



Edmund Ward
c/o Mark Mills
OFGEM
10 Colonnade
Canary Wharf
London
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By email to: mark.mills@ofgem.gov.uk

8 January 2019

Dear Sir

Re: The Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme

Provision of a Section 21 Notice requiring the provision of evidence in the form of a written statement

I am writing to you in my capacity as Solicitor to the Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme (known as 'the RHI Inquiry') which has been set up under the Inquiries Act 2005 ('the Act').

I know that you are by now very familiar with the work of the Inquiry and its Terms of Reference from your previous engagement with it; and the Inquiry remains grateful for the evidence you have already provided.

However, as you may be aware, the Inquiry continues to seek some further written evidence from witnesses and participants where it is necessary to do so. The Inquiry

Chairman: Rt Hon Sir Patrick Coghlin | Secretary: Andrew Browne | Solicitor: Patrick Butler

Chairman also retains the right to require witnesses to attend to provide further oral evidence, and consideration will be given to whether that is necessary in light of additional written evidence which is received.

In the circumstances, 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 further 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.

As before, it is vital that the further 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 Ofgem will assist you, at least in the first instance. You should contact Mark Mills, Principal Legal Advisor at Ofgem. He is contactable at Mark.Mills@ofgem.gov.uk. I have informed Mark Mills that you may be making contact with him to arrange access to documentation, or for general assistance and support; but there is, of course, no obligation upon you to do so. If you encounter any difficulties, of whatever kind, you should not hesitate to get in touch with me.

The questions in the attached notice refer to various documents. The Inquiry is grateful that Ofgem undertook to provide those documents to you for your consideration in advance of receiving this Notice.

I also remind you, as before, of the restriction orders made by the Chairman of the RHI Inquiry, which affect how you may deal with this correspondence and its enclosures (which are also provided to you under a duty of confidentiality to the RHI Inquiry). You may, of course, share the correspondence and the enclosed Notice and documents with your legal representative(s), under the same conditions as I set out in my previous correspondence.

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

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

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

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

Yours faithfully

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

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE
[No 1 of 2019]

You are referred to the following documentation:

- Mr Fyfe's Inquiry witness statement at **WIT-99001 to WIT-99019**;
- A copy extract from an email Mr Fyfe says he sent to PCAW on the 3 February 2017 at **IND-80033**;
- Material relating to Mr Fyfe provided to the Inquiry by Ofgem:
 - o Emails of 16 December 2016 at **OFG-270061 to OFG-270063**;
 - o Emails of the 12 January 2017 at **OFG-270206 and OFG-270207**;
 - o Emails of the 23 January 2017, 25 January 2017, 30 January 2017 at **OFG-270042 to OFG-270046**;
 - o Emails of the 31 January 2017 at **OFG-270066 and OFG-270067**;
 - o An extract from a record of a meeting on the 1 February 2017 at **OFG-270112/3** (irrelevant parts redacted); and
 - o An extract from a letter of the 1 February 2017 at **OFG-270114** (irrelevant parts redacted);
- A copy email Mr Fyfe sent to Sinn Féin on the 20 January 2017 at **POL-10095 to POL-10103**; and
- Media material relevant to Mr Fyfe and Ofgem at **INQ-125501 to INQ-125523**.

Edward's Fyfe's statement to the Inquiry of the 31 August 2017

1. On **WIT-99010** at sections 5 and 6, Edward Fyfe makes reference to the deletion or alteration of records and files on the internal Sharepoint system. As to this:
 - a. Did you occupy a room with Gareth John, whether on the second floor or otherwise?
 - b. Did your occupation of a room have any connection with a task of going through all RHI documentation on the internal sharepoint, or any similar task that could be so construed, or misconstrued, whether by Edward Fyfe or others?
 - c. Did you, at any time, refer to a room that you occupied as a "war room", or were you otherwise aware of a "war room"? If so, please explain what you knew about it.

2. On **WIT-99010**, at section 6, Edward Fyfe alleges that you were involved in the deletion or alteration of documents connected to Ofgem's work. As to this:
 - a. Were you involved, at any time during your employment with Ofgem, in the deletion or alteration of documents or files, or anything that could be so construed, or misconstrued, whether by Edward Fyfe or others?
 - b. What do you say in response to the serious allegation that Edward Fyfe has made against you?
 - c. Were you aware, at any time during your employment with Ofgem, of documents or files being deleted or altered, or anything that could be so construed, or misconstrued, whether by Edward Fyfe or others?
 - d. When was a suggestion or allegation first made to you about documents or files being deleted or altered (whether by you or others), or anything

that could be so construed, or misconstrued, whether by Edward Fyfe or others? Please explain your answer.

- e. Please explain the connection, if any, of the above matters to the Northern Ireland Non Domestic RHI Scheme.
3. On **WIT-99011**, at section 8, Edward Fyfe identifies you as having been involved in discussions about not sharing information (with auditors), and with communicating a message that Ofgem was being compliant when it was not. In this context you are also referred to the potentially relevant copy email from you of 12 January 2017 at **POL-10099** and **POL-10100** and **OFG-270206** and **OFG-270207**. As to this:
- a. What do you say about the statements made by Edward Fyfe?
 - b. Are you aware of anything that could be construed, or misconstrued, whether by Edward Fyfe or others, as amounting to the substance of the allegations Edward Fyfe has made? If so, please provide full details.
 - c. Please explain the connection, if any, of the above matters to the Northern Ireland Non Domestic RHI Scheme.
4. In his statement to the Inquiry Edward Fyfe, in summary, appears to allege that Ofgem was mismanaging the administration of schemes, including the Northern Ireland Non Domestic RHI Scheme, and was then not being transparent about that mismanagement, but instead covering it up. Are you aware of anything that could be so construed, or misconstrued, whether by Edward Fyfe or others, that may amount to or resemble the issues he has raised? If so, please provide full details.
5. Please set out anything else you wish to say in response to the witness statement provided to the Inquiry by Edward Fyfe.

Edward Fyfe's email to Sinn Féin on the 20 January 2017 at POL-10095 to POL-10097

6. On the 12 January 2017 you sent an email to the members of the “*RHI Non Domestic London*” email list and to the members of the “*E-Serve Heat LT*”; please see **OFG-270206** and **OFG-270207**. Gareth John would, later the same day, forward your email to the members of the “*Domestic RHI Scheme Team*” email list. Subsequently, when Edward Fyfe sent his email to Sinn Féin on the 20 January 2017 (see **POL-10095** to **POL-10097**) he referred to and provided a copy of your 12 January 2017 email communication. The 12 January 2017 email did instruct staff to check with one of “*the Leadership team*” before “*getting into any detailed discussions/sharing any info, so that we can manage data protection requirements etc.*”. When referring to your 12 January 2017 email, in his 20 January 2017 email to Sinn Féin, Edward Fyfe did so in the following paragraph:

“See email chain below marked in Yellow. I have already overheard managers advising not to share certain information and to say we are being compliant where we are most definitely not. I feel documents may be being destroyed and/or changed by senior managers – trying to cover up organisational errors.”

As to this:

- a. Please identify who would have been part of “the Leadership team” with whom matters had to be checked?
- b. What do you say the direction was that was being given by you?
- c. Please explain why it was necessary to give this direction to staff engaging with an auditor tasked by Ofgem?

- d. Is this email evidence of the types of matters Edward Fyfe has alleged in what is said to be an extract from an email Mr Fyfe sent to PCAW on the 3 February 2017 (IND-80033)? Please explain your answer.
- e. Please set out anything else you wish to say in relation to the 12 January 2017 email, and what Edward Fyfe has said about it.

