



RHI Inquiry
1st Floor, Waterfront Plaza
8 Laganbank Road
BELFAST BT1 3LY
T: 028 9040 8833
E: general@rhiinquiry.org
W: www.rhiinquiry.org

Sandra Thompson
Energy Co-ordination Branch
Department for Economy
Netherleigh
Massey Avenue
Belfast
BT4 2JP

By post and email: Sandra.Thompson@economy-ni.gov.uk

13 October 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').

The Inquiry is grateful for the witness statement you provided to it dated the 21 September 2017.

The statement has been considered by the Inquiry and there are a number of further matters the Inquiry wishes to ask you about.

Therefore, please find enclosed with this letter a further Section 21 Notice requiring you to provide evidence to the RHI Inquiry Panel in the form of a 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.

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.

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. 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 four 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.

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

Yours faithfully

Patrick Butler

Solicitor to the RHI Inquiry

02890408928



SCHEDULE
[No 516 of 2017]

'RHI Spreadsheet'

1. Who created the RHI spreadsheet?
2. What were you required to input into it?
3. What was its purpose?
4. Who made use of it, and for what purpose?
5. What instructions were you given as to what information should go into the spreadsheet to assist with monitoring the RHI Scheme. Who were any such instructions given by and when?
6. Prior to the work you undertook with Stuart Wightman to develop the spreadsheet in April and May 2015 (referred to on WIT 24226) what information was it possible to distil from the spreadsheet?
7. After the changes were made to the spreadsheet in April and May 2015, what information was it then possible to distil from the spreadsheet?
8. In paragraph 19 of your statement you describe developments in the spreadsheet intended to improve the forecasting model (WIT-24234). As to this:
 - a. Who suggested these changes?
 - b. Why were they considered necessary or desirable?

- c. Why were these matters not incorporated in the spreadsheet from the outset?

Paragraph 12 (WIT-24230)

9. You explain that you were "*aware of the potential for problems to occur with the RHI Scheme from the outset*". As to this:
 - a. What caused you to form this view?
 - b. When did you form it?
 - c. Who, if anyone, did you share it with and when?

Paragraph 14 (WIT-24231)

10. You describe a conversation with Peter Hutchinson, perhaps in 2011, from which you formed the view that "*he must have misunderstood how it was to work*". As to this:
 - a. Please give as accurate an account as possible of the conversation.
 - b. What led you to believe that he must have misunderstood how it was to work?

Paragraph 15 (WIT-24231)

11. What was it about the information you received from Ofgem in early 2015 that alerted you to an issue which you felt you needed to raise with Stuart Wightman?
12. Was this the first occasion when you were alerted to an actual problem with the RHI Scheme? If not, please give details.

Paragraph 16 (WIT-24233)

13. You say that your discussion with Jeff Partridge in March 2015 was not the first discussion with DETI Finance regarding the budgetary issues. Insofar as you can, please set out each of the previous discussions, including who they were with and when they occurred.
14. In relation to the "*history of attempts to obtain clarity since the Scheme's inception- including approaches to Treasury*", insofar as you can, please set out each of the previous attempts to obtain clarity, including who they were with and when they occurred.
15. Specifically, who made the approaches to Treasury, when, and what was the result?

Paragraph 21 (WIT-24235)

16. Who was your line manager and what role did they have in relation to the RHI Scheme?

Paragraph 26 (WIT-24236)

17. You say that you considered the RHI Scheme to be high risk, as did other colleagues. As to this:
 - a. When did you form this view?
 - b. What caused you to form it?
 - c. Who were the other colleagues you were referring to?
 - d. How did you come to know they considered the scheme to be high risk?

Paragraph 30 (WIT-24237)

18. You describe a conversation involving Stuart Wightman; please set out who else was present during this conversation.
19. To the best of your knowledge, who was Stuart Wightman speaking to about the matters you describe?

Paragraph 36 (WIT-24238)

20. What occurred in July 2015 that causes you to believe that this was when you became aware that subsidies payable under the scheme exceeded the cost of the fuel used to produce the heat?
21. Is there anyone else in DETI whom you believe to have had, or reached, the same awareness around that time? If so, please indicate who this was and why you consider they would have had the same awareness as you.

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.



RHI spreadsheet - New RHI applicants to 10 May and payment run details for period 16 Feb - 27 April were input to RHI spreadsheet. The spreadsheet was also developed to more closely mirror Accounts figures and to improve the forecasting model. This included analysis of payments and accruals made to date and calculation of a corrective accrual figure to March 2015 so that each installation's total expenditure to 31 March 2015 equalled their average monthly payment x the number of months accredited to 31 March.

