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By post and email Caroline.Martin@finance-ni.gov.uk

6 November 2018

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 know you will by now be familiar with the work of the Inquiry and its Terms of Reference from your previous engagement with the Inquiry. The Inquiry is grateful for the witness statements and oral evidence you have already provided to it.

As you may be aware, the Inquiry is now in the process of seeking some further written evidence from witnesses and participants, particularly where issues have arisen in evidence recently provided in respect of which it is necessary, or appropriate, to provide an opportunity for further response. The Inquiry Chairman also retains the right to require witnesses to

attend to provide further oral evidence, and consideration will be given to whether that is necessary in light of additional written evidence which is received.

The Inquiry is likely to revert to you shortly seeking responses to a number of specific questions arising from evidence or documentation which has been considered by it in the course of its ongoing investigations or hearings. However, without prejudice to that requirement, it is considered that it would be helpful to now give you an opportunity to comment on two specific recent developments in order that the Inquiry might gain an early understanding of your position in respect of them, namely the recent oral evidence of Michael Woods (of 19 October 2018, found at TRA-15975 to TRA-16088) and the most recently received DfE corporate statement (DfE Corporate Statement No 12, of 26 October 2018, found at WIT-03560 to WIT-03576) which deals principally with a period of time during which 'Team 2' had responsibility for the RHI Scheme.

Please therefore find enclosed with this letter a further Section 21 Notice requiring you to provide evidence to the RHI Inquiry Panel in the form of a further written statement addressing these two matters, as identified in the Schedule to the Section 21 Notice.

As indicated above, it is likely that you (along with others) will receive a more detailed notice in the coming days, and you are likely to be able to expand more fully on some of the issues touched upon in Mr Woods' evidence and/or the recent DfE statement in response to that notice. However, your response to the enclosed notice – which I acknowledge is required within a short period – will be of assistance to the Inquiry generally in considering how best to approach any further evidence-gathering which may be required in relation to these issues.

I remind you again of the restriction orders made by the Chairman of the RHI Inquiry, which affect how you may deal with this correspondence and its enclosures (which are also provided to you under a duty of confidentiality to the RHI Inquiry). You may, of course, share the correspondence and the enclosed Notice and documents with your legal representative(s), under the same conditions as I set out in my previous 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 blue ink that reads "Patrick Butler". The signature is written in a cursive style with a long horizontal stroke at the end.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE**[No 198 of 2018]***The evidence of Mr Michael Woods*

1. You are referred to the oral evidence of Michael Woods¹ given on 19 October 2018 (see TRA-15975 to TRA-16088). In the course of his oral evidence, Mr Woods appeared to make a number of express or implied criticisms of you and/or other officials within DETI Energy Division's conduct as to:
 - a. the adequacy of Energy Division's questioning in relation to, and evaluation of, the value for money of the RHI Scheme in 2015 and 2016;
 - b. failure to bring relevant matters in relation to the RHI Scheme to the attention of Internal Audit and/or the DETI Audit Committee during 2015 and 2016;
 - c. the adequacy or utility of responses provided during the course of the 2016 Internal Audit investigation in relation to the RHI Scheme and the level of cooperation afforded to that investigation; and
 - d. failure to provide full information to Internal Audit, or in the course of the Department's preparation in 2016 for the Public Accounts Committee's investigation into the RHI Scheme, as to the existence of:
 - i. the May 2014 handover note prepared by Peter Hutchinson; and/or
 - ii. Janette O'Hagan's 2013 to 2015 email communications with the Department,

¹ Mr Woods' written evidence, in his witness statement of 14 September 2017, is at WIT-23001 to WIT-23078 (along with annexed documentation at WIT-23079 to WIT-23552) and has been available to you for some time in your capacity as an enhanced participant with access to the Inquiry's witness statement bundle.

and what had been done with or in respect of each of these.

Please set out any response you wish to make to the evidence of Mr Woods to the extent (a) that the said issues have not already been addressed in your existing oral and written evidence and (b) that the further material you wish to provide constitutes evidence of fact as opposed to mere commentary on the evidence of another witness or participant which would be more appropriate for submissions.

DfE corporate statement No 12 of 26 October 2018

2. You are also referred to the recently provided supplementary corporate statement provided by Mr Brendan McCann on behalf of the Department for the Economy dated 26 October 2018 (DfE Corporate statement No 12, found at WIT-03560 to WIT-03576), the contents of which are said to relate to "*the management and control of the Scheme from mid 2014*" and respond, *inter alia*, to written and/or oral evidence you have provided to the Inquiry.

Please set out any response you wish to make to the matters addressed in that witness statement to the extent (a) that the said issues have not already been addressed in your existing oral and written evidence and (b) that the further material you wish to provide constitutes evidence of fact as opposed to mere commentary on the evidence of another witness or participant which would be more appropriate for submissions.

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**Supplementary Corporate Statement**

- Chris Stewart (WIT-11501 to WIT-12395)
- John Mills (WIT-14501 to WIT-14997 and WIT-26001 to WIT-26009)
- Stuart Wightman (WIT-17001 to WIT-17716)
- Seamus Hughes (WIT-14001 to WIT-14100)

The Statement also draws on:

- Andrew McCormick (WIT-10501 to WIT-11429)
- Eugene Rooney (WIT-24401 to WIT-24456)
- Trevor Cooper (WIT-18501 to WIT-19050)

DATE: 26 October 2018

Witness Statement of: Brendan McCann

I, Brendan McCann, will say as follows:

1. This witness statement by the Department for the Economy seeks to supplement Stephen McMurray's previous corporate statement dated 19 May 2017. The statement deals with matters in relation to which I have no direct knowledge and, therefore, it has been produced with input from a range of colleagues across the Department and reflects the corporate view of the Department.
2. The Department has considered the witness statements provided by Chris Stewart, John Mills, Stuart Wightman and Seamus Hughes, and the related oral evidence heard by the Inquiry to date. The statement also draws on the witness statements and evidence provided by Andrew McCormick, Eugene Rooney, Shane Murphy and Trevor Cooper.

3. The purpose of this statement is to seek to assist the Inquiry in clarifying issues which the Department perceives arise from the witness statements mentioned above, relating to management and control of the Scheme from mid 2014.
4. In providing this supplementary statement the Department does not seek to apportion blame or suggest any final conclusions, and the Department remains fully committed to providing evidence in a fair and balanced manner. However, the Department considers it is necessary to respond to particular comments made by individual witnesses where they disagree with our corporate evidence.
5. In providing this supplementary statement the Department will briefly identify areas of dispute. As some of this ground has been covered in the Opening Statements by Counsel for the Inquiry, we have endeavoured to only add additional explanatory material where necessary.
6. It is important to note that this statement references sections of material from the evidence bundles which are marked for redaction by the Inquiry. The Department has not carried out any redactions of quotes or references to that material, therefore the Inquiry will want to consider this matter before publishing this statement.

Knowledge of Energy Efficiency Branch work and relevant policies

7. The Department has already accepted the criticisms arising in the NIAO Report (**CAG-01680 to CAG-01697**) which highlighted the failings in the oversight and management of the Non-Domestic RHI Scheme. Specifically the report found that the Department had not properly monitored and controlled the Scheme, but rather had relied overly on the work being done by Ofgem (**CAG-01694**).
8. Officials joining Energy Efficiency (EE) Branch (previously Renewable Heat Branch) in June 2014, have asserted that senior management had identified the domestic RHI Scheme as the priority for action. Nevertheless, officials were aware that they also held responsibility for, “management of the Non-Domestic

RHI Scheme”, as this is included in the Branch Plan from as early as July 2014 (**DFE-419612**).

9. However, not all of the actions in the Branch Plan for 2014/15 were progressed and John Mills noted in Stuart Wightman’s 2014/15 performance appraisal that Phase II of the Non-Domestic Scheme (which would have introduced cost controls) had “had to take second place” to other priorities (**DFE-430507**). In the Department’s view, the decision to defer the Phase II work was taken without a full consideration of the risks, and without the rationale for the decision being formally documented and agreed with senior management (Grade 3 and above).
10. During oral evidence it was confirmed that officials in EE Branch accessed documents and regulations relevant to the Branch’s policy responsibilities on an occasional basis in response to work on specific issues but that they did not “sit down and read the regulations from start to finish” (**TRA-05833**, **TRA-09183** and **TRA-09571**). EE Branch held responsibility for both Schemes and it is reasonable to expect that incoming staff should have been fully informed of: the working basis (including any statutory duties for the Department as set out in the legislation); the policy intent; the nature of approvals; and the parameters under which the Schemes were operating. The Department would suggest that unfamiliarity with any new role should encourage the post holder to actively investigate the scope of their work and new responsibilities.
11. The Department has identified this as a point of learning, and will seek to be more explicit in future around the need for new staff to read and understand the legislation which underpins their new role. This is especially important in a situation where there is no continuity of staff at management level, and where consideration is being given to deferring actions in the work area, due to the limited staff resource being required to focus efforts elsewhere. The Department acknowledges that the unusually high level of staff change in this case contributed to the loss of corporate knowledge, and had a negative impact on the management of the Scheme. In this regard, the Department recognises and appreciates the need for continuity of staff who have knowledge and experience

to be available to support incoming staff and where there is change, especially at management level, there should be robust “handover” processes.

12. The Department has acknowledged that omitting to implement robust project management principles was a key failing (**WIT-03281** to **WIT-03282**). Arguably, EE Branch may not have been in a position to remedy this in late 2014, with resources being largely occupied with the launch of the domestic RHI Scheme. Despite the lack of a robust project management structure, it would have been beneficial for the key background information, referred to above, to have been reviewed and understood by the new team at the outset. As officials had not reviewed the key background information (**TRA-05833**, **TRA-09183**), they were not sufficiently informed to recognise that the Scheme was not operating as had been intended.

13. The Assurance Statement submitted to Chris Stewart in May 2015 confirmed, with regard to Energy Division, that:

- a. Necessary DFP approvals for expenditure had been obtained;
- b. Programmes and projects were managed in accordance with good practice including, where appropriate, Gateway Reviews, Prince II Methodology and guidance that issues from Central Procurement Directorate;
- c. Authority, responsibility and accountability within the Group are clearly defined so that decisions were made and actions taken by appropriate people; and
- d. Staff within the Group were made fully aware of their job responsibilities (**DFE-387439** to **DFE-387510**).

These assurances do not appear to have been provided as a result of due diligence in relation to RHI. The Department will ensure that its Corporate Governance Division will remind staff at middle and senior management level of the steps that should be taken in relation to the completion of assurance statements, providing additional training as necessary. Corporate Governance Division will also advise senior management (Grades 3 and 5) of the importance of testing the answers given to them by their management teams.

Handover note - understanding of priorities

14. The Department is unaware of any evidence of active consideration of the degree of priority merited by each of the actions on the “Immediate actions (by end August 2014)” list from the Handover Note (**DFE-383318**). In the Department’s view, where work cannot proceed to address actions that have been identified as requiring immediate attention, there should be an informed consideration of the inherent risks – particularly in this case where the risk was identified as a financial one i.e. “to prevent excessive payments” (**DFE-419612**).

15. The “Immediate actions” list part of the Handover Note (**DFE-383318**) indicated that urgent consideration should be given to reviewing existing tariffs, highlighting biomass under 100kW as requiring urgent attention, and suggesting tiering as a potential “solution” (**DFE-383322**). The Department is not aware of any evidence to suggest that advice and support was sought from the Analytical Support Unit (ASU) in the Department, which could have assisted with a review, given the previous experience of the ASU economists at the time when the tariffs were originally set. Neither is there evidence that Energy Division considered using its own dedicated economist, who was embedded permanently within Energy Division, and whose work programme was set by Energy Division, to progress this work. It would have been advantageous if the reference in the Handover Note to potential overcompensation had prompted urgent attention from officials in EE Branch.

16. The Addendum Business Case submitted by EE Branch in October 2015 (**DFE-285372** to **DFE-285399**) seeking DFP approval for the continuation of the RHI Scheme stated that:

“Ministers prioritised introduction of the domestic RHI including deferring other measures which would have slowed down its introduction.”

(DFE-285374)

The “other measures” referred to include consideration of a cost control mechanism for management of the overall RHI Scheme budget. The failure to recognise that this was an issue which was separate from the need for review of

existing tariffs (and the potential introduction of tiering), meant that the exercise to determine value for money was mistakenly deferred. The Department is not aware of any evidence which supports the assertion that prioritisation of the Domestic RHI Scheme was determined at Ministerial level.