Extract from what is said to be an email from Mr Fyfe to PCAW of 3 February 2017

7. Mr Fyfe states that he said to PCAW on 3 February 2017 (IND-80033) that you were involved in *“wiping clean and sanitising information ahead of the meeting on NI on 24/02/2017”* and that it was *“just crazy to watch documents disappear. Staff are being told not to speak to auditors, and there is a significant cover-up of what has happened”*. As to this:
 - a. What was the *“meeting on NI on 24/02/2017”* and what was your role in it?
 - b. What meeting did occur, on or about the 24 February 2017, that could have been construed, or misconstrued, whether by Edward Fyfe or otherwise, as being about the Northern Ireland RHI Scheme? Please explain your answer.
 - c. What do you say to the allegation that you were involved in *“wiping clean and sanitising information ahead of the meeting on NI on 24/02/2017”* (the Inquiry takes this to be a reference to information held by Ofgem)?
 - d. During your employment with Ofgem have you ever been involved in, or aware of, any activity which could be construed, or misconstrued, whether by Edward Fyfe or otherwise, as activity that may, or could, amount to *“wiping clean”* or *“sanitising”* information within Ofgem? If so, please explain your answer.

- e. What do you say about the allegation that Ofgem staff were "*being told not to speak to auditors*"?
- f. At any time during your employment with Ofgem did you tell anyone, were you told by anyone, or were you aware of others telling anyone, not to speak to auditors? If the answer is 'yes', then please provide a full explanation of the facts and circumstances.
- g. Are you aware, at any time during your employment with Ofgem, of any member of Ofgem staff saying anything that could be construed, or misconstrued, whether by Edward Fyfe or others, as encouraging staff not to speak to, or otherwise fully co-operate with, auditors? If the answer is 'yes', then please provide a full explanation of the facts and circumstances.
- h. What do you say about the allegation that there was a "*significant cover-up of what has happened*" (which the Inquiry takes to be a reference to what happened during Ofgem's administration of the Northern Ireland Non Domestic RHI Scheme)?
- i. At any time during your employment with Ofgem were you involved in, or aware of, anything that could be construed, or misconstrued, as a "*cover-up*"? If the answer is 'yes', then please provide a full explanation of the facts and circumstances.
- j. Please set out anything else you wish to say in relation to what is said to be an email from Mr Fyfe to PCAW of 3 February 2017.

Generally

- 8. Please set out any other information of which you consider the Inquiry should be aware.

NOTE:

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



INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME

RHI REF: Notice 1 of 2019

DATE: 29 January 2019

Witness Statement of: Edmund Ward

I, EDMUND PETER WILLIAM WARD, will say as follows: -

Introduction

1. This witness statement responds to the Inquiry's Notice (No 1 of 2019 – **'the Notice'**), made pursuant to Section 21(2) of the Inquiries Act 2005.
2. While I go into more detail in the remainder of this statement, I feel compelled to set out at the outset that in this statement I categorically refute a number of unfounded assertions made by Mr Fyfe in his statement as referenced below. In summary, **I would like to make it clear here that I can categorically state that I have never, on any occasion, made any attempt to remove, amend, delete, destroy, or improperly conceal any information in relation to Ofgem's administration of the RHI scheme.** Responding specifically to the sentence in the email of Mr Fyfe in his email of 20 January 2017, **I have made no attempt to 'cleanse and make clean' any evidence (damning or otherwise) in relation to the RHI,** including in relation to Ofgem's management or mismanagement of the RHI. I would note that Mr Fyfe qualified this statement by stating 'I feel', and I do not believe the information put to me provides any further information on this matter to which it is possible to respond. In summary, and as I have set out before the Inquiry, my approach has always been to act with integrity, and in line with the Civil Service code, and I have responded to every question that has been asked of me honestly and truthfully.
3. I also note that it has been necessary for me to refer to certain matters of a personal nature in relation to Mr Fyfe, in order to fully address the questions asked and to give appropriate context to my responses. I would note that, out of



respect for the privacy of the individual concerned, I have not elaborated in this written statement beyond the extent that I believe is required.

4. The Inquiry has already received my responses to Notices 236 and 237 of 2017, Notice 13 of 2018 (dated 9 March 2018 - '**my first witness statement**'), a voluntary supplementary statement of 22 June 2018, Notice 127 of 2018 (dated 20 July 2018 – '**my second witness statement**'), and Notice 163 of 2018 (dated 19 September 2018 – '**my third witness statement**'). I have provided oral evidence to the Inquiry on 16 March, 11 May, and 7 June 2018. I have also provided some input into Ofgem's first and second corporate statements, although I was not involved in the final drafting, review or sign-off associated with those documents. Where relevant, I have referenced the above in this statement to avoid undue repetition. However, for the avoidance of doubt my position in answer to the questions presented in this notice are as set out in this statement.
5. I have prepared this statement in response to the Inquiry's request of 8 January 2019. I have focussed on providing a full account of matters with which I have direct personal experience and knowledge and for which I have direct access to relevant documentation.
6. I note that the Notice contains a number of questions which relate to the actions or communications of staff within Ofgem generally. I confirm that the answers provided in this statement are based on my own personal knowledge and belief, and on the review of relevant materials within my possession. I have also reviewed relevant materials brought to my attention by Ofgem's internal lawyers to address some of the matters raised in the Notice. For completeness, I note that while I remain available to support the work of the Inquiry, I am no longer employed by Ofgem, and consequently I have less ready access to Ofgem materials and staff, and am increasingly reliant on personal recollection of events and concepts that I am no longer recalling or utilising as part of my working life.
7. It may help at this stage to set out the nature of my professional relationship with Mr Fyfe. Although I had been incidentally introduced to Mr Fyfe on one occasion



prior to September 2016 after we were both present at the same meeting, my first material engagement with Mr Fyfe was when I was asked to take responsibility for some aspects of Ofgem's administration of the Great Britain Domestic RHI scheme around September 2016 (which I note in terms of chronology, was after the suspension of the NIRHI Scheme). This responsibility was in addition to my continuing responsibilities in relation to the Non-Domestic RHI schemes, and ultimately arose from changes in personnel at a senior level within Ofgem and subsequent restructuring of the heat teams.

8. At the point I took on overall responsibility for the DRHI Payments, Audit and Compliance team, led by Alison Smith, Mr Fyfe was employed in the team in a role focused on compliance activity for the Domestic RHI scheme in Great Britain. Ofgem has never administered any aspect of the Domestic RHI scheme for Northern Ireland, and based on my personal experience, I was never aware that Mr Fyfe had any role in the Non-Domestic Renewable Heat Incentive Scheme in Northern Ireland.

9. As part of the handover in September 2016, I met with the previous individual at my grade with responsibility for the team (Ashley Malster), alongside Alison Smith who commenced reporting into me at that stage, and who continued to lead the team. As part of a general introduction to the team and its work, I was given an update on Mr Fyfe. I was advised that Mr Fyfe was not in the office and that there had been some issues which had required input from the Ofgem Human Resources team, that this was being dealt with by that team, and that for operational purposes the team was conducting daily and weekly activity planning on the basis that Mr Fyfe would not be in the office, pending further input from HR. I was not apprised of the details of his situation, and was told that this was being managed by Human Resources and that senior officers in the organisation were briefed on this, including my manager Gareth John and Ofgem's Chief Operating Officer, Sarah Cox. As part of the handover I received, I met with the entire DRHI compliance, audit and payments teams, excepting that, as I had anticipated given the briefing I had received, Mr Fyfe was not in the office.

