the RHI



Scheme was discussed. To the best of my recollection, the escalating costs in relation to the RHI scheme was highlighted to HMT by DFP officials. Whilst I was present at this meeting, I did not participate in the RHI discussion as my role was to cover the development of a new Investment Fund.

- i. None, as the issue was not known to me at the time and my role did not involve AME funding.
- j. I believe this would have depended on the particular risks in relation to the Scheme. Since I was not aware of the risks, I cannot comment on what might have been appropriate actions to be taken by DFP.
- k. I believe this would have depended on the particular risks in relation to the Scheme. Since I was not aware of the risks, I cannot comment on what might have been appropriate actions to be taken by DFP.
- l. I believe this would have depended on the particular risks in relation to the Scheme. Since I was not aware of the risks, I cannot comment on what might have been appropriate actions to be taken by DETI. I do not know what steps were taken by DETI or indeed what steps were taken by DFP to ensure appropriate arrangements were in place to manage this type of funding.
- m. I believe this e-mail was only sent to me for information. At the time I managed the in-year Monitoring process which focused on the DEL Budget. I was not responsible for AME forecasting or resource budget setting for future years. Jon Parker's e-mail refers to a 'risk sharing arrangement' and a potential impact on future DEL budgets in DECC and NI. However, this was in relation to future years and was an issue that would need to be picked up by officials responsible for AME and budget setting; and not myself as I was managing the in-year position. If RHI costs then were to escalate during a particular financial year, over and above that built into budgets, I would have been required to address the issue. However, in 2011 there was no



indication that RHI costs would even occur in that financial year as the RHI Scheme was not yet operational and Jon Parker's e-mail was therefore not relevant to my particular responsibilities at that time. I therefore don't believe I had any reason to flag the 15 April 2011 e-mail within DFP or DETI.

DFP Joanne McBurney's email of 7 February 2012 [DOF-02434]

16.

As to this please explain:

- a. To the best of my recollection, I was only made aware when I received this Section 21 Notice on 11 October 2017.
- b. I don't know why Keith Jarret had communicated that the scheme should be run past him. It would have been unusual for officials in CED to have detailed knowledge of a particular departmental scheme. Furthermore, I don't recall other instances during my time in CED where HMT asked for details of a particular local scheme.
- c. I don't believe so as I was managing the in-year monitoring round process, which focused on the DEL Budget. If it had been clear at the time that the RHI Scheme would result in a pressure on the Executive's DEL budget during that particular financial year, I should have been informed.
- d. I did not know that the Scheme had not been run past Keith Jarrett at the time. If the matter had been brought to my attention at the time, I would probably have sought to understand the reasons why it might be appropriate, or beneficial, to run the RHI Scheme past HMT. However, had this been requested I don't believe that CED officials would have had detailed knowledge of the RHI Scheme as DETI was the policy lead. Therefore, any such detailed information would have had to be provided by DETI.



- e. No, I don't know why Joanne McBurney was not inclined to run the scheme past Keith Jarrett.
- f. I don't know enough about the RHI Scheme, its specific funding arrangements and risks to provide an informed view on whether it could have been beneficial to have run the Scheme past HMT at the time. I believe the decision on whether to run the scheme past the HMT NI Spending Team would have depended on the particular risks associated with the scheme and the funding arrangements as assessed at the time. If, for example, the risks were known and the funding implications were not clear then seeking clarity from HMT may well have been beneficial.
- g. From my experience, the benefit of running particular issues past HMT would be to obtain clarity on how HMT would treat the budgeting implications of a particular scheme. Where budget implications are unclear, the benefit then is to obtain that clarity.

***DETI Finance Jeff Partridge's emails of 11 December 2013 and 10 January 2014
[WIT-18730]***

17.

As to this:

- a. I do not know who in DFP provided this information to Jeff Partridge in DETI Finance.
- b. I do not know if the information provided to Jeff Partridge was accurate as I had no involvement in these discussions.
- c. I do not know as I had no involvement in these discussions.



- d. I do not know what discussions DFP had with HMT or DETI leading up to Jeff Partridge's e-mail on the funding arrangements. I don't know if DFP staff were aware at the time that the RHI budget was non-standard AME that had a cap and a DEL consequence for breaching this cap. I am therefore not in a position to provide an informed view on this issue.

DETI Finance Bernie Brankin's email of 24 August 2015 [WIT-02741]

18.

As to this:

- a. Usually 'monitoring technical exercise' refers to the part of a monitoring round (there are usually three rounds per year) that allows departments to action internal budget movements or agree transfers of budget from one department to another. It also allows for allocations from the 'Centre'. A 'technical adjustment' is then usually an internal adjustment to a departments' budget or an agreed budget transfer with another department, either in Northern Ireland or GB (or an allocation from the 'Centre'). In practice, technical adjustments are processed by the Public Spending Directorate as part of each monitoring round. Most internal budget movements can be processed without Executive approval (as per the in-year Monitoring Guidance) and budget transfers between departments are only processed when agreed by both parties. In the context of AME, a monitoring round technical adjustment allows the in-year position to be aligned to the latest AME forecast submitted to OBR.
- b. I have no knowledge of any discussions between DFP and HMT about DETI's RHI budget for 2015/16, apart from being present at a stocktake meeting on 8 December 2015 between HMT and Public Spending Directorate. At that time I had moved to a new post within DFP Supply, leading on developing a new Investment Fund and performing the Supply Officer role for the Department of Education and the Department of Employment and Learning. My contribution at the 8 December Stocktake



meeting with HMT was to flag the development of a new Investment Fund and I did not contribute to the RHI discussion. I do not recall the outcome of the RHI discussion and whether it covered the 2015/16 year. So apart from being present at the 8 December 2015 stocktake meeting with HMT:

- i. I have no knowledge of any such discussions.
 - ii. I have no knowledge of any such discussions.
 - iii. I have no knowledge of any such discussions.
- c. I have no knowledge of these transactions and I am therefore not in a position to comment.
- d. I have no knowledge of these discussions and to the best of my recollection this was not raised at the 8 December 2015 Stocktake with HMT at which I was present.

DoF Supply Angela Millar's email of 10 November 2016 [DOF-41476/7] and paragraph 8.f. of Joanne McBurney's Inquiry statement of 15 September 2017 [WIT-42220]

19.

- a. At that time I had moved to a new post within DFP Supply, leading on developing a new Investment Fund and performing the Supply Officer role for the Department of Education and the Department of Employment and Learning. I have therefore no knowledge of discussions with HMT on a cap on AME funding for the NI RHI Scheme for 2015/16 and can therefore not comment on the issue. My role at this time had no involvement with either managing the DEL or AME budgets (as this is for CED) or the RHI Scheme and I would therefore not have expected to be informed of any AME cap in relation to RHI. Furthermore, I do not recall if a cap for 2015/16 was discussed at the 8 December 2015 Stocktake meeting, which I attended.



- b. I have no knowledge of any discussions with HMT on a cap on AME funding for the RHI Scheme for 2015/16. I do not recall if a cap for 2015/16 was discussed at the 8 December 2015 Stocktake meeting, which I attended.
- c. I don't know exactly what DFP (and/or DETI) was previously told about the arrangements for the funding of the NI RHI Scheme in 2015/16 and therefore I am not in a position to comment.

HMT treatment of RHI funding

20.

- a. AME funding is generally provided for a specific purpose by HMT and cannot be used for anything else. In that sense, AME funding for the RHI Scheme was already ring-fenced. I therefore do not see what benefit could have been derived from a further separate ring-fencing by HMT at the outset of the Scheme.
- b. HMT publish annual budget guidance – *Consolidated Budgeting Guidance* – which covers both AME and DEL funding. This guidance is applied by the NI departments and is clear, for example, that departments must not switch AME funding into DEL. Likewise, DoF (formerly DFP) issue guidance to departments in respect of various financial exercises. I believe that these guidance documents are comprehensive and are clear that the AME budget is ring-fenced (i.e. cannot be switched into DEL budget). I therefore do not believe that further guidance was required.

Promotion of the RHI Scheme

21. I did not promote RHI scheme and/or encourage any third party to seek accreditation under the Scheme, assisted any third party in so doing, or provided any third party with information knowing that they might apply, or consider applying, or that they might advise, encourage, assist, or cause other persons to apply, or consider applying, for accreditation under the Scheme.

Lobbying and pressure

22. I am not aware of any instances of lobbying or encouragement of Ministers, Special Advisers, Civil Servants or other relevant persons in relation to the terms of the Scheme and/or the introduction, non-introduction, variation or delay of the introduction of cost controls into the RHI Scheme (including, but not limited to, the amendment of tariffs, tiering, degression and Scheme suspension or closure) at any stage.
23. No pressure was brought to bear on me in relation to the Scheme at any time.
24. I am not aware of any lobbying or encouragement of Ministers, Special Advisers, Civil Servants or other relevant persons in relation to the terms of the Scheme and/or introduction, non-introduction, variation or delay of the introduction of cost controls into the RHI Scheme at any stage. There have been no instances where influences or pressure has been exerted on me in relation to any aspect of the RHI Scheme. I am not aware of any instances where influences or pressure has been exerted on anyone in relation to any aspect of the RHI Scheme.

Standards of conduct and conflict of interest

25. I am not aware to my knowledge or belief where a Minister, Special Adviser, Civil Servant or any other person involved in the NI RHI Scheme:
- a. Breached relevant standards (including but not limited to, the Nolan Principles, the Ministerial Code of Conduct, the Civil Service Code of Conduct, the Code of Conduct for Special Advisers and/ or the terms or conditions of employment or service) or acted in a way incompatible with their duties (including but not limited to, by means of making premature or unauthorised disclosures); or



- b. Acted in circumstances relating to or touching upon the Scheme in any way where they had a real or perceived conflict of interest;
26. To the best of my knowledge I have no connection to any person or body receiving payment under the RHI Scheme or benefiting commercially from the Scheme in some other way.

Whistle-blowing and raising of concerns

27. I am not aware of any instances of whistle-blowing, apart from instances reported in the media over the past year. I have no personal knowledge of any whistle-blowing or concerns raised in respect of the RHI Scheme.
28. No disclosures have been communicated to me at any time.

General

29. I have insufficient knowledge of the RHI Scheme to comment on risks, problems flaws, anomalies, loopholes or other issues in relation to the Scheme.
30. I have insufficient knowledge of the RHI Scheme to comment on responsibilities of my Department in respect of risks, problems flaws, anomalies, loopholes or other issues in relation to the Scheme.
31. I have insufficient knowledge of the RHI Scheme to comment on responsibilities of other persons or bodies in respect of risks, problems flaws, anomalies, loopholes or other issues in relation to the Scheme.
32. I have to the best of my knowledge and belief no further evidence relevant to the RHI Inquiry.

Section 21 Notice (No. 510 of 2017):

In response to the Inquiry's s.21 Notice, No.510 of 2017, I have no documents in my personal custody or control relating to any issues raised in the s.21 Notice No.511 of



RENEWABLE HEAT
INCENTIVE INQUIRY

2017 or any other documents which might otherwise be relevant to matters which the Inquiry is investigating.

Statement of Truth

I believe that the facts stated in this 16 page witness statement are true.

Signed: *Peter Jakobsen*

Dated: 30/10/2017