Monitoring of Scheme applications and usage and comparing these with assumptions underpinning the Scheme

17. It was submitted in oral evidence that EE Branch monitored application numbers and payment levels under the Scheme for budgeting purposes (**TRA-06978** to **TRA-06981**). However, no comparisons were carried out between the typical boiler size applying for accreditation and the usage profile, with the underlying assumptions of the Scheme upon which the business case was based (**PWC-04676**). This meant that it was not recognised that average boiler capacity and load factors were well above those projected in the CEPA work. The need to carry out regular reviews to check that the CEPA assumptions were accurate was articulated in the Regulatory Impact Assessment for the Scheme (**DFE-143870**).
18. The tariff level, based on the CEPA work, was made up of a number of component parts, of which, expected annual usage and capital costs were vitally important. As capital costs are heavily dependent on market conditions, ongoing monitoring of the level of such costs was crucial to ensure that the tariff level remained appropriate – this was promised in the original Business Case (**DFE-81038, DFE-81047**), the Regulatory Impact Assessment (**DFE-143870**) and the CEPA Reports (**DFE-400320** to **DFE-400321, DFE-317093, DFE-317098**). Capital costs and expected usage levels of the installations were noted by applicants on their application forms for the Scheme. Ofgem sent regular reports to the Department detailing the total number of applications, the installation capacity, efficiency and average hours of operation per week (as recorded on the application forms). Energy Division officials did not actively monitoring costs (**TRA-05849, TRA-06975**). The Department acknowledges there was overreliance on Ofgem for the management and administration of the Scheme,

however, it considers that the monitoring of usage should have been carried out by the Department.

19. This failure to monitor key component parts was a continuing failure. Assumptions made in the Addendum Business Case, submitted in October 2015 (**DFE-285372** to **DFE-285399**), show that Energy Division officials used incorrect and outdated assumptions of boiler capital costs which worked to overstate the assessment of the value for money of the tariff payments. This can be seen for a 199kW boiler in respect of which the Addendum Business Case estimates a rate of return of 12.8% based on a Tier 1 payment (capital return) of £11,531 divided by an original capital investment of £90,000 (**DFE-285389**). It is unclear why this capital investment figure was used, as Energy Division officials had received information in July 2015 from a local supplier indicating that biomass boiler capital costs in Northern Ireland were significantly lower, including £52,000-£53,000 for a 199kW boiler (**DFE-107153**). If this lower figure had been used, instead then the rate of return, using the methodology in the Addendum Business Case, would have been 22%, a return above the State aid approved level.
20. There were also other errors in the Addendum Business Case which included: no counterfactual capital cost; an erroneous application of the fuel efficiency factor; and an approach to calculating the rate of return that was inconsistent with the original tariff calculation. Correcting for these errors increased the estimated rate of return further to 39%¹.
21. The Department has already commented on the fact that documentation suggests that Energy Division officials in early 2015 were considering reductions to the single tier tariff level, to be introduced from April 2017 (**WIT-00106**). Ultimately, however, the starting Tier 1 level of tariff under the tiered tariff structure, introduced later in 2015 was based on the previous single tier tariff. Although there appears to have been awareness that this was too high (on the

¹ Removing the fuel efficiency factor increases the Tier 1 payment to £12,813. Applying the cost per kW of £97 from Table A.25 of the 2012 CEPA report implies that an 199kW oil boiler would cost approximately £19,300 so that the additional investment on the biomass boiler is £33,200.

basis that officials were proposing to reduce it), it was still recommended to DFP as part of the Addendum Business Case, as representing value for money.

22. The Department further notes that Energy Division officials were aware that there was the potential for Scheme recipients to receive excessive payments from as early as 11 August 2015. This shows that in considering the proposed change there was a risk of the payments being too generous and outside of EU approval levels. John Mills sent an email to Chris Stewart on 11 August 2015 (**DFE-293161** to **DFE-293162**) in response to a request from Timothy Cairns that the Department give consideration to the introduction of a tiered tariff to engage at 3000 hours as opposed to 1314 hours. John Mills' response stated that a tiered tariff engaging at 3000 hours would provide a rate of return of 38.46% which would be well outside of State aid approval limits. This e-mail indicates that Energy Division did know that returns had the potential to be higher than intended.

23. The Department notes that, throughout the period when changes to the Scheme were being discussed, there is no evidence of ongoing dialogue with GB officials in DECC while policy options were being developed. In view of DECC's experience of the impact of policy changes on operation and practice under the GB RHI Scheme, such engagement could have usefully informed Energy Division officials' deliberations. This again is a key learning point for the Department.

Scheme performance, the need for cost controls and review of the Scheme

24. As stated in oral evidence by Peter Hutchinson, there was an error in the draft business case for the Domestic RHI Scheme (prepared before Stuart Wightman and Seamus Hughes joined EE Branch), which referred to the first formal review of the Non-Domestic Scheme RHI commencing in 2015, with changes implemented in 2016 (**TRA-05145**). This is contrary to the previous commitments, on which DFP approval for the Scheme is based, and which was also repeated to the European Commission, i.e. that a review of the Scheme would commence in 2014. Stuart Wightman indicated that he understood from

this that the decision to defer the review had been taken prior to his arrival
(**PWC-04664**).

25. Evidence presented by Energy Division officials involved in setting up the RHI Scheme (i.e. “Team 1”) indicates that it was intended that ongoing “monitoring and review” would achieve cost control of the Scheme. However, it is the Department’s view that the complete reliance on this activity as the sole mechanism intended to control costs would never have been adequate, in particular because the Scheme had no failsafe mechanism to allow urgent intervention if “monitoring and review” led to the identification of a problem. In addition, Team 1’s intended approach was not appropriately conveyed to staff joining later, and it was not recorded anywhere in Divisional Management documents which would have ensured that the importance of a review was understood by new staff. This meant that the staff who later joined Energy Division did not recognise the need for review as a priority.

26. Commenting in his witness statement on his view of the “usefulness” of any such review being carried out in 2014, John Mills states:

“there would have been very limited data upon which to base any sensible analysis in 2014... Given the lack of data it is hard to see the benefit of a tariff review in early 2014 or that it constitutes a “missed opportunity”. If, on the other hand, what is meant by a tariff review is, “a complete re-assessment of the original economic basis” for Non-Domestic Scheme RHI, perhaps this might have made a difference. However, I did not have the resources to fundamentally review Non-Domestic Scheme RHI or any other policy areas, nor was it indicated to me that a substantial overhaul review was anticipated.” (WIT-14534)

27. This view does not take into account that, as noted in the Department’s witness statement clarifying issues on design, setup and launch of the scheme (**WIT-03279**), divergence from the load factors and boiler sizes assumed by the consultants would have been apparent from as early as 2013. It is reasonable to expect that this analysis would have happened in a Branch with responsibility for

managing the Scheme. This is the action that was anticipated when the Regulatory Impact Assessment was drafted which refers to:

“regular, planned, reviews of subsidy levels after a number of years of experience with the subsidy. This will provide an opportunity to amend tariffs if required and ensure they remain appropriate given potential changing market conditions”. (DFE-143870)

28. As has been demonstrated in the Department’s Witness Statement of 24 November 2017 (WIT-03280), it would have been clear from the projected usage information, stated on the applicants’ application forms, that the projected usage differed from the assumed usage profile upon which the economics of the Scheme had been based. As indicated in the Department’s earlier statement, the projected usage information, as recorded on application forms for the Scheme, was sent to the Department on a weekly basis by Ofgem (WIT-03278 to WIT-03279). These weekly reports were used to monitor the number of new applications received, but were not used to carry out comparisons against the assumptions underpinning the Scheme. At this stage, in mid 2014, some 198 applications had been received, 63% of which were for a 99kW biomass installation, with an average load factor of 45% resulting in an average annual payment of £22,900 as opposed to CEPA’s assumed 50kW installation, 17% load factor and average annual payment of £4,500².

29. While staff in Energy Division have made comment on the fact that the projected usage profile, as reported by applicants, was understood to be unreliable – it was perceived that some applicants would under/over estimate for purposes of making their application more favourable – the *actual* usage figures associated with the payment information was also made available to the Department on an ongoing basis.

² 50kW * 17% load factor * 8,760 annual hours * 6.1p/kWh tariff = £4,542

Janette O'Hagan's email alleging abuse of the RHI Scheme

30. Janette O'Hagan, sent a strongly worded email alleging widespread abuse of the RHI Scheme to the Department in May 2014. The issues raised in her email were recorded in the Handover Note, which referred to Janette O'Hagan by name, along with details of where the email was saved on TRIM. As Janette O'Hagan received no response, she wrote again a month later in the same terms. The Handover Note was passed to incoming staff joining EE Branch in June 2014, and the Department is not aware of any evidence that they took action in response to the issues raised by Janette O'Hagan.

31. When Janette O'Hagan wrote to the Department again in March 2015, the email chain contained the 2014 emails, which described widespread abuse of the Scheme, and the comments on the importance of tiering in that context. A response was issued stating that changes to the Scheme were being considered, but that tiering was not being proposed. Janette O'Hagan responded the same day, reiterating the importance of tiering in addressing the perverse incentive to waste heat and expressed disappointment that the Department had not taken her concerns seriously, and had not taken any action in response to her repeated approaches (**WIT-17381**). This email was not responded to and no action or further investigation was undertaken by EE Branch. In the Department's view, Janette O'Hagan's warnings warranted immediate attention and swift action.

Policy Group Assurance Statement May and June 2015

32. On 29 May 2015, Chris Stewart sent the routine six monthly assurance for Policy Group³ statement to Andrew McCormick (**DFE-277238** to **DFE-277239**). This included an explanation of the position on the RHI Scheme under the heading "Significant Internal Control Problems". The explanation included the following:

³ ie his Grade 3 command within DETI

“Despite repeated requests for information from Finance Division (and DFP) The (sic) Division has yet to receive any clarity around the maximum available RHI budget going forward.”

33. The same day, at the fortnightly Senior Management Team meeting, there was a sharp exchange of views between Trevor Cooper, the Finance Director, and John Mills, the Energy Director. John Mills stated that Finance Division needed to secure additional budget in relation to the Scheme. Trevor Cooper pointed out that the Scheme was already over budget and that whilst the Scheme had overspent, clearly there were more control issues with the Scheme than securing additional budget cover. At this stage Trevor Cooper was unaware of the lapse in Scheme approval (**DFE-278081**), or of the content of the Energy Division assurance statement (**DFE-277236**), but was aware of the overspend, the absence of tiering, and had been working with Energy Division over the previous two weeks to assist Energy Division to calculate its expenditure, including accrued expenditure, given the very significant shift in the forecasts provided by Energy Division over a 4 month period, which had suggested reduced forward budgetary requirements in 2015/16 no later than November 2014 (**WIT-02992** to **WIT-02993**). Andrew McCormick closed down the discussion in that meeting and called a special urgent discussion to address the issues more fully.

34. That meeting took place on 3 June 2015 (see **WIT-10588**). In the period between the Senior Management Meeting and the meeting on 3 June 2015, Trevor Cooper reviewed some of the original casework documentation (including the minutes of the Casework Meeting, and the DFP approval letter from 2012). It was this action that resulted in the recognition that Energy Division had not secured approvals for the scheme post 31 March 2015 and that ongoing expenditure was therefore irregular. At the meeting of 3 June 2015 there was a discussion on the range of weaknesses in the management and control of the Scheme: the overspend against the budget; the failure to review the Scheme as originally planned; the absence of the tiering of tariffs in the Scheme from the outset; the absence of a mechanism to constrain or cease expenditure on the scheme from the outset, without the introduction of primary legislation; and the

very significant and ongoing growth in demand for the Scheme for which there was no budget cover.

35. Prior to the meeting on 17 June 2015 there was an exchange of emails between Trevor Cooper and Shane Murphy in relation to their concerns about the Scheme (**DFE-146538, DFE-146546 to DFE-146557, DFE-146565 to DFE-146571**). At a subsequent meeting on 17 June 2015, attended by Andrew McCormick, Eugene Rooney, Trevor Cooper, John Mills, Shane Murphy and Stuart Wightman, Energy Division indicated that its legal advice was such that the only action that could be taken by the Department in the short term (estimated to take three months) was to introduce tiering on existing tariffs to dampen demand and improve VfM. The option to close the scheme was also discounted on the basis of Energy Division's representation of the legal position. They further advised in this meeting that the amendment of tariff levels and the introduction of budget/cost controls, which were absent from the Scheme, would each take between six months and a year from that date so there was no mechanism available in either the medium or short term to cease further additional commitment, or to reduce additional commitment other than the action to tier existing tariffs.
36. Trevor Cooper has stated in his witness statement that, at this meeting, he raised the issue of the Scheme being in breach of State aid rules and Shane Murphy suggested that an urgent focussed review of the Scheme be undertaken that would include a review of tariffs across each technology (**WIT-19058**).
37. It was on the basis of this legal advice from Energy Division (referred to in paragraph 35 above) that Andrew McCormick confirmed that urgent action should be taken immediately on the only short term option (as presented by Energy Division) being available to reduce the budget pressure from the Scheme, and improve its value for money as quickly as possible, with follow up action to be taken around the introduction of budget/cost controls and tariff review and amendments across the Scheme to follow on as soon as practicable (i.e. in six to twelve months).