10. During Mr Fyfe's period of absence from the workplace, I understand that a number of matters were taken forward between Mr Fyfe and Ofgem Human Resources (HR) colleagues. I further understood at the time, as relayed to me by Alison Smith following her discussions with colleagues from the Ofgem HR team, that one point of concern for Mr Fyfe was Personal Information redacted by the RHI Inquiry

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] I also understand that, in response to Mr Fyfe's request, a number of internal weekly reports in relation to the GB Domestic RHI, which had referenced a Personal Information redacted by the RHI Inquiry [REDACTED] were updated by Alison Smith and a member of her team in order to be clear that the member of staff was absent from the workplace.

11. Personal Information redacted by the RHI Inquiry

12. Personal Information redacted by the RHI Inquiry



13. In this meeting, Mr Fyfe also mentioned, in general terms, that he had raised concerns in relation to Ofgem's performance, and was concerned that this was not being taken forward. I told him that I took this seriously, but that I had not seen any such information from him. When he declined to go into details in the meeting, I asked him to send through any information to me, so that I could take the appropriate action. This was never forthcoming, and upon advising my line manager of this, I was advised that he had been informed that concerns had previously been raised by Mr Fyfe, and that these had been reviewed and any appropriate actions had already been taken or were underway. [REDACTED] advised that he expected some matters to be addressed as part of an upcoming [REDACTED].
14. At the conclusion of the meeting, I reiterated the reporting structure, confirming that I would make myself available for any matters outside of the normal line management function, but that Mr Fyfe would have Lucky as his direct line manager. He agreed with that approach and with the interim objectives.
15. Over the course of the following weeks, I was alerted by Alison Smith and Lucky Sandhu on several occasions that Mr Fyfe was not conducting tasks as requested, and was displaying some behaviours which were causing Lucky some concern in relation to her ability to manage him (see for example OFG-270042-4). After a period of Lucky working from home (as authorised by Alison to avoid an escalation of the situation with Mr Fyfe), Lucky returned to the office on 31 January and Alison, Lucky and I met that morning. She stated that she had some concerns on behaviours, that she felt unable to continue to act in a line management role for Mr Fyfe, and that she requested I take action. I asked Lucky to outline her concerns in writing, and advised HR that this would need input.
16. As a result of the points raised by Lucky, I spoke to Mr Fyfe in private that same morning, and advised him that Lucky had raised with me that she felt unable to continue to act as his line manager. I asked for his view on this, and he said he felt that she ought to be capable of managing him as she was a Band C (Ofgem's



'manager' grade). I advised that I would investigate and seek to find a resolution, but that in the interim I would expect to ask him to report to me for line management from that day. I then sent an email confirming interim line management arrangements.

17. At this point, I would like to repeat my earlier point that I would ask the Inquiry to consider how it deals with the publication of matters that may be of a personal nature, and that I am summarising events only as I believe it is appropriate to do so in order to give due context to my responses to this statement request.
18. Continuing my narrative of events on 31 January 2016, later in the afternoon, I was called over by Alison to Lucky's desk, where Mr Fyfe was standing over Lucky, and which Alison reported to me was leading Lucky to appear intimidated. I asked to talk to Mr Fyfe in private, and summarised the reasons for taking the actions I had that day

Personal information redacted by the RHI inquiry

That was the last interaction I have had with Mr Fyfe, and I was not aware until receiving the materials provided by the Inquiry of the detail of any subsequent engagement between Mr Fyfe and Ofgem, including that I understand that he had raised a complaint against me in relation to the events of 31 January 2016.

19. In the remainder of this document, I include (for ease) some of the text from the s21 notice, and my responses to the questions raised.

You are referred to the following documentation:

- Mr Fyfe's Inquiry witness statement at **WIT-99001 to WIT-99019**;



- A copy extract from an email Mr Fyfe says he sent to PCAW on the 3 February 2017 at **IND-80033**;

- Material relating to Mr Fyfe provided to the Inquiry by Ofgem:
 - o Emails of 16 December 2016 at **OFG-270061 to OFG-270063**;

 - o Emails of the 12 January 2017 at **OFG-270206** and **OFG-270207**;

 - o Emails of the 23 January 2017, 25 January 2017, 30 January 2017 at **OFG-270042 to OFG-270046**;

 - o Emails of the 31 January 2017 at **OFG-270066 and OFG-270067**;

 - o An extract from a record of a meeting on the 1 February 2017 at **OFG-270112/3** (irrelevant parts redacted); and

 - o An extract from a letter of the 1 February 2017 at **OFG-270114** (irrelevant parts redacted);

- A copy email Mr Fyfe sent to Sinn Féin on the 20 January 2017 at **POL-10095 to POL-10103**; and

- Media material relevant to Mr Fyfe and Ofgem at **INQ-125501 to INQ-125523**.

Edward's Fyfe's statement to the Inquiry of the 31 August 2017

Question 1:

On WIT-99010 at sections 5 and 6, Edward Fyfe makes reference to the deletion or alteration of records and files on the internal Sharepoint system. As to this:



a. **Did you occupy a room with Gareth John, whether on the second floor or otherwise?**

20. **Yes.** In the over four years during which I reported to Gareth John at Ofgem, it was common for me to be in the same room as him. I would say that this was a common occurrence, averaging more than several times per week. In a significant majority of cases, others would have been present as well (in person, by telephone and/or by videoconference). There were also a number of occasions where Gareth and I were the only ones present in a room. Over some periods, one or more of the rooms on the second floor of Millbank's office were allocated either to the RHI team or in relation to the work of the team involved in supporting the Northern Ireland Public Accounts Committee (PAC) and more recently, the work of the Inquiry. It was relatively common for both Gareth and I to be present in these rooms to support that work. However, for avoidance of doubt there was no space to which Gareth or I ever had private or sole access, for the examination of papers or for any other purpose.

b. **Did your occupation of a room have any connection with a task of going through all RHI documentation on the internal sharepoint, or any similar task that could be so construed, or misconstrued, whether by Edward Fyfe or others?**

21. **Yes.** As the Inquiry will appreciate, the process of providing materials to support the work of a process such as a public Inquiry, involves a great deal of painstaking work collating, preparing and providing documentation. In my experience, this typically involves a combination of reviewing electronic documents, and working with hard-copy documents. I note that in the case of the RHI, for which processing of applications has been almost exclusively done electronically since the launch of the Great Britain RHI scheme in 2011, there are very few 'original' documents. Most documents being dealt with as hard-copy documents are therefore print-outs of electronic documents, rather than original documents.



22. In the same way that engaging with the RHI Inquiry has involved going through documentation, so have a number of other activities in relation to the roles of the RHI Leadership team at Ofgem. This included, albeit over a shorter time-scale, work in preparing for and following up with the Northern Ireland Public Accounts Committee (PAC). We have also provided input in respect of a number of process reviews, including but not limited to those involving Deloitte (multiple instances), PwC, and DECC/BEIS. In reference to the period to which it appears Mr Fyfe may be referring (January 2017, by reference to WIT-99010), at that stage, to the best of my recollection, Ofgem was making available materials to support at least two reviews by Deloitte, one into the Non-Domestic RHI (including aspects in relation to both GB and NI schemes) and one into the Domestic RHI.

23. In addition to these specific prompts, as part of day-to-day leadership and management of a complex scheme with many thousands of stakeholders and significant numbers of staff, reviewing documents such as management information, which was typically stored on Ofgem's internal document management system (Sharepoint), would be a routine part of the roles conducted by both Gareth, myself, and others.

24. In saying this, I would reiterate as outlined in point (a) that I am not aware of any occasion or period over which it would have been the case that Gareth and I exclusively occupied a room, that was not for at least some periods occupied by a number of other individuals. Due to the nature of the rooms used and the purpose for which the rooms were allocated, other individuals who would frequent and use these rooms, most frequently for meetings or for reviewing documentation or to engage in teleconference or videoconference with Ofgem's Glasgow office, would include, for example other colleagues (such as Senior Managers and Heads of function) working in relation to the administration and management of Ofgem's role in the RHI scheme, and those working to support the Inquiry (such as members of Ofgem's legal team).