Calculations for installations not yet paid were based on an average of all of the actual average payments.

20 My e-mail attaching Energy's June 2015 Monitoring Input – date and content.

- a The date of the e-mail referred to in Jeff's reply of 19 May is 30 April 2015

- b As the monitoring round did not include AME re-profiling, the e-mail flagged a significantly increased requirement for AME (RHI). We advised that Non Domestic applications in 2014/15 were approximately 430 compared with 130 total for the previous 18 months and that we had just completed a major review of current applications including a reassessment of the expected monthly uptake. We advised that the expected uptake – including accruals – for 2015/16 was now almost £25m (£3m capital + £22m resource) and that, based on this profile, we would run out of money approx. mid Sep. The e-mail sought advice as to how/if this could be managed and sought clarification of the total AME budget available to NI – referring to my earlier e-mail.



Specific issues: I e-mailed Stuart Wightman at some point early 2015 highlighting scale of escalation as noted from Co-ordination input of applicants' detail to spreadsheet. (average per month increased from 14 in period Jan – Mar 14 to 51 in period Jan – Mar 15).

In April and May 2015 with Stuart Wightman's help I undertook significant work to develop the spreadsheet to include a revised monthly estimate calculation and to amend the model so that the profiles of installations which had received payments were based on average payments to date. Corrective accrual was calculated and applied to the period ending in March 2015.

March and April 2015, concerns regarding expenditure/ commitment levels and lack of clarity on budgets relayed to Finance.

3 June 2015, I was asked to attend a meeting with Finance - with Stuart Wightman and Seamus Hughes – regarding RHI budgets. At the meeting Finance advised that DFP approval for the Scheme had expired in March. We had not been previously aware of this.

I was subsequently involved in calculations of commitments and potential irregular spend and liaison with Finance on the subject.

1 Jan – 8 May 16

I was involved in:

Compiling financial profiles/ returns including AME profiles,

Processing and recording of payments,

Compiling EU returns/ progress reports (to lesser extent as EU programmes closed – Annual Implementation Report and Indicator Table only to best of my knowledge),

Recording project and contract details,

Developing and maintaining non-domestic RHI spreadsheet

Specific issues: Jan 16 AME forecast. 5 Feb 16, I e-mailed Suzanne Craig in Finance to confirm future years commitments figures.



- iii. I have no documents of significance or particular relevance in relation to these matters.
- 11 I was first involved with the Scheme at its inception in June 2009. My involvement entailed compiling financial profiles/ returns, processing and recording of payments, compiling EU returns/ progress reports, and recording project and contract details for monitoring returns (e.g. consultancy and economic appraisals and evaluations returns). In the period prior to Scheme approval this would have related to RHI consultancy work (strategy, economic assessment (both EU funded) and follow up work), RHI legal advice spend, printing of the RHI consultation document and the Ofgem feasibility study.
- 12 I was aware of the potential for problems to occur with the RHI Scheme from the outset, in that it seemed to me an unsound principle to commit monies no-one knew would exist five, let alone twenty years ahead. I first became aware of serious immediate problems when applications began to spiral in early 2015 and we still had no clarity with regard to budgets going forward. This was compounded by the discovery in June 2015 that DFP approval for the Scheme had expired and a major review had been overlooked. This was further compounded by revelations that the tariff rate was too high.
- 13 We received official notification of AME allocations in April 2011, which covered the 4 financial years 2011/12 to 2014/15. We had also been advised that the funding for RHI was 'not AME in the fully accepted sense', in that overspends could have implications for DEL NI budgets. I had no previous experience of AME funding – normal or otherwise – and did not fully understand the funding arrangements, particularly in relation to the establishment of future budgets, or the roll forward of unused budget from previous years. I do not recall that anyone I spoke to did fully understand the funding arrangement, and I did not to my knowledge communicate anything other than my lack of understanding of it to anyone. I was not aware that anyone 'misunderstood' the funding situation, as that would imply that someone thought they understood it. However, I felt our Department was able



to deal with the day-to-day budget for each year: although, with the benefit of hindsight, it is apparent that no-one had strategic oversight or long term understanding of the funding. This lack of understanding of the funding persisted, despite there having been efforts made to obtain clarity on the funding position.

