

## Chapter 56 - Summary and Recommendations

### Summary

- 56.1 The Inquiry recognises that the previous 55 chapters of this Report are necessarily very detailed, containing as they do the Inquiry's analysis of much of the evidence that it received. The narrative set out in these preceding chapters, including in the many references to evidence in footnotes, grounds the considerable number of findings made by the Inquiry, interspersed throughout the Report, which are critical of the actions or inactions of a significant number of people and organisations in respect of the NI RHI scheme. The entirety of the Report is essential reading for anyone who wants to understand fully what occurred and the proper context in which the Inquiry has arrived at the findings it has made.
- 56.2 Notwithstanding this, and before turning to the Inquiry's recommendations, the Inquiry recognises the benefit of summarising, for the assistance of the public, some important points and themes which have emerged from its investigations and are reflected in its resulting findings. The Inquiry emphasises that the following summary is not intended to be, nor is it, either a substitute for or a supplement to the Inquiry's findings. (In particular, it should not be seen as further or additional criticism of any individual or organisation going beyond the findings set out earlier in this Report).
- 56.3 In that context the Inquiry has identified the following important points and themes which emerge from its consideration of the evidence and its findings.
1. The non-domestic NI RHI scheme was a 'project too far' for the Northern Ireland Government. While motivated by the laudable aim of encouraging the use of renewables rather than fossil fuels in heat production, the Northern Ireland stand-alone scheme should never have been adopted.
  2. The NI RHI scheme was novel, technically complex and potentially volatile, especially because of its demand-led nature and the wide range of variables (such as fluctuating fuel costs) which could affect its operation. These features together made the scheme highly risky, yet the risks were not sufficiently understood by all those who should have understood them within the Northern Ireland Government, either at the outset or at any time during the life of the scheme.
  3. Without the necessary resources and capability, DETI should never have embarked on such a novel and complicated, demand-led scheme. Like Scotland, it is likely that it would have been less exposed to risk by participating in what became the GB RHI scheme. Furthermore, the external economic consultants, CEPA, advised that a competitively awarded grant scheme (known as a 'challenge fund') was projected to deliver more renewable heat at a lower cost than an ongoing subsidy like the NI RHI scheme; but DETI rejected the grant option. Although other factors may sometimes legitimately lead a Department to adopt an option which is not the best value in pure monetary terms, the merits and feasibility of the grant scheme were not considered carefully enough in this case. A challenge fund would likely have been a better and, in many respects, a safer option for DETI to adopt.

4. CEPA recommended a tariff for some biomass boilers which was higher than the variable cost of heat production. This should have led CEPA to recommend tiering to create a second, lower tariff for heat production above the threshold level set to reimburse additional up-front capital expenditure. This error by CEPA was not picked up or corrected by DETI and created a perverse incentive to produce excess heat, whether there was a need for it or not, in order to profit from subsidy payments. Officials in DETI failed properly to understand the damaging presence of the perverse incentive, which facilitated exploitation, throughout the period when the scheme was open to new applicants. It was first highlighted, as far as DETI officials were concerned, by the Northern Ireland Audit Office in July 2016. This lack of understanding was a significant failing.
5. The nature of the funding provided by HMT for what became the NI RHI scheme was very unusual in public expenditure terms: a specific form of Annually Managed Expenditure (AME). There were particular risks associated with it. Those risks were articulated by an official within HMT to DETI in 2011. Although this was an unconventional means for communication of such matters, some officials within DETI and DFP did initially appreciate and understand those risks. However, not enough was then done in order to mitigate them. In addition, the actual funding position was not made clear in submissions and business cases, nor was it properly explained to the DETI Minister, until late 2015. Given the volatile and demand-led nature of the scheme, and the unusual nature of the funding, and in spite of warnings of the need to stay within set budgets, insufficient steps were taken to protect the NI RHI budget.
6. Important documents prepared within DETI concerning the NI RHI scheme, ranging in time from scheme development in 2011-12 to scheme amendment and closure in 2015-16, including documents and advice provided to Ministers, were often inaccurate, incomplete or misleading in important respects. Mistakes, misleading statements and omissions which arose in such documents or in submissions were often then repeated in subsequent documents and were generally not identified by the recipients of those documents.
7. The systems and mechanisms used within DETI to ensure not only that risks were identified, but that assurances as to how those risks would be managed were insufficient and unfulfilled in practice. A key example of this was the failure to conduct a planned scheme review on time, or at all, before scheme closure.
8. Crucial ‘safety’ features, the most significant of which was any form of overall budget-control mechanism, were not introduced into the NI RHI scheme. Those omissions persisted despite the fact that information about the progressive introduction of budget controls to the GB RHI scheme was available to DETI both before and after the NI RHI scheme was launched in November 2012 and in spite of DETI’s stated desire for consistency of approach with GB. Although DETI did consult on a form of budget protection in 2013, as part of the then intended Phase 2 of the RHI, no steps were taken to introduce it, including through the legislation to introduce the domestic RHI in 2014.
9. Having decided to embark upon the NI RHI scheme, DETI did not ensure that adequate resources and expertise were applied to its development, delivery or running. This lack of resources, and of people with the specialist skills to ensure that the scheme was robustly designed and monitored, impaired the project from the outset and was a continuing

problem. Those junior civil servants responsible for the scheme day-to-day, no matter how hard-working and well-intentioned, were consistently under-resourced. They were not equipped with the necessary expertise, nor adequately supported, partly because of the inadequate understanding of risk presented by the scheme and also because of pressure on resources generally.