- c. Did you, at any time, refer to a room that you occupied as a “war room”, or were you otherwise aware of a “war room”? If so, please explain what you knew about it.**
25. Yes, I was aware of a room known colloquially as a ‘war room’ by some colleagues, although I personally habitually referred to it as the “RHI Project Room”, “NI Project Room”, or (most commonly) by its room number (“2C1”).
26. As outlined in my responses to (a) and (b) above, at various stages there were rooms allocated to support Ofgem’s work in relation to the NI PAC, the work of this Inquiry, in respect of the overall management of RHI schemes, and specifically in supporting some audit activities. Over the period, the room most consistently associated with these roles, was room “2C1”, but rooms “2C2” and “2M9” also fulfilled a similar status at various stages.
27. At one stage I had access to a key to 2C1, as did a number of others involved in the work of supporting the Inquiry, including members of Ofgem’s legal team. This room was configured to be lockable to reflect that it was considered it might be necessary to hold within the room, overnight or during the day while the room was unoccupied, paper documents that could include personal information, that would otherwise need to be secured.
28. I understand room 2C2 was also configured to be locked on occasion, as terminals installed within the room were configured with access to internal documents to be reviewed by Ofgem’s lawyers as part of the discovery process agreed with the Inquiry. I did not ever have a key to room 2C2. To the best of my knowledge, room 2M9 was never locked in this regard.
29. For context, all of these rooms were located on the second floor of Ofgem’s offices at 9 Millbank in London. All of these rooms had glass walls and doors, and it was therefore possible to observe the occupants of these rooms even with the door closed. Rooms 2C1 and 2C2 were located close to (but not within earshot or direct view of) the desks occupied by Ofgem colleagues working on the administration of the RHI schemes – and were on a main thoroughfare. For

example, they were located on a corridor linking desks occupied by scores of Ofgem staff (including members of both RHI and non-RHI teams) with the nearest toilets, staff kitchen area, and stairs/lifts.

Question 2:

On WIT-99010, at section 6, Edward Fyfe alleges that you were involved in the deletion or alteration of documents connected to Ofgem's work. As to this:

a. Were you involved, at any time during your employment with Ofgem, in the deletion or alteration of documents or files, or anything that could be so construed, or misconstrued, whether by Edward Fyfe or others?

30. Yes. I have laid out the categories in which I have been – **entirely appropriately** – engaged in the deletion or alteration of files as part of my duties, carried out in line with the civil service code. In summary, these have been:

- (i) Files removed after being duplicated or amended as part of information technology (IT) upgrades.
- (ii) Files being located on a shared access platform ("Sharepoint") with the express purpose of being available to be edited sequentially, and/or by a number of individuals, and with an audit trail of that process being recorded.
- (iii) Files destroyed after being received in hard copy and converted to electronic format in order to be uploaded to proper and appropriate systems, such as the RHI Register.
- (iv) Disposal of hard copy documents, typically printed by myself or colleagues, after they had served their purpose. Such files being disposed of either through being placed in recycling bins or locked confidential waste disposal containers.



In addition, while I was not involved in conducting this myself, for completeness I should also mention that, specifically in the case of Mr Fyfe, I was aware of a small number of internal management reports being amended by a colleague, at Mr Fyfe's request and as agreed with colleagues from Ofgem's Human Resources team, to clarify a point in relation to a period over which Mr Fyfe was absent from the office.

31. In this regard, I would refer back to the point I made in paragraph 10 in my introduction to this statement. In summary, I understand a small number of documents were requested to be altered specifically in relation to Mr Fyfe, and specifically at his request (and in agreement with Ofgem's HR team who were engaging with Mr Fyfe on a number of items at that time). Given this, I can understand how Mr Fyfe may be drawn to inquire whether further documents were deleted or altered. On that point, I would first and strongly re-emphasise my statement that I have at no stage sought to alter or delete documents to avoid them being available to the Inquiry or any other due process. Second, I would note that my recollection of a small number of documents being altered, by one member of my staff some years ago, is illustrative of the uncommon nature attached to that particular process.

32. I have provided further context on these categories as follows:
 - (i) There were a number of occasions when I was involved in authorising the appropriate migration of files from one platform to another, such as in the course of information technology (IT) system upgrades relating to the systems used to administer aspects of the RHI schemes. At no stage was I involved in personally deleting or altering records as part of this process, and in all cases backup and archive copies were taken, so as to preserve document history.
 - (ii) For the entire period of my employment with Ofgem, most files (with the exception of some casework files located on bespoke systems such as the RHI Register or RHI Contact Relationship Manager (CRM) system) were expected to be stored on Sharepoint. Files being located on this shared access platform were available to be edited sequentially, and/or by a



number of individuals, and with an audit trail of that process being recorded. This was common practice and was regarded as best practice within the organisation. I understand the Inquiry is familiar with the concept, with individuals having had to familiarise themselves with a number of 'versions' of documents retrieved at different stages from an electronic 'history'. For completeness, I can confirm that I cannot, to the best of my knowledge and belief, recall any instance during my employment at Ofgem or subsequently, where I have sought to modify the audit trail of an electronic document, including any document on Sharepoint.

- (iii) I would, on relatively infrequent occasions, receive 'original documents' most commonly in the form of written correspondence. Most commonly, this would relate to a hard copy of materials already received by email, for example in the case of a recorded delivery letter being sent in the case of a rejected applicant lodging a formal review of their case. In some cases, this involved materials not already received by email and which would therefore need to be scanned into electronic format by myself or a colleague. In each case, my common practice was to confirm that appropriate electronic copies were made available in the correct location in systems such as the RHI Register, Sharepoint or CRM system, and then to destroy the original copy in order to mitigate risks of the loss of personal data, and to ensure a full audit trail and access to appropriate documents was maintained within the RHI Register.

- (iv) While I endeavour to minimise the amount of printed material, in practice the roles I conducted at Ofgem in many case revolved around the review of hard copy documents. These would often be third party documents printed by myself or colleagues in order to be reviewed and/or annotated, and primary documents (such as drafts of papers or presentations I was writing or reviewing) that I would print in order to make progress in drafting. My common practice was to dispose of such hard copy documents, after they had served their purpose. In doing so, I would typically dispose of such files by placing these in recycling bins or into locked confidential waste disposal



containers, which I understand were then taken off-site and shredded by a specialist confidential waste management company.

b. What do you say in response to the serious allegation that Edward Fyfe has made against you?

33. I refute this statement entirely. I can categorically state that I have never, on any occasion, made any attempt to remove, amend, delete, destroy, or improperly conceal any information in relation to Ofgem's administration of the RHI scheme.
34. Responding specifically to the sentence in the email of Mr Fyfe in his email of 20 January 2017, I have made no attempt to 'cleanse and make clean' any evidence (damning or otherwise) in relation to the RHI, including in relation to Ofgem's management or mismanagement of the RHI. I would note that Mr Fyfe qualified this statement by stating 'I feel', and I do not believe the information put to me provides any further information on this matter to which it is possible to respond.
35. Given some of my other experience in engaging with Mr Fyfe, I should say that I am, sadly, not entirely surprised at the allegation that has been made. Despite the personal impact this has on me, and potentially on my reputation, I respect Mr Fyfe's right to make allegations, and to be asked to support these, and for the Inquiry to investigate such. I would make clear that there are many allegations, for which I am not in a position to reach a factual basis or determination. However, on this point I can be completely categorical, as I believe I have been above, and I hope that I have left any reader of this document with a clear impression of my position, which is that:
- I did not alter or destroy documents
 - I was not involved in a 'cover up'
 - I was supportive of Mr Fyfe, even when his action led to me needing to act under extremely difficult circumstances
 - I did not, at any stage, take part in any behaviour or act that I believe could reasonably be described as either punishing or threatening.