- 14 In my view there were many flaws or difficulties with the Scheme, the first and largest lying with the concept of making commitments that would have significant and inescapable implications for 20 years ahead without any knowledge regarding budget availability going forward. When the RHI Deputy Principal, Peter Hutchinson, first discussed it with me – perhaps in 2011? – I thought he must have misunderstood how it was to work. The next and linked difficulty lay in the lack of clarity with regard to funding arrangements. Given these difficulties it would seem that controls such as tiering and capping of tariffs should have been built into the Scheme from the outset. However I do not know enough about the factors leading to the decision not to include such controls to form an opinion as to who might be responsible. Further difficulties arose from staff changes at a crucial time in mid 2014 and yet more when the new Grade 7 was given significant additional responsibilities for a new major scheme - around May 2015 I think. The oversight with regard to the review of the Scheme and submission of the Scheme for continued approval was also crucial.

March to May 2015 emails

15

- a I do not recall any specific discussion prior to Stuart's e-mail although I would have been regularly engaged in discussion of RHI issues with Stuart in this period. I know that at some point in early 2015 I had e-mailed Stuart pointing out the marked increase in non-domestic applications being received. I was aware of this through our branch's involvement in updating the spreadsheet from weekly data received



- b I expected Jeff to try to establish the position. It was not the first discussion with Finance regarding the budgetary issues and I expected that they would have to raise it with DFP. Because there had been a history of attempts to obtain clarity since the Scheme's inception – including approaches to Treasury - I probably did not anticipate an immediate response. We felt we had made the possible implications very clear and had sought urgent guidance.

18

- a I do not know the precise reason for the delay in Jeff's response but, as stated, the problems were fairly longstanding and there was not therefore an expectation that this would be resolved immediately.
- b I cannot recall what steps I may have taken other than that it was raised again in my e-mail of 30 April 2016? covering our input to the June monitoring round. I may have raised it in the interim period but I cannot say for certain that I did or did not.

19 *What was occurring in relation to RHI, and involving me, between 26 March 2015 and 19 May 2015.*

Payments to Ofgem: RHI Admin costs for q/ending 31 Dec 2014 were approved by RHI Branch and paid by Co-ordination Branch in late March. 'Top-up' payments to Ofgem to cover grant payments in April and May 2015 received and processed – including reconciliation of Ofgem balance prior to approval of second top-up for April.

Finance returns – cash forecasts submitted for May and June, end March accruals and outturn figures were completed in late March/ early April. End April accruals and profiling completed. Information sought and compiled in relation to the June monitoring round. EU Competitiveness publicity return completed in relation to Sustainable Energy advertising campaign.



21 *Finance advice on 19 May that we take steps to curtail spending in 2015-16 to keep within the likely ceiling of £12.8m until clarification received from DFP:– action taken*

a It appears from my attendance record that I was on leave from 15 – 21 May 2015. I cannot recall what I did when I read the e-mail but steps to curtail spend would have been the responsibility of my Renewable Heat colleagues to whom the e-mail had been copied.

b I cannot recall conversations I may have had on foot of the e-mail. I see from records that further work was carried out on the RHI spreadsheet and it is likely that the purpose was to ascertain, amongst other things, the extent to which the £12.8m ceiling had already been breached.

c I cannot recall elevating the matter within my own Branch although it is likely that I discussed it to some extent with my line manager. The matter had already been elevated within the Division by means of having been copied to Renewable Heat colleagues senior to me and, as stated above, action to curtail spend would clearly have been the responsibility of that Branch.

22 I was on leave from 15 to 21 May 2015 and so would not have been aware of or involved in a further sequence of e-mails of 19 and 20 May 2015.

Previous experience of similar schemes

23 I had no previous experience of dealing with schemes similar in principle to the Non Domestic RHI Scheme. I was involved in Reconnect and the Domestic Renewable Heat Premium Payments schemes but I would not



regard these as similar in principle to RHI as there was no ongoing commitment to make payments.

- 24 The only vaguely similar scheme I am aware of is the NI Renewables Obligation (NIRO) in that it includes an ongoing long term commitment to applicants. However that scheme is self-funded via consumers and producers and does not involve grant payments from the NI budget.
- 25 As stated above I was involved in Reconnect and the Domestic Renewable Heat Premium Payments schemes. These consisted of one-off, standardised payments to consumers to offset the initial capital cost of installing renewable technologies. My involvement was in relation to payments processing and recording and assisting with expenditure monitoring/ forecasting but this was relatively straightforward with few variables when compared to RHI.
- 26 I considered the Scheme to be high risk as did other colleagues. I had no previous experience of similar schemes and did not issue any warnings. I attempted to support and assist the branch responsible for scheme delivery by setting up and maintaining a spreadsheet to record applicants and payments and provide some basis for calculation of accruals and providing forecasts of expenditure.