38. Shane Murphy also advised Energy Division to discontinue promotion of the Scheme, so that demand was not further increased.

Delay in resolving non-standard AME and DEL penalty

39. The HM Treasury email of 2011 (**DFE-164136** to **DFE-164137**) was available to new staff in EE Branch from the outset, being referred to in the Handover Note. While the profile of the funding was unusual, the 2011 email from HM Treasury indicated that overspends would have to be recouped from the Department's future allocations and it referred separately, to a likely 5% DEL penalty which would also apply even if the balance could be recouped from future AME allocations.

40. The 2013 consultation document explicitly stated that the budget for the RHI Scheme was limited, and evidence shows that staff joining EE Branch in summer 2014 were aware of this, as they subsequently used this text to populate draft policy templates in early 2015, stating:

“The RHI is different in nature to the NIRO in that there is a finite budget for new installations and these budget limits cannot be breached.”

(DFE-117627)

41. It seems to be the case that in 2015 the staff in Energy Division did not understand the true nature of the funding profile as described in the HM Treasury email. The evidence shows that Energy Division staff were actively seeking clarity on this from 29 March 2015: which indicated that they were aware that the budget profile was in question. However, prior to that point (on 10 March 2015), Finance Division had formally confirmed the budget that Energy Division should work to and gave a clear signal that under no circumstances should commitments be entered into without budget cover (**DFE-195800** to **DFE-195804**, **DFE-195999**, **DFE-196000**).

42. At the meeting on 17 June 2015, Andrew McCormick instructed that the actions to regularise expenditure, reduce the rate of further budget commitment through the introduction of tiering, and seek further budget should all be given top priority.

However, Trevor Cooper has advised the Department that these actions were delayed because John Mills directed Stuart Wightman to prioritise work on the Energywise business case over the progression of work on the RHI addendum.

43. In spite of the fact that Bernie Brankin, in her email of 24 August 2015 (**WIT-02741**), again highlighted the potential for DEL penalties, Energy Division continued to incorrectly describe the nature of the funding, which was referenced again in a submission dated 6 November 2015, which sought the Minister's signature for the Motion for Approval for the draft 2015 Regulations (**DFE-123805**).
44. A slightly different understanding of the nature of the historic funding position was represented to the Minister in a submission from John Mills on 31 December 2015 (**DFE-122356** to **DFE-122361**) which referred to a "change in HMT policy" whereby the NI DEL budget would be liable for the full cost of the overspend, rather than only 5% of the overspend as had been (wrongly) understood, linking it to the Chancellor's Autumn Statement.

Engagement with RHI Recipients and the Renewables Industry

45. Paragraphs 308 to 313 of the Department's corporate statement of 19 May 2017 (**WIT-00118**, **WIT-00119**) provide information in relation to stakeholder engagement and the premature disclosure of the 2015 tariff reductions.
46. The Department notes the views expressed by Stuart Wightman in his witness statement around balancing the risk of legal challenge and the need to include specific details to render the consultation meaningful (**WIT-17066**). The Department accepts that these are legitimate points, but it does not consider that the process followed in respect of engagement with industry was in line with the guidance on policy making in Northern Ireland. The Department's understanding of those parts of the guidance that deal with consultation is that the process should be driven by Government. In practice, what happened from July 2015 onwards was that officials provided information on tariff reductions following approaches from the Industry.

47. There appears to have been some awareness of the risks involved in informing industry stakeholders of proposed changes in the Scheme, as Stuart Wightman refers to it when discussing the response to Janette O'Hagan's March 2015 email:

"in March we were already thinking we need to do tariff changes here at some stage but we wouldn't have written back to her and said 'we were doing tariff changes' because we don't want a spike, we don't want to let people know what we're necessarily doing" (**PWC-04673**)

"I think when we received that email we were pretty clear what we were going to do tiered tariff [sic], we would need to do tier tariffs but I wouldn't have said that to any individuals for obvious reasons." (**PWC-04683**)

However in the draft policy template dealing with cost control proposals shared with Ofgem for comment by EE Branch on 25 March 2015, tiering is not mentioned (**DFE-118586** to **DFE-118587**). A reference to tiered tariffs first appeared on 15 May 2015 in a document entitled "The Northern Ireland Non Domestic Renewable Heat Incentive: Response to consultation and final policy" (**DFE-117124**). The reference to tiered tariffs was then added to the draft of a policy template on 20 May 2015 (**DFE-117621** to **DFE-117622**).

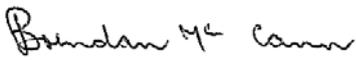
48. Stuart Wightman states that it was considered that a full public consultation in June 2015 would "*provide the industry with too much notice*" of the changes being proposed (**WIT-17039**). Evidence shows that EE Branch were sharing information with external third parties regarding the Non-Domestic RHI Phase II changes from as early as January 2015, with respect to the proposal to increase the biomass banding limit (**DFE-106825**), and again in February 2015 (**DFE-106830**, **WIT-263925**), and that industry representatives had understood from that early stage that a reduction in the profitability of tariff levels was likely:

"We have a time window until the start of October to complete this and have the system installed – after then the Renewable Heat Incentive (RHI) may reduce, making the investment less attractive." (**COM-126870**)

49. In his witness statement John Mills also stated that a lengthy consultation was to be avoided as it was anticipated that this could drive a spike in applications; he noted that a period of 6 weeks had been agreed between “giving notice” and the changes being made (**WIT-14553**).
50. The Department would draw a distinction between stakeholder interactions where general views are sought on possible scenarios and policy options, and meetings targeted at selected interested parties (with a significant commercial interest) involving disclosure and discussion of final policy proposals, and consideration of the timescale for their introduction, as it appears occurred in this case.
51. The candour that characterised EE Branch discussions with some industry bodies during this period meant that many recipients of, and potential applicants to, the Scheme were effectively briefed on the detail of the final policy and cost control proposals, and the outcome considered likely by EE Branch officials, before the proposals had even been submitted to the Minister for consideration on the 8 July 2015 (**WIT-02764, WIT-02769, DFE-107108 to DFE-107110**). Indeed, the proposals, and the likely outcome, continued to be openly discussed pending the Ministerial decision confirmed on 3 September 2015 (**WIT-02766, DFE-107131 to DFE-107132, DFE-107137, DFE-107144 to DFE-107145, DFE-107161 to DFE-107162, COM-05156, COM-05173, WIT-195355 to WIT-195360**).

Statement of Truth

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

Signed: 

Dated: 26 October 2018



INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME

RHI REF: Notice 198 of 2018

DATE: 13 November 2018

Witness Statement of: Stuart Wightman

I, Stuart Wightman, will say as follows: -

The evidence of Mr Michael Woods

1. You are referred to the oral evidence of Michael Woods¹ given on 19 October 2018 (see TRA-15975 to TRA-16088). In the course of his oral evidence, Mr Woods appeared to make a number of express or implied criticisms of your and/or other officials within DETI Energy Division's conduct as to:
 - a. the adequacy of Energy Division's questioning in relation to, and evaluation of, the value for money of the RHI Scheme in 2015 and 2016;
 - b. failure to bring relevant matters in relation to the RHI Scheme to the attention of Internal Audit and/or the DETI Audit Committee during 2015 and 2016;
 - c. the adequacy or utility of responses provided during the course of the 2016 Internal Audit investigation in relation to the RHI Scheme and the level of cooperation afforded to that investigation; and

¹ Mr Woods' written evidence, in his witness statement of 14 September 2017, is at WIT-23001 to WIT-23078 (along with annexed documentation at WIT-23079 to WIT-23552) and has been available to you for some time in your capacity as an enhanced participant with access to the Inquiry's witness statement bundle.



- d. **failure to provide full information to Internal Audit, or in the course of the Department's preparation in 2016 for the Public Accounts Committee's investigation into the RHI Scheme, as to the existence of:**
- i. **the May 2014 handover note prepared by Peter Hutchinson; and/or**
 - ii. **Janette O'Hagan's 2013 to 2015 email communications with the Department,**
- and what had been done with or in respect of each of these.**

Please set out any response you wish to make to the evidence of Mr Woods to the extent (a) that the said issues have not already been addressed in your existing oral and written evidence and (b) that the further material you wish to provide constitutes evidence of fact as opposed to mere commentary on the evidence of another witness or participant which would be more appropriate for submissions.

DfE corporate statement No 12 of 26 October 2018

2. **You are also referred to the recently provided supplementary corporate statement provided by Mr Brendan McCann on behalf of the Department for the Economy dated 26 October 2018 (DfE Corporate statement No 12, found at WIT-03560 to WIT-03576), the contents of which are said to relate to "*the management and control of the Scheme from mid 2014*" and respond, *inter alia*, to written and/or oral evidence you have provided to the Inquiry.**

Please set out any response you wish to make to the matters addressed in that witness statement to the extent (a) that the said issues have not already been addressed in your existing oral and written evidence and (b) that the further material you wish to provide constitutes evidence of fact as opposed to mere commentary on the evidence of another witness or participant which would be more appropriate for submissions.



Introduction

1. I made previous statements to the Inquiry on 20 June 2017 & 23 February 2018 in response to notice 145 of 2017 and on 4 September 2018 in response to notice 170 of 2018. I make this further statement in response to notice 198 of 2018 whereby the Inquiry has granted me an opportunity to give written evidence in response to:
 - (1) The evidence of Mr Woods in his witness statement of 14/9/17 (WIT- 23001 to 23512) and his oral evidence to the Inquiry on Friday 19/10/18 (TRA-15975 to 16088).
 - (2) The witness statement of Mr McCann of the Department for the Economy of 26/10/18 (WIT-03560 to 03576).

Expression of opinion as to Standards of Conduct and Conflict of Interest

2. Before I address the specific matters raised by the Inquiry in Notice 198 of 2018 at paragraphs 1(a) -1(d) and 2, and although not specifically asked to do so by the Inquiry, I wish to address, at the outset, Mr Woods' assertion that there was a failure to act in line with the Nolan principles.
3. In paragraph 107 of his witness statement (WIT–23064), Mr Woods states: *'I believe that there are a number of instances where the development and subsequent management of the Scheme fell well short of the standards I would have expected both in terms of a general expectation of "trust and confidence" as an employee and in following the Nolan principles particularly, in the initial scheme design, the understanding of the Value for Money & response to initial audit findings and the handover note.'* In paragraph 119 (WIT–23070) he goes on to state *'I consider not making my team aware of these concerns when they were received or during the internal audit assignment to be a failure to act in line with the Nolan principles in particular, openness, objectivity, honesty and leadership.'*
4. I am grateful to the Inquiry for the opportunity to address in writing this statement of opinion. I completely reject the suggestion that I have acted contrary to the



Nolan principles. Mr Woods never made this suggestion to me at the relevant time. Nor, so far as I am aware, did he ever make this suggestion at the relevant time to my line manager or any more senior civil servant. Nor, has anyone else made this suggestion to me at any time, and it was not put to me when I previously gave evidence to the Inquiry.

5. I believe Mr Woods is the only person in the course of this Inquiry to accuse me of a breach of the Nolan principles and, by extension, Civil Service rules. No evidence was offered in support of such a summary judgement, which causes me great dismay. The Chairman intervened to point out that another possible explanation was that there was loss of knowledge because nobody really appreciated the significance of the handover note. I did not appreciate the significance of the handover note at the time that it was provided and I had, as a matter of fact, forgotten about the existence of the handover note by the time of the internal audit and preparation for PAC.
6. I was completely astounded when I heard Mr Woods' criticisms of his dealings and engagement with my Branch during the Internal Audit Service (IAS) Review in early 2016. I feel his criticisms are unwarranted. His evidence is at odds with what actually happened. During the IAS Review, I personally sat down with Mr Woods on a number of occasions to discuss his requirements and then I asked Mr Hughes to assist the IAS team with their audit. I was entirely open, honest and transparent with Mr Woods and his team. I felt at the time that I had a good working relationship with him. There was no question of us wishing to obstruct him or his team in any way. I do not believe that we were obstructive in any way. On the contrary, I sought to cooperate with him and his team to the very best of my ability, and I felt at the time (and still do) that I achieved that aim (albeit I accept that some of our written responses were inadequate – see paragraphs 16-19 below). He did not say anything to me, or so far as I am aware, to anyone else, to suggest that we had done otherwise. He did not, at any stage, raise any concern with me (or, so far as I am aware, anyone else) as to the level of cooperation that he was receiving from me or Mr Hughes.
7. On the contrary, Mr Woods expressly thanked us, in writing, for our help and



cooperation. The IAS Report itself says “Internal Audit would like to thank management and staff for their assistance and co-operation throughout this review.” (WIT-23474) There is nothing to suggest that this expression of thanks for our help and cooperation was anything other than genuine. There is nothing to suggest that it does not reflect Mr Woods’ genuine opinion at the time that we had been helpful and cooperative. Mr Woods did not, in his evidence to the Inquiry, acknowledge that he had thanked us for our help and cooperation. Nor did he explain why he thanked us for our cooperation if he had believed that we had been obstructive and non-cooperative. The opinion he expressed in his evidence to the Inquiry is completely contrary to what he said at the time.

8. I stress that I do not question Mr Woods’ audit findings, or his right to make professional, evidence-based criticisms of our work. I do not, however, accept the opinion that he now expresses, but did not express at the time, that there was a failure to act in line with the Nolan principles. As I explain above, this was never suggested at the time. Aside from the fact that Mr Woods did not ever raise this with me or Mr Hughes:

- (1) The alleged non-cooperation of Energy Division was never raised with Mr Stewart as Deputy Secretary with responsibility for the Division.

- (2) The alleged non-cooperation of Energy Division is not even addressed in the audit report itself, or raised with the audit and risk management committee. On the contrary, as I explain above, the IAS Report thanks management and staff for their assistance and cooperation throughout this review (WIT-23474).

- (3) According to Dr McCormick’s oral evidence on 26/10/18 (TRA- 16645/46), Mr Woods did not raise any specific concern about me (or, it would see, Mr Hughes) regarding any alleged lack of cooperation. This is striking given that Mr Woods had open access to Dr McCormick at all times and one would have expected, given the stark nature of the alleged non-cooperation, that he would have immediately raised this with the accounting officer at the time. According to Dr McCormick, Mr Woods did raise some issues about a response received from Mr Mills. Given that Mr Woods saw fit to raise that specific point with the accounting officer it beggars belief that he would not



have also raised his alleged concerns about lack of cooperation with Dr McCormick at the same time.

(4) Mr Donnelly gave evidence (TRA-16218) that does not support or corroborate the concerns raised by Mr Woods regarding alleged lack of cooperation. My recollection is that I did have some contact with Mr Donnelly's team and, as with Mr Woods, I sought at all times to cooperate as fully as I could with them.

9. I believe that the extensive contemporaneous written documentation does not demonstrate any obstruction on my part with any investigation into the RHI scheme. Rather, it shows that I have sought fully to cooperate, to the best of my ability, with Mr Woods' investigation, and with Mr Donnelly's team, and with this Inquiry.
10. The above is my factual evidence. I appreciate that the Inquiry will be less interested in opinion or commentary. However, given that I am responding to an expression of opinion I hope that I will be forgiven if I briefly set out my own opinion. I do not believe that Mr Woods could have believed, at the time, that there was a lack of cooperation and help on my part or that of Mr Hughes. That is because of the matters set out above – if he really had held that opinion I do not understand why he did not express it at the time or why he thanked us for our help and cooperation. I therefore believe that it is an opinion that he has reached subsequently, perhaps in the light of the evidence given at the Inquiry. In particular, it appears he has reached the view he now expresses in the light of the emergence of the concerns expressed by Ms O'Hagan and the handover note. I entirely accept that if I or anyone else had deliberately suppressed these matters then that would have been a breach of the Nolan principles. However, as I set out below, and notwithstanding the opinion that Mr Woods has expressed, I certainly did not seek to hide anything from him, and I certainly did not deliberately suppress either Ms Hagan's concerns, or the handover note, or anything else.



1a. the adequacy of Energy Division's questioning in relation to, and evaluation of, the value for money of the RHI Scheme in 2015 and 2016;

11. I entirely accept that there was a failure throughout the life of the RHI Scheme (including in 2015 and 2016) to sufficiently monitor and address its value for money. This has been dealt with in detail in my previous written and oral evidence. If the Inquiry requires further evidence on specific issues then I would be very happy to provide that.

12. So far as Mr Woods' evidence on value for money is concerned, he says at paragraph 113 of his Statement (WIT-23067) *'I received a response to this paper from John Mills on 23rd March 2016, the response failed to address any of the points of factual accuracy or value for money. I subsequently met with John Mills and Stuart Wightman on 8th April 2016 and at the meeting John would not accept that the scheme was not value for money but would accept that not having undertaken the evaluation in 2014 they did not know if it was value for money...'*

13. The response of 23rd March 2016 was prepared by Mr Mills alone with no input from Mr Hughes or myself. So far as the meeting is concerned, the point being made by Mr Woods appears to relate to Mr Mills (*"John would not accept the scheme was not value for money."*) Accordingly, it appears that the point he is making is directed to Mr Mills rather than to myself or Mr Hughes. I appreciate that in his oral evidence (TRA-16061) he made the point more broadly and said that he was not able to get answers to basic questions as to how the scheme provided value for money. However, I think this again may be a reference to the same basic point that Mr Woods felt that Mr Mills would not accept that the scheme was not value for money.

14. So far as I am concerned, I had prepared some comments on Mr Woods' paper. A copy of the paper with my comments on them is attached at Annex A to this statement. It can be seen that I did not raise any issue or disagreement with the observations made by Mr Woods that relate to value for money. I provided this annotated document to Mr Mills in the anticipation that he might provide it (perhaps with any additional comments that he had) to Mr Woods. However, Mr



Mills decided to provide an entirely separate response in respect of which I had no input or control.

1b. failure to bring relevant matters in relation to the RHI Scheme to the attention of Internal Audit and/or the DETI Audit Committee during 2015 and 2016;

15. I understand “relevant matters” in paragraph 1b of the notice to be a reference to Ms O’Hagan’s email communications, and possibly to the handover note. I address each of these in my response to 1d below in relation both to the fact that they were not referred to IAS during 2015 and 2016.

1c. the adequacy or utility of responses provided during the course of the 2016 Internal Audit investigation in relation to the RHI Scheme and the level of cooperation afforded to that investigation; and

16. I accept that some of the responses were inadequate and of little utility. At the time both schemes had just been closed and I was busy dealing with the fallout. We were also busy trying to respond to whistleblower allegations and I was still working on EnergyWise. I did not have any additional resource to respond to Internal Audit. On receiving the list of questions, I asked Mr Hughes to have an initial go at answering them. Mr Hughes answered what he could and sent the questions to Ofgem for their input. He also provided his responses to Mr Woods with an explanation that he was awaiting Ofgem input.

17. Many of the questions referred to governance arrangements that were supposed to have been put in place by DETI and Ofgem back in 2012 (but which had not been put in place). It therefore seemed a reasonable response to seek Ofgem’s input. I specifically remember expressing my concerns with Mr Woods that Mr Hughes and I were not in a position to give an explanation why many of the agreed governance arrangements had not been put in place and we needed to seek input from both Ofgem and Team 1. I do not remember Mr Woods raising concerns with this approach.



18. I understand how it might be thought that Mr Hughes' responses along the lines "Don't know" or "haven't asked" might be thought unhelpful (see Mr Woods' evidence at TRA-16065/66). It is, however, important to understand that these initial comments, drafted by Mr Hughes, were included in an internal working document to highlight those areas where we had insufficient knowledge. They were not intended to be our full and final response. They were part of the process of working through the questions that had been asked and identified gaps in our knowledge. The final responses issued to IAS (DFE-126677 to 126685) included Ofgem's subsequent comments in blue. I accept that some of Mr Hughes' earlier draft comments (in red) should have been amended to reflect the information provided by Ofgem. Given the gaps that still existed in terms of answering some of the questions, it was agreed that IAS should contact Team 1 to see if they could shed some light as to why some of the agreed assurances and actions had not been carried out or put in place before June 2014. I repeat, however, that the final responses are, in a number of respects, inadequate and of little utility. While that may have been unsatisfactory to Mr Woods, it is perhaps worth acknowledging that the candid and unvarnished responses of Mr Hughes is indicative of an open and transparent approach by officials, as there was no attempt to conceal or put any sort of gloss on certain deficiencies of knowledge and control in respect of the scheme.
19. I have addressed the criticism of the *'level of cooperation'* at paragraphs 6-10 above. I do not accept the assertion that there was a lack of cooperation. That was not the impression given by Mr Woods at the time. It appears to me that the assertion he now makes about cooperation is based on his assumption that I deliberately withheld the handover note and the Ms O'Hagan material from him. For the reasons given above (and in my oral and written evidence to date) that is a misapprehension.
- 1d. failure to provide full information to Internal Audit, or in the course of the Department's preparation in 2016 for the Public Accounts Committee's investigation into the RHI Scheme, as to the existence of:**
- i. the May 2014 handover note prepared by Peter Hutchinson; and/or**



- ii. Janette O'Hagan's 2013 to 2015 email communications with the Department, and what had been done with or in respect of each of these.***

Disclosure of Handover Note

20. During his oral evidence (TRA-16076 to 16088), Mr Woods highlights the concerns he had at discovering the existence of the Handover Note in September 2016 and questions why neither Mr Hughes nor myself brought it to his attention during his Audit earlier in the year. I can entirely understand those concerns. I appreciate that it looks to Mr Woods as if relevant information that should have been disclosed to him was withheld. I accept that the handover note was relevant to Mr Woods' audit. The note should have been saved in TRIM (and if it had been then it would have been available to Mr Woods). If I had recalled its existence, I accept that I should have provided it to him, and indeed I would have done so. The simple fact of the matter is that at the time of the audit, with everything else going on (including closure of both schemes, EnergyWise, etc.), I did not recall the handover note.
21. Accordingly, despite Mr Woods' apparent inference that I consciously chose not to disclose the Handover Note to him when they were doing their Audit, I can honestly state that was not the case and that I had forgotten about it. I was working under a great deal of pressure and had many competing demands and I was overwhelmed with work. I also note that Mr Woods' evidence to the Inquiry (TRA-16081) confirmed that neither Ms McCutcheon nor Ms Hepper told him about the handover note during the internal audit. It is striking how Mr Woods focused his criticisms on myself and Mr Hughes while apparently ignoring a similar apparent omission by Ms McCutcheon to reveal to him the existence of the handover note during his audit. The Inquiry has received evidence from Peter Hutchinson (WIT- 06108 at paragraph 7.97) that he met with Joanne McCutcheon before she left in order to discuss what was to be in the handover note. It does appear that Mr Woods did discuss the issue of loss of corporate knowledge with Ms McCutcheon when he spoke with her (TRA-16081).



22. The Chairman asked Mr Woods if *'It would've been made absolutely clear to them that part of your investigation was to look at any material that had been handed on from previous officials.'* Mr Woods confirms that *'it would've been.'* As set out above I accept that the handover note was relevant to Mr Woods' work and that I would have provided it if I had recalled its existence. However, I cannot recall any discussions about material that had been handed on from previous officials, and I cannot recall any specific request from Mr Woods or his team as to whether a handover note had been provided to me. I think it is likely that if a specific question had been asked in those terms then that would have prompted either Mr Hughes or myself to remember the handover note and provide it to IAS.
23. During Mr Woods' oral evidence (TRA-16070) Dr McClean referred to the briefing document I had prepared in June 2015 for Mr Cooper where I had referred to "*hand-over material*". This was the very first draft of the Business Case Addendum. The sentence in question (DFE-146559) reads: *'The hand-over material focussed on development of the Domestic RHI Scheme with no mention of the need for DFP approval to continue the Non-domestic Scheme beyond March 2015.'*
24. I appreciate that this might give the impression that at the time of that document (so in June 2015, 7-8 months before the IAS Review) I had the handover note in mind. However, I believe this to be a more general reference to material I received when I joined, including, for example, all the papers associated with the draft Domestic RHI Business Case that I was directed to urgently take forward, rather than a specific reference to the handover note. There are a number of reasons for that. First, it refers to "material" by which I think I probably meant something other than the note. Second, the handover note was not, so far as I can recall, known as the "*hand-over note*" until the time of the PAC in September 2016, long after I had prepared the draft Business Case. The document produced by Mr Hutchinson is not entitled "handover note". Third, the draft Business Case focussed on the domestic scheme, whereas the handover note did not focus quite so much on the domestic scheme (it was mentioned, but so too were a number of other matters).



25. If the handover note had been provided to internal audit in early 2015 when they were planning their audit programme for the following year then it may have influenced their priorities and events may have taken a different course, though of course, this is to speculate with the benefit of hindsight. I do not, however, believe it to be suggested that I ought to have provided the handover note to internal audit at that earlier stage. I was not asked to do so and I had no reason to do so.

Ms O'Hagan Emails

26. In paragraph 119 of his Statement (WIT-23070), Mr Woods states: *'I believe from information stated at the PAC hearings by Andrew McCormick that Janet O'Hagan approached the Department several times with concerns on the scheme. I consider not making my team aware of these concerns when they were received or during the internal audit assignment to be a failure to act in line with the Nolan principles in particular, openness, objectivity, honesty and leadership.'*
27. Ms O'Hagan met Ms Hepper, Mr Hutchinson, and Ms McCutcheon in October 2013. Her concerns were not drawn to the attention of IAS at the time by Ms Hepper nor anyone else who had been present at the meeting. Nor were they subsequently drawn to Mr Woods' attention by Ms Hepper and/or Ms McCutcheon or anyone else during the IAS Review in 2016. I cannot account for the reasons why that was not done. I was not, of course, present at the meeting in October 2013 and I did not come into post until after that.
28. I did not, at any stage, meet Ms O'Hagan. Nor did I, at any stage, have any direct communication with her. I appreciate, of course, that I was a copy recipient of two emails that she sent (WIT-17381 to 17390). However, the simple fact is that, as I explain in my June 2017 Statement (WIT-17041/2) and during my oral evidence (TRA-09240), I cannot remember reading these two emails. Given the significant workload I was under, it was just not possible for me to keep on top of all my emails, particularly those that were not directly addressed to me. I do, however, fully accept that this was a missed opportunity. I further accept Mr



Woods' evidence that the concerns raised by Ms O'Hagan should have been drawn to his attention. If I had been alive to the issues Ms O'Hagan had sought to raise then I would have escalated these immediately to my senior management. Subject to their direction (senior management) it is likely that the matter would then have been raised with IAS. This may have led to changes being made to the scheme sooner than November 2015. However, the fact remains that I missed this important 'red flag' because I do not believe that I ever read the emails.

29. This demonstrates the practical impact of the failure to allocate sufficient resources to the scheme. With my other responsibilities (energy efficiency and Domestic RHI), throughout my time in DETI it was difficult making any time available for Non Domestic RHI related work. Mr Hughes and I were effectively on our own, compared to the 77 officials in DECC and the 48 officials in the current RHI task force (WIT-23915). That meant that I was not able to properly and fully read and digest all emails into which I was copied. It meant that important matters, such as the concerns raised by Ms O'Hagan, were missed.
30. In short, however, Mr Woods' assertion of a breach of the Nolan principles appears to be based on the failure to draw his attention the concerns raised by Ms O'Hagan. I accept his view that her concerns should have been drawn to his attention. If I had been aware of them I would have done so. The simple fact of the matter is that I was not aware of them. I cannot answer for why others, who were more directly involved with Ms O'Hagan, did not draw her concerns to Mr Woods' attention.

Lessons Learned from Bytel Public Account Committee (PAC)

31. During his oral evidence on 19 October 2018 TRA-16023), Mr Woods referenced the PAC Hearing on the Bytel Project which he states identified that "*One of the salient failures was the failure to adequately investigate a whistle-blower and a whistle-blower being dismissed.*" The PAC Hearing was on 18 March 2015 with the PAC Report published on 1 July 2015. I do not recall being aware of the Bytel case at the time or of receiving any guidance or lessons learned from the case.



During his oral evidence on 4 September 2018 (TRA-12059) Dr McCormick concedes that *“Obviously, a lot of the thinking would’ve been in our preparation for the evidence session on Bytel, but that was well into the year ’14-15. So, by the time the report — by the time we had the received lessons from Bytel, we were already past the point of no return on the RHI...”*

32. I cannot answer for why this matter was not drawn to Mr Woods’ attention by those who were aware of it. It is not clear why Team 1 did not take Ms O’Hagan’s concerns seriously given that both the Director of Energy Division (Ms Hepper) and the Head of Renewable Heat Branch (Ms McCutcheon) had both worked in the area of telecommunications within DETI prior to energy and should therefore have both been well aware of the Bytel case and the importance of investigating concerns made by third parties or whistleblowers. Ms Hepper’s witness statement confirms that she was the Director of Strategic Policy Division in DETI from 2005–2010 (WIT–15019) which included responsibility for telecommunications policy. The transcript from Ms McCutcheon’s PWC interview confirms that she also worked in ‘Telecoms’ before moving to Energy Division in May 2011 (PWC-04548). I have recently sought to try and find out the details of officials (Grade 7, and above) involved with the Bytel project up until the PAC report was published in July 2015 from the RHI Taskforce. Although the RHI Taskforce initially sought the justification behind this request, they have now directed my legal representative to a NICS HR Business Partner to obtain this information. My legal representative had made a request to NICS HR and their response it awaited. I am concerned that the RHI Taskforce has not provided this information.

DfE corporate statement No 12 of 26 October 2018

2. **You are also referred to the recently provided supplementary corporate statement provided by Mr Brendan McCann on behalf of the Department for the Economy dated 26 October 2018 (DfE Corporate statement No 12, found at WIT-03560 to WIT-03576), the contents of which are said to relate to *“the management and control of the Scheme from mid 2014”* and**



respond, *inter alia*, to written and/or oral evidence you have provided to the Inquiry.

Please set out any response you wish to make to the matters addressed in that witness statement to the extent (a) that the said issues have not already been addressed in your existing oral and written evidence and (b) that the further material you wish to provide constitutes evidence of fact as opposed to mere commentary on the evidence of another witness or participant which would be more appropriate for submissions.

33. I respectfully question the propriety of this statement. It was not sought by the inquiry. The author of the statement does not have any first hand knowledge of the matters that are set out in the statement. It is more in the nature of a submission, or commentary, than a witness statement. I note that on 24th August 2018 the solicitor to the inquiry indicated “*Where... evidence amounts to no more, or little more, than a commentary on other evidence, the Inquiry Panel will carefully consider that in determining what weight, if any, to give to that evidence.*” The solicitor to the inquiry also indicated that “*The Inquiry considers it important that there is transparency as to the identities of those who have contributed to the corporate statement.*” My legal representative has sought clarity as to who contributed to different parts of the corporate statement. I simply do not know who has reached the conclusions that are set out in the statement. I have also sought disclosure of the materials that are referenced in the statement. That request has been refused.

34. Moreover, the Inquiry has been very clear in my s21 notice, that it only requires factual evidence rather than commentary. It does, however, appear that the Department’s “Statement” is an exercise in commentary on the evidence I have given as opposed to the provision of any new factual evidence. Nonetheless, I am grateful to the Inquiry for the opportunity to respond to the statement.



Extent of Department's disagreement with my evidence

35. The purpose of the Department's statement is expressed to be to identify areas of disagreement with evidence given by members of Team 2 (WIT-03561 at paragraphs 4 and 5). It does not, however, appear to me that there is much significant disagreement with the evidence I have given. By way of examples only, the Department does not disagree with my evidence that I was not provided with the necessary training, resources, project management tools or requisite information to effectively manage and oversee the RHI scheme (WIT-17028 at para 32). Nor does it disagree with my evidence that most of Mr Hughes' time was taken up with the domestic scheme (WIT-17028 at para 33), that I had an unsustainable workload and was doing two jobs (both of them difficult) (WIT-17029 at para 39-40), that the timescale for the actions identified in the handover note was wholly unrealistic (WIT-17031 at para 46) and that the governance arrangements with Ofgem were unsatisfactory (WIT-17034 at para 57).

Priorities within Energy Efficiency Branch

36. In paragraph 9 (WIT-03562), the Department states: *'the decision to defer the Phase II work was taken without a full consideration of the risks, and without the rationale for the decision being formally documented and agreed with senior management (Grade 3 and above).'* This decision was made before my appointment. The point was dealt with comprehensively in the oral evidence of Mr Mills. He made it clear that the decision was taken before he or any member of Team 2 took up post. I therefore simply do not understand what point the Department is here seeking to make. If it is intended to indicate disagreement with some evidence given by Team 2 then it is wholly unclear what the Department disagrees with or why.

Onus on Incoming Staff to be fully informed

37. In paragraph 10 (WIT-03562), the Department states that *'EE Branch held responsibility for both Schemes and it is reasonable to expect that incoming staff should have been fully informed of: the working basis (including any statutory*



duties for the Department as set out in the legislation); the policy intent; the nature of approvals; and the parameters under which the Schemes were operating.'

38. I agree that we should have been fully informed of these matters. However, it is now clear that this did not happen. For example, it wasn't until June 2015, after being in post almost one year that I found out from Finance Division that the Scheme's approval had lapsed in March 2015. The Department does not indicate how it came about that we were not informed of this, or what it proposes should be done in the future to avoid a recurrence of this failing.
39. The Department further states that it "*would suggest that unfamiliarity with any new role should encourage the post holder to actively investigate the scope of their work and new responsibilities.*" In principle, I agree. I did actively investigate the scope of my work and my responsibilities. I was given direction by my line manager, Mr Mills, and I sought to discharge my duties in accordance with that direction. The practical difficulty lies with unknown unknowns. I was simply unaware of the need to secure re-approval before 31 March 2015 – at no stage was I informed of that (either by outgoing officials or by my line manager) and short of sitting down and reading the numerous files saved in TRIM related to the scheme (with no direction to do so, and in the light of an instruction to focus on the domestic scheme which itself was a huge undertaking) I could not have discovered this for myself.
40. In an ideal world, incoming staff should sit down and carefully read through and digest all relevant files and legislation associated with their areas of responsibility. Unfortunately, I never had the time needed to read myself into my post. As I have previously highlighted in my June 2017 statement, I had to hit the ground running and review the draft Domestic RHI Business Case. I also had responsibility for energy efficiency policy which included bringing forward proposals for a new Government Scheme to satisfy requirements under the EU Energy Efficiency Directive. The Inquiry has already established that DECC had 77 people doing what effectively I was doing with Mr Hughes on top of my other responsibilities. This meant I was forced to go in and read aspects of the



legislation and policy papers on an ad hoc / reactive basis as issues and queries arose. In my 2015/16 annual performance review (WIT-17158) my Director, Mr Mills acknowledges my concerns over the post being so reactive because of the significant workload and the need for my post to become more proactive.

41. In paragraph 11, the Department states that it *'has identified this as a point of learning, and will seek to be more explicit in future around the need for new staff to read and understand the legislation which underpins their new role. This is especially important in a situation where there is no continuity of staff at management level, and where consideration is being given to deferring actions in the work area, due to the limited staff resource being required to focus efforts elsewhere.'* I respectfully agree with the Department. It is also important that incoming staff are afforded sufficient time to read themselves into their new posts by having an effective overlap / handover period with their predecessors.

42. The Inquiry has also identified the lack of expertise within DETI as a key weakness and contributing factor to what went wrong. I agree with this assessment and would highlight that on joining DETI as a 'generalist' civil servant I received no specialist training on energy or renewable heat. I also received no training or guidance on commercial awareness or on when and how to engage with the Industry.

Robust Project Management Principles

43. In paragraph 12 (WIT-03563), the Department acknowledges the need to implement robust project management principles and recognises that we did not have the resources to remedy this in late 2014. However, the Department criticises myself and Mr Hughes for not reviewing background information and for not being informed enough to recognise the scheme was not operating as had been intended. Due to the overloading of my post, I had to hit the ground running from when I joined. I never had the luxury of being able to sit down and read all the relevant papers.



Handover Note – Understanding of Priorities

44. In paragraphs 14 and 15 (WIT-03564), the Department states that it *'is unaware of any evidence of active consideration of the degree of priority merited by each of the actions on the "Immediate actions (by end August 2014)" list from the Handover Note (DFE-383318).*" I respectfully refer to the witness statement of Ms McCay at WIT-13024 paragraph 28. She discussed the matter with Mr Hutchinson who made it clear that she would probably only get to around action 4. This suggests that the actions were (as might naturally be expected) listed in order of priority.
45. My work priorities were set by my Director, Mr Mills, through the Divisional Plan. I worked to these priorities and I assumed that Mr Mills was sighted on all relevant issues, including those set out in the Handover Note. It is, however, clear that Mr Mills was not sighted on important emerging issues. For example, from June 2013, Sandra Thompson's evidence to the Inquiry (WIT- 27006) shows that Mr Hutchinson was using load factors as high as 35% for forecasting purposes. This confirms that he was fully aware that RHI recipients were being over incentivised above that assumed by CEPA (17% load factor). Then, in the autumn of 2013, Fiona Hepper, Joanne McCutcheon and Peter Hutchinson met with Ms O'Hagan who alerted them to possible scheme exploitation and abuse because of the lack of tiering. Given the fact that Mr Hutchinson and presumably Ms McCutcheon were already aware recipients were receiving higher than expected payments with load factors of 35% instead of 17%, it is not clear why they did not take Ms O'Hagan's concerns seriously. Ms Hepper and Ms McCutcheon had also both worked in telecoms before moving to Energy Division and should therefore have been aware of the Bytel case and the importance of investigating concerns made by third parties or whistleblowers. This meeting with Ms O'Hagan was a critical opportunity at a relatively early stage in the scheme's operation to acknowledge and correct the inherent flaws. However, these issues / concerns were not addressed prior to Mr Hutchinson leaving the Department in May 2014.
46. The Department then says: *In the Department's view, where work cannot proceed to address actions that have been identified as requiring immediate*



attention, there should be an informed consideration of the inherent risks – particularly in this case where the risk was identified as a financial one i.e. “to prevent excessive payments” (DFE-419612). I am not aware of the reasons why the matters identified as requiring immediate attention had not been addressed by Team 1 before my appointment, or whether they had given informed consideration to the inherent risks. However, any inherent risks ought to have been identified in the corporate risk register. Aside from the reference in the handover note of a need “to prevent excessive payments” there was nothing in the material I was provided to highlight the inherent risks, or to indicate that there was an urgent need for me, as an incoming new member of staff, urgently to assess the inherent risks for myself.

47. The Department then says: *The “Immediate actions” list part of the Handover Note (DFE-383318) indicated that urgent consideration should be given to reviewing existing tariffs, highlighting biomass under 100kW as requiring urgent attention, and suggesting tiering as a potential “solution” (DFE-383322). The Department is not aware of any evidence to suggest that advice and support was sought from the Analytical Support Unit (ASU) in the Department, which could have assisted with a review, given the previous experience of the ASU economists at the time when the tariffs were originally set. Neither is there evidence that Energy Division considered using its own dedicated economist, who was embedded permanently within Energy Division, and whose work programme was set by Energy Division, to progress this work. It would have been advantageous if the reference in the Handover Note to potential overcompensation had prompted urgent attention from officials in EE Branch.’* I am not aware of why this matter was not addressed before my appointment, or why, before my appointment, advice and support was not sought from the ASU. So far as my priorities are concerned I took these, as I explain above, from my Director through the Divisional Plan and they included, in particular, the introduction of the domestic scheme. I did not undertake a review of the tariffs for the non domestic scheme and therefore did not seek any assistance or support from the ASU.

48. The Inquiry Panel has understandably placed a great deal of import on the May



2014 Handover Note given it is the only document that highlights recipients might be receiving excessive payment and the need for tiering. However, I repeat my previous concerns that given the importance of the issues that Mr Hutchinson has highlighted (particularly around questionable value for money and the millions of pounds involved) it is not clear why these issues were not escalated to the Director of Energy Division, Mr Mills, at any point during 2014 rather than only being recorded in a relatively informal note at DP level completed just before he left. This is all the more surprising given that he was aware of excessive load factors from June 2013, knew they had a finite budget and had received allegations from Ms O'Hagan's in October 2013 and in May 2014 just before he left. Given the fact that the RHI scheme was a new, novel scheme involving £25m over the first four years and hundreds of millions of pounds over its lifetime, it should have been captured in the corporate risk register as a minimum. The Inquiry has discovered that the original scheme risk register was never updated from 2012.

Prioritisation of Domestic RHI Scheme

49. In paragraph 16 (WIT-03565) the Department references an assertion in the Business Case Addendum that *“Ministers prioritised introduction of the domestic RHI including deferring other measures which would have slowed down its introduction.”* (DFE-285374) and confirms it *‘is not aware of any evidence which supports the assertion that prioritisation of the Domestic RHI Scheme was determined at Ministerial level.’* On joining DETI in June 2014, Mr Mills had informed me that the introduction of the Domestic RHI scheme was a Ministerial priority. That is why I included a reference to that in the Business Case Addendum. However, Mr Mills has made it clear in his evidence that the position is that he made it the Branch's priority in response to Ministerial disappointment that the domestic scheme was not ready (WIT26007): *“I have also explained that I met with the Minister and senior officials once every 6 weeks. Again, my impression during those discussions was the Minister's disappointment that the domestic RHI scheme was not ready. We had promised the Minister that the scheme would be ready but deadlines had continually slipped. This is why I made it the Branch's priority.”* Accordingly, I accept that I had misunderstood the



position: strictly, it was not the case that the priority had been set by a Minister. It was set by Mr Mills in response to Ministerial disappointment at the delay in the introduction of the Domestic RHI scheme.

Monitoring of Scheme

50. In paragraphs 18 (WIT-03565/6) the Department *“acknowledges there was overreliance on Ofgem for the management and administration of the Scheme”* And cf paragraph 7 (WIT-03561) where the Department says: *‘The Department has already accepted the criticisms... that the Department had not properly monitored and controlled the Scheme, but rather had relied overly on the work being done by Ofgem...’* I strongly agree with these concessions. This was the position that was in place when I was appointed. I was directed that Ofgem would manage and administer the Scheme. I was never directed or warned that Ofgem could not be relied on to manage or administer the scheme. My priority was the introduction of the domestic scheme, the Department being reliant on Ofgem for the management and administration of the Scheme. I therefore feel that criticism of me in respect of management and administration of the Scheme needs to be considered in that context.
51. The Department then says *“however, it considers that the monitoring of usage should have been carried out by the Department.”* Again, I strongly agree with this concession. If this had been done then the problems could and should have been identified and actioned well before my appointment. However, the Department’s overreliance on Ofgem for the management and administration of the Scheme meant that I was not monitoring usage. I was not directed to monitor the usage of the scheme. If I had been told to do so then I might have questioned the lack of sufficient resource to do this.
52. I accept that had the Department not been reliant on Ofgem to manage the scheme, had we received sufficient resources, and had we not been overloaded with work, we could have been directed to monitor the scheme, and, in particular, the extent to which usage corresponded with assumptions made at the point of the scheme design. In that event we ought to have picked up that the load factors



and boiler sizes were much higher than that assumed by CEPA. However, given the fact that in 2013 Team 1 were actually using load factors as high as 35% (instead of 17%) for forecasting purposes and they also had received allegations of scheme exploitation and abuse from Ms O'Hagan, I consider that this was an important 'red flag' to the scheme's flaws and an opportunity at a relatively early stage in the scheme's operation to correct them.

Errors in Business Case Addendum

53. In paragraphs 19 and 20 (WIT – 03566) the Department asserts that there were errors in the capital and fuel costs and the fuel efficiency factors I used for determining the proposed tariff changes in the business case addendum. I accept that there are errors in my calculations but the figures I used were based on the sources that I had researched at the time. I also respectfully observe that the Department's criticism of my approach is informed by all of the work undertaken by the Inquiry, and by the work completed by its staff of 48 officials in the RHI task force. At the time of completing the Business Case Addendum, there was only Mr Hughes and myself.

Janette O'Hagan's Emails

54. In paragraphs 30 and 31 (WIT–03570) the Department states: "*Janette O'Hagan, sent a strongly worded email alleging widespread abuse of the RHI Scheme to the Department in May 2014. The Handover Note was passed to incoming staff joining EE Branch in June 2014, and the Department is not aware of any evidence that they took action in response to the issues raised by Janette O'Hagan.*

When Janette O'Hagan wrote to the Department again in March 2015, This email was not responded to and no action or further investigation was undertaken by EE Branch. In the Department's view, Janette O'Hagan's warnings warranted immediate attention and swift action."

55. The Inquiry has examined in detail the various interactions that Ms O'Hagan had with DETI from 2013 onwards and quite rightly questioned why her concerns were not acted upon by either Team 1 or Team 2. In terms of Team 1, it is difficult



to fathom why they did not investigate Ms O'Hagan's allegations of abuse in October 2013 given that Mr Hutchinson was aware of the high load factors and Ms Hepper and Ms McCutcheon should have been aware of the Bytel case and the importance of investigating concerns made by third parties or whistleblowers. As set out in paragraphs 201 - 205 of my June 2017 Statement (WIT- 17084/5) I did not become aware of Ms O'Hagan's concerns over the scheme until the autumn of 2016 when the detailed contents of the May 2014 handover note came to light through the work carried out for the PAC Hearings. Despite receiving the full handover note in June 2014, I can only remember reading the first few pages which included the bulleted list of 'immediate actions'. I accept this is a failing on my part but this can be directly attributed to the unreasonable workload I was under at the time.

56. I also do not recall reading Ms O'Hagan's March 2015 emails. I accept that I should have been aware of her concerns given the fact I was copied into both the emails. However, given the significant workload I was under, it just simply wasn't possible for me to keep on top of all my emails. This is understandable given the limited staff resources I had at my disposal. I agree with the Department that Ms O'Hagan's emails warranted immediate attention and believe had her concerns been brought to my attention, I would have escalated them immediately to my senior management. This may have led to changes being made to the scheme sooner than November 2015. However, the fact remains that I missed this important 'red flag' because I did not read the emails.

Delay in resolving non-standard AME and DEL penalty

57. In paragraphs 39 – 44 (WIT – 03573/4) the Department suggests that the funding position was clear to everyone in DETI except for Energy Team 2. I strongly refute this claim. I believe that Finance Division had forgotten about the 2011 emails that Mrs Brankin had sent saying that the funding should be treated like DEL (WIT-02716/17). If this wasn't the case, why was the unusual nature of the funding not captured in Divisional or Corporate Risk Registers? Why was the scheme introduced in 2012 without any cost controls or suspension powers? Why did Finance Division officials not immediately address my concerns in



March 2015 and why did they ask Energy Division to liaise with DECC in the summer of 2015? In addition, surely the two meetings of senior DETI officials in June 2015 would have had a different outcome if Finance Division knew then that we were effectively dealing with a finite budget. And why were these risks not managed corporately given the scale of the funding involved? I'm not aware if the core of DETI (not including arms-length bodies like Invest NI) had any other schemes involving hundreds of millions of pounds of public expenditure and with a 20 year tail. Unlike RHI, the Northern Ireland Renewables Obligation (NIRO) was funded by electricity consumers' bills and not public expenditure.

58. From a personal perspective, as I have set out in my June 2017 Statement (WIT-17068/71) I was first alerted to unusual nature of the funding referenced in the 2011 'Parker' Email (WIT-17398) in March 2015. Despite being in receipt of this email in September 2014, I had not picked up on the restricted nature of the funding. It was also not until it was rediscovered as part of the work for the PAC Hearing in the autumn of 2016 that I became aware of the May 2011 email exchange between Ms Brankin and Ms Clydesdale (WIT-02716/17) which confirms the funding should be treated like DEL.

Engagement with RHI Recipients and the Renewables Industry

59. I note that the Department accepts, at paragraph 46 (WIT-03574) that I have made legitimate points about the need to balance the risk of legal challenge and the need to include specific details to render the consultation meaningful (WIT-17066). I also note that the Department does not disagree with Mr Mill's oral evidence on 21 June 2018 (TRA-11119) that the Department encouraged engagement with the industry. Mr Mills states that "*I would've been saying, "Let's make sure we're interacting with stakeholders out there", trying to get information, um, and that would —. I think that's fair to say that would've been encouraged at a departmental level. It was a Department, a Department that was focused on interaction with the business sector.*"
60. Senior DETI officials including Dr McCormick sanctioned and approved the Submission to Minister Hamilton on 28 October 2016 (DFE-137681 to 137685)



which was recommending pre-consultation with key stakeholders including Moy Park and UFU.

61. The DETI Operating Plan 2014/15 (DFE-386537) published in April 2014 had indicated that the Phase 2 proposals were to be implemented by December 2014. Therefore, from late 2014 / early 2015, we were receiving enquiries from the industry about when the Phase 2 proposals would be implemented. In response, we were open and transparent about our aim to progress the proposed Phase 2 changes in October 2015. I feel this response was reasonable given the published document had included a commitment for the Phase 2 extension to be in place by December 2014. As we progressed policy development of the Phase 2 proposals during the first half of 2015, we continued to respond to queries from the industry about the Phase 2 proposals. In hindsight, where I believe we went wrong was when we started to seriously consider tiering from May 2015 onwards. We wrongly viewed this as part of the 2013 Phase Consultation and we were open about the proposals but with the caveat that nothing had been approved by the Minister. We were effectively trying to sell the tiering as an outworking of the 2013 consultation. I was also very alive to the recent fallout of decisions to close the NIRO scheme which had generated a great deal of negative press and was trying to pave the way for the RHI changes.

62. In paragraph 50 (WIT-03576) the Department states that it *“would draw a distinction between stakeholder interactions where general views are sought on possible scenarios and policy options, and meeting targeted at selected interested parties (with a significant commercial interest) involving disclosure and discussion of final policy proposals, and consideration of the timescale for their introduction, as it appears occurred in this case.”* Looking back now in hindsight with the knowledge that the scheme was actively being exploited, the tariff was over-generous, the budget was finite, it would take two months to secure approval of the Submission, and the industry could react so quickly, I accept that our engagement was ill judged and naïve and demonstrates a lack of commercial awareness on my part. I confirmed this during my oral evidence to the Inquiry on 19 June 2018.



63. In his evidence to the Inquiry on 10 October 2018, Dr McCormick concedes that the Department should have had Guidance or Advice in place for us. He states that *'We should have had something in place, a set of principles as to how you deal with areas which are market-sensitive. That's a valid point.'* (TRA-15210/11). In the absence of any such guidance, my engagement on the tariff proposals was carried out for genuine reasons and was openly recorded in TRIM. Mr Mills' email of 20 August 2015 (DFE-10133) states the *'Stuart has been speaking informally to Moy Park who are supportive of our proposals for a tariff tier and a cap.'* This would suggest that I not only made him aware of my engagement with Moy Park but that he knew I had sought their views on the actual proposals. I do not recall ever receiving any negative reaction from Mr Mills about my engagement or from any of the senior management team after the email of 20 August 2015. This is supported by Mr Mills in paragraph 157 of his Witness Statement of 13 June 2017 (WIT-14556) in which he states that *"There was some discussion between the RHI Branch and major stakeholders (poultry industry at least) on the possibility of introducing tiers and caps and other possible measures as would be common in developing proposals.....I do not regard this type of interaction as premature. It was common across the field on renewable policy given the changes underway."*
64. In paragraph 51, the Department concludes that *"The candour that characterised EE Branch discussions with some industry bodies during this period meant that many recipients of, and potential applicants to, the Scheme were effectively briefed on the detail of the final policy and cost control proposals, and the outcome considered likely by EE Branch officials, before the proposals had even been submitted to the Minister for consideration on the 8 July 2015 (WIT-02764, WIT-02769, DFE-107108 to DFE-107110). Indeed, the proposals, and the likely outcome, continued to be openly discussed pending the Ministerial decision confirmed on 3 September 2015..."* I agree that there is evidence that my engagement increased awareness of the proposed changes and facilitated some installers to prepare in advance of the formal notification in September 2015. However, given how quickly the Industry could react, I still firmly believe that the largest part of the spike during October and November 2015 was in response to the formal public announcement in early September 2015 and not my earlier

Initial Synopsis of issues identified by Audit Review

Objective 1 – Scheme Design and Management

1 Planning and Design

1.1 Scheme not planned for the number of installations estimated by external consultants

The original Business Case did not specify the number of installations that management are effectively forecasting for the SR (spending review) period 2011-2015. The business plan was predicated on the funding available not on the average value of an installation which could have been tracked or the projected number of installations that were indicated. The projections provided by two external reviews were not taken into consideration.

The two reviews carried out by external bodies (CEPA Review of NI RHI July 2011 and Ofgem Feasibility Study December 2011) included projections for the uptake of the scheme. CEPA report stated that in the year 2013/14 they expected the non domestic scheme to grow to 1,300 installations. The Ofgem Feasibility Study stated that it was difficult to predict the growth of the scheme; however, based on their experience with the GB scheme and assuming that NIRHI will be 3% of the size of the GB uptake they predicted 1,600 installations by the year 2015/16 and 2,200 in the year 2016/17.

The average payment expected per installation was also not established in the Business Case nor was a system introduced to track any increase in average payment (average annual payment per installation in 2013 - £4,000, 2014 – £10,000 and 2015 – £17,000).

In conclusion, the business case and business planning process lacked a clear analysis of the number of installations or average payment per installation per specific technology that were anticipated and what effect therefore that demand could have on the NIRHI budget. Such absence of proper planning for the growth of the scheme impacted on the budgeting for the annual increase in number of new applications and financial size of commitments entered. The impact of the growth in value of individual awards from £4000 in 2013 to £17,000 in 2015 does not appear to have been tracked or the impact of that growth, if the original projected number of installations materialised, considered as a future budgetary risk.

1.2 Options for outsourcing the delivery of the scheme were not fully evaluated

Ofgem was appointed via a DAC as the delivery agent for the scheme. The main reason for appointing Ofgem according to the business plans (scheme and DAC) were their expertise in running energy schemes for NI before and their experience in administering the GB RHI scheme. In addition management was also of the opinion that in accordance to the Energy Act 2011 Section 114 which says

“(1) GEMA and Northern Ireland Authority (NIA) may enter into arrangements for GEMA to act on behalf of NIA or in connection with, the carrying out of any functions that may be conferred

on the NIA under, or for the purposes of, any scheme that may be established, under section 113”, the NIRHI scheme could only be legally managed by Ofgem, NIAUR or DETI, however at scheme planning stage this was not discussed. Internal Audit noted that the MOU between Ofgem and DETI allows for the relationship to be terminated with notice by either party.

Based on the above assumptions management commissioned Ofgem (via DAC at a cost of £78,590) to carry out a Feasibility Study and proposal of how NIRHI would be administered by Ofgem and what the estimate costs of administration were going to be.

Other options for the scheme administration were not comprehensively evaluated. Given the life of the scheme (20 years) and the funding involved (potentially over £500m during 20 years) there should have been a more comprehensive options analysis carried out and all possible scenarios sufficiently evaluated such as DETI Energy retaining the control of administration but outsourcing individual functions such as accreditation, inspections and etc. No consideration was also provided in relation to the resources DETI in-house needed to adequately oversee the scheme and ensure sufficient control of payments.

In terms cost and savings analysis, in their Feasibility Study Ofgem referenced to the savings that DETI is going to benefit from by employing them to administer the NIRHI scheme (page 24). The Feasibility Study does not actually state how they have arrived at the assumptions on how much other delivery agents might charge. Therefore there is no objective assessment of whether the costs and savings quoted by Ofgem are founded on evidence or assumptions. In addition, we noted that DETI has not carried out independent evaluation or obtained quotes from other organisations to be able to substantiate the comparative analysis.

1.3 Inaccurate assumptions and confusion over funding after the SR period 2011-15

Funding offered to the NI by the HMT was £2/£4/£7/£12 (£25m) during the period from 2011 to 2015. The DETI Business Case under the section on Affordability (page 23 para. 2.60-2.62) presented an over optimistic assumption on the funding available for the scheme past the SR. IAS did not obtain any evidence to prove that the funding past the SR period quoted on the Business Case was officially offered to DETI.

The document bases its financial projections on GB's State Aid application which anticipates that the expected subsidies paid in 2020 in the GB RHI will be in order of £2.3bn, NI's 3% share of which would account for £70m. It also quotes the assumption in the CEPA report that the officially offered funding of £25m for that period would be supplemented in future years by an annual increase of £5m p/a until 2020, however it does not go on to say where CEPA obtained these figures.

The table on page 44 of the scheme business case describes funding available and provides estimation on 2 scenarios of funding after 2015/16 – (1) assuming an additional £5m p/a every year until 2020 and (2) the funding remaining static at £12m p/a after the end of year 4. The scenario of the funding remaining static would mean that the scheme would effectively have to be closed for new applications from 2015 and only the commitments entered in previous years of the scheme will be honoured.

Taking into consideration that funding beyond 2015/16 was not guaranteed, the scheme should have been planned on a more pessimistic scenario and allowed for a certain element of

optimism bias. Similarly measures of effective budget management should have been built in the scheme management mechanism. This would have allowed for a better evaluation of the risk of over commitment of funding and for appropriate mitigation strategies to be built in the scheme.

1.4 Benefits realisation plan and financial scheme performance projections not comprehensive

The benefits realisation plan (business case page 100) alludes that in the year 2015 the Branch are anticipating in the region of 6880 installations (this figure includes domestic RHI) and the budget of £10m to cover the incentive payments. The latter installation and funding ratio allows for an average annual incentive of approx. £1,500 in comparison to the average actual incentive on the non-domestic RHI of nearly £17,000 as at 2015.

This raises two questions. Firstly the scheme performance and financial projections were incorrect at a start and secondly weaknesses in the monitoring of the scheme performance and long term financial planning have led for the opportunities missed to apply relevant measures such as degression and capping etc.

1.5 Errors in the scheme Business Case referring to the year that the funding is guaranteed

Page 94 of the Business Case section on Affordability provides ambiguous reference to funding of £25m being available to 2015/16. This could give an impression that the financial year of 15/16 is included in the funded period.

We understand that this ambiguity might have caused a certain level of confusion and may have had an influence on the date for DFP approval running out missed, however, the conditions of the DFP approval were absolutely clear about the length of financial cover provided.

1.6 A signed and dated copy of the Business Case for the NIRHI scheme is not available.

Internal Audit has been unable to obtain a signed and dated copy of the Business Case. Electronic versions only have been provided.

Project/Scheme Management and Monitoring

1.7 Project management of NIRHI Non-Domestic scheme

DFP guidance says that a project is a set of agreed activities with a definite start, middle and end. Project management provides structure and control of the project environment so that the agreed activities will produce the right products or services and meet the objectives raised. Best practice dictates that common elements of project management include the following stages such as initiation, planning, execution and controlling, including monitoring and reporting, and closing. All of the stages must be appropriately controlled to keep track of the progress, ensure that note is taken of the critical dates or events of the project and appropriate decision points.

Commented [SW1]: It should be highlighted that the scheme is tied to legislation which requires the Dept to accredit all properly made applications with no way of refusing to enter into new commitments, irrespective of approvals. Approval had also just be given to Domestic Scheme for 7 years despite the lack of budget cover beyond 14/15.

The NIRHI scheme has not been treated as a project and controlled using a project management methodology, which, in IAS opinion has influenced the appearance of a number of issues highlighted in this report and resulted in a number of opportunities missed.

In addition, lack of appropriate the project management methodology and process over the NIRHI scheme and inadequacies in risk and control environment have resulted in confusion and reactive responses from management – ‘fire extinguishing’ rather than a proactive approach to controlling the scheme. This has also resulted in the number of risks materialising and opportunities missed.

1.8 Absence of appropriate risk management at a scheme level

In accordance to the best practice in project management endorsed by the NICS PRINCE2, risk management is one of the major integral elements of the project management which enables the achievement of project specific objectives.

For the purposes of the Business Case drawn to appraise the NIRHI scheme, a scheme specific risk register was drawn to accompany the business case and the following scheme specific risks were identified:

- Incorrect tariff levels set (too low or too high)
- Low uptake
- Harm to other sectors
- Failure of renewable heat supply
- Insufficient budget secured for the RHI payments or for the administration of the scheme
- Failure to meet EU and Executive set targets
- Failure to receive State Aid approval
- Inadequate resource to deliver projects/separate key functions including staff
- Instances of fraud
- Failure in administration of RHI

Although there were a number of relevant risks identified at the scheme planning stage and a number of mitigation strategies considered, the risk management process was not continued through the life of the scheme leading to a few risks materialising. No formal risk mitigation strategy was developed and implemented for the NI scheme.

IAS notes that a divisional and corporate risk registers include reference to risk related to the NIRHI scheme however these registers are strategic and high level by nature and do not allow for the adequate operational risk management processes to be included and monitored.

1.9 PPE for the RHI scheme has not been carried out by August 2015

DFP approval of funding letter for the period from 2012 to April 2015 indicated that the PPE for this part of the scheme is due at the end of August 2015. IAS understands this has not been carried out due to issues related to the scheme which took priority (such as revising of tariffs, getting approval for funding and introduction of the Domestic scheme).

If an evaluation of the scheme had been undertaken in 2014, early 2015 a number of issues such as budgetary cover, alignment of controls to those in the GB scheme, introduction of controls over demand and average award increases may have been identified and mitigation strategies could have been in place prior to the increase in demand in late 2015.

Commented [SW2]: Absence of project management methodology agreed. However, from personal experience of managing projects, extensive resources are needed to adopt such as approach. This cannot be underestimated. Although this is before my time in DETI, it would be wrong to assume that senior management would have granted approval for my predecessor to bring in the additional resources needed to adopt a PRINCE 2 approach. It is very easy now to look back hindsight and say that resources would have been found.

Commented [SW3]: Agreed, but again some recognition needed of resource requirements of this.

Commented [SW4]: Need for PPE was removed following extension of scheme March 2015. PPE would be carried once scheme ends. The review of the scheme is a separate issue.

Commented [SW5]: What about Phase 2 Review in 2013?

Other potentially misses opportunities

1.10 DECC example of introducing tiered tariffs and degression was not followed by NIRHI scheme

DECC started introducing degression of their tariffs early in 2013. Certain conditions were imposed for the tariff reduction, the frequency of reduction and levels. Under DECC regulations where the conditions for tariff reduction are met, a relatively low level reduction, usually starting at 5% is applied. However the level of reduction can increase depending on:-

- How well the scheme is doing overall (DECC has regard to two total scheme triggers – 50% and 100%) and
- Levels of expenditure for each tariff category (DECC has regard to two triggers for each type of technology)

Simply put, the higher expenditure is forecast to be for the scheme as a whole and for one or more technologies, the more likely it is that one or more tariffs will be reduced. Conversely, where overall scheme expenditure is low (i.e. less than 50% of what was expected) there will be no reduction to any tariffs. The decision on tariffs in GB RHI is taken on a quarterly basis.

Before taking any decision in relation to change of their RHI scheme and introduced degression DECC consulted all their stakeholders including DETI. Nevertheless DETI did not take this opportunity to make an informed decision on mirroring the processes put in place in GB to control the NIRHI budget. IAS have not been presented with any evidence that any discussion or consultation took place in DETI at the time or that any formal analysis was undertaken which would enable management to have an informed decision in relation to tiering and degression of the NIRHI.

In the hindsight, DETI scheme management would have benefited from introduction of similar triggers of take up of the scheme. **Appendix 1** demonstrates research carried out by IAS on changes in tariffs in DECC and comparing these to NIRHI and **Appendix 2** shows the growth of the NIRHI scheme in terms of installations, technology and average annual payment. Although IAS have not made any calculations to provide the projections of funding needed should the triggering and tiering had been introduced earlier, it is quite clear that one type of technology was being very popular in NI and even with at the time when degression on these tariffs was introduced in NI the tariffs for the same type of technology in GB were significantly lower.

This conclusion is only strengthened by the fact Ofgem's Fraud Management Strategy acknowledges the risks in relation to over generation and gaming of the scheme and identifies mitigation/prevention strategy which is reduction of incentive to over generate by tiered tariffs. Unfortunately DETI has not demonstrated that the decision not to follow GB's lead on managing demand/budgetary/ gaming risk was as a result of having formally and adequately evaluated the options available.

1.11 Reactive introduction of NIRHI non domestic tariff tiering

NIRHI non domestic tariff tiering was introduced from 18 November 2015. Management advised that this was done as a reaction to growth in installations accredited from May 2015 onwards. Because tariff tiering and degression triggering had not been inbuilt into NIRHI legislation at an

Commented [SW6]: Phase 2 Review included cost control (not degression) but due to low uptake at that time Ministerial priority was on Dom Scheme introduction and widening non domestic scheme to more technologies. It cannot be assumed that DECC's degression system is suitable for NI and would have avoided any spike in demand and expenditure. Degression cannot work without clarity over budgets / funding.

Commented [SW7]: Catalyst for November changes was sustained increase in application numbers in March / April in 2015.

earlier date it took management over 6 months to have necessary legislation brought forward during which time the number of applications received doubled.

Commented [SW8]: Advice put to Minister in early July, decision taken in September.

In relation to the methodology behind the levels of the of the tiered tariffs introduced, IAS was not presented with a business case or other reference document which demonstrates how the tiered tariff levels were determined and what are the anticipated benefits to have these tariffs introduced and their impact on scheme budget. It needs to be confirmed that in setting these tariffs consideration was given to the current costs of the installations and the rate of return set at a level in line with state aid approval an only on a level necessary to incentivise the scheme. IAS consider that in setting these tariffs there should be a clear understand of whether as a result the risk of gaming or incentive to over generate heat is mitigated.

Commented [SW9]: Setout in Business Case Addendum.

1.12 Review of the scheme has not been carried out in 2014

As part of scheme monitoring exercise, the Business Case for the NIRHI scheme states that the review of the NIRHI would take place in 2014 and will assess scheme uptake effectiveness, VFM and progress against objectives.

IAS were advised that this review has not been carried out to date. Management explained that a similar review before introducing of Phase 2 (domestic) was carried out by CEPA. IAS is of the opinion that because this review was initiated before the NIRHI scheme started in late 2012 (report issued in final June 2013) and concentrates on inclusion of the domestic customers and more advanced technologies it does not provide an adequate basis for a evaluation of the RHI Non-domestic scheme. In addition, at this early stage of the scheme (7 applications received in 2012/13) it would have been too early to make any recommendations in relation to VFM or progress against objectives.

In hindsight, should this review been carried out it in 2014 it may have helped early identification of some current issues before they materialised. For example, in terms of biomass boilers (most popular in the scheme) the VFM study could have highlighted that due to improved return on investment and fall in wood pellet prices it became far easier to generate profit while generating excessive heating. IAS have carried out a speculative research exercise to establish what was the push of the market to encourage business to take up biomass heating - see **Appendix 3**.

Objective 2 BUDGET PLANNING, MONITORING AND PAYMENTS

2.1 Budget Monitoring Committee has not been established

Scheme management at the time of obtaining approvals for the scheme stated that a Budget Monitoring Committee would be established to militate against any budgetary risk however this has not happened to date.

2.2 Delayed approach in clarifying scheme funding beyond March 2015

There has been a lot of confusion in relation to what funding will be available to NIRHI after March 2015. IAS had sight of correspondence from Energy Branch to the DECC in attempts to clarify the situation. A certain level of confusion was also noticed in the way the funding for NIRHI is calculated, i.e. application of the 2.98% formula.

This situation has caused delays in fully understanding and evaluating the impact of the funding available to the NIRHI scheme after from April 2015. However IAS believe that such confusion was totally unnecessary as the funding was known from the end of 2013 - the letter from G. Baker to A Foster (respective ministers of DECC and DETI at the time) of 29th November as part of stakeholder consultation on Publication of Government Response for the Non Domestic RHI Consultations and Domestic RHI Cost Control. Among other issues the letter advised on DECC Deployment of Non Domestic Budget Management Policy and it has indicated that £430 million will be available across GB for 2015/16 and that this will include both non domestic and domestic RHI. This equates at 3% to £12.9 for the NI scheme, less that the assumptions in the Business Case and therefore this should have triggered a reassessment of future budgetary needs.

The branch should have noted this funding available and should have made provisions accordingly.

2.3 Delays in obtaining DFP approval for the scheme

The deadline for application to DFP to request for extended approval for funding for the NIRHI scheme was missed and this has resulted in irregular expenditure during the period when the cover was missing.

The DFP approval for the funding of the scheme covered expenditure to the end of March 2015 and was in line with the funding offered to NIRHI by HMT (£25m in 4 years). A new application should have been submitted to get DFP approval after the period ended, however this wasn't done until 27 October 2015. DFP subsequently approved funding from 29 October 2015 until 31st March 2016. A retrospective cover was not obtained from DFP meaning that expenditure which occurred between April 2015 and 29th October 2015 was to be deemed irregular. Unfortunately this was also the period during which significant growth in the numbers of new applications was witnessed (over 1200 new applications received) and the total irregular experience was quantified at £17.74 million in 2015/16 and £355 million across the 20 year life of the commitments entered (letter from E Morelli - DFP of 21 Dec 2015).

The issue of the absence of DFP cover has been identified by management in June and but it took until October to submit a formal Business Case to DFP which could result in potentially £355 million in irregular spending over 20 years.

2.4 Over- commitment of the scheme funding

The NIRHI scheme has experienced an unprecedented spike in new applications prior to introduction of the cost control measures. In total 1283 new applications have been received for the non domestic scheme in the period from April to end November 2015 which represents an increase of 184% in comparison to the number of applications received throughout the life of the scheme since October 2012.

This situation results in the scheme being severely over-committed and may result in DETI pressure of £265 million over the 20 years additional to the funding which will be received from HMT. Appendix 4 – AME Forecast (received from management).

In response to this situation management have instigated closure of the NIRHI scheme for new applications from the end of February 2016 however further decisions will have to be made in relation to the existing commitments and scheme management until 2036. The absence of any

Commented [SW10]: Disagree. RHI funding has been treated by AME right up to Dec 2015. We increased our forecast in 2015/16 (above Barnett's) and received the funding. It is wrong to suggest the Branch or in fact DETI new funding was capped at 3% of DECC's budget. 3% was used for allocation purposes, but it as AME money. No reason why NI can't incentivise more than 3% of what DECC delivers.

in built controls in the scheme to allow the scheme to be suspended in the face of budgetary uncertainty has greatly limited the Department's ability to respond quickly to these events.

Scheme incentive payments and Ofgem operational costs

2.5 Business case for Ofgem administration costs does not include 100% contingency required by Ofgem

Business case and the DAC for employing Ofgem as delivery agent to administrate the scheme of behalf of DETI was presented as £386k for development and £136k, £157k, £198k and £249k to cover operational costs for 4 years. In total £1,126 million. Ofgem Feasibility Study which informed the Business Case of the funding necessary advised that they would recommend a 100% contingency to be applied for the development budget.

The Business Case should have included full costs of the contract including contingency which could then be revised down.

2.6 Business Case not changed to reflect material change

This comes from point 2.5 above. The original business case was presented for CPD approval and appraised estimated a value of £1,126 million. However Ofgem requested for an amendment of the costs on 21 December 2012 – £433k for development and £140k for operational costs. In total £573k for the year 2012/13. Ofgem explained that the increase was due to delays with launching of the NIRHI scheme.

Ofgem also made changes to their estimated operational costs for the subsequent years – 13/14 £165k; 14/15 £224k and 15/16 £342k. Thus, due to the increase of actual and forecasted costs the total project (DAC) value increased to £1,304 million representing approx 23% increase of the value of the project appraised via DAC. This represents a material change in the project resources and in accordance to the best practice a project reappraisal and re-approval should have been sought from relevant levels of approval and delegation as per Departmental Financial Procedural Guidance.

2.7 Ofgem's proposed change of the methodology in calculating DETI's share of administration costs – evaluation has not been carried out

In October 2014 Ofgem has sent a Change Control request to DETI requesting for the methodology of calculating operational costs to be changed to 3% of the total operational expenditure (NIRHI + GB RHI) from 2014/15. This request has been approved by DETI management on 31 October 2013, however IAS did not see any evidence of an evaluation being carried out to establish what effect this change would have on DETI resources and if such a change was VFM.

2.8 Lack of challenge of the figures provided by Ofgem

DETI are responsible for making payments to Ofgem in relation to covering of their share of operating costs and transferring of the funding to cover periodic incentive payments made by Ofgem to NIRHI generators.

IAS have carried out testing of both of the above and can conclude that we have seen some evidence of efforts by Energy finance staff in scrutinising payment information supplied by Ofgem. However the information on payments requested from DETI was not sufficiently backed

up with assurances from Ofgem such as senior accounting officers' signature or other documentation to verify that it was accurate and complete.

Another example, payments in relation to operating costs were agreed to be calculated using a certain formula and always based on actual costs incurred by Ofgem. However no documentation was available to see how the costs presented for payment have been worked out. Overall the annual total cost requested from DETI was very close to the cost forecasted via feasibility study and had little relevance to the number of DETI applications dealt with (9 in 12/13; 136 in 13/14 and 694 in 14/15)

In addition, in relation to the periodic incentive payments, although there has been a certain system (excel spreadsheet based) established in Energy Finance for tracking and checking payments information, including providing estimates for reporting and budgeting including approvals, the function is understaffed and reliant on a single officer working part time. The understaffing of the function also resulted that the system itself has never been challenged to establish whether it is fit for purpose nor had there been any guidance or comprehensive processes drawn and approved in case of absence or change of critical staff.