36. In summary – and as I have set out before the Inquiry – my approach has always been to act with integrity, and in line with the Civil Service code, and I have responded to every question that has been asked of me honestly and truthfully. I refute the allegation.

c. Were you aware, at any time during your employment with Ofgem, of documents or files being deleted or altered, or anything that could be so construed, or misconstrued, whether by Edward Fyfe or others?

37. In this regard, I would refer back to the point I made in response to part (a) of this question. In summary, I understand a small number of documents were requested to be altered specifically in relation to Mr Fyfe, and specifically at his request (and in agreement with Ofgem's HR team who were engaging with Mr Fyfe on a number of items at that time). Given this, I can understand how Mr Fyfe may be drawn to inquire whether further documents were deleted or altered. On that point, I would first and strongly re-emphasise my statement at (b). Second, I would note that my recollection of a small number of documents being altered, by one member of my staff some years ago, is illustrative of the particular circumstances surrounding that process.

38. To the best of my knowledge and belief, I can only recall three other examples (which I was not involved in) where documents were deleted or altered:

- (i) I understand that, prior to my involvement with the Domestic RHI scheme, there were occasional meetings to ensure document management was being correctly employed and that old files were not being stored beyond the point of legitimate use. I recall some references to 'tidy up' meetings where members of a team would work together, following an agreed process, to do this housekeeping task.
- (ii) Upon commencement of the non-domestic RHI schemes (in 2011 for Great Britain and 2012 for Northern Ireland), the application process was set up to require identity and bank information to be provided by hard copies rather than electronically. Ofgem's policies therefore resulted in some hard-copy



documents being deleted (including additional or incorrect documents provided in error by applicants) and others being retained for a period, before being subsequently deleted (some details of that policy being considered and varied from time to time). I also note that, on occasion, members of the RHI team would identify that information such as bank details had been provided electronically (inadvertently or in good faith) by applicants to the scheme, or participants on the scheme. In such cases, in line with data security principles, it would be necessary to over-write the documents in order that this category of information was not available on certain systems, to mitigate the risk of identity or bank documentation being disseminated or otherwise leading to identity theft or other potentially fraudulent purposes.

- (iii) In the run-up to the coming into force of the General Data Protection Regulations (GDPR) in 2018, I was tangentially involved in some of Ofgem's review of its data retention policies. This highlighted some areas where officials were seeking advice on what archived documents should be deleted. I am not clear on what steps were ultimately taken in this regard, as responsibility for this task sat with a central team within Ofgem.

d. When was a suggestion or allegation first made to you about documents or files being deleted or altered (whether by you or others), or anything that could be so construed, or misconstrued, whether by Edward Fyfe or others? Please explain your answer.

- 39. Other than this allegation by Mr Fyfe, as made in his statement, I am not aware of any other suggestion or allegation, by Mr Fyfe or by anyone else.
- 40. With respect to Mr Fyfe's allegation, I was first made aware of this allegation by Ofgem's legal team engaged in the support of the RHI Inquiry. As far as I recall, this was some weeks after Mr Fyfe's statement was first made to the Inquiry, but within a short period of Ofgem becoming aware of the allegations.
- 41. For completeness, I note that it is only upon receipt of the evidence attached alongside the Inquiry's request for this statement, that I have become aware of some allegations made against me by Mr Fyfe. These include the observation



[OFG-270116] that a complaint was apparently received against me by Mr Fyfe on 1 February 2017, following the incident at which (in the words of the same document) Mr Fyfe Sensitive personal information redacted by the RHI Inquiry I have addressed the circumstances surrounding that incident in my introduction above.

e. Please explain the connection, if any, of the above matters to the Northern Ireland Non Domestic RHI Scheme.

42. I maintain that the allegations are without foundation, and there is no connection to the Northern Ireland Non Domestic RHI Scheme.

Question 3:

On WIT-99011, at section 8, Edward Fyfe identifies you as having been involved in discussions about not sharing information (with auditors), and with communicating a message that Ofgem was being compliant when it was not. In this context you are also referred to the potentially relevant copy email from you of 12 January 2017 at POL-10099 and POL-10100 and OFG-270206 and OFG-270207. As to this:

a. What do you say about the statements made by Edward Fyfe?

43. The specific statement from Mr Fyfe refers to: (i) something he alleges to have been said to me by Gareth John, and (ii) something he alleges to have been said to others by one of my direct reports (Alison Smith).

44. That said, before I go further I would like to state for completeness and clarity that, had these or similar allegations been made against me, I would be in a position to confidently rebut them. To the best of my knowledge and belief, in my years of working at Ofgem I never “advised not to share information”, save to ensure that appropriate information sharing was conducted, including in accordance with legal advice made available to me. And to the best of my knowledge and belief, in my years of working at Ofgem I never “said we are being compliant when we most definitely are not”, and always strove to ensure that any position portrayed to auditors or others was accurate.

45. On (i), I have no recollection of Gareth John ever “advising not to share certain information” with auditors, beyond the normal and appropriate measures that I would expect any responsible body to take prior to releasing sensitive information to a third party. I have no recollection of Gareth John ever advising to “say we are being compliant where we are most definitely not”.



46. On (ii), I was not involved in the reported discussion, stemming from which it appears an allegation is made against Alison Smith.

b. Are you aware of anything that could be construed, or misconstrued, whether by Edward Fyfe or others, as amounting to the substance of the allegations Edward Fyfe has made? If so, please provide full details.

47. No.

I note my email to the team (OFG-270207) could be considered relevant here, and I am happy to address it.

48. First, my email is consistent with the approach – that I believed was appropriate and therefore I had not questioned during my time at Ofgem – that when individuals, who had not been subject to security screening or been granted access to data including personal records, might be present and potentially have access to confidential records or data, it was appropriate to alert others to this fact. The purpose of this alert being to mitigate the risk of unintended data breaches or similar events occurring.

49. Second, my email was actively encouraging colleagues to be helpful and reflecting that they might be introduced to the external visitors.

50. Third, my email was explicitly clear that the focus of the only note of caution in my message was on managing data protection requirements.

51. Fourth, that overall the tone of the email recognised ‘support’ from Deloitte and a focus on lessons learned from Northern Ireland – both of which I stand behind as entirely appropriate positions to take.

52. Fifth, that my email was explicitly copied to the entire E-Serve Heat Leadership Team (comprising Band D and E staff working under Gareth on the RHI schemes) and that I was not seeking to personally control any conversations, but merely asking staff to ‘check with one of the Leadership team before getting into detailed discussions / sharing any info’.

53. It may be that Mr Fyfe drew an additional subtext to this email, possibly reflective of his thinking or position on other matters or exchanges around this time. However, in answering the question, I maintain that I would not regard this document as supporting any of the allegations that have been made by Mr Fyfe. I also note that at no stage did Mr Fyfe raise any concerns with me regarding this email, nor am I aware that he raised concerns with any other individual within Ofgem.

- c. **Please explain the connection, if any, of the above matters to the Northern Ireland Non Domestic RHI Scheme.**

54. I maintain that the statements by Mr Fyfe are misguided, and there is no connection to the Northern Ireland Non Domestic RHI Scheme.

Question 4:

In his statement to the Inquiry, Edward Fyfe, in summary, appears to allege that Ofgem was mismanaging the administration of schemes, including the Northern Ireland Non Domestic RHI Scheme, and was then not being transparent about that mismanagement, but instead covering it up. Are you aware of anything that could be so construed, or misconstrued, whether by Edward Fyfe or others, that may amount to or resemble the issues he has raised? If so, please provide full details.