10. The Northern Ireland Civil Service policy, followed by DETI at the time, as to deploying generalist civil servants without having due regard for the distinctive requirements of certain roles (particularly in business areas such as Energy Division), was a contributory factor to the problems with the NI RHI scheme. In addition, it is sometimes necessary, as in this case, to employ specialists in-house, even if it is only to manage the necessary external resources such as consultants and delivery partners.
11. The absence of relevant and appropriately tailored project management processes throughout the life of the scheme also had long-term consequences. It meant there was no systematic framework for monitoring; no adequate framework for risk management; no formal joint oversight with Ofgem; and no structured method for conveying to new staff crucial information, including about the scheme's formation and its financing.
12. DETI's internal governance systems were ineffective where the NI RHI scheme was concerned. Its systems of operational planning, internal control, risk management and internal audit together, and over time, failed to uncover important issues or to act as an appropriate conduit to deliver important information to senior management about the flaws and mounting risks of the NI RHI scheme. This failure was due to a combination of inadequate corporate response to learning from past mistakes; weak governance systems; and officials not adhering sufficiently or adequately to the multiple reporting systems which did exist.
13. In 2012, the DETI Minister, who had already been told (incorrectly) by officials that the NI RHI scheme was projected to provide the highest renewable heat output at the best value, was presented by officials with a draft Regulatory Impact Assessment to sign which, although it enumerated a number of risks presented by the scheme, did not include all the necessary costs information in respect of the scheme. While the Minister should not have been presented with a document which lacked all the necessary cost information, she equally should not have signed it in those circumstances. Overall, at the scheme development stage, insufficient care was taken within DETI to weigh properly the whole-life costs of the NI RHI scheme against the risks posed by it and the other options available.
14. The arrangement between DETI Minister Foster and her Special Adviser concerning the division of responsibility between them for reading, analysing and digesting important documents was ineffective and led to false reassurance on the part of the Minister, and potentially of officials, as to the level of scrutiny applied to detailed technical reports provided to the Minister.
15. Basic administration and record keeping, normally the bedrock of the Civil Service, was on too many occasions lacking within DETI. Several important meetings and discussions with Ministers were not properly recorded in writing. The requirements of DETI Private Office Guidance in respect of the minuting of meetings with the Minister were routinely not

followed by officials. This contributed to uncertainty as to what discussions had actually taken place in respect of the scheme and on what basis decisions had been taken. This presented challenges for officials in terms of understanding what had previously been considered and decided in relation to the NI RHI scheme and, latterly, for the Inquiry itself.

16. The Enterprise, Trade and Investment (ETI) Committee, whose role on behalf of the elected Northern Ireland Assembly included independent scrutiny of DETI, did not operate as an effective check against departmental error in the case of the RHI scheme. Aside from limitations inherent in its role, reasons for this included its own limited resources and its dependence on the Department for information and analysis to allow it to perform its challenge function robustly – information and analysis which was not always sufficient for this purpose.
17. Many of the design flaws with the NI RHI were quickly identified outside DETI by other parts of the public sector and by the private sector. The potentially lucrative nature of the scheme was promoted by many in the private sector and brought to the attention of a number of public sector bodies. There was certainly no “conspiracy of silence” in this regard. Nevertheless, bodies such as Invest NI and Action Renewables, in light of what they appreciated about the scheme from an early stage, could and should have done more to make DETI aware of potential exploitation of the NI RHI scheme and to query with DETI whether the scheme was operating as intended.
18. Notwithstanding short-lived efforts to encourage cross-departmental working (through, for example, the Strategic Energy Inter-Departmental Working Group) there was, at least in relation to the RHI scheme, a ‘silo’ culture that inhibited co-operation and communication between Departments and departmental bodies such as Invest NI and potentially undermined the delivery of value for money with regard to expenditure of public funds.
19. In spite of being warned of the need to review the NI RHI scheme, and having committed to doing so when securing Casework, DFP, and ministerial approval for the scheme, DETI did not review the NI RHI scheme when it should have done. This was a significant missed opportunity to identify latent or emerging problems with the scheme. The reasons for this included, crucially, a failure properly to appreciate the importance of the review and the significant risks inherent in failing to conduct it, a lack of effective formal project management and a lack of resources, all of which led to the progression of the domestic RHI scheme at the relevant time in 2014.
20. One concerned citizen, Ms Janette O’Hagan, between 2013 and 2015, repeatedly contacted DETI to point out the risks of exploitation of the NI RHI scheme and her concerns that it was being misused. The treatment of this individual and of her attempts at communicating her concerns to the Department fell well below the standard that she was entitled to expect.
21. Officials were not encouraged sufficiently or effectively to have a questioning attitude, to escalate concerns, to pause for investigation or to suggest that developments be stopped when problems arose. Instead, a culture of ‘delivery’, although not objectionable in principle, predominated in DETI to the extent that issues that should have been escalated were not, and too often matters were presented in an unduly positive light.

22. Between late 2013 and mid 2014 the wholesale and uncoordinated changeover of staff within DETI who had experience and/or understanding of the NI RHI scheme should not have been allowed to happen. Whilst one junior official, with detailed working knowledge of the scheme and who was starting to have concerns about it by May 2014, made a commendable effort to pass on key knowledge in a handover document, his effort had insufficient impact and certainly never reached anyone senior at the appropriate time.
23. DFP mishandled the granting of approval for the domestic RHI scheme in 2014, which was a significant missed opportunity to break the chain of unsatisfactory events relating to the non-domestic RHI scheme.
24. When problems with the scheme were recognised within DETI in the summer of 2015, the interventions of senior civil servants were not sufficiently directed or effective to ensure that, as well as the immediate presenting problem being addressed, the root causes were investigated, identified and tackled.
25. The amendments introduced to the NI RHI scheme in November 2015, and any delay during the summer and autumn of 2015 leading up to their introduction, ultimately had no meaningful impact upon the costs of the scheme. This is because the amendments were ill-considered and, once they were implemented towards the end of 2015, the market quickly adapted, demand rapidly grew again and there was virtually no difference in the subsidy paid for each unit of heat before and after the changes.
26. Nonetheless, at the time of consideration of scheme amendment in the summer and autumn of 2015, it was (wrongly) thought that the proposed amendments to the NI RHI scheme would significantly improve the budget position. In that context, the period of time that elapsed between the realisation of the problem at the most senior levels in DETI in late May 2015, and the introduction of scheme amendments through the new regulations in November 2015, was excessive and there was a lack of appropriate urgency. This was particularly so in light of the known risk, and later development, of a very significant spike in applications to the scheme.
27. During 2015 too much information about proposed changes to the NI RHI scheme was shared by DETI with third parties, often before the proposed changes had been sanctioned by the Minister. The extent of information passed on to some market participants by junior Energy Division officials in the summer of 2015, thinking they were being helpful, revealed a lack of commercial awareness and, objectively, was inappropriate. It would have been unrealistic to expect the commercial market to act altruistically in relation to a commercially attractive scheme such as the NI RHI. There was no adequate training or guidance for such officials on how to handle relations with external commercial organisations.
28. The Northern Ireland Ministerial Code, approved by the Assembly in May 2007, and extant throughout the period covered by the Inquiry, did not include significant and helpful provisions relating to Ministerial responsibilities that had been part of the 2000 Northern Ireland Ministerial Code, including the responsibility of Ministers for the suitability and appointment of their Special Advisers.
29. There was a repeated failure to comply with the intent and provisions of the Civil Service (Special Advisers) Act (Northern Ireland) 2013 enacted by the Northern Ireland

Assembly, and the mandatory codes introduced pursuant to that legislation, with regard to the appointment and conduct of Special Advisers. Failure to adhere carefully to these procedures, which appears to have been quite widespread, risked undermining the trust and accountability that is an essential part of the relationship between a SpAd and the Minister by whom they are appointed. It also had a bearing on the NI RHI scheme by undermining the trust between the DETI Minister and his SpAd between May 2015 and May 2016.

30. No effective system was in force for Special Advisers to register their interests upon a sufficiently regular basis and there was no adequate requirement or instruction specific to Special Advisers requiring them to register any actual or potential conflict of interest in writing.
31. Instances of unacceptable behaviour by Special Advisers included one Special Adviser sharing various confidential government documents, not just related to RHI, with family members and other third parties. Another, in relation to RHI, involved a number of Special Advisers, along with a Minister, discussing a plan, later put into effect, to disclose emails relating to junior civil servants in order to divert the attention of the media away from their Party.
32. The nature of the relationship established between DETI, as the owner of the NI RHI scheme, and Ofgem, as its chosen scheme administrator, was unsatisfactory.
33. The service that Ofgem provided to DETI, as the NI RHI scheme administrator, fell below the standard that DETI could reasonably have expected.
34. Ofgem did not share important documents with DETI. One such example was its Fraud Prevention Strategy. That document contained a substantive and fundamental error, indicating that the NI RHI scheme had the protection of tiering of some tariffs. A further example relates to the audit reports of NI RHI installations. Copies of these reports were not provided to DETI until many months after scheme closure.
35. Ofgem also did not properly explain to DETI interpretations that it, Ofgem, had adopted in respect of the NI RHI regulations, or the potentially unwelcome consequences of those interpretations, even if, as Ofgem maintains, its interpretations were the legally correct ones. Ofgem's approach to the concept of 'heating system' in the context of multiple boiler installations, an area in which there was significant financial exploitation of the scheme, is an important example in this regard.
36. Early in, and throughout, the life of the NI RHI scheme Ofgem received many pieces of relevant information (particularly through its administration of the GB RHI scheme) about scheme exploitation, including from its own sub-contracted auditor. Ofgem failed to pass that important information to DETI. This further failure of communication on the part of Ofgem deprived DETI of important opportunities to be confronted with or reminded of problems with the NI RHI scheme and to consider taking steps to remedy them.
37. DETI should not have ended up in the position where an urgent suspension of the scheme was required and could only be effected by means of further legislation. However, having reached that position in December 2015, it was right to seek to suspend or close the NI RHI scheme as quickly as possible. This involved a difficult balance between expedition and risk of legal challenge. The intervention of other Departments, and SpAds from both

the DUP and Sinn Féin, ultimately expedited the proposed date of closure; but did so to such an extent that there was a risk of unfairness to prospective scheme applicants. A two-week reprieve was therefore then granted and this was within the reasonable range of responses available to the Executive, although its potentially very significant financial implications should have been more carefully analysed at the time in order to inform decision-making. In summary, while reasonably effective in its outcome, the closure process was not well managed.

38. Corrupt or malicious activity on the part of officials, Ministers or Special Advisers was not the cause of what went wrong with the NI RHI scheme (albeit the Inquiry has identified some instances where behaviour was unacceptable). Rather, the vast majority of what went wrong was due to an accumulation and compounding of errors and omissions over time and a failure of attention, on the part of all those involved in their differing roles, to identify the existence, significance or implications of those errors and omissions.
  39. There is no guarantee that the weaknesses shown in governance, staffing and leadership revealed by the Inquiry's investigation of the NI RHI scheme could not combine again to undermine some future initiative. Many of the failings observed in DETI's handling of the NI RHI scheme had been observed in earlier failings within DETI in respect of the Bytel and Bioscience Technology Institute projects, which were investigated by the Northern Ireland Audit Office. Such evidence suggests that important lessons had not been acted on with sufficient impact, despite the assurances given by senior civil servants.
- 56.4 During the course of its investigations, in fulfilment of its Terms of Reference, the Inquiry considered where responsibility lay for a variety of failures relating to the NI RHI scheme. As will be clear from the detailed narrative and findings made throughout the Inquiry Report, responsibility for what went wrong lay not just with one individual or group but with a broad range of persons and organisations involved, across a variety of areas relating to the design, approval, management and administration of the NI RHI scheme throughout its life. Across those different areas, there was a multiplicity of errors and omissions, including (but by no means limited to) those referred to in the summary above. In addition, there were repeated missed opportunities to identify and correct, or seek to have others correct, the flaws in the scheme. The sad reality is that, in addition to a significant number of individual shortcomings, the very governance, management and communication systems, which in these circumstances should have provided early warning of impending problems and fail-safes against such problems, proved inadequate.

## Recommendations

- 56.5 The Inquiry's Terms of Reference, at paragraph 1(n), enjoin it not merely to make findings of fact but also to report on the matters within its Terms of Reference and "make such other observations and recommendations as the Inquiry considers appropriate".
- 56.6 It is a principal function of any public inquiry, such inquiries invariably being established to address issues of pressing public concern, to make recommendations for the future. Such recommendations are usually designed, chiefly, to seek to remove or reduce the risk of similar failures to those which gave rise to the inquiry in the first place, occurring in the future. They can also present an opportunity for progress, for improvements in policy and practice, and perhaps also for innovative thinking. In short, such recommendations are aimed at ensuring that some good comes from whatever upheaval has given rise to the public inquiry. Inquiries are not merely about establishing responsibility for past failure, but also promoting responsible action and future improvement.
- 56.7 The Inquiry's recommendations are set out below. They flow mainly from the systemic shortcomings identified in the Inquiry's Findings. Although not directly related to any particular finding, it is hoped that each recommendation can be seen to be clearly grounded in the issues examined by the Inquiry and discussed in this Report. The recommendations also seek to address, in some instances, wider issues of poor governance or practice which go beyond the narrow bounds of the NI RHI scheme but which were thrown into sharp relief in the evidence which the Inquiry received.
- 56.8 It is not within the remit or the Terms of Reference of the Inquiry to make recommendations with regard to Her Majesty's Treasury (HMT), a UK Government Department, or the general functions and operations of Ofgem beyond its role as administrator of the NI RHI scheme, although the Inquiry's full report will be drawn to the attention of both bodies. It will be a matter for any Northern Ireland Executive to pursue such actions as it may deem appropriate with regard to its future relationship with HMT and Ofgem.
- 56.9 It is hoped that the Inquiry's work, and the recommendations contained in this Report, may make at least a modest contribution towards the establishment of more transparent and effective government in this jurisdiction. The recommendations set out below are offered in a constructive spirit and represent the Inquiry's view as to what needs to change to give Northern Ireland's devolved administration the best chance of avoiding any repeat of the failings of the RHI scheme. Insofar as a recommendation relates to political structures or arrangements, the Inquiry acknowledges that the degree of weight which it may attract is a matter for the devolved administration.
- 56.10 The Inquiry therefore makes the following Recommendations.
- R.1** A new policy at its earliest stage should be subject to a rigorous process to determine whether the Northern Ireland devolved administration has (or is prepared to assign) the necessary skills and resources to deliver the policy safely and competently. The scope for economies of scale through working in partnership with another administration (for example a Westminster Department, another of the devolved administrations or city-regions within the UK or, in appropriate circumstances, the Republic of Ireland) should be thoroughly examined and the assessment of joint working options made visible to Ministers and the relevant Assembly Committee.



- R.2** Novel, potentially volatile and untested initiatives should in future be scrutinised thoroughly, well ahead of ministerial and business case approval. The Inquiry commends processes such as a ‘starting point Gateway assessment’ and, at a suitable point, a ‘feasibility sign-off’ completed by the Department’s Accounting Officer. With regard to particular policies driven by unpredictable demand, consideration should always be given, before the policy is implemented, to the inclusion of a clearly drafted statutory power to enable swift action to be taken to suspend and/or close the scheme in order to bring it under control.
- R.3** As far as practicable, Northern Ireland Civil Service teams working on policies, particularly new and untested initiatives, should be trained and supported so that they have the skills to do the job, not least the ability to model the policy, the skills to test it in advance under different conditions and scenarios, and the self-awareness to seek and use external challenge.
- R.4** A lesson from the RHI experience is that action is needed to raise and sustain the quality of advice to Ministers and the clarity with which it is expressed. Options must be properly evaluated and, at the point of formal decisions, advice must be clear, comprehensive and impartial. Risks should be clearly and realistically stated, with an account of the implementation challenges and how the policy will work on the ground. In particular, when relevant because of the nature of the policy, Ministers should be informed at the outset of how the initiative may be suspended or closed if it gets into difficulty. Ministers should in future expect, and Departments should put in place systems to ensure, that officials provide regular and accurate information about how implementation is working in practice, especially when a third party is involved in implementing and/or administering a scheme or policy.
- R.5** One role of Ministers in a democratic system is to decide on policies and they can only do so effectively if they are prepared, in appropriate cases, to question and challenge material put to them in submissions and regulatory impact assessments. Ministers should be given training on their role in relation to policy, legislation and on the working of public expenditure and value for money. More should also be done to provide
- (a) comprehensive departmental induction and information, which should include frank disclosure of any specific difficulties and problems involved in a particular scheme or policy area; and
  - (b) greater support in the form of a properly resourced Private Office.
- R.6** Under existing arrangements, Northern Ireland Ministers should be responsible for their Special Advisers. New or returning Ministers should be invited to convey to the relevant Permanent Secretary, and make transparent to the Department, how the Minister expects his or her Special Adviser to fulfil their role in relation to considering submissions and associated background documents. There should be clarity with regard to the Minister’s and the Special Adviser’s respective roles in terms of reading, advising and commenting upon submissions, technical reports and other documentation advanced as a basis for ministerial decisions. The advisory role of the Special Adviser in relation to ministerial decision-making, including the sequencing of consideration by the Special Adviser and the Minister, should be clearly set out for officials to understand. This should include provision for exceptional circumstances in which, and the means by which, the usual

procedures may need to be adapted, for example in cases of particular urgency or when a Minister is abroad on official business or on leave.

- R.7** There should be a clearly defined induction process for new Special Advisers, shared by the appointing Minister and the relevant Permanent Secretary, in the course of which the structure and work of the relevant Department, the terms of the Special Advisers Model Contract, the Code Governing Appointment of Special Advisers, the relevant NICS Codes of Conduct and the role, responsibilities, accountability and obligations of advisers should be carefully explained. Such a process should involve practical preparation and training and not be limited to the provision of documents.
- R.8** A fundamental shift is needed in the approach used within the Northern Ireland Civil Service with regard to recruitment and selection for government jobs. This must involve an up-front assessment of the skills that are required to fulfil the specific role in question, rather than matching a person to a role according to an individual's grade and level of pay. In time the Inquiry believes this should lead towards more job-specific recruitment and selection which must, of course, be fair, transparent and consistent with relevant employment legislation.
- R.9** Commercial and business awareness amongst policy officials, particularly those working in roles relating to the economy of Northern Ireland, must be improved. It is important that the leadership of the Northern Ireland Civil Service also devise and provide clear guidance and training to relevant staff about the identification and handling of commercially sensitive information, including when engaging with third parties. This should include a clear process for escalating queries in relation to, and seeking clearance in respect of, what can be shared by officials, where necessary. In addition, a wider range of opportunities and encouragement for policy civil servants to gain front-line business/commercial and operational experience would be of benefit.
- R.10** The Northern Ireland Civil Service should consider what changes are needed to its guidance and practices on the use of external consultants arising from the experience of RHI. Specific recommendations include:
- (a) that better assessments are needed at the outset of a given policy or project pre-procurement, as to what type of specialist support is to be sought from amongst the different types of available consultancies – for example, contracted-in specialist skills or stand-alone advisory reports or some appropriate combination of both; and
  - (b) that far greater emphasis should be placed upon the resources and capabilities of the relevant Civil Service teams to manage the consultants and to make effective use of their input, including knowledge transfer and retention after any consultancy contract has ended.
- R.11** Best practice project and risk management disciplines should be the default practice within the Northern Ireland Civil Service when developing novel and complex policies and managing their implementation. These disciplines can be widely applied and should not be confined only to major or capital projects. They can be tailored to the specific circumstances of an initiative and are especially important when implementing policies designed to change behaviour or to make incentive payments to individuals or

businesses. If there is insufficient resource to implement adequate project management then projects should not proceed.

- R.12** The leaders of the Northern Ireland Civil Service should work with Invest Northern Ireland and the Strategic Investment Board to consider how both organisations can better contribute their expertise to the work of mainstream Departments, particularly in relation to good practice on implementation of programmes and project management. This could for example include providing advice at the early stages of policy development; ‘tyre-kicking’ and challenge; and joint training and job exchange schemes.
- R.13** Project boards are an essential element of project management oversight and must include individuals who can challenge and who are not directly responsible for the day-to-day delivery of the project. Such boards, in appropriate circumstances, can benefit greatly from the inclusion of individuals external to the Northern Ireland Civil Service, preferably with experience/expertise in the project subject matter.
- R.14** The risks involved in implementation of an initiative must be tracked, re-considered regularly and used to manage, improve and adjust the project in real time. How the risks are being acted upon should be reported to the Project Board and to the relevant Minister.
- R.15** Co-ordination of groups of projects aiming to achieve change in a particular sector – e.g. renewable energy projects – would be stronger through use of high level Programme Boards. Such boards should meet regularly and receive reports of relevant experience as to how the projects are working ‘on the ground’. Had such a board existed, taken such reports and met regularly in relation to the NI non-domestic RHI scheme, it could have provided a forum for the exchange of knowledge and communication between the concerned Departments and agencies (DETI/DfE, Invest NI, DFP/DoF, DARD/DAERA and CAFRE).
- R.16** Where other government bodies, such as Ofgem, or contractors or other third parties are involved in the implementation of a project, the ‘home’ Department must retain overall control and overall project management. The governance arrangement between the Northern Ireland Department and the third party must be owned and led at a senior level in the Department.
- R.17** The Northern Ireland Civil Service should take steps to draw on best practice from other jurisdictions to provide more support for professions within the civil service. The Inquiry specifically recommends:
- (a) the establishment of a project management profession with a named senior leader and a comprehensive programme of professional development; and
  - (b) the development of improved professional opportunities for finance professionals and for economists within the Northern Ireland Civil Service.
- R.18** More generally, we recommend a Northern Ireland government-wide framework for information exchange and, where appropriate, co-operation between the Northern Ireland Civil Service, Whitehall Departments and (where relevant) Departments of other devolved Governments and of the Government of the Republic of Ireland.

- R.19** The processes within a Department for approving new expenditure and business cases including, where it forms part of that process, the role of Casework Committees, should be thoroughly re-designed to be more rigorous, testing and independent. Such processes should be less bureaucratic and pay greater attention to examining the unique features of the project proposed.
- R.20** Public expenditure rules should be sufficiently flexible so that false economies can be avoided. In order to deliver a policy objective, Departments should not be required to choose a more expensive option in overall terms because they cannot use the available funding in a flexible cost-effective way. The Department of Finance should engage with HMT to determine how such false economies, impacting as they must on the value for money taxpayers receive for the funds they provide, can be identified and avoided in the future in respect of government initiatives in Northern Ireland.
- R.21** The Department of Finance’s distinctive role in scrutinising business cases should be searching and sceptical, guarding against over-reliance on the assurances offered by the applicant Department.
- R.22** Particularly where a policy initiative is demand-led, novel, complex and/or likely to be lengthy, consideration should be given to increasing Department of Finance involvement from an early stage and on an ongoing basis, including a more proactive role in monitoring the financial progress of the relevant initiative, rather than merely reactively dealing with periodic requests for additional expenditure or approval.
- R.23** Ministers should always be advised of any conditions attached to the approval of a policy or project by the Department of Finance. The Department of Finance should also require, and be kept informed of, regular reviews to ensure compliance with such conditions by the spending Department.
- R.24** Senior managers in the Civil Service must take responsibility for guiding and, where necessary, sequencing the timing of staff moves so that continuity of business is secured. This includes allowing sufficient time for transferring staff to hand over, and discuss in person, responsibilities with their successors. The Northern Ireland Civil Service should consider allowing those managers more flexibility in handling the timing of staff moves (e.g. in terms of retention, allowances and promotion in role) to help secure business continuity on complex projects.
- R.25** In light of their legal responsibility to direct and control the Department for which they are responsible, and their democratic accountability to the Northern Ireland Assembly, ministerial decisions should be taken by Ministers (in conjunction with other ministerial colleagues, where appropriate) and by no one else.
- R.26** Notes of significant meetings between officials and ministers, particularly those affecting decision-making and spending, must be taken and retained. The responsibility for ensuring this is done should be clearly identified and compliance should be ensured in practice.
- R.27** Ministers’ responses to submissions should be formally and timeously recorded and disseminated to officials by the Minister’s Private Office. That responsibility should not be left to policy teams. One clear corollary is the need for a better system to carry out these essential administrative tasks and the Inquiry recommends a much stronger role

for ministerial Private Offices which should be staffed by officials capable of supporting Ministers in this and other tasks to a high standard.

- R.28** The culture and practice of record keeping and access to records within the Northern Ireland Civil Service needs to change so that staff responsible for a given area of work have easy access to the analysis and decisions underpinning the policy or initiative on which they are engaged. Regular audits of record keeping should be undertaken so as to ensure that important information is recorded, is easily identifiable, is readily accessible and remains so for as long as is necessary in respect of any policy or initiative. In addressing this recommendation, there should be a review of the NICS electronic information management system and how it is used by civil servants. Steps should be taken to ensure that the systems which civil servants are expected to use are fit for purpose and facilitate the easy saving, storage and subsequent location and use of relevant material.
- R.29** The finance function within a Department should exert the necessary authority and capability to fulfil the requirements of ‘Managing Public Money Northern Ireland’, namely to retain a firm grasp of the organisation’s financial position and performance. The Inquiry recommends that the Department of Finance take action to review and, if necessary, strengthen the leadership of and support for the finance functions within Departments of the Northern Ireland Government.
- R.30** Civil servants who are responsible for holding and monitoring a budget should have to demonstrate core requirements in financial literacy and an understanding of how public spending operates, including what is expected of them according to the core guidance contained in ‘Managing Public Money Northern Ireland’. The Inquiry recommends that the financial training requirements for budget holders be reviewed and updated.
- R.31** Any imperative to spend a budget within a given timeframe should not be allowed to take precedence over how that budget is used and the longer term benefits and overall value of such expenditure. Ministers, Special Advisers and the Northern Ireland Civil Service all share responsibility for ensuring best practice in the use of taxpayers’ money.
- R.32** The checks and balances within a Department designed to catch problems early failed over many years in DETI to identify certain of the risks of the RHI or their materialisation. All Departments would benefit from reviewing how their governance systems work in practice in order to ensure that they are widely understood and actively used by staff. Leaders should set the tone and expectation for strong governance and risk management. Civil servants should be encouraged not to feel in any way inhibited about disclosing possible or emerging problems, raising concerns, negative aspects or adverse criticisms of a project as necessary to ensure that decisions are properly informed.
- R.33** The protocol for relations with HMT, namely that the Northern Ireland Department of Finance must be the sole conduit of formal communication, should be reinforced and widely understood across the Northern Ireland Civil Service. The Department of Finance, for its part, must recognise that its unique relationship with HMT places on its officials a responsibility to be alert to, and act expeditiously upon, the requirements of all other Departments in matters relating to HMT; and to communicate clearly and effectively with those Departments as to HMT’s position in respect of the spending Department’s financial envelope.

- R.34** The Northern Ireland Civil Service should have regard to best practice elsewhere about how to respond effectively when serious problems emerge, such as those that did so with the non-domestic NI RHI in the summer of 2015, by, for example, establishing a parallel investigatory team and/or developing a specialist capacity within the internal audit service that can be rapidly deployed to assess the situation.
- R.35** Better systems are needed for spotting early warnings and concerns from the public and businesses that something unexpected could be happening or going wrong with an initiative. Simply updating existing complaints and whistle-blowing policies, although helpful, will not be sufficient, since relevant intelligence often does not come through these routes. The default response amongst officials should be one of curiosity rather than assuming the concern is misplaced. We recommend that all Northern Ireland Departments review their processes for obtaining, handling and responding to information from multiple routes, to ensure that they have robust systems to pick up early warnings and repeated signals, as well as evidence that a policy is working as intended. Consideration should be given, in appropriate cases, to encouraging relevant officials to investigate the implementation and operation of a scheme in practice.
- R.36** The Northern Ireland Civil Service should develop a better process to learn from past failures, one that goes beyond the traditional method of revising and circulating internal guidance. Leaders within the Senior Civil Service must be more systematic, persistent and proactive in explaining to staff what changes are needed and supporting staff to adapt their working practices. A tougher level of external scrutiny, such as from the non-executives on the boards of Departments and from strengthened Assembly Committees, while no guarantee of success, would increase scrutiny and help ensure that systematic changes are made and sustained.
- R.37** In keeping with the spirit of the Ministerial Pledge of Office, the Northern Ireland political parties, supported by the Northern Ireland Civil Service, should together agree a set of actions to reduce organisational silos arising between the government Departments and their linked public bodies and to promote behaviours of collaboration and joined-up departmental working in the interests of the whole Northern Ireland community.
- R.38** The Northern Ireland Assembly should consider what steps are needed to strengthen its scrutiny role, particularly as conducted by Assembly Committees, in the light of lessons from the RHI. While it will be for the Assembly itself to decide, the Inquiry recommends that such a consideration might include significantly increasing the resources available to statutory committees and, generally, identifying what steps are needed to improve the effective scrutiny of Departments and their initiatives, whether in Assembly Committees or in the Assembly Chamber itself.
- R.39** Any Minister presenting the Assembly with legislation for approval should sufficiently read and familiarise themselves with that legislation and ensure an adequate evidence base is publicly available to demonstrate that the benefits justify any attendant costs.
- R.40** Ministers, Special Advisers and officials in Northern Ireland government Departments should declare their interests annually in writing. When any conflict of interest arises during the course of government business each individual should understand that he/she has an obligation formally to declare that conflict and ensure that it has been recorded.

Departments, for their part, must have and implement clear policies and procedures so that all those concerned know what they have to do and when. The relevant existing policies and practices should be tightened up and rigorously implemented to ensure they are consistent with best practice. Conflicts of Interest guidance published by the Northern Ireland Audit Office in 2015 is a good baseline. We further recommend that the registers of interests be made public.

**R.41** The Special Adviser Code of Conduct should be revised. How these changes are achieved will need to be a matter for the political representatives concerned in the construction of a system in which the public can have confidence. The Inquiry's findings suggest the following ought to be considered for inclusion in a revised code:

- the accountability of a SpAd to his/her appointing Minister and clarity as to the responsibilities of each;
- clarity about the working relationship between SpAds based in Departments and SpAds in the Executive Office;
- responsibilities of SpAds to the Executive as a whole;
- with whom and how SpAds should register their interests;
- how SpAds should act when conflicts of interests arise, cross-referencing to departmental requirements on how such conflicts should be identified, reported and managed;
- SpAds' duty of confidentiality, cross-referencing to their employment terms under the Civil Service code;
- expectations and rules for SpAds when handling and emailing official information;
- guidance about use of personal email addresses and personal mobiles for official business;
- protocol for handling disputes between a Minister and a SpAd;
- clarity on the routes for handling grievances and disciplinary matters;
- guidance on dealing with party political matters, and on interacting with party officials; and
- the need for an office to be responsible for periodic updating of the SpAd Code of Conduct.

Any revised SpAd code should be published. In the meantime, should SpAds come to be appointed before a revised code takes effect, the Inquiry recommends that there should be robust compliance with both the letter and spirit of the Civil Service (Special Advisers) Act (Northern Ireland) 2013 and the codes emanating therefrom approved by the Assembly.

**R.42** The Code of Conduct issued to Northern Ireland Ministers in 2007 (contained within the Northern Ireland Ministerial Code 2006) should be revised and brought up to date reflecting the findings of the RHI Inquiry and drawing on relevant best practice standards from ministerial codes of conduct used elsewhere in the UK and indeed from Northern Ireland's earlier Ministerial Code of 2000. This should be a priority for the Northern

Ireland Executive. From the experience of this Inquiry, a revised code would among other things:

- explain how Ministers are expected to fulfil their responsibilities when leading a Department and determining a Department’s policies;
- make clear that Ministers have an active role in questioning and challenging the advice they receive;
- cross-reference to Ministers’ duties under “Managing Public Money Northern Ireland”;
- be clear that, unless and until the legislation is changed, each Minister is individually responsible for the recruitment, management and discipline of his/her SpAd, including for observing the Northern Ireland laws and guidance in force in relation to SpAds;
- clarify expectations about collaboration and joint working between Ministers of different Departments as well as an individual Minister’s responsibility to support the Government in Northern Ireland as a whole;
- Consideration should also include whether recent changes to the Westminster, Scottish Executive and Welsh Government Ministerial Codes of Conduct could be relevant to the Northern Ireland context. For example, the Westminster Ministerial Code of August 2019 published by the Cabinet Office specifically provides at paragraph 3.3 that “The responsibility for the management and conduct of Special Advisers, including discipline, rests with the Minister who made the appointment. Individual Ministers will be accountable to the Prime Minister, Parliament and the public for their actions and decisions in respect of their Special Advisers.”

**R.43** In addition, the Northern Ireland Executive and Assembly ought, in the Inquiry’s view, to give due consideration to an independent mechanism to assess compliance with codes of conduct in public life as they apply to Ministers and Special Advisers. Whatever route is chosen, there must in future also be a focus on keeping standards of conduct clear, consistent, up-to-date and reflective of good practice. How this is done will be a matter for debate, but the principles of independence, transparency and periodic reporting to the people of Northern Ireland must be at the core.

**R.44** The recommendations for change made here, to the extent they are adopted, will take time to implement; they may indeed not even be sufficient to address the range of shortcomings revealed by the Inquiry. The Inquiry therefore recommends a role in future for the Northern Ireland Audit Office in assessing and validating the extent of progress in implementing the lessons learned from the NI RHI scheme and implementing these recommendations, including reporting on such progress periodically to the Northern Ireland Assembly and the people of Northern Ireland. The Inquiry further recommends that the Northern Ireland Audit Office is provided with sufficient additional resources so as to enable it to perform such a role.

56.11 As noted in the Introduction to this Report, the Inquiry’s belief is that, if its recommendations are followed, both in letter and spirit, it will be much more difficult for the types of general problems discovered in respect of the NI RHI scheme to re-occur. Hopefully that will, in turn, lead to a better functioning Northern Ireland Civil Service, and provide for a much healthier devolved administration in Northern Ireland. The Inquiry is aware that work has already progressed



within the Northern Ireland Civil Service with regard to a number of matters which are covered by the Inquiry's Recommendations. That said, the Inquiry would again counsel against any tendency to conclude that some of the necessary changes have already been fully achieved. The Recommendations set out above require sustained, system-wide change and will take time to implement effectively.

- 56.12 Further, the Inquiry again recognises that often, once a public inquiry has completed its work, recommendations that it has made may not be given effect by those whose responsibility it is to do so. There can be a wide variety of reasons for this; some better than others. In the interests of ensuring, so far as possible, that this does not occur in respect of this Inquiry's Recommendations, the Inquiry has made its final recommendation above and asked the Comptroller and Auditor General for Northern Ireland to monitor and, as necessary, pursue the effective implementation of this Inquiry's Recommendations. Once again, the Inquiry records that it is very grateful that the NIAO has agreed to undertake this task.