Promotion of the Scheme

- 27 I did not promote the Scheme and/ or encourage or assist any third party to seek accreditation under it. I did not provide any third party with information knowing they might apply or advise, encourage, assist or cause others to apply.

Lobbying and pressure

- 28 I was and am not aware of any instances of lobbying or encouragement of Ministers, Special Advisers, Civil Servants or other relevant persons in



relation to the terms of the Scheme and /or the introduction, non-introduction, variation or delay of the introduction of cost controls into the Scheme at any stage.

29 I cannot identify any instances where, to my knowledge or belief, influence or pressure was exerted on me in relation to any aspect of the RHI Scheme.

30 I cannot identify any instances where, to my knowledge or belief, influence or pressure was exerted on someone else in relation to the RHI Scheme.

However at some point, which to the best of my recollection, may have been late 2016, I recall a general conversation in our branch office which may have been relevant to this issue. In this conversation Stuart Wightman (in the context of discussing what may have been foul play or incompetence) mentioned something about his having been asked by the Special Adviser (who I now assume, must have been Timothy Cairns) to change the date on the cover of a submission. I cannot recall which submission, although it is likely it was one relating to either the introduction of cost controls or scheme closure, nor when Stuart Wightman was referring to this conversation having taken place. I did form the impression that Stuart was referring to something that had happened a good while previously. I am not at all clear on the facts or detail of the remark. In fact I do not think that Stuart was speaking directly to me at the time, but rather that it was a conversation that took place whilst I was present. In any event, I understood that the original version of the document (and that with the revised date) were on record on the TRIM system.

Standards of conduct and conflict of interest

31 I am not aware of any instances where anyone involved in the Scheme breached relevant standards or acted in a way incompatible with their duties or acted in circumstances where they had a real or perceived conflict of interest – other than as outlined at para 30, where it would seem that the SpAD may have been acting in a way that was incompatible with his duties.



- 32 I understand that my brother-in-law's brother (or my sister's brother-in-law) has received payment under the Scheme but I have no direct knowledge of this and do not know what company name the application may have been made in.

Whistle-blowing and raising of concerns

- 33 I was not aware of any instances of whistle-blowing or disclosures made in the public interest until this was made public by media.

- 34 To the best of my knowledge and recollection, no disclosures raising concerns about the Scheme were made or communicated to me at any time prior to this being made public.

35

- a. I first became aware of communications from Janette O'Hagan when it became public. I do not actually recall her name being revealed.
- b. I was not aware of concerns and was working on assumption that the Scheme was basically sound.
- c. Not applicable
- d. I do not know.
- e. It would seem that cost controls should have been introduced and the tariff level reduced – or at least that Regulations should have been put in place to facilitate introduction of such a change with no or minimal notice.

- 36 I cannot recall precisely when I first became aware that subsidies payable under the Scheme exceeded the cost of the fuel used to produce heat. I think it must have been around July 2015. I was not aware at the time when we met

INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME**RHI REF: Notice 516 of 2017****DATE:**

Witness Statement of:

I, Sandra Thompson, will say as follows: -

'RHI Spreadsheet'

1. I created the RHI spreadsheet on 13 May 2013.
2. I created it initially to record the Department's expenditure under the Scheme. Co-ordination Branch, the role of which is to provide administrative support for the Division (which then included RHI), maintains a spreadsheet record of all payments and accruals processed by the Branch. (At the end of each month any expenditure which has been incurred but has not yet been paid out is accrued by means of an 'accruals return' to Finance) Separate spreadsheets are kept for each Scheme or project. As it was initially purely our Branch's record it was my decision what to record in it.
3. Its initial purpose was to record payments and accruals made by the Department. However, as these related to / were based on Ofgem payments to RHI grantees, it was necessary to record applicant details in order to show the basis upon which the accrual figures had been estimated. I, and Co-ordination Branch, had no role in actual Scheme delivery and would not have been aware of all of the detail – including the absence of controls such as caps and tiering.

4. It was used by Co-ordination Branch and RHI Branch – particularly Peter Hutchinson and later Stuart Wightman - to help with assessing reasonableness of Ofgem requests for top-up funding, to help estimate end month accruals, to provide a basis for forecasts and to provide a record of all transactions under the Scheme for reference.
5. I worked initially with Peter Hutchinson the Deputy Principal of RHI Branch and later with Stuart Wightman, the Principal Officer, after Peter left. We discussed problems and worked together to try to develop and improve the spreadsheet. I would not say that I was given instructions in this regard.
6. It is difficult to recall the detail of every development and the order in which they happened. As far as I can see from looking at March 15 revisions of the sheet (a new one is created every time it is edited) it provided a profile of projected spend up to 2020/ 2021 and an up-to-date record of transactions. However estimates at that time were based on the following – as agreed with Peter Hutchinson- (installation size x 8760(total hrs pa) x efficiency (%) x an estimated % demand x tariff /12). The difficult part was estimating % demand – particularly without any historic data. The forward profile of new uptake (again estimated) assumed +£60k per month Apr 15 - Mar 18, +£30k per month 2018/ 19, +£20k per month Apr-Sep 2019/20, +£10k per month Oct-Mar 2019/ 20, +£5k per month Apr-Sep 2020, then flat line.
7. In April and May 2015 the basis of calculating accruals and estimating future spend was revised. A corrective accrual was calculated based on each installation's actual average payments up to March 2015 or, where no payments had been made, the average of those averages (£1,880 per month at this point) x the number of months accredited at March 2015 less the total amount paid to that installation to date. From April 2015 onwards the monthly estimate was based on actual average heat data over the last 4 quarters x tariff or, where no payments had been made, the average of all average heat data over the last 4 quarters x tariff less the amount paid in that month. Profile assumptions of new

uptake were also revised: +120kpm Apr 17, +60kpm May17 - Apr18, +30kpm May18 - Mar19, +40kpm Apr 19 +20kpm May-Sep 19/20, +10kpm Oct-Mar 19/20, +15kpm Apr 20, +5kpm May-Sep20, then flat line. The purpose was to give a much more robust basis of calculation as it was now based on actual data, a more accurate total spend for 2014/ 15 and a more realistic forward profile

8.
 - a. To the best of my recollection and from looking through records of events, Stuart Wightman and myself were jointly involved in trying to improve the basis of estimating spend on RHI. Improved forecasting was our ongoing aim - we monitored actual outturn against forecasts on an ongoing basis and tried to identify patterns in usage.
 - b. We were always aware that improved forecasting was both necessary and desirable and it was always the intention in order to factor in data as it became available. However in the context of increasing numbers of applications and growing concern as to expenditure levels it became an imperative and had to be brought to the top of the pile of competing priorities.
 - c. The spreadsheet was a continuous work in progress. We could not have incorporated estimates based on the actual payment history of installations until there was such a history.

Paragraph 12 (WIT-24230)

9.
 - a. I cannot really add anything meaningful to my original statement in which I stated that it seemed to me to be an unsound principle to commit monies no-one knew would exist five, let alone twenty, years ahead.

- b. I formed this view when I first heard how the Scheme was to operate. I think this would probably have been in 2011 when budgets were confirmed although I cannot be certain regarding timing.
- c. I made this clear to Peter Hutchinson at the time when he first informed me about the Scheme – probably in 2011 as set out in b) above. My concerns were in regard to the basic underlying principle of the RHI Scheme – ie 20 year commitment to pay unfixed amounts - which it was my understanding at the time was not within our power to amend. However I now see from records I have trawled through that it seems an alternative incentive such as grant aid could have been introduced. I cannot recall detail but it is likely that I expressed my concerns as stated above to anyone with whom I discussed the Scheme. I do not recall anyone disagreeing.

Paragraph 14 (WIT-24231)

10.

- a. I can recall only the gist of the conversation – in which he was advising me about the proposed new Scheme in the context of financial returns. I recall being incredulous and making him repeat what he was saying. My disbelief was in regard to commitment of unfixed amounts going forward for 20 years.
- b. I did not actually believe that Peter Hutchinson had misunderstood as he was not a person given to misunderstanding. My statement was meant more as a figure of speech to try to convey my incredulity. I am sorry if this was misleading. As I have outlined, I needed him to repeat what he was saying because it surprised me so much and was not what I expected to hear ie making commitments without knowledge of how many applicants, the capacity of the installations or what usage – and all with implications for years ahead.

Paragraph 15 (WIT-24231)

11. It was purely the sharp escalation in numbers of applications. Stuart Wightman may well already have been aware of this but when I observed it on the spreadsheet I thought it best to make sure he was.
12. No it was not the first occasion when I was alerted to problems with the Scheme. I cannot recall dates and detail of discussions but there were known problems with obtaining information, particularly about applicants, from Ofgem and there were also problems with the Agreement with Ofgem and the basis on which their administrative charges were calculated. There was also a lack of clarity about budgets going forward, the mechanisms for seeking additional budget and what limits there were on future budgets. These issues were ongoing but those relating to budgets were of course less poignant while we were underspending.

Paragraph 16 (WIT-24233)

13. I am unable to detail every discussion that would have taken place from 2011 until scheme closure in February 2016. We were advised of our Annually Managed Expenditure (AME) budget allocations for RHI on 15 and 18 April 2011. Initial advice from Finance in e-mails of 3 May and 4 October 2011 was that the budget was not 'standard AME'. It was clearly stated that underspend in any year would be lost to the Department while overspend would result in the Department's Delegated Expenditure Limit (DEL) budget being reduced in future years by the amount of the overspend. Advice on 4 October 2011 was that we should not therefore increase AME expenditure in any year. However on 8 November 2011 we sought approval to roll forward unspent budget from the 2011/ 2012 year into the 2012/ 2013 year, stating that our GB equivalent Department – DECC - were seeking permission from Treasury to do the same. Approval was subsequently confirmed by Finance in February 2012



and 2012/2013 expenditure was increased. I would assume that discussions took place between 4 October and 8 November 2011 regarding this change of position. I do not have any recollection of being involved in these discussions and to my limited recollection I would have assumed – in light of advice - it would not be possible to roll forward budget.

On 8 Feb 2012 in an e-mail to Fiona Hepper, I refer to having advised Finance informally of RHI in-year underspends. I also said that Finance had confirmed approval of the roll forward of the 2011/ 2012 budget and had advised that the remaining £200k, if not spent, would be lost, but that we could bid for it to be restored in the following year. I am assuming that by 'Finance' I would have meant my most usual contacts, Linda Donaldson and Jeff Partridge.

It is likely that there were discussions with Finance, probably largely by telephone with Linda or Jeff, at every re-profiling exercise but it is unlikely that these will have been recorded. On 30 August 2013 a revised forecast extending to 2019/ 2020 and forecasting expenditure of £31m in that year was submitted. On 27 August 2014 the forecast was revised downwards (to £17m in 2019/ 2020) and extended to 2020/ 2021. A footnote explained that projections were being developed as Scheme implementation progressed. The sample was still limited and both uptake and cost difficult to predict.

On 4 September 2014 this forecast and other documents were sent by Stuart Wightman to Rachel Linton, who I think at this time worked in Accountability and Casework Branch. The e-mail refers to earlier discussion and outlines Stuart's understanding of the funding position:

'The last letter confirms that the NI RHI funding allocation for 15/16 will be based on the Barnett-formula. We estimate that this will be between £10.8m - 12.9m. I also attach an email from Treasury in 2011 confirming the current £25m and the commitment to make subsequent RHI payments beyond the current SR period.

The indicative AME profile included in the Final Synopsis for Casework (P9 para j) was based on profiles/forecasts prepared earlier in the year. Last week, we sent through the attached revised AME profile as part of October Monitoring. This takes account of more recent information on RHI application numbers and payments. It also assumes that the two RHI Schemes will reach their saturation point from 2017/18 onwards and the number of new applications will then tail off. I can confirm that not all of the £25m already secured (for 2011/12-2014/15 period) will be spent this year. It is anticipated that there will be enough left to cover 2015/16. The 15/16 allocation (£10.8-12.9m) can then be carried through towards 2016/17. Further AME funding will be needed from 2016/17 onwards.'

The forecast was revised again in January 2015 – upwards to £28.4m total RHI Scheme in 2019/ 2020 and £29.4m in 2020/ 2021. A footnote explained that the forecast had been 'adjusted to take account of latest trends/ increased uptake - particularly of non-domestic RHI'.

As stated at the outset in response to this question I cannot provide detail of every discussion with Finance regarding RHI budgetary issues. My regular contacts in Finance would have been Linda Donaldson and Jeff Partridge. I know that there were discussions regarding the mechanisms whereby budgets could be increased and what limits there were on this. My recollection is that they, like us, were unsure what parameters there might be. Advice I recall receiving – probably from colleagues Linda and Jeff - was that we should continue to seek approval of changes through re-profiling exercises. Problems came to a head in early 2015 as the numbers of applications reached levels likely to exceed future budgets and as you are aware we were then clearly instructed in Jeff's e-mail of 19 May 2015 to take steps to curtail spending to keep within a likely ceiling of £12.8m. I am not aware of any previous direction regarding a budget ceiling.

- 14 I have dealt with much of the history in para 13 above. Further detail is set out here. Alison Clydesdale contacted Jon Parker in Treasury on 11 April 2011 seeking clarification. On receipt of his response on 15 April 2011, Alison then contacted Bernie Brankin in Finance and this was acknowledged on 15 April 2011. On 3 May 2011 Bernie made a substantive response to Alison in which it was explained that the budget was not 'standard AME' and that underspend in any year would be lost to the Department while overspend would result in the Department's Delegated Expenditure Limit (DEL) budget being reduced in future years by the amount of the overspend. On 4 October 2011 Joanne McCutcheon, the new RHI Grade 7, contacted Bernie in the context of the first AME re-profiling exercise and was advised as above and in addition that we should not therefore increase AME expenditure in any year. (However within a few months as outlined in my response to Q13, approval was given to roll forward unspent budget from the 2011/ 2012 year into the 2012/ 2013 year thereby increasing 2012/ 2013 expenditure.) An e-mail to Fiona Hepper from myself dated 8 Feb 2012 outlines discussion regarding approval of the roll forward of the 2011/ 2012 budget to 2012/ 2013 and the position with the remaining £200k, which I was advised that if not spent, would be lost, but that we could bid for it to be restored in the following year.
- Further re-profiling was approved in the intervening period as outlined at 13. In December 2013 further clarification of budget arrangements was sought by the DETI Minister from the DECC Minister Gregory Barker. A response was received on 7 January 2014.
- On 12 March 2015 Seamus Hughes sent an e-mail to Jon Parker in HM Treasury seeking to establish the position with the NI RHI budget going forward from 2015/16. On 13 March 2015 on receiving a delivery failure message, Seamus approached Nicola Barber in DECC seeking an alternative Treasury contact. On 20 March Seamus contacted Sam Smyth-Murray in Treasury and was advised to contact DFP in NI. Stuart Wightman then contacted me, I contacted Jeff Partridge and followed this up with an e-mail to Jeff Partridge on 26 March. It should be understood that although there was a longstanding lack of clarity about budgets going forward, which had been a frequent subject of discussion, the requirement to establish immediate

parameters arose quite suddenly with the steady and marked increase in applications leading up to early 2015. I would stress here that applications received in the latter part of the budget year – say January to March - while having relatively little impact in that year would have a much greater one in the following year, where a full year's payments would be incurred.

15. To best of my knowledge, Alison Clydesdale approached Treasury in April 2011 and Seamus Hughes in March 2015. Alison received advice attached as Annex A. Seamus was referred back to DFP in NI.

Paragraph 21 (WIT-24235)

16. Paul Dolaghan was my line manager. His role, as Head of Co-ordination Branch, was to provide administrative support for the Division which then included RHI. This included co-ordination of all cross-cutting Divisional work such as financial exercises, management of Divisional mailbox, responses to ministerial correspondence, Assembly Questions, briefing requests, file reviews FOI cases and also processing and recording of all Divisional payments.

Paragraph 26 (WIT-24236)

17.
 - a. As set out in my previous statement and at paragraphs 9 and 10 above, I formed this view when I first heard in some detail about the Scheme which I think would have been in 2011.
 - b. As set out in my previous Witness Statement I was concerned about the concept of making financial commitments that would continue for 20 years without any certainty as to either the amount of the commitment being entered into (as it was dependent upon usage) or the budgets that would be available.

- c. It was my impression that most of those involved shared these concerns. Those I had in mind were probably those I worked most closely with – Peter Hutchinson, Joanne McCutcheon and Stuart Wightman.
- d. As stated above this was my impression but I cannot recall specific conversations and if they now state that they did not have any concerns I could not provide evidence to the contrary. These concerns however were somewhat allayed during the initial period of very slow uptake when the main concern was underspending and consequent loss of funding to NI.

Paragraph 30 (WIT-24237)


- 18. My recollection is very vague as I said in my original statement. I know that others were present but I would only be guessing if I attempted to give names.
- 19. I am sorry but I really cannot remember. I am not even certain that he was not speaking to me but I do not think that he was.

Paragraph 36 (WIT-24238)

- 20. I am just guessing that this was the approximate time because I think I was aware of such rumours before the ministerial announcement in September 2015.
- 21. As stated previously I think it was Stuart Wightman who relayed this information – and I think this was when I heard it. Perhaps it was later, I cannot be certain.

Statement of Truth

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



Signed:

Dated: 3 November 2017

From: [Thompson, Sandra](mailto:Thompson.Sandra)
To: [Thompson, Sandra](mailto:Thompson.Sandra)
Subject: FW: [RESTRICTED] RE: RHI NI
Date: 23 October 2017 16:11:32

>> _____
>
> From: Parker, Jon - HMT [<mailto:Jon.Parker@hmtreasury.gsi.gov.uk>]
> Sent: 15 April 2011 12:13
> To: Clydesdale, Alison
> Cc: Hutchinson, Peter; Garcia, Nicolas - HMT; Parkinson, Mark - HMT; Mike
> brennan@dfpni.gsi.gov.uk
> Subject: [RESTRICTED] RE: RHI NI
>
>
>
> Alison,
>
>
>
> Sorry for the delay in coming back to you. Taking your points in turn:
>
>
>
> i) With DECC, we have agreed that they can make commitments to
> spending in future years (up to 20 years) for installations that are
> installed within the SR period (i.e. the initial payments have to
> affordable within the SR profile), and providing that the policy is set up
> so that payments should be basically flat over the 20 year period in real
> terms (i.e. no backloading to ease short-term affordability pressures).
> This same agreement would apply to any NI scheme.
>
> ii) DECC's GB RHI profile is £56m/133m/251m/424m. NI's share of
> this is 2.98%, so £1.7m/4.0m/7.5m/12.6m. The NI scheme would need to follow
> this profile as much as possible – on which further below. We will need you
> to feed into us forecasts of NI RHI spending for the Office of Budget
> Responsibility's bi-annual forecasts – this can be fed through me or Mark
> Parkinson (in the Devolved Countries Unit within Treasury).
>
> iii) This funding does have to be used for renewable heat, but
> if NIE decide you would like to use it for a grant scheme or some such then
> this would be permissible as long as the cost of NIE spending is
> constrained to the AME consequential.
>
>
>
> The other key point it is necessary to let you know about is that the 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 DECC's DEL.
> Again, these rules would be applied in equivalent fashion to NI.
>
>

>
> Happy to discuss any of these issues in more detail.
>
>
>
> Jon
>
> Jon Parker| Joint Head, Energy Branch | Energy, Environment and
> Agriculture
> HM Treasury, 1/N2, 1 Horse Guards Road, SW1A 2HQ | 020 7270 5641
>
> P Please consider the environment before printing this email.
> www.hm-treasury.gov.uk
>
> From: Clydesdale, Alison [<mailto:Alison.Clydesdale@detini.gsi.gov.uk>]
> Sent: 11 April 2011 13:00
> To: Parker, Jon - HMT
> Cc: Hutchinson, Peter
> Subject: RHI NI
>
>
>
> Jon
>
>
>
> We spoke briefly the other day about the £25m allocation to NI for an RHI.
>
>
>
>
> Can I ask you to clarify for me :-
>
>
>
> (i) The position with the commitment to 20 year payments within NI.
>
>
>
> (ii) The process for advising on the spending profile of the £25m AME that
> we have been allocated.
>
>
>
> (iii) If the £25m can solely be used for an RHI - or we can use it to
> incentivise in a different way e.g grant ?
>
>
>
> Happy to discuss.
>
>
>
> Alison
>
>
>
> Alison Clydesdale
>
> Sustainable Energy
>

> Department of Enterprise, Trade & Investment

>

> Netherleigh

>

> Massey Avenue

>

> Belfast, BT4 2JP

>

> Tel: 028 9052 9248 (ext: 29248)

>

> Mob: Personal information
redacted by the RHI

>

> Textphone: 028 9052 9304

>

> Web: www.detini.gov.uk

>

>

>

> Please consider the environment - do you really need to print this e-mail?

>

>

>

>

>

>

> *****

>

> This email and any files transmitted with it are intended solely for the
> use of the individual(s) to whom they are addressed. If you are not the
> intended recipient and have received this email in error, please notify the
> sender and delete the email.

>

>

>

>

> This footnote also confirms that our email communications may be monitored
> to ensure the secure and effective operation of our systems and for other
> lawful purposes, and that this email has been swept for malware and viruses

>

>