55. In summary, I am not aware of any cover up by Ofgem or by any individuals within Ofgem, including myself, in relation to any of the RHI Schemes.

56. As I have said on a number of occasions before the Inquiry, I am aware of a number of areas where alternative actions could have been taken, and I have engaged on these at length in my previous oral evidence and written statements before the Inquiry. Of course, it will ultimately be for the Chairman of the Inquiry to reach a determination on the extent to which particular issues may have been managed differently, or in which the overall governance of the scheme may have contributed to issues in the overall administration and delivery of the scheme. In respect of covering up, I can say that I have not been involved in covering up any aspect in relation to the administration of the Northern Ireland RHI Scheme, or any others. I can further say that, to the best of my knowledge and belief, I have not been aware of any other individual or collective cover-up in relation to the Northern Ireland RHI Scheme, or any others.

Question 5:

Please set out anything else you wish to say in response to the witness statement provided to the Inquiry by Edward Fyfe.



57. There are a number of factual inaccuracies that I would not expect to be material to the work of the Inquiry, but which I feel should be addressed recognising that the statement may be published, in full or in part, at some stage. I have also provided a few clarifications. For ease, I have addressed these in order of Mr Fyfe's statement, as follows:

Responding to paragraphs five and six of section 1:

58. Mr Fyfe mentions 'I have faced increasing adversity in my work with Ofgem'. I now understand (although I did not have confirmation of this until I received this statement request on 8 January 2019) that I am one of the individuals against whom Mr Fyfe raised a complaint or grievance (it would appear this was made on 1 February 2017). I would like to state that I have always dealt with Mr Fyfe in a professional and objective manner, but (responding to paragraph six) my relationship with Mr Fyfe has solely been professional and I would not expect I am being referred to when Mr Fyfe refers to friends within Ofgem.

Responding to Question 3:

59. I note that prior to taking on responsibility for areas of the DRHI scheme in c. September 2016 – i.e. after the suspension of the NI RHI scheme – I had no responsibility for Mr Fyfe's work area or role. Prior to that, I only recall meeting him once – by way of a general and cordial introduction – following a meeting we had both attended a short walk away from the office.
60. I was not aware of any involvement of Mr Fyfe on the Non-Domestic RHI (either GB or NI), and can confirm that to the best of my knowledge and belief he did not have any formal or decision-making role. Given the 'one-team' approach fostered across the separate RHI schemes, it is likely that there was interaction between Mr Fyfe with staff who were responsible for, or working on, the GB and NI non-domestic schemes. However, to my knowledge Mr Fyfe had not been party to any detailed training or scheme-specific material in relation to the NIRHI scheme. I understand he did have a few hours of induction on NDRHI in relation to audit and compliance processes, but this was not completed and he was not tasked with any work in this regard.

61. I am not sure what Mr Fyfe means when he refers to learning that ‘no audits had been cleared over 6 months’, as there was significant activity across that period (and has been through Ofgem’s administration of the schemes) in relation to reviewing and finalising site audit documentation, and taking compliance actions. Mr Fyfe mentions a backlog of around 50 audit reports to be cleared; in the context of a team processing around 200-400 audit reports per year, with these often being deployed in tranches rather than as a steady state, this was certainly a priority within the RHI management team (and indeed was the reason for considering reallocating resources such as Mr Fyfe). It’s also important to distinguish between GB and NI audit programmes.
62. Similarly, I do not understand what ‘issues with the out sourced contractors Ricardo who had only just done a handful of audits in Northern Ireland. Ricardo were often difficult to persuade to go to areas where they had no auditors...’ refers to. Ricardo-AEA, acting under contract, performed audits as requested. As with any contract, issues arise and are managed, and this was primarily conducted through monthly contractor meetings alongside more frequent interaction between account managers within Ofgem and Ricardo, with escalation being deployed where required. AEA-Ricardo had been open about their limited ability to deploy a large number of audits in Northern Ireland at short notice, and this had been discussed in detail with DfE and informed the approach to site audits in both the 2015/16 and 2016/17 financial years.
63. It is not correct to characterise the audit program as having been ‘essentially ignored’. I am not surprised that, as a colleague in another team, with no routine engagement with the Non-Domestic RHI, Mr Fyfe was not aware of the level of activity in the area of Non-Domestic RHI audit and compliance activity on both GB and NI schemes. However, I fail to understand on what basis he feels able to make assertions such as this.

Responding to Question 4:

64. I have addressed this above, but for completeness I would repeat the following:



65. For avoidance of doubt, I can categorically state that I have never, on any occasion, made any attempt to remove, amend, delete, destroy, or improperly conceal any information in relation to Ofgem's administration of the RHI scheme. Responding specifically to the sentence in the email of Mr Fyfe in his email of 20 January 2017, I have made no attempt to 'cleanse and make clean' any evidence (damning or otherwise) in relation to the RHI, including in relation to Ofgem's management or mismanagement of the RHI.

Responding to Question 5:

66. Responding specifically to documents being deleted and staff being prevented from having access to the weekly reports, it is not clear from Mr Fyfe's statement what documents are being referred to. However, I am aware that following engagement between Mr Fyfe and Ofgem's Human Resources team [REDACTED]

Personal Information redacted by the RHI Inquiry

[REDACTED] and for any documents (I understand specifically including the weekly reports) to be updated to reflect this. A number of weekly reports were amended for accuracy, in order to comply with this request, and the process for doing this was documented (as I recall, by Lakhvinder Sandhu).

67. I am not aware of any systematic attempt to restrict access to weekly reports to staff, but I would not be surprised if some staff lost access to some reports, as a result of one or a combination of factors or events that happened over the course of Ofgem's administration of the RHI schemes. These events might have included: migrations of SharePoint services, for which IT access permissions might have been changed; changes in scope or content of reports, including in relation to the reporting of potentially sensitive information (such as in relation to staff changes or in relation to external stakeholders or compliance activities, for which a restricted circulation might have been required); and changes in reporting structures, most notably in relation to the consolidation of separate Non-Domestic RHI and Domestic RHI scheme directorates into a single directorate.



68. I cannot comment on what documents Alison Smith may have been referring to, in an alleged exchange in relation to documents being “amended” as a “data security measure”. However, I would note that, as part of responding to external requests such as requests under the freedom of information (FOI) act or environmental impact regulations (EIR), it is not uncommon for copies of documents to be produced and subsequently redacted, in order to comply with relevant legislation. Similarly, some of our routine weekly and monthly reporting (including on the GB and NI RHI schemes) has included extracting subsets of our database, in order that these can be shared in line with our Data Sharing Protocols with the Department for Business, Energy and Industrial Strategy (or previously the Department for Energy and Climate Change) or the Department for the Economy (previously DETI) while respecting the need to protect personal information.

Responding to Question 6:

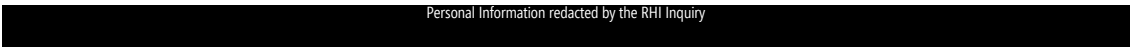






69. Again, I can confirm that I am not aware of any attempt to amend or delete any documents.

70. In addition to the points I have already made above, including in the introduction to this statement, I would add:

71. First, that Mr Fyfe never spoke to me about any amendment or deletion of documents.

72. Second, that I have never been shown any evidence from Mr Fyfe in relation to this matter, or indeed any of the wider concerns he referenced as having shared with others in a meeting I had with him on 14 December 2016.

73. The decision to ask Mr Fyfe to report to me, as an interim measure, was a decision taken by me, without any influence from any other party, on 31 January 2017.

74. As context, at the time I took that decision, I was aware that Mr Fyfe had been out of the office for a period, and that there was an upcoming Employment Tribunal scheduled which included, amongst other items of which I was not aware, matters in relation to Alison Smith (who reported to me, and was the line manager of Mr Fyfe's line manager, Lakhvinder Sandhu). However, I was not aware that Mr Fyfe had been involved in any whistleblowing activity, and I can confirm that, had I known this, it wouldn't have been a factor in my decision.
75. My decision to move line management, on a temporary basis, from Lakhvinder Sandhu to myself, was made following an account made by Lakhvinder Sandhu at which she asserted that certain interactions with Mr Fyfe were resulting in






. On the basis of this account, I immediately spoke to Mr Fyfe, and indicated that I would need to make an interim line management change while this was investigated and addressed further. I emphasised that this would be an interim arrangement. I then advised Ofgem's HR team, and followed up with Mr Fyfe in writing.
76. For completeness, I have addressed the events following that in my introduction to this statement.
77. I would be happy to go into further details as required, and I would be happy for this or any more detailed account to be shared with all interested parties, including Mr Fyfe. However, while on a personal level I am content for my account to be made a matter of record, I am keen that in the interest of Mr Fyfe, the Inquiry would carefully consider which parts of this account would be placed into the public domain.

In response to Question 7:



78. For clarity, I understand the weekly management reports to which I believe Mr Fyfe refers were focused on the Domestic RHI scheme in Great Britain, and were made available to the RHI leadership team, and not the 'whole senior management team within Ofgem E-Serve'. From my role on the DRHI from c. September 2016, I would have had access to these reports. Escalation of issues is routine practice, and I note that all of the issues raised in these reports would have been in relation to the Domestic RHI in GB, and therefore not of direct impact on the Non-Domestic RHI scheme for Northern Ireland. That said, for completeness, I am not aware of any senior managers trying to cover up issues and falsely report a lack of issues to DECC.
79. I did not see any evidence provided from Mr Fyfe to Deloitte, nor their response. I am aware that as part of internal audit work across RHI schemes, Deloitte have made recommendations and these have been shared at a senior level within Ofgem, and actions have been agreed and taken forward to address these where appropriate.

In response to Question 8:

80. I have addressed this in my answer to specific questions from the Inquiry, earlier in this statement.

In response to Question 9:

81. On (b) - I cannot comment on conversations between Alison Smith and Mr Fyfe. However, on a point of fact I should note: that Amy Powell-Tuck was not demoted; that she did receive a temporary promotion to Senior Manager for an (extended) period but that temporary promotion ultimately came to an end, as is often the case with promotions of a temporary nature, and from which no assessment on the performance of the post-holder should be inferred; and that the reason the temporary promotion came to an end was in no way "because the level of non-compliance in the non-dom team was too high". I am not aware of anyone being told to massage figures to be sent to DECC or to any other party.
82. On (c) - all of the issues to which Mr Fyfe alludes are in relation to the DRHI scheme. Recognising that this is a scheme with over c. 50,000 participants, it is

regrettable but correct to note that there have been issues with some payments. Where Ofgem has identified issues, it has sought to take the appropriate action.

83. On (d) - I don't recognise any of these comments as being relevant to the NI RHI, nor is it clear from the statement exactly what is being alleged.

Responding to Question 10:

84. First, I note that the issues around third parties is in relation to the domestic RHI scheme in Great Britain, and has been the subject of separate and detailed discussion between Ofgem and DECC/BEIS, as well as being subject to separate and independent review including by Deloitte.
85. In a single meeting on 14 December 2016, Mr Fyfe raised with me that there were issues he felt were not being addressed, and I asked him to provide details so that I could take action on this. Neither at that time, nor at any later point, did he provide me with any description of specific issues to be addressed. Nevertheless, I did pass on that he had raised this to my manager and to the HR team, who confirmed that issues had been raised and were being dealt with elsewhere within Ofgem.
86. I did meet with Mr Fyfe (twice) on 31 January 2017, but in both cases the meetings were at my request and the reason for the meetings was to address a change in line management. I did explain to Mr Fyfe that as his line manager, even for an interim period, I would make time to address any issues he might bring forward, but I didn't receive any further evidence or specific issues to be addressed.
87. Until receiving this request from the Inquiry, I have not seen any correspondence between Mr Fyfe and Walter Carlton of Deloitte, and the only interaction I have now seen is the short exchange at OFG-270206 in reference to my email of 12 January 2017, as I discussed in more detail in my answer to question 3(b) of this statement request. However, I note that Deloitte have conducted a number of reviews of the RHI schemes as administered by Ofgem. My experience during my employment at Ofgem has been that Deloitte have been granted full access

to the documentation they have requested, and have identified a number of recommendations, of varying priority, which Ofgem has made visible up to the GEMA's (Ofgem's) Audit and Risk Advisory Committee (ARAC) and for which appropriate actions have been agreed or taken forward.

Responding to question 13:

88. I was not personally involved, but I understand there was an incident of the nature described here in relation to a member of staff taking photos of documents using a mobile phone, but that this did not relate to the NI RHI scheme. I understand Ofgem took immediate action upon identifying a potential breach, engaged with relevant agencies, and took action in relation to the individual. Further, I understand Ofgem reviewed procedures in order to mitigate against this risk going forward.

In response to question 14:

89. For clarity, the matters referred to here are in relation to the Domestic RHI scheme, in Great Britain, and I don't see any connection with Ofgem's administration of the non-domestic scheme in Northern Ireland. Further consideration of this issue in relation to the Northern Ireland domestic scheme should be taken up with DfE.

Edward Fyfe's email to Sinn Féin on the 20 January 2017 at POL-10095 to POL-10097

Question 6:

On the 12 January 2017 you sent an email to the members of the "RHI Non Domestic London" email list and to the members of the "E-Serve Heat LT; please see OFG-270206 and OFG-270207. Gareth John would, later the same day, forward your email to the members of the "Domestic RHI Scheme Team" email list. Subsequently, when Edward Fyfe sent his email to Sinn Féin on the 20 January 2017 (see POL-10095 to POL-10097) he referred to and provided a copy of your 12 January 2017 email communication. The 12 January 2017 email did instruct staff to check with one of "the Leadership team" before "getting into any detailed discussions/sharing any info, so that we can manage data protection requirements etc.". When referring to your 12 January 2017 email, in



his 20 January 2017 email to Sinn Féin, Edward Fyfe did so in the following paragraph:

“See email chain below marked in Yellow. I have already overheard managers advising not to share certain information and to say we are being compliant where we are most definitely not. I feel documents may be being destroyed and/or changed by senior managers – trying to cover up organisational errors.”

As to this:

a. Please identify who would have been part of “the Leadership team” with whom matters had to be checked?

90. This included Gareth John, and those Heads of Functions (Band E) and Senior Managers (Band D) in his reporting chain. From Ofgem’s records, the individuals who formed the E-Serve Heat Leadership Team at that time were: Gareth John, Edmund Ward, Teri Clifton, Jane Pierce, Sarah Hanna, Lily Frencham, Tom Allard, Alison Smith, Steve Blackie, Mhairi McQuillan, Paul Russell, Marc Tischler, Luke Bailey, Lewis Martin, Tasfin Ahmed, Mark George, and Alex Noonoo.

b. What do you say the direction was that was being given by you?

91. The direction – as set out in my email and as described in further length in my response to Question (3)(b) above – was to be helpful and supportive, but not to share detailed information without checking with a senior manager or above first, in the interests of mitigating risks of any data breach.

c. Please explain why it was necessary to give this direction to staff engaging with an auditor tasked by Ofgem?

92. In summary – while the auditor was tasked by Ofgem, the auditor did not have access to Ofgem systems, and therefore documents to be shared would typically



need to be shared by email. Indeed, my discussions with auditors from Deloitte (I cannot at this remove recall whether on this or another occasion, but in any event including a discussion with the auditor mentioned in my email (Alana Walker)) had confirmed that Deloitte are keen to avoid receiving or communicating personal data without appropriate safeguards being in place, and that we should discuss their data requests and agree an approach, before sharing information.

93. To elaborate, it is the case that Ofgem holds a great deal of sensitive data, in relation to its administration of the RHI schemes. This includes 'personal data', such as the names, contact details, and financial records in relation to scheme participants, applicants and related parties. It also includes details of, for example, compliance actions, and records of materials that might later be relied upon for sanctions or in legal proceedings. In line with Ofgem's duties to deal with such information appropriately, it has policies in place to prevent the disclosure of information to third parties, in the absence of a data sharing protocol. Even in a situation where internal auditors might require evidence which includes personal data, this would not be shared without being considered by an information asset owner or other nominated individual as appropriate to the nature of the documents.

94. It is entirely appropriate – and there are examples where I myself have done this – where this point would be reinforced with teams, to ensure that sensitive information would not be shared. This is particularly vital in the case of teams who are being encouraged to be open and discuss matters with internal auditors – as I was doing through my actions, including but not limited to my email – but while still adhering to the appropriate data sharing requirements.

d. Is this email evidence of the types of matters Edward Fyfe has alleged in what is said to be an extract from an email Mr Fyfe sent to PCAW on the 3 February 2017 (IND-80033)? Please explain your answer.

95. No, this email is not evidence of any of the points raised at IND-80033. I have already set out that this email is not evidence of staff being told not to speak to auditors – and indeed my email confirms that my expectation was that staff *would*



speak to auditors. Further, this email does not point to a cover-up, but rather illustrates responsible engagement with third parties in the handling of sensitive information.

96. I respond to other aspects of the final paragraph at IND-80033, in response to question 7, below, but for the record I do not recognise any of that as being a factual account, and I refute all allegations insofar as they may relate to me.

e. Please set out anything else you wish to say in relation to the 12 January 2017 email, and what Edward Fyfe has said about it.

97. I have now addressed this at length, both here and in response to questions 3(b) and 5. I have nothing further to add.

Extract from what is said to be an email from Mr Fyfe to PCAW of 3 February 2017

Question 7:

Mr Fyfe states that he said to PCAW on 3 February 2017 (IND-80033) that you were involved in “wiping clean and sanitising information ahead of the meeting on NI on 24/02/2017” and that it was “just crazy to watch documents disappear. Staff are being told not to speak to auditors, and there is a significant cover-up of what has happened”. As to this:

a. What was the “meeting on NI on 24/02/2017” and what was your role in it?

98. I have consulted an archived copy of my calendar for 24th February 2017 (now disclosed as OFGEM 148041736), and have not identified any meeting which related to the Northern Ireland for the whole of that day. I have also consulted equivalent calendar entries for that week, the week before, and the week after, and have not identified any meeting that I can identify of being of particular significance to the Northern Ireland RHI and matters raised by Mr Fyfe.



- b. What meeting did occur, on or about the 24 February 2017, that could have been construed, or misconstrued, whether by Edward Fyfe or otherwise, as being about the Northern Ireland RHI Scheme? Please explain your answer.**

99. As identified in (a) above, I am unable to identify any such meeting. For the record, a description of the meetings in my calendar for that day were: a meeting (at 9am) regarding the Great Britain Non-Domestic RHI scheme; two meetings (at 1pm and 3:30pm) regarding the Great Britain Domestic RHI scheme; a regular catch-up meeting (at 10:30am) with one of my direct reports; a scheduled weekly catchup with my line manager and peers (scheduled for 2pm, but which is marked in my calendar as tentative and which may not have proceeded given that I note that my manager, Gareth John, was on leave on that day); a note to myself noting “Edmund to dig out documents” at 2pm, which is a relatively common example of myself setting aside time in my calendar to progress actions – in this case to retrieve documents to support a particular organisational requirement (although I cannot at this remove recall which documents this was referring); and a private appointment at 4:30pm which was an invitation to attend a colleague’s leaving drinks.

- c. What do you say to the allegation that you were involved in “wiping clean and sanitising information ahead of the meeting on NI on 24/02/2017” (the Inquiry takes this to be a reference to information held by Ofgem)?**

100. I categorically refute this allegation. As I hope will be clear from my answers addressing a number of unsubstantiated allegations in this request, I can strongly state that I was not involved in anything of this nature, including wiping clean or sanitising information, in relation to the Northern Ireland RHI scheme or any other matter.

- d. During your employment with Ofgem have you ever been involved in, or aware of, any activity which could be construed, or misconstrued, whether by Edward Fyfe or otherwise, as activity that may, or could,**



amount to “wiping clean” or “sanitising” information within Ofgem?
If so, please explain your answer.

101. No. I can categorically state that I was not involved in anything of this nature, including wiping clean or sanitising information, and I was not aware of any others so doing.

e. What do you say about the allegation that Ofgem staff were “being told not to speak to auditors”?

102. I categorically refute this insofar as it relates to myself, and I have no knowledge of others being told not to speak to auditors. I have addressed the position with respect to this in response to question 5 above.

f. At any time during your employment with Ofgem did you tell anyone, were you told by anyone, or were you aware of others telling anyone, not to speak to auditors? If the answer is ‘yes’, then please provide a full explanation of the facts and circumstances.

103. No. I categorically refute this insofar as it relates to myself, and I have no knowledge of others being told not to speak to auditors. I have addressed the position with respect to this in response to question 5 above.

g. Are you aware, at any time during your employment with Ofgem, of any member of Ofgem staff saying anything that could be construed, or misconstrued, whether by Edward Fyfe or others, as encouraging staff not to speak to, or otherwise fully co-operate with, auditors? If the answer is ‘yes’, then please provide a full explanation of the facts and circumstances.

104. No. I categorically refute this insofar as it relates to myself, and I have no knowledge of others being told not to speak to auditors. I have addressed the position with respect to this in response to question 5 above.

- h. **What do you say about the allegation that there was a “significant cover-up of what has happened” (which the Inquiry takes to be a reference to what happened during Ofgem’s administration of the Northern Ireland Non Domestic RHI Scheme)?**

105. I categorically refute this insofar as it relates to myself, and I have no knowledge of others being involved in a ‘cover-up’ of any kind. I have addressed the position with respect to this in response to question 5 above.

- i. **At any time during your employment with Ofgem were you involved in, or aware of, anything that could be construed, or misconstrued, as a “cover-up”? If the answer is ‘yes’, then please provide a full explanation of the facts and circumstances.**

106. No. I categorically refute this insofar as it relates to myself, and I have no knowledge of others being involved in a ‘cover-up’ of any kind. I have addressed the position with respect to this in response to question 5 above.

- j. **Please set out anything else you wish to say in relation to what is said to be an email from Mr Fyfe to PCAW of 3 February 2017.**

107. I have now addressed this at length, both here and in response to question 6. I have nothing further to add.

Generally

Question 8:

Please set out any other information of which you consider the Inquiry should be aware.

108. I feel compelled to repeat, in concluding this statement, that I categorically refute a number of unfounded assertions made by Mr Fyfe in his statement as I have addressed in detail above. In summary, **I would like to make it clear here that**

I can categorically state that I have never, on any occasion, made any attempt to remove, amend, delete, destroy, or improperly conceal any information in relation to Ofgem's administration of the RHI scheme.

Responding specifically to the sentence in the email of Mr Fyfe in his email of 20 January 2017, **I have made no attempt to 'cleanse and make clean' any evidