



INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME

**Supplementary Statement on Issues arising from the Opening Statement by
Mr Donal Lunney on 17 November 2017**

DATE: 1 December 2017

Witness Statement of: Stephen McMurray

I, Stephen McMurray, will say as follows:

1. This supplementary Witness Statement by the Department for the Economy (DfE) seeks to assist the Inquiry by clarifying or expanding on points arising from the Opening Statement made on 17 November 2017 by Mr Donal Lunney.
2. In relation to the meeting of the DETI casework committee which took place on 9 March 2012, Mr Lunney stated in his Opening Statement on 17 November 2017 (page 43, line 14 et seq):

“And, fourthly, and finally on this topic, there’s also an issue about why DFP were not at the committee meeting, because we will see in the DOF corporate statement — I’ll give you the reference for this part of it: it’s WIT-30054. We’ll see in that part of the statement that Michael Brennan points out that DFP have observer status at casework committee meetings but aren’t mandated to attend, but that the purpose of attendance is to give DFP a more detailed understanding of any spending proposal being put before the committee. And we know that, in the autumn of 2015, when the business case for the 2015 amendments to introduce tiering, when it was being presented to casework, DFP officials did attend at that committee, and they asked some very pertinent questions about the 2012 amendment to the GB scheme, for example; the one that introduced their first cost control, and about why DETI had failed to introduce any of the cost controls in respect of which DETI had consulted in 2013. So an issue to be determined in due course, or considered at least, if is whether, DFP officials had taken part in that casework

committee, some additional pertinent questions or issues may have been raised.”

3. DFP officials were not invited to attend meetings of the DETI casework committee dealing with projects managed by the core Department before January 2014. A DETI casework committee was established with effect from 7 October 2005: a minute of that date from Mr Trevor Cooper to DETI's Senior Management Team, sets out arrangements for the committee. The minute is exhibited to Mr Cooper's 19 July 2017 witness statement at **WIT-18840** to **WIT-18842**. No provision was made in that minute for DFP to attend meetings of the DETI casework committee.
4. Further guidance on the DETI casework committee was issued on 3 April 2009, when Mr Cooper issued a minute which set out a standard format for the DETI casework committee minutes (**WIT-18843** to **WIT-18844**).
5. An Independent Review of Economic Policy (IREP) was commissioned by the then Minister of Enterprise, Trade and Investment, Arlene Forster MLA, in December 2008, under the Chairmanship of Professor Richard Bartlett. IREP reported in September 2009 and recommended, *inter alia*, that a Northern Ireland version of the GB Central Projects Review Group ("CPRG") should be established, incorporating Invest NI, DETI and DFP officials, in order to speed up the decision-making process for major industrial assistance cases.
6. Following the IREP report new arrangements for consideration of Invest NI projects were put in place, with the establishment on of a DETI-Invest NI Casework Committee protocol (**Tab 1**) effective from 1 July 2010. DFP representatives were invited to attend meetings of the DETI-Invest NI casework committee to advise and observe. The remit of the DETI-Invest NI casework committee was confined solely to Invest NI projects.
7. Further guidance on the role of the DETI casework committee was issued to DETI's Senior Management Team by Mr David Thomson on 25 September 2013 (**Tab 2**). Again, no provision is made in this guidance for DFP to attend meetings of the DETI casework committee.

8. A search of the records in the Department's Electronic Document Records Management System HPRM (TRIM) indicates that DFP was first invited to attend a meeting of the DETI casework committee which was to be held on 20 January 2014. The invitation took the form of an e-mail dated 14 January 2014 from Mrs Francine Manikpure in Accountability and Casework Branch to Mr Stuart Stevenson, DFP Supply Division (Tab 3).

9. From that point onwards DFP were routinely invited to attend meetings of the DETI casework committee at which cases requiring DFP approval were considered. As Mr Lunney noted in his opening statement, DFP attended the meeting of the casework committee on 21 October 2015.

Statement of Truth

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

Signed: Steph Why

Dated: 1st December 2017

INVEST NI DETI CASEWORK COMMITTEE PROTOCOL**Introduction**

1. All Invest NI projects and programmes in excess of the delegated limits for Invest NI Board approval will be subject to consideration by the DETI - Invest NI Casework Committee (“the Casework Committee”). The remit of the Casework Committee, which comprises representatives from the Department of Enterprise, Trade and Investment (DETI), the Department of Finance and Personnel (DFP), and Invest Northern Ireland, is to consider any such proposals collectively with a view to reaching agreement on the merits of a project.

Invest NI Board Casework Committee

2. Invest NI projects that are submitted for Casework Committee consideration must have already received approval from the Invest NI Board Casework Committee.

Cases where DFP Approval is required

3. Where the proposed level of financial assistance exceeds the delegated limits for DFP approval, formal DFP approval will be sought following consideration of the case by the Casework Committee, provided the Casework Committee endorses the case. DFP approval must be sought and obtained before the case is submitted to the Minister. The exception to this rule relates to external consultancy cases, where Casework Committee consideration is not required. In these consultancy cases, Departmental Accounting Officer and Ministerial approval must be obtained prior to DFP approval being sought.

Cases where Ministerial Approval is required

4. Cases requiring Ministerial approval must have been endorsed by the Casework Committee prior to submission to the Minister. The Ministerial Submission must explicitly state this.

Invest NI expenditure proposals which fall under Paragraph 2.1.7 of Managing Public Money Northern Ireland

5. Expenditure proposals which fall within the categories referred to in paragraph 2.1.7 of Managing Public Money Northern Ireland – transactions which set precedents, are novel, potentially contentious, or could cause repercussions elsewhere in the public sector will be subject to Casework Committee approval.

Aim and Objectives

6. The Casework Committee is a scrutiny panel for major Invest NI projects. Its aim is to deliver better value for the taxpayer by challenging projects on the grounds of deliverability, affordability and value for money. In particular, the Committee will seek to ensure that:-

(a) all reasonable options have been considered;

- (b) a rationale exists for the preferred option;
 - (c) project risks have been identified; and
 - (d) the proposed project represents value for money.
7. The Casework Committee will add value to Invest NI's own appraisal through its collective knowledge and experience of a wide range of projects. In particular, the Casework Committee will draw on its members' experience on the identification of options and alternative ways of delivering project objectives and outcomes; the assessment of cost effectiveness; the management and mitigation of risk; and the dissemination of best practice.
 8. By subjecting projects to scrutiny by the Casework Committee, the process leading to formal approval by DFP and the Minister should be streamlined.

Casework Committee Membership

9. The Casework Committee comprises the following members:
 - Chair: DETI Deputy Secretary (Grade 3)
 - Deputy Chair: DETI Finance Director (Grade 5)
 - Secretariat: DETI Accountability and Casework Branch (Grade 7)
 - Members: DETI, Head of Strategic Planning, Economics and Statistics Division (Grade 5);
Non-executive member of the Departmental Board; and
Any other government officials/experts deemed by the Chair to be necessary (determined on a case-by-case basis).
 - Attendees: DFP Supply (Grade 5 and/or Grade 7).
10. Three members are required to make the Casework Committee quorate.

Role of the DFP representative on the Casework Committee

11. The independent nature of DFP's challenge role emanates from Managing Public Money Northern Ireland (MPMNI), which refers to the requirement for DFP approval being a long-standing convention and confirming that formal DFP consent is required for all expenditure and resource commitments.
12. MPMNI reminds Accounting Officers that DFP approval must be confirmed in writing and must be sought in good time to allow reasonable consideration before decisions are required. These requirements underpin the formal process that exists for cases requiring DFP approval.

13. In light of paragraphs 11 and 12 above, it is important to note and be clear that the role of DFP on the Casework Committee will be to observe and advise. DFP attendance does not imply DFP approval. Formal DFP approval must be sought in cases where its approval is required. For those cases which only require Ministerial approval, DFP will again observe and advise. In such cases, attendance by DFP representatives will not be construed as providing formal DFP approval.

Scheduling meetings of the Casework Committee

14. On a quarterly basis, Invest NI's Strategic Management and Planning Division will provide the Casework Committee Secretariat with an advance list of projects that are likely to come forward for its consideration during the quarter.
15. The following information should be provided:
 - (a) Project name;
 - (b) Brief project overview;
 - (c) A outline summary of the project benefits, the estimated project cost, the proposed Invest NI financial contribution, and the timing and value of any Prior Approval that has been given; and
 - (d) The expected date of review by the Casework Committee.
16. As soon as it becomes apparent that a case has progressed to a sufficiently advanced stage, Invest NI will notify the Casework Committee Secretariat, who will arrange for a meeting of the Committee to be convened. At least four weeks notice should be given.

Submissions to the Casework Committee

17. The Casework Committee must be provided with a covering submission setting out the key features of the case (**Annex 1**). The covering submission should normally be no more than five pages in length. The Casework Committee must also be provided with a copy of the economic and commercial appraisals, the Invest NI Casework Submission and any other supporting evidence to facilitate consideration of the proposal.
18. A full set of papers should be provided to the Invest NI DETI Casework Committee Secretariat in electronic format at least seven working days in advance of the scheduled meeting of the Committee.
19. Officials from the particular Invest NI Division recommending the case for approval will be required to attend the Casework Committee meeting to present the case and to provide any further information that the Committee may require.

Casework Committee Secretariat

20. The Casework Committee Secretariat will be responsible for:-

- (a) Convening meetings of the Casework Committee;
- (b) Circulating papers electronically in advance of each meeting of the Casework Committee;
- (c) Minuting meetings and obtaining agreement of the Chair of the Committee, evidencing the Casework Committee's decision on the case; and
- (d) Circulating agreed minutes and the formal decision letter on behalf of the Casework Committee Chair.

Response and Decisions

21. Once the proposal has been considered, the Chair of the Casework Committee will issue a formal letter within 5 working days of the meeting. The letter will either:
- (a) approve the project;
 - (b) approve the project subject to conditions*;
 - (c) advise that further work/clarification/information on the proposed project is required before the Casework Committee can come to a decision*; or
 - (d) reject the proposal on grounds to be specified.

**Invest NI is responsible for ensuring that any conditions are met and for resolving points of detail in writing to the satisfaction of the Invest NI DETI Casework Committee.*

Further Approvals

22. Following approval by the Casework Committee formal DFP approval (where required) and Ministerial approval will be sought.

ANNEX 1

CASEWORK COVERING SUBMISSION TEMPLATE

The headings in the following template should be covered when presenting a case to the Casework Committee for approval. Explanatory notes in relation to each heading are provided.

Covering Submission	
<i>Background</i>	Brief details of the proposal and how it will be implemented. Where assistance is proposed to a company/group, include information on the nature of business, location(s), financial performance/size, number of employees locally/other locations, strategic direction, etc.
<i>Outline of Project</i>	Explanation of what the project involves, and where it fits within DETI/Invest NI's objectives and policy priorities.
<i>Strategic Fit</i>	Explanation of how the project fits into PfG and PSA targets.
<i>Additionality/Mobility</i>	Explanation of why government intervention is required at all, and why at the level proposed, and other options considered.
<i>Proposed Assistance and Rationale for Format of Support</i>	Outline of the nature of the assistance (revenue/employment, capital, loan, shares, etc), total level of assistance in each category, the rationale for this type of intervention, any other support or proposed support for the project from public funds, consideration of State Aid issues and any other controls.
<i>Affordability</i>	Confirmation that resources are in place within existing budgets, or outline plans to secure the necessary funding.
<i>Displacement</i>	Commentary on the level of displacement within the NI economy. [However, where there are likely to be significant displacement effects elsewhere in the UK, these should also be identified and appraised.]
<i>Viability/Key Risk Assessment</i>	Brief commentary on the viability of the project, highlighting key risks from the appraisal and how these risks have been mitigated to an acceptable level in relation to the proposed intervention.

<i>Value for Money (VFM) Assessment</i>	The outcome of the Economic Efficiency Test (EET) – (includes consideration of the wider benefits of the project at a national level). Includes an overall conclusion on the project's VFM, considering the results of the EET, level of public sector contribution, affordability, additionality, and the degree of risk involved in the project.
<i>Terms and Conditions of financial assistance</i>	Confirmation that the proposed Terms and Conditions of financial assistance have been agreed with the project promoter.
<i>Recommendation</i>	Clear recommendation in relation to support for the proposal, specifically:- a) Approval of the Invest NI Board Casework Committee; and b) Endorsement of the Invest NI designated Accounting Officer

Copy: Heads of Branch DETI HQ

To: Senior Management Team

From: David Thomson

25 September 2013

DETI CASEWORK COMMITTEE

1. A formalised casework approval process has been operational since 2005 for DETI HQ cases involving Departmental expenditure above £500,000.
2. It is made up of a sub-committee of SMT (the DETI Casework Committee) whose remit entails the consideration and approval of expenditure proposals in excess of this amount.
3. All SMT members are eligible to participate on the Casework Committee other than where an expenditure proposal originates from within a Grade 5 or Grade 6's area of responsibility. Expenditure proposals are presented to a quorum of three members with a Chair of at least Deputy Secretary level and at least one member drawn from both Resources Group and Policy Group.
4. From 1 October 2013, a change to this format will be brought into effect. Going forward, a representative from Accountability and Casework Branch (ACB) will attend these meetings and should be invited to all DETI Casework meetings involving Departmental expenditure above £1,000,000. ACB is the branch directly involved in submitting cases and relevant documentation to DFP (where DFP approval is required) and liaising with the relevant branch/division on any queries DFP has in relation to the submission. As such it is considered important to involve them earlier in the process than has previously been the case.
5. Attending the Casework Committee will ensure that ACB has early sight of the economic appraisal and supporting documents; will be aware of any issues arising from attendance at the meeting; and will also have a role in assessing if there are adequate governance arrangements in place.
6. The Committee should continue to be provided with a copy of the economic/commercial appraisal of the proposal together with a summary casework submission incorporating the information per **Annex 1** attached. These papers should continue to be provided by the relevant Branch/Division at least four working days in advance of the scheduled meeting of the Committee. The Divisional/Branch representative recommending the case for approval attends the casework committee meeting to present the case for support and provide any further information that the Committee may require in relation to its consideration thereof. They may also request that the DETI

Economist who has carried out the review of the project is in attendance to answer any economics related queries which may arise.

7. The Division/Branch is also responsible for minuteing the meeting , with the minutes to be agreed by the Chair of the Committee evidencing the Committee's decision on the case. The minutes should be in the format set out in **Annex 2**.
8. Branches/Divisions with cases for which the Casework Committee's approval is required should continue to contact Rae Smith who will arrange for a meeting to be convened. Rae should be provided with the title of the proposal, the date by which a decision is required, and the amount of expenditure proposed.
9. After approval has been given the branch/division should forward the following documents to Accountability & Casework Branch for onward transmission to DFP (where expenditure is greater than £1 million):
 - Final Business Case/Economic Appraisal
 - Completed DFP pro-forma
 - Strategic Outline Case (if one exists)
 - Cover note to DFP
 - Any other supporting documents pertinent to the case

DAVID THOMSON

ANNEX 1**CASEWORK SUBMISSIONS**

The summary covering submission should document the key issues of a case. It should normally be no more than five pages in length and should in itself justify the assistance proposed in the case. The appraisal should be appended to the submission.

The headings in the following template should be covered when presenting a case for approval. Explanatory notes in relation to each heading are provided.

CASEWORK SUBMISSION TEMPLATE**1. Outline of Proposal**

Explain what the proposal involves, anticipated outputs and where it fits within strategy and policy priorities. If the support is being delivered to a company/third party provide background information on the company and where the proposal being supported fits within the overall strategy of the company going forward and its relative importance therein.

2. Additionality

Explain why government intervention is required at all, and to the level proposed. If the expenditure is by way of grant or loan to a third party include brief details of the negotiating process that arrived at the quantum and any other relevant justification of support for the project.

In terms of the need/ rationale for the intervention, the submission should outline what the market failure being addressed is, how this has arisen, and how the preferred option/ proposed programme (/scheme/ initiative) addresses the cause rather the symptoms of the problem (market failure/ weakness). This should be explicitly addressed in the economic appraisal and therefore available therefrom.

3. Proposed Assistance and Rationale for Format of Support

Outline what is the nature of the expenditure proposed (revenue/ capital/loan/ shares), and the rationale for this form of intervention. What is the total level of assistance within each category of support and overall and how does this compare to any previous benchmarks. Where applicable cost per job, percentage contribution to overall project cost and details of any other recent (within last five years) or proposed support to the company/project should be provided.

4. Affordability

Confirm that resources are in place from within existing budgets or outline plans to secure the necessary funding.

5. Displacement

Comment on displacement at the level of the **UK economy**.

6. Viability / Key Risk Assessment

Where support is being provided to a third party provide a brief commentary on their financial strength and expected profitability with project highlighting any key risks (e.g. market, technical, financial, management) and how these risks have been mitigated to an acceptable level in relation to the proposed expenditure. It is particularly important that a balanced view of both the potential downsides as well as potential upsides of the proposal is presented.

7. Value for Money Assessment

Where applicable outline the outcome of the economic efficiency test (EET), which is based on a **combination** of **DCF analysis** plus consideration of the **wider benefits** of the proposal. The wider benefits should be fully elucidated in all cases.

Where an options analysis has been carried out within an economic appraisal the submission should detail how the preferred option was identified and provide a summary of the key monetary and non-monetary costs and benefits which in association with the risk analysis justifies the overall value for money conclusion.

TEMPLATE FOR CASEWORK COMMITTEE MINUTES**Annex 2****Introduction**

Conflict of Interest Declarations

Brief details of the project

Confirmation that the Grade 3 Policy Group (or Management Services Group if the project emanates from that Group) is content to support the project

Issues Raised by Committee Members and Action Points Arising

This section should contain succinct notes of issues raised by casework committee members, responses by the project team, and action points arising. Issues raised may include:

- Strategic Context
- Benefits
- Additionality
- Value for Money
- Project Management / Project Monitoring/ Governance Arrangements
- Advice received from economists
- Budget / Costs /EU funding
- Need
- Risks

Conclusion

This will include the casework committee's formal approval and any other issues.

From: [Linton, Rachel](#)
To: [Coyne, Terence](#)
Subject: FW: 2MB USC project
Date: 28 November 2017 15:06:31
Attachments: [SUPPLY DETI - OBC NI BROADBAND IMPROVEMENT PROJECT 2M USC - APPROVAL.DOC](#)

From: Manikpure, Francine
Sent: 14 January 2014 10:40
To: Stevenson, Stuart <Stuart.Stevenson@dfpni.gov.uk>
Cc: Sands, Sylvia <Sylvia.Sands@dfpni.gov.uk>; Benton, Sarah <Sarah.Benton@dfpni.gov.uk>; McFarlane, Iain <Iain.McFarlane@detini.gov.uk>; Linton, Rachel <Rachel.Linton@detini.gov.uk>; Forsythe, Trevor <Trevor.Forsythe@detini.gov.uk>
Subject: 2MB USC project

Stuart,

DETI submitted to you some time ago the 2MB USC project for DFP approval and we received the attached DFP approval letter, dated 14 February 2013.

In the DFP approval letter, one of the conditions is that “ *DETI provides an update post tender outlining the firm costs of this project and the level of government intervention. DFP can then determine whether we are content for DETI to progress and award the contract.*”

We are almost in a position whereby we will be able to supply you with the above information. DETI Telecoms branch has just received a revised Economic Appraisal and our economists are in the process of reviewing it. The timescales are very tight on this project.

I am e-mailing to ask if you could give this case a priority when it comes in and also to see if anyone from DFP would like to attend the DETI casework in an observatory capacity similar to the Invest NI/DETI caseworks? The DETI casework meeting is scheduled for 9am on 20th January 2014 in Conference room C in Netherleigh. One of the main changes which deviates from your initial approval letter is that the contribution from the private sector is not as high as expected.

Grateful if you could confirm if anyone from DFP would be available to attend the casework and I will send out a formal meeting request and get papers to you as soon as possible?

Kind regards,

Francine

Francine Manikpure
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