



Bernie Brankin

Personal information redacted  
by the RHI Inquiry

8 August 2017

Dear Madam

**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 that you will be familiar, from my previous correspondence, with the RHI Inquiry's Terms of Reference, which remain available on the Inquiry's website. You will also be aware that the RHI Inquiry is conducting its investigations into the matters set out in its Terms of Reference. The Inquiry is continuing with the process of gathering all of the relevant documentation from relevant departments, organisations and individuals.

In addition, the Inquiry is in the process of requiring individuals who have been, or who may have been, involved in the range of matters which come within the Inquiry's Terms of Reference to provide written evidence to the Inquiry Panel.

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

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

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

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

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

I appreciate that you may require or desire access to some documentation in order

to assist you in preparing your statement. In particular, you may wish to see documentation to which you previously had access but now no longer have access in your current post. If that applies in your case, I understand that the Department for the Economy (DfE) is making arrangements to permit such access, at least in the first instance. You should contact Terence Coyne at DfE, who is the Department's RHI Task Force Information Manager, to organise this. He is contactable at [Terence.Coyne@economy-ni.gov.uk](mailto:Terence.Coyne@economy-ni.gov.uk). I have informed Mr Coyne that you may be making contact with him to arrange access to documentation; but there is, of course, no obligation upon you to do so.

I also refer you to Restriction Order No 2 made by the Chairman of the RHI Inquiry on 22 June 2017, a copy of which is enclosed for your convenience. This restriction order prohibits you from publishing any documentation received from the RHI Inquiry (save that you may show it to your legal representative) unless you first obtain the consent in writing of the Inquiry Chairman.

In addition to the three restriction orders made by the Chairman of the RHI Inquiry (which you will find published on the Inquiry website) receipt of this correspondence and its enclosures also places you under a duty of confidentiality to the RHI Inquiry in respect of them. You may share the correspondence and the enclosed Notice and documents with your legal representative(s), but neither you nor they may show, communicate the contents of, nor provide this correspondence or the Notice or documents to any other person or organisation without the express permission of the RHI Inquiry. Any breach of this duty of confidentiality is actionable at the suit of the Inquiry Chairman.

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

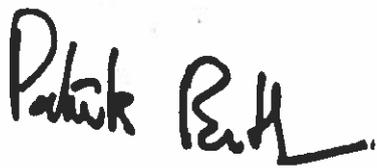
Given the tight time-frame within which the RHI Inquiry must operate, the Chairman of the Inquiry would be grateful if you would comply with the requirements of the

Section 21 Notice as soon as possible and, in any event, by the date set out for compliance in the Notice itself.

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

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

Yours faithfully

A handwritten signature in black ink that reads "Patrick Butler". The signature is written in a cursive style with a long horizontal stroke at the end of the name.

**Patrick Butler**

Solicitor to the RHI Inquiry

02890408928

**SCHEDULE****[No 379 of 2017]***Background*

1. Set out a description of your occupational history, qualifications and experience.
2. Set out a summary of your role or roles within the Department for Economy (previously the Department of Enterprise, Trade and Investment) ('the Department'). Please provide details of dates between which you held the role/s; when, how and why you were appointed to the role/s; and what the role/s entailed). In each instance, describe how this role related, if at all, to the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland ('the Scheme').
3. Explain, insofar as is relevant to any involvement you had with the RHI Scheme, to whom you were accountable and/or reported in the Department and who, if anyone, was accountable to and/or reported to you (and during what periods).

*Finance Division within DETI/DfE*

4. Please explain the nature of Finance Division (and the Branches within it) and how it fits into the overall operation of the Department. If this changed during your time in your role in Finance Division then please set out when the changes occurred and what they were.
5. Please explain the structures that operated in Finance Division and the general method of working within the Division. Please include an explanation of the accountability mechanisms within the Division.
6. Please explain the mechanisms in place for interaction between Finance Division and others, including:

- a. with the Department for Finance and Personnel (later, the Department of Finance); and
  - b. how, in turn, Finance Division would consequently interact with your own Departmental Divisions arising from interaction with the Department for Finance and Personnel/Department of Finance;
  - c. with Her Majesty's Treasury; and
  - d. how in turn Finance Division consequently interacted with the Department for Finance and Personnel/Department of Finance, and with your own Departmental Divisions arising from interaction with Her Majesty's Treasury.
7. Explain the structures that operated between Finance Division and Departmental Divisions such as Energy Division;
  8. Explain the nature of finance documentation required within the Department. (For instance: were there finance reports and/or monitoring returns? How often were they required? What were they expected to cover? *Et cetera*).

*Finance Branch*

9. Explain the purpose and functions of Finance Branch (within Finance Division).
10. Please set out anything else about the operation of Finance Branch (or Finance Division) of which you consider the RHI Inquiry should be aware.

*General involvement with the RHI Scheme*

11. Please summarise what involvement you had with the RHI Scheme, and during what period.

12. In respect of your particular role or position:
  - a. Explain what proportion or percentage of your role was devoted to work on the RHI Scheme (giving details, if applicable, of how this altered over time or at different periods);
  - b. Explain how you would have carried out your roles or responsibilities in relation to the RHI Scheme on a day-to-day basis;
  - c. Explain who you would have interacted with over the RHI Scheme, and in what regard; and
  - d. Specify whether you consider you were adequately trained and/or resourced in respect of your roles or responsibilities in relation to the RHI Scheme. (If not, please specify clearly in what respects you contend this was not so and, if applicable, what steps you took in relation to this).
13. Explain in detail any involvement you had in relation to, or touching upon, the RHI Scheme including (but not limited to) any role or involvement you had in respect of the setting up, design, implementation, operation, promotion, oversight, governance, funding, amendment (including the introduction of cost controls), suspension and/or closure of the Scheme, from its inception up to the present day.
14. Without prejudice to the generality of paragraph 13 above, explain your involvement (if any) in:
  - a. the creation and development of the Scheme in, or before, 2012;
  - b. the administration/operation of the Scheme;
  - c. any problems or difficulties which emerged in respect of the Scheme (including, but not limited to, the causing or permitting, identification, consideration and/or remediation of any such problems);

d. the amendment, suspension or closure of the Scheme;

in each instance providing:

- i. details of any relevant interactions with Civil Servants, Ministers, Special Advisers, MLAs, politicians, political parties and other potentially relevant persons (e.g. consultants, the renewable heating industry, actual or potential applicants for accreditation under the Scheme, journalists, etc.);
  - ii. where you made any decision, or gave any advice, in respect of any of the matters set out at paragraph 5 above, the reasons for that decision or that advice (as the case may be); and
  - iii. details of any documents which are of significance or particular relevance (which should be annexed to the witness statement if you have access to the documentation which permits you to do so; or, otherwise, which is identified as clearly as you can).
15. Please explain when you were first involved with the RHI Scheme, and what that involvement was.
16. Please identify when you first became aware that there was a problem or problems with the RHI Scheme and explain what they were.
17. Explain your understanding of the funding arrangements for the Scheme, including how that understanding was gained; how (if at all) it developed; what steps (if any) you took or directed to clarify the funding arrangements for the Scheme; whether, if you misunderstood the funding arrangements for the Scheme at any material time, you consequently communicated an inaccurate description of the Scheme's funding to other persons (in particular, more junior officials) at any material time (identifying the approximate date and recipient of such communications) and, if applicable, the steps you took to correct any misunderstanding on the part of other persons regarding the funding

arrangements for the Scheme (identifying the approximate date of each such step and the name of each relevant person).

18. Identify, in your view, any flaws or difficulties with the Scheme and/or its operation, explaining in each instance, so far as you can, how these difficulties or flaws came about, when they first came to light (if they should have come to light sooner when that should have been and why) and with whom (if anyone) responsibility or accountability for them lay.

*The RHI Scheme and AME and DEL – 2011 emails*

19. Please provide a summary explanation of your understanding of the term 'DEL' and your understanding of the term 'AME'. In doing so, please also set out the differences between DEL and AME, and the differences in how they are treated within departmental finances.
20. From information received by the Inquiry, it appears that, on 15 April 2011, Alison Clydesdale forwarded to you an email which she had received from Jon Parker in Her Majesty's Treasury (HMT). The email can be found at WIT-00842 to WIT-00843 in the Inquiry's evidence bundle and a copy is provided herewith. The forwarded email from Jon Parker included the following passage:

*"The other key point it is necessary to let you know about is that DECC RHI spending is not being treated as standard AME, where the Exchequer takes on all risks of overspend. Instead, there is a risk-sharing arrangement whereby should RHI spending in one year exceed the SR profile, then DECC would need to repay this in future years. They can do this through announcing changes to the SR that will bring cost savings relative to the SR profile in future years. However, a small proportion of any required future savings (still to be determined, but likely to be of the order of 5%) will have to be funded through contributions from DECCs DEL. Again, these rules should be applied in equivalent fashion to NI."*

It further appears that, on 3 May 2011, you sent an email to Alison Clydesdale (at WIT-00840 to WIT-00841) about the nature of the funding available for the RHI Scheme. Your email included the following passage:

*“Energy Division’s AME has now been confirmed. I have spoken to Stuart Stevenson regarding [NI Scheme] AME allocation. [NI Scheme] spending is not being treated as standard AME. This means that your [NI Scheme] budget allocation is being treated the same as DEL allocations ... if you overspend in any year, [the Department’s] budget will be reduced by the amount of overspend in future years.”*

As to these communications, please address the following:

- a. What was the purpose of Alison Clydesdale consulting you about what Jon Parker said?
- b. Who did you speak to about the email which you received from Alison Clydesdale, and why did you speak to them?
- c. What role had Stuart Stevenson and in what department and capacity?
- d. What was the purpose of speaking to Stuart Stevenson? When did you speak to him (approximately, if you cannot remember precisely when) and what did he tell you (and in what form)?
- e. Had you come across non-standard AME (or AME with a potential DEL effect) before? If so, when, and in what circumstances?
- f. How significant was it to be told that the funding was not standard AME?
- g. What did this mean to you in terms of how the RHI Scheme would have to be set up, dealt with and managed?

- h. Did you bring the fact that the funding for the RHI Scheme was not standard AME to the attention of your superiors? If you did, why did you do this? If you did, what (if anything) to your knowledge did they do about it? If you did not, why did you not do that?
  - i. What steps could have been taken within Finance Division to highlight, and keep highlighted, the fact that funding for the RHI Scheme was not standard AME?
  - j. To your knowledge, what steps were actually taken within Finance Division to highlight, and keep highlighted, the fact that funding for the RHI Scheme was not standard AME?
  - k. What did you expect Alison Clydesdale to do on foot of the information you provided to her in your reply of 3 May 2011? Please give reasons for your answer.
  - l. What steps do you say Energy Division should have taken on foot of your reply, and why do you say they should have taken any such steps?
21. If this type of “non-standard AME” (or AME with potential DEL effect) was unusual; not properly understood; and/or potentially posed greater risks for the Department; what was done to deal with those facts, and by who, and, if different, what should have been done, why, and by who?
22. In relation to your understanding of the May 2011 funding position, please explain your understanding of:
- a. How the 5% would work;
  - b. What it was of which 5% would be subject to penalty;
  - c. From what resource any 5% penalty would come;
  - d. If the 5% penalty had to come from over and above any RHI budget, how this would be managed by DETI; and
  - e. Whether any 5% penalty levied could be recouped in some way, and

from what.

23. In relation to the potential for a penalty to accrue against DETI's DEL budget, how was this fact recorded in DETI Finance Division records?
24. Was the fact of this type of funding arrangement (AME but with a potential DEL consequence) something that should have been brought to the attention of the Permanent Secretary of the Department? If so, please explain the basis for so saying.
25. If there were no "non-standard AME" (or AME with a potential DEL effect) budget lines within Departmental finance computer systems and reports, then please explain why this was so. If there should have been please explain why this was not the case.
26. What measures were in place to ensure that "non-standard AME" (or AME with a potential DEL effect) was flagged and any risk associated with it properly managed within the Department? If there were other steps you consider should have been taken, please explain what these were and why you consider they should have been taken.
27. Were quarterly monitoring returns in respect of, or including, the RHI Scheme headed "AME"? If so why was this the case if in fact the RHI funding was "non-standard AME".
28. Who was responsible for titling monitoring returns? Was it possible to title them differently? If so, why was this not done, to reflect the actual type of funding involved?

*Previous experience of similar schemes*

29. What previous experience (if any) had you of dealing with schemes that were similar in principle to the RHI Scheme? Please describe any previous similar schemes.

30. Of what previous experience of similar schemes are you aware which DETI Energy Division had when it embarked on the RHI Scheme?
31. If you were involved with, or gleaned learning from, the “Reconnect” Scheme then please describe that scheme and set out what the problems were, when they occurred, what was done to deal with them, and what learning came from that Scheme.
32. What warnings in respect of the RHI Scheme, if any, arising from your previous experience, did you give; to whom did you give any warning; and when did you give it?

*2011 to March 2015*

33. For the period between 2011 and March 2015 please set out in what way you were engaged with or carried out work relating to the RHI Scheme.
34. When did you first become aware that there was any problem with the RHI Scheme? In relation to that:
  - a. How did you become so aware?
  - b. Who informed you?
  - c. What were you told as to the problem at that point in time?

*Emails of 26 March 2015, 19 May 2015 and 20 May 2015*

35. From information received by the Inquiry, it appears that, on 26 March 2015, Sandra Thompson forwarded Jeff Partridge an email of 25 March 2015 from Stuart Wightman. Stuart Wightman’s email of 25 March 2015 had in turn forwarded the email of 11 April 2011 sent by Jon Parker to Alison Clydesdale (referred to above). The Jon Parker email of 11 April 2011 explained, in terms, that RHI funding was not being treated as standard AME, and could have DEL consequences. It further appears that Sandra Thompson’s email of 26 March

2015 was not responded to until 19 May 2015, when it was responded to by Jeff Partridge with a warning. As to that:

- a. When did you first become aware of this email?
  - b. Why did it take until 19<sup>th</sup> May 2015 for Finance Division to reply? How long should it have taken to reply?
  - c. Was Jeff Partridge's email brought to your attention? Ought it to have been?
  - d. Should it have been elevated within the Division? Please explain the reasons for your answer.
  - e. At this point should the issue have been elevated to the Permanent Secretary? If not, why not? If yes, please explain the reason for your answer? If the issue should have been elevated to that level, but was not, then please explain why this did not happen.
36. Were you aware of, and/or involved in, a further sequence of emails of 19 and 20 May 2015 involving Finance Division telling Energy Division to stop entering any further RHI commitments, and/or that direction being rejected by Energy Division in favour of seeking further clarifications from DFP? As to that, what should have happened within Finance Division the moment it was known that the direction given (to stop entering into RHI commitments) was not going to be followed?
37. How significant an issue is it for DETI/DfE Finance Division that there may be an overspend and/or DEL consequence within the departmental budget, and what should happen if this is the case? Please explain the basis for your answer.

*March 2015 to June/July 2015*

38. Please set out and explain any involvement you had in dealing with the issue of the RHI Scheme and its budget implications between March 2015 and July 2015.
39. Please explain any steps you took to deal with, highlight and/or resolve issues relating to the RHI Scheme during that period.
40. Please describe any liaison you had with Stuart Wightman (or others in Finance Division, Energy Division or at more senior level in the Department) in respect of the RHI Scheme during that period.

*Financial Forecasting*

41. What discussions did you have over the financial information and forecasting you were receiving from Energy Division in relation to the RHI Scheme?
42. Please evaluate the financial information you were receiving from Energy Division in relation to the RHI Scheme. In particular, please indicate whether this information was useful and adequate. Please explain the reasons for your answer.
43. What steps did you, and Finance Division, take to improve any deficiencies being found with the financial information and forecasting in relation to the RHI Scheme?

*Draft Ministerial submission about RHI of 7 July 2015*

44. What involvement, if any, did you have in respect of the draft Ministerial submission about RHI of 7 July 2015 (actual submission dated 8 July 2015)?
45. If you were involved in the drafting of the submission what observations (if any) have you to make about it?

46. The draft Ministerial submission about RHI of 7 July 2015 appears to have described the source of RHI funding as AME, and thus not directly impacting Northern Ireland Departmental budgets. In relation to the submission in this regard:
- a. Was it accurate?
  - b. Should a more detailed explanation about AME with DEL consequences have been provided to the Minister?
  - c. If it is the case that the funding position was not as described in the draft submission, whose responsibility would it have been to correct that inaccuracy in the submission?

*June/July 2015 to December 2015*

47. Explain what involvement you had in respect of the RHI Scheme during the period June/July 2015 to December 2015?
48. If you consider that there were delays occurring within DETI during this period in addressing the problems that had become apparent with the RHI Scheme, then (in respect of each delay) please explain what the delays were, to what they related, what was causing them, who was responsible for them, and what was done to try to avoid them.
49. Please give a chronological account of the work done to obtain further funding to deal with the overspend accruing in the 2015/16 year. Please include what was done, who did it, what resulted from it, what the RHI budget had been, and, as a result of the work done, what the RHI budget became.

*Lapse in DFP Approval in March 2015*

50. What role, if any, does Finance Division play in relation to a scheme within Energy Division that needed renewed approval from DFP/DoF? Whose responsibility is it in the Department to recognise the need to renew and to begin the process? Does any responsibility lie within Finance Division? Please explain the basis of your answer.
51. If a renewal is due by March 2015 then when should the process of obtaining the renewal begin? Please explain the basis of your answer.
52. How, in practical terms, would you expect the need for renewal of DFP approval to be managed so as to ensure that it is not overlooked?
53. What role, if any, does DFP/DoF play in identifying that a requirement it had for renewal of approval had not been dealt with by a department such as DETI/DfE? Please explain the basis for your answer.
54. Please explain how the need for renewal of the DFP approval of the RHI Scheme was missed.

*Communication arrangements over financial matters relating to the RHI Scheme*

55. Given the potential involvement of HMT, DECC, DFP and DETI, what was your understanding of the communication mechanisms which were to operate in respect of the RHI Scheme?
56. How effective, or otherwise, were those mechanisms? Please explain the reasons for your answer.

*Departmental Annual Accounts*

57. Please explain the purpose of the departmental annual accounts?

58. Please explain your role in their preparation (and any others involved in their preparation)?
59. In relation to the accounts for the year ending 31 March 2013 (accounts dated 5 July 2013) please address the following:
- a. What is being communicated about RHI in item 13 on internal page 68?
  - b. What is the significance of that information?
  - c. Why was funding for RHI described in the table as being AME?
  - d. Was describing funding for RHI as AME in the Annual Accounts accurate? Please explain the reasons for your answer.
60. In relation to the accounts for the year ending 31 March 2014 (accounts dated 4 July 2014) please address the following:
- a. What is being communicated about RHI in item 13 on internal page 56?
  - b. What is the significance of that information?
  - c. Why was funding for RHI described in the table as being AME?
  - d. Was describing funding for RHI as AME in the Annual Accounts accurate? Please explain the reasons for your answer.
61. In relation to the accounts for the year ending 31 March 2015 (accounts dated 3 July 2015) please address the following:
- a. What is being communicated about RHI in item 13 on internal page 60?
  - b. What is the significance of that information?
  - c. Why was funding for RHI described in the table as being AME?
  - d. Was describing funding for RHI as AME in the Annual Accounts accurate? Please explain the reasons for your answer.
62. In relation to section 9.3 of the notes to the departmental resource accounts on internal page 88 of the accounts for the year ending 31 March 2015 (accounts dated 3 July 2015) please address the following:

- a. What is being communicated about RHI?
  - b. What is the significance of that information?
  - c. Does the description given to the position of RHI convey the actual position as it was known at 3 July 2015? Please explain the basis of your answer.
  - d. Does the description given to the type of funding convey the actual position as it was known at 3 July 2015? Please explain the basis of your answer.
  - e. Please identify the “review of expenditure” forecasts being referred to and explain (i) who carried this out; (ii) when; and (iii) what documents formed part of this review.
63. In relation to the accounts for the year ending 31 March 2016 (accounts dated 1 July 2016) please address the following:
- a. What is being communicated about RHI in item 13 on internal page 47?
  - b. What is the significance of that information?
  - c. Why was funding for RHI described in the table as being AME?
  - d. Was describing funding for RHI as AME in the Annual Accounts accurate? Please explain the reasons for your answer;
64. In relation to section 9 of the notes to the departmental resource accounts on internal page 76 of the accounts for the year ending 31 March 2016 (accounts dated 1 July 2016) please address the following:
- a. What is being communicated about RHI?
  - b. What is the significance of that information?

*Promotion of the Scheme*

65. Specify whether you promoted the Scheme and/or encouraged any third party to seek accreditation under the Scheme, assisted any third party in so doing, or provided any third party with information knowing that they might apply, or consider applying, or that they might advise, encourage, assist, or cause other

persons to apply, or consider applying, for accreditation under the Scheme. In respect of any such instance, please provide full details including (but not limited to) the third party concerned and the date of any steps taken by you in that regard.

*Lobbying and pressure*

66. Identify any instances, to your knowledge or belief, of lobbying or encouragement of Ministers, Special Advisers, Civil Servants or other relevant persons in relation to the terms of the Scheme and/or the introduction, non-introduction, variation or delay of the introduction of cost controls into the Scheme (including, but not limited to, the amendment of tariffs, tiering, degression and Scheme suspension or closure) at any stage but, in particular, at the creation of the Scheme and in the period from mid-2015 to early 2016.
67. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on you in relation to any aspect of the RHI Scheme. In respect of any such instance specify:
- a. who provided that influence or pressure;
  - b. when it occurred;
  - c. what it consisted of and how it was conveyed;
  - d. what you believed the motivation to have been (and what you now believe the motivation to have been, if different), and why you believe that; and
  - e. how you dealt with it.
68. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on someone else in relation to the RHI Scheme. In respect of any such instance identify:
- a. who provided that influence or pressure;
  - b. who it was exerted on;
  - c. when it occurred;

- d. what it consisted of and how it was conveyed;
- e. what you believe the motivation to have been, and why you believe that;
- f. how it was dealt with; and
- g. how and when you came to be aware of the influence or pressure.

*Standards of conduct and conflict of interest*

69. Identify any instances, to your knowledge or belief, where a Minister, Special Adviser, Civil Servant or any other person involved in the RHI Scheme (including, if applicable, yourself):

- a. breached relevant standards (including, but not limited to, the Nolan Principles, the Ministerial Code of Conduct, the Civil Service Code of Conduct, the Code of Conduct for Special Advisers and/or terms or conditions of employment or service) or acted in a way incompatible with their duties (including, but not limited to, by means of making premature or unauthorised disclosures);
- b. acted in circumstances relating to or touching upon the Scheme in any way where they had a real or perceived conflict of interest;

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

70. Specify whether, to your knowledge, you have any connection to a person or body receiving payment under the Scheme or benefiting commercially from the Scheme in some other way (for instance, by supplying equipment, plant, fuel or other goods or services used by Scheme claimants). In this request, a 'connection' includes (but is not limited to) circumstances where the Scheme claimant or beneficiary is a relative, friend, close acquaintance, business associate or (in the case of politicians or special advisers) donor or supporter (either to or of you or your political party).

*Whistle-blowing and raising of concerns*

71. Identify any instances of which you are aware of whistle-blowing in relation to the Scheme, or disclosures made in the public interest raising concerns about the Scheme, setting out details of when this occurred, to whom and by whom any relevant disclosure was made and how it was dealt with.
72. In particular, provide an account of how you dealt with any disclosures raising concerns about the Scheme made or communicated to you at any time. In relation to each such instance, identify precisely how the concerns were communicated to you.
73. Without prejudice to the generality of paragraph 71 above, provide a full account of the following matters in particular:
  - a. When you first became aware of communications from Janette O'Hagan to the Department, its Minister, and Departmental officials, commencing in 2013 and continuing until 2015, seeking to draw the Department's attention to alleged flaws in and/or abuses of the RHI Scheme;
  - b. How you became aware of the said communications and/or the issues being raised by Ms O'Hagan;
  - c. Every action you took to ensure that the concerns raised by Ms O'Hagan were investigated and addressed;
  - d. How, if at all, her concerns were investigated and addressed; and
  - e. Any steps which you consider ought properly to have been taken in response to Ms O'Hagan's communications but which were not taken either in time or at all.
74. Specify when you first became aware that subsidies payable under the Scheme exceeded the cost of biomass fuel used to produce heat (so that there was an

incentive in some cases to produce heat merely to make profit from the Scheme) and how you so became aware.

*General*

75. Considering the RHI Inquiry's Terms of Reference, please identify any representations made to you about the RHI Scheme (which you regard as significant and about which you consider the RHI Inquiry should be aware), whether those representations were made by colleagues, or otherwise. In respect of any such representations please indicate when they occurred, where they occurred, who was involved, and what was said or communicated to you.
76. Considering the RHI Inquiry's Terms of Reference, please identify any conversations or discussions you had about the RHI Scheme (which you regard as significant and about which you consider the RHI Inquiry should be aware), whether those conversations or discussions involved colleagues, or otherwise. In respect of any such conversations or discussions please indicate when they occurred, where they occurred, who was involved, and what was said to you.
77. Provide any further evidence within your knowledge or belief which is relevant to the matters which the RHI Inquiry is investigating as set out in the RHI Inquiry's Terms of Reference.

**NOTE:**

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

## INQUIRY INTO RENEWABLE HEAT INCENTIVE SCHEME

**RHI REF: Notice 379 of 2017**

**DATE: 26 September 2017**

### **Witness Statement of: Bernadette Brankin**

**I, Bernadette Brankin, will say as follows:-**

#### ***Background***

1. I have worked in the Civil Service from the summer of 1978 first in a temporary capacity and then in a permanent capacity from December 1978. I hold 10 O Levels, 1 A Level and a Certificate in Personnel Management. I have worked for just under 38 years in the Department of Manpower Services (DMS) which then became the Department for Economic Development (DED), which later became the Department of Enterprise Trade and Investment (DETI) and finally became the Department for the Economy (DfE) until I retired at the end of August 2016.
2. I went to Accounts Branch in Finance Division on promotion to DP approximately around the beginning of 1992. I managed a large branch that processed payments and receipts and produced cash accounts. Having financial experience, I was then transferred to Finance Branch to fill a vacant DP post, coordinating Departmental financial exercises including setting future budgets, producing Main/Supplementary Estimates, in-year monitoring exercises and Provisional/Final Outturn. I then filled a Grade 7 post, managing these financial exercises from a promotion list when the post holder transferred. I believe I was considered suitable for this post due to my years of experience working in Finance.
3. During my involvement with the RHI Scheme in DETI, I worked in Finance Branch as a Grade 7 and reported to Trevor Cooper, Grade 5. I also reported to Collin Lewis, Grade 3 until April 2013 and then Eugene Rooney, Grade 3 who replaced Colin Lewis in October 2013. Then in the DfE I worked in Financial Management Branch as a Grade 7 and reported to Stephen McMurray, Grade 5 and Heather Cousins, Grade 3. Jeff Partridge was the DP reporting to me.

**Finance Division within DETI/DfE**

4. There were 4 branches in Finance Division: namely Finance Branch; Accountability and Case Work Branch; Accounts Branch; and Internal Audit, all of which had Grade 7s as their respective Head of Branch. The Grade 7s reported to the Head of Finance Division, Trevor Cooper, Grade 5 and the Grade 3 who had responsibility for Finance Division which was in his Management Services Group. Collin Lewis was Grade 3 until April 2013 and then Eugene Rooney was the Grade 3 who replaced Colin Lewis in October 2013. From May 2016 when DfE was formed, there were 4 branches in the Finance Directorate, being: Financial Accounting; Financial Management; Financial Governance; and Commercial Services. The Grade 7s reported to the Finance Director Stephen McMurray, Grade 5 and Heather Cousins, Grade 3.
5. Structures of Finance Division are set out in point 5 above. Six monthly Assurance Statements were provided by the Heads of Branch (Grade 7s) to the Head of Finance Division (Trevor Cooper Grade 5) who considered the statements and provided his Divisional statement to the Head of Group (Colin Lewis and then Eugene Rooney). The Head of Group would then consider and provide his Assurance statement to the Permanent Secretary for his group.
6. I can only answer question 6 from a Finance Branch perspective.
  - a. The Department of Finance and Personnel (DFP) (later the Department of Finance (DoF)) commissioned financial exercises in writing. DFP/DoF officials met to discuss input to the various financial exercises and emailed/telephoned for any supplementary exercises. DFP/DoF confirmed to Finance Branch opening budgets, changes to budgets through monitoring /OBCR exercises.
  - b. Finance Division would commission input to the financial exercises in writing. Finance Branch staff would discuss by phone or meet to discuss input to the various financial exercises. After input was received from divisions, finance staff would email/telephone for any supplementary exercises. Finance Branch confirmed opening budgets, changes to budgets through monitoring /OBCR exercises.

- c. Finance Branch did not have interaction with Her Majesty's Treasury (HMT). In my experience DFP (later DoF) had responsibility for interaction with HMT.
  
  - d. Any interactions from DFP (later DoF) would be forwarded to divisions.
7. Finance Division would commission input to the financial exercises in writing. Finance Branch staff would discuss by phone or meet to discuss input to the various financial exercises. After input was received from divisions finance staff would email/telephone for any supplementary exercises. Finance Branch confirmed opening budgets, changes to budgets through monitoring /OBCR exercises.
8. Finance Branch requested input to financial exercises on forms from Divisions. Documentation from the Divisions on their input to Budget exercises is held in Finance Branch, which could cover setting the Departmental/Divisional budgets for 1 to 4 years, in year monitoring rounds in June, October and January, twice yearly AME reviews. Briefing would also be provided for Main and Supplementary Estimates debates.

### ***Finance Branch***

9. Finance Branch commissioned financial exercises from Divisions, coordinated returns, and made recommendations on bids and easements to the Grade 3, Permanent Secretary, Special Advisor and Minister. The Departmental response to financial exercise would be prepared by Finance Branch for the Head of Finance Division to issue to DFP/DoF.
10. I am not aware of anything else about the operation of Finance Branch or Division which should be brought to the RHI Inquiry.

### ***General involvement with the RHI Scheme***

11. On 3 May 2011, I confirmed to Alison Clydesdale in an email that I had spoken with Stuart Stevenson, from DFP regarding RHI AME not being treated as standard AME, and that I confirmed with him that any overspending would impact the DEL budget. I also emphasised the need for this non-standard treatment of AME to be taken into account when designing any

scheme. I reminded Energy Division that if payment of grants was being considered, Energy Division had already experienced control problems with paying grants under the Reconnect Programme. I reinforced the need to put in place controls to prevent under/overspending when drawing up proposals. This email was copied to Trevor Cooper, Fiona Hepper and Peter Hutchinson. From 2011 my involvement in the RHI Scheme consisted of the normal financial exercises conducted by Finance Branch. This changed in May 2015 when I became aware of potential overspending. From May 2015, I attended meetings, chaired by Trevor Cooper, and attended by Stuart Wightman (Energy Branch), David Conliffe (Accounts Branch) Ian Mc Farlane, (Accountability and Casework) and Michelle Scott (DFP). These meetings discussed the business case for DFP approval and where Energy Division was in relation to bringing cost controls to the scheme. DFP wanted to establish how DECC operated the 5% penalty referred to in the Jon Parker email of 15 April 2011. Energy Division wrote to DECC for information on how their scheme operated with some input from Finance Division. Trevor Cooper, David Conliffe and myself met with Energy Division staff to establish how they were estimating their budgetary requirements.

12. My particular role position was as follows:

- a. From 2011 to April 2015, I estimate around 7% of my time would have been devoted to work on the RHI Scheme on the normal financial exercises conducted by Finance Branch. From May 2015 to May 2016, I estimate around 15% of my time would have been devoted to work on the RHI Scheme.
- b. From 2011 my involvement in the RHI had been through the normal financial exercises conducted by Finance Branch until May 2015 when I became aware of potential overspending.
- c. From May 2015, along with the normal financial exercises I was also involved in meetings chaired by Trevor Cooper with Stuart Wightman, (Energy Branch) David Conliffe (Accounts Branch) Ian Mc Farlane, (Accountability and Casework) Michelle Scott (DFP) and Angela Millar. These meetings are described at paragraph 11 above.
- d. The Grade 7 post in Finance Branch is a very busy pressurised job, which requires one to deal with competing priorities. I often worked beyond my contracted hours. I consider that I was adequately trained and resourced

to carry out my Finance Branch duties in relation to the RHI Scheme. However as I had no experience of non- standard AME I needed to refer to DFP for advice.

13. I had no role in the setting up, design, implementation, operation or promotion, oversight, governance of the RHI Scheme. From 2011 my involvement in the RHI has been through the normal financial exercises conducted by Finance Branch until May 2015 when I became aware of potential overspending. From May 2015, I attended meetings as described at paragraph 11 above.

14. Without prejudice to the generality of paragraph 13 above:

- a. I had no involvement in the creation and development of the scheme.
- b. I had no role in the administration/operation of the scheme.
- c. Sandra Thompson's email of 26 March 2015 identified forecast overspending and my email to Stuart Wightman of 20 May 2015 made it clear that spending needed to be stopped immediately.
- d. I was not involved in the amendment, suspension or closure of the Scheme.
  - i. I attended meetings where Energy Division staff provided updates on where they were with the amendment, suspension or closure of the scheme.
  - ii. I do not have access to documents as I am retired. However, from the documents I have been provided with, I can confirm that I provided advice to Stuart Wightman in May 2015 that RHI spending needed to stop. I also advised John Mills in an email of 24 August 2015, which was widely circulated (WIT -02741) that while the department had secured additional AME funding in the June 2015 monitoring that "*RHI AME is not standard AME. DECC has confirmed that penalties are applied for overspending. We have a number of supplementary questions around when and how penalties are applied.*"
  - iii. I do not have access to documents.

15. As I have said previously at paragraph 11, on 3 May 2011, I confirmed to Alison Clydesdale in an email that I had spoken with Stuart Stevenson, from DFP regarding RHI AME not being treated as standard AME, and that I confirmed with him that any overspending would impact the DEL budget. I also emphasised the need for this non- standard treatment of AME to be taken into account when designing any scheme. I reminded Energy Division that if payment of grants was being considered that Energy Division had already experienced control problems with paying grants under the Reconnect Programme. I reinforced the need to put in place controls to prevent under/overspending when drawing up proposals. This email was copied to Trevor Cooper, Fiona Hepper and Peter Hutchinson.
16. The first time I became aware there was a problem was In May 2015 when I saw Sandra Thompson's emails forecasting that the RHI Scheme would overspend.
17. As I have said previously at paragraphs 11, 14 (ii) and 15 on 3 May 2011, I confirmed to Alison Clydesdale in an email that I had spoken with Stuart Stevenson, from DFP regarding RHI AME not being treated as standard AME, and that I confirmed with him that any overspending would impact the DEL budget. I also emphasised the need for this non- standard treatment of AME to be taken into account when designing any scheme. I reminded Energy Division that if payment of grants was being considered that Energy Division had already experienced control problems with paying grants under the Reconnect Programme. I reinforced the need to put in place budgetary controls to prevent under/overspending when drawing up proposals. This email was copied to Trevor Cooper, Fiona Hepper and Peter Hutchinson. I only became aware that budgetary controls had not been built into the Scheme when I advised Stuart Wightman in May 2015 that RHI spending needed to stop. I also advised John Mills in an email of 24 August 2015 which was widely circulated (WIT -02741) that while the department had secured additional AME funding in June monitoring that "*RHI AME is not standard AME. DECC has confirmed that penalties are applied for overspending. We have a number of supplementary questions around when and how penalties are applied.*"
18. When designing the Scheme budgetary controls were required, for the reasons stated at paragraph 17 above.

***The RHI Scheme and AME and DEL – 2011 emails***

19. I understand Annually Managed Expenditure (AME) is spending included in the Total Managed Expenditure which does not fall within the DELs. Expenditure in AME is reviewed twice annually and forecasts are made for future years, I understand that Departmental Expenditure Limit (DEL is the expenditure limit within which a department has responsibility (subject to necessary approval and compliance with rules) for resource allocation, though some expenditure may be demand led. DEL is discretionary spend which Ministers can increase or decrease in monitoring exercises.

20. In relation to the email (WIT-00842), please note the following:

- a. Alison Clydesdale contacted me to advise me of the Jon Parker email of 15 April 2011 stating that NI RHI spending was not being treated as standard AME. Alison Clydesdale wanted to know how this would work in practice.
- b. I spoke to my line manager Trevor Cooper as I had no experience of non-standard AME. It was agreed that I should contact Stuart Stevenson, the Grade 7 Supply contact in DFP.
- c. Stuart Stevenson was the Grade 7 Supply contact in DFP.
- d. I phoned him to establish how the non-standard treatment of AME worked, as I had no experience of non-standard AME before. I cannot remember exactly when I telephoned Stuart but it must have been between 15 April 2011 (when I advised Alison Clydesdale in an email that I would contact DFP) and the 3 May 2011 (when I confirmed in an email that I had spoken to him).
- e. I had not come across non-standard AME before.
- f. It was significant and that is why I outlined in my email of 3 May 2011 to Alison Clydesdale that she would need to take this non-standard treatment of AME into consideration when drawing up proposals on how Energy Division would spend this allocation. Further details on my email of 3 May 2011 are provided at paragraph 11.
- g. The RHI Scheme when being designed needed to have budgetary controls in place to prevent overspending. The Scheme then needed to be

carefully managed and reviewed to trigger budgetary controls to avoid overspending.

- h. I brought the non-standard treatment of the RHI AME allocation to the attention of my Line Manger Trevor Cooper, my DP Jeff Partridge, Alison Clydesdale in Energy Division, Alison Clydesdale's Line Manager Fiona Hepper and Peter Hutchinson in Energy Division because of the need for budgetary control to be built into the design of the Scheme.
- i. The key staff involved in the design of the scheme had been made aware of the non-standard treatment of the RHI AME allocation as detailed at point 20.h above. Energy Division files clearly held this information. Handover notes to new members of staff should have made the non-standard treatment of the RHI AME allocation clear
- j. Finance Division recorded the RHI budget allocation as AME and advised Energy Division in my email of 3 May 2011 to Alison Clydesdale that it was not standard AME and of the need to build in budgetary controls when designing the scheme. In doing this Finance Division thought it was managing the risk of RHI overspending.
- k. I expected Alison Clydesdale, Peter Hutchinson and Fiona Hepper to act on my advice in my email of 3 May 2011 and when drawing up proposals for spending the non-standard AME budget to build budgetary controls in to any proposed scheme because without budgetary controls there was potential for overspending which had DEL consequences. Alison Clydesdale acknowledged my email of the 3 May 2011 and my discussions with her and reiterated the need to control the scheme in her internal minute of 4 May 2011 (WIT-00840) to Peter Hutchinson copied to Fiona Hepper and Samuel Connolly.
- l. As stated above in K.

21. I refer to answer provided at paragraph 20 (k). I only became aware that budgetary controls had not been built into the RHI Scheme in May 2015.

22. My understanding of the May 2011 funding position is as following:

- a. 5% of the RHI AME overspend would be a penalty reduction in the DEL budget.

- b. The DEL budget would be reduced by the 5% of the AME overspend in a subsequent year.
  - c. The penalty would come from the Resource DEL budget.
  - d. The detail of this had not been worked through between DETI, DFP and Treasury.
  - e. The detail of this had not been worked through between DETI, DFP and Treasury
23. The RHI budget allocation was recorded as AME by Treasury, DFP and DETI Finance Branch. It was recognised from the outset that budgetary controls were needed to be built into the Scheme to manage the risk of overspending as set out in my minute of 3 May 2011 to Alison Clydesdale. The details of the penalty had not been worked through with DFP and Treasury
24. The RHI Scheme underspent in each of the first 4 years up to March 2015. The total underspend for these four years was £14.5m Therefore there was no risk of RHI overspending to report to the Permanent Secretary until the start of the 2015-16 financial year. There was no gradual build up to this RHI overspending. The RHI Scheme went from spending £7.8m in 2014-15 to £35.1m in 2015-16 (2015-16 opening budget of £11.9m, addition £11,3m budget in June Monitoring, additional £7.2m in January monitoring with a £4.7m overspend against final budget of £30.4m in 2015-16)
25. Treasury and DFP do not have a non- standard AME category and therefore Treasury and DFP treat RHI budget allocation as AME. Finance Branch also entitled the RHI budget allocation as AME.
26. RHI was treated as AME by HMT, DFP and Finance Branch. Energy Division provided forecasts of AME expenditure that showed underspending until May 2015. Reviewing the forecast expenditure is the measure used to flag risks of overspending.

27. Quarterly monitoring returns for the RHI Scheme were headed AME as Treasury and DFP treated it as AME. Treasury and DFP do not have a non-standard AME category.
28. Finance Branch was responsible for putting titles on the monitoring returns, and from that perspective, technically Finance Branch could have described the type of funding differently. However, in my experience all funding was binary: it was either AME or DEL. In my opinion, although I had described it in my emails as 'not standard AME', because it was considered technically as AME (and not DEL) by Treasury and DFP, that was why it was recorded as being AME.

### ***Previous experience of similar schemes***

29. I dealt with the budgetary issues caused by the Reconnect Grant Scheme which was a grant scheme Energy Division was responsible before RHI.
30. Energy Division operated a Reconnect Grant Scheme.
31. From memory, I think there were problems around controlling the uptake, the stage when applicants applied for grant and a surge in applicants when the scheme was closed which made forecasting budget requirements difficult.
32. In my email of 3 May 2011 to Alison Clydesdale, I reminded her that, if payment of grants was being considered, when drawing up proposals on how the non-standard AME would be spent, that Energy Division had already past experience of control problems with paying grants. I reinforced the need to put in place controls to prevent under/overspending when drawing up proposals. This email was copied to Trevor Cooper, Fiona Hepper and Peter Hutchinson.

### ***2011 to March 2015***

33. As I have previously described, on 3 May 2011, I confirmed to Alison Clydesdale in an email that I had spoken with Stuart Stevenson, DFP regarding RHI AME not being treated as standard AME and confirmed with him that any overspending would impact the DEL budget. Further details on my email of 3 May 2011 are provided at paragraph 11.

34. In May 2015, I became aware that there was a problem with the RHI Scheme in relation to forecast overspends..
- a. Jeff Partridge discussed Sandra Thompson's email of 26 March 2015 with me.
  - b. Jeff Partridge informed me of the problem.
  - c. Jeff told me about the information in Sandra Thompson's email of 26 March 2015.

***Emails of 26 March 2015, 19 May 2015 and 20 May 2015***

35. In relation to the emails of 26 March 2015, 19 May 2015 and 20 May 2015 please note the following:
- a. I cannot remember the precise date but it was probably on the 18 or 19 May 2015, an assumption I make on the basis that it was either the day when I first saw the email, or at latest, the following day. This is because I told Jeff Partridge to respond immediately.
  - b. Emails should be responded to within 10 working days. I asked Jeff Partridge why he had not dealt with this e-mail sooner. He told me that he could not recall exactly what had happened with this email given the volume of emails he received. However, he told me he believed he must have opened it, and before reading it, was diverted to another task. As he had not marked the email unread, he failed to go back to the email and read it.
  - c. Sandra Thompson sent this email to only one person in Finance Branch, namely Jeff Partridge. She did not copy me or my superiors in to this email which is unusual as Energy Division were aware at this stage that the RHI budget was non- standard AME and had attached the Jon Parker email of 11 April 2011. I would have expected that an email regarding something with this degree of importance to have been copied into me and indeed my superiors. Indeed, when the email was not dealt with promptly by Jeff Partridge it was not escalated to me or to Trevor Cooper.

d. I elevated it to Trevor Cooper immediately when I became aware of the email and copied him into subsequent correspondence with Energy Division.

e. I understand that when I spoke to Trevor Cooper, he escalated the matter to Eugene Rooney, and from there, I believe that Mr McCormick, the Permanent Secretary was advised verbally and copied into the June Monitoring return to DFP dated 4 June 2015.

36. I had discussed with Jeff Partridge his response to Sandra Thompson's email of 26 March 2015 and I was copied into Jeff's email of 19 May 2015. I talked to Trevor Cooper about the RHI position. I was copied into Jeff's response to Stuart Wightman. I emailed Stuart Wightman on 20 May 2015 to advise him to stop entering into further RHI commitments as soon as possible. Trevor Cooper was copied into this email. Stuart Wightman's response was that it was not possible to stop entering into RHI commitments because of DETI's obligations under statute to pay for RHI installations. Trevor Cooper spoke to Eugene Rooney about the position and Andrew McCormick was advised of the position. Following the information provided by Stuart Wightman on the RHI overspend, there were a series of meetings with Stuart Wightman to update Finance Division on Energy Division's progress in addressing and resolving budgetary management issues to reduce expenditure going forward and already committed expenditure. Finance Division also met with Michelle Scott and Angela Millar from DFP to advice of the position, and had regular meetings to update DFP on the RHI position. The position was also discussed at Senior Management Team meetings.

37. An overspend with DEL consequences is a significant issue as this would result in a reduction in the overall Departmental DEL budget and that is why I made it clear in my email to Stuart Wightman that he needed to stop spending as soon as possible. When Stuart Wightman advised that spending could not be stopped immediately, Energy Division were asked to introduce budgetary controls as soon as possible to reduce expenditure going forward by

- introducing a tiered tariff for new biomass installations where the tariff significantly reduces after an initial specified usage
- introducing a digression mechanism so that if the scheme

and to urgently consider how to reduce already committed expenditure prior to the introduction of budgetary controls

***March 2015 to June July 2015***

38. I refer to paragraph 36 above.

39. I refer to paragraph 36 above.

40. I refer to paragraph 36 above. Emer Morelli, Grade 5 from DFP attended some of the meetings with DFP. Eugene Rooney Grade 3 joined some meetings with DFP. John Mills attended some meetings with Energy Division but I cannot be precise about the dates of these meetings as I am relying on memory.

***Financial Forecasting***

41. I met with Stuart Wightman, David Conliffe Accounts Branch and Trevor Cooper from May 2015 to try to establish Energy's forecasting methodology and improve this methodology.

42. Energy Division improved their forecasting by adopting a stratified approach (forecasting by different technologies) and taking seasonality into account. However, with no control over the number of applicants and growing budgetary requirements from increased applications, Energy Division needed to bring budgetary controls into the Scheme through the introduction of tiered tariffs and digression for future applications and a means of reducing already committed expenditure before the introduction of these budgetary controls.

43. Trevor Cooper, David Conliffe and I met with Energy Division staff to establish how they were estimating their budgetary requirements and improved forecasting by adopting a stratified approach and taking seasonality into account. However forecasts would simply reflect more applicants with greater budget requirements and therefore Energy Division was urged to introduce budgetary controls (tiered tariffs and digression) to the Scheme as soon as possible and to consider how to reduced committed expenditure before the introduction of budget controls.

***Draft Ministerial submission about RHI of 7 July 2015***

44. The submission was drafted by Stuart Wightman, and I believe, had been edited and cleared by John Mills, Grade 5 and Chris Stewart, Grade 3 in Energy Division. It is so long ago, I cannot recall whether I had any involvement with the editing of the draft submission. I have asked the Department to forward me any relevant papers, which would indicate whether I had been involved (at any stage) in editing the draft submission. The Department has not provided me with any record of any input from me in the editing of the submission, a matter which surprises me somewhat. The absence of any record of my having any editorial input does not rule out the possibility that Trevor Cooper may have discussed some points in the draft submission with me, and I may have given him some ad hoc oral advice.
45. I was not involved in drafting the submission. I do not recall making any input to the draft submission.
46. Regarding the draft Ministerial submission about RHI of 7 July, please note the following:
- a. The RHI funding was AME but it was non- standard AME and did have an impact on Departmental DEL budget.
  - b. A more detailed explanation of AME with DEL consequences should have been provided to the Minister.
  - c. When drafting this Ministerial submission, Energy Division staff were fully aware of the Jon Parker email of 11 April 2011 which clearly states the non –standard treatment of RHI AME and the DEL consequences in relation to overspending. Energy Division staff were also aware that the Jon Parker email was subject to ongoing discussions with DFP and DECC.

***June/July 2015 to December 2015***

47. From June 2015, along with the normal financial exercises, I also attended meetings as described at paragraph 11.

48. Energy Division led in addressing any changes to the Scheme and may be in a better position to answer this question.
49. The increased RHI AME requirements were raised with DFP at the stocktake meeting on 3 June 2015. On the 4 June 2015, the June Monitoring return was sent to Emer Morelli, DFP and stated that, *“Up to the end of 2014-15 our requirements under the Non-Domestic and Domestic Schemes have fallen within the Barnett Formula allocation resulting from the overall AME allocation to the Department of Energy and Climate Change (DECC). Increased demand in Northern Ireland under the Non Domestic Scheme means that we are forecasting that we would fall outside an allocation based on such a Barnett Formula in 2015-16 and beyond. It is therefore vital that the forecast additional AME budget requirements for this scheme are addressed”*  
The RHI AME budget was increased by £11.3m in the June monitoring exercise.

***Lapse in DFP approval in March***

50. I cannot comment on this section.
51. I cannot comment on this section.
52. I cannot comment on this section.
53. I cannot comment on this section.
54. I cannot comment on this section .

***Communication arrangements over financial matters relating to the RHI Scheme***

55. Energy Division corresponded and liaised with DECC and updated Finance Division. Finance Division corresponded and liaised with DFP. Then DFP corresponded and liaised with Treasury.
56. Energy Division was best placed to interact with DECC as they had a detailed knowledge of the Scheme. Finance Division is the central point of contact for budgetary issues with DFP. DFP lead on budgetary discussions with HMT.

***Departmental Annual Accounts***

I did not have involvement in the preparation or notes to the departmental annual accounts.

57. I cannot comment on this section.

58. I cannot comment on this section.

59. I cannot comment on this section.

60. I cannot comment on this section.

61. I cannot comment on this section.

62. I cannot comment on this section.

63. I cannot comment on this section.

64. I cannot comment on this section

***Promotion of the Scheme***

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

***Lobbying and pressure***

66. To the best of my knowledge I am not aware of any instances covered in question 66.

67. To the best of my knowledge I am not aware of any instances covered in question 67.

68.To the best my knowledge I am not aware of any instances covered in question 68

***Standard of conduct and conflict of interest***

69.To the best of my knowledge I am not aware of any instances covered in question 69 a and b.

70.To the best my knowledge I am not connected to a person or body receiving payment under the Scheme or benefitting commercially .

***Whistle-blowing and raising of concerns***

71.I was not involved in dealing with whistle-blowing in relation to the Scheme or disclosures made in the public interest raising concerns about the Scheme.

72.See answer to question 71.

73.See answer to question 71.

74.I was advised by Trevor Cooper that the subsidies payable under the Scheme exceeded the cost of biomass fuel used to produce heat, however I cannot remember exactly when this was.

***General***

75.I have nothing further to add to my statement.

76.I have nothing further to add to my statement.

77.I have nothing further to add to my statement.

78.I have provided details of the £11.3m RHI AME increase in June monitoring round at paragraph 49. Finance Branch received a Budget Confirmation print out from the DFP database increasing the RHI AME allocation by £11.3m. An

updated AME forecast from 2015-16 through to 2020-21 was provided to DFP (which was then provided to Treasury by DFP) around November 2015. A number of AME adjustments for 2015-16 were put forward in the January Monitoring return to Emer Morelli, DFP on 6 January 2016 including a request for further increase of £7.2m in the RHI AME budget. Finance Branch received a Budget Confirmation print out from the DFP database increasing the RHI AME budget by £7.2m in the January monitoring round.

79. With regards to email (WIT-02741) my response is provided below:

- a. I have provided details of technical adjustment in the June monitoring round at paragraph 49. Finance Branch received a Budget Confirmation print out from the DFP database increasing the RHI AME budget by £11.3m in the June monitoring round.
- b. Finance Branch received a Budget Confirmation print out from the DFP database increasing the RHI AME budget by £11.3m in the June monitoring round.
- c. I spoke to Michelle Scott in DFP to ensure that the increased RHI funding confirmed in June monitoring had actually been secured, as in discussions with DFP up until that point in time the DFP advice provided to DETI was that DFP would not help us to secure additional RHI budgetary requirements until the RHI issues had been resolved.
- d. I spoke to Michelle Scott to ensure that we had definitely secured an approved £11.3m RHI AME allocation. Michelle Scott confirmed that we had secured an approved £11.3m additional RHI AME budget cover.

80. With regards to paragraph 281 of my former department's corporate witness statement to the Inquiry of 22 May 2017, my response is provided below:

- a. Details on the RHI AME increase in the June monitoring round are provided at paragraph 49 and RHI AME increase in the January monitoring round at paragraph 78. Therefore DFP was fully aware of the RHI budgetary issues. In 2015-16 DETI secured additional RHI budget cover of £11.3m in June 2015, and £7.2m RHI budget cover again in the January 2015 monitoring exercise. I do not accept that an automated response from the DFP database was what led to DoF actually securing £18.5m RHI AME budget cover, without any decision being consciously made by DFP and Treasury.

- b. Michelle Scott confirmed that the Department secured an approved £11.3m additional RHI AME budget cover.

81.I refer to paragraph 78 which gives an account of how the further £7.2m of additional RHI funding was obtained in the January 2016 monitoring round.

**Statement of Truth**

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

Signed Bernadette Brankin

Date 26 September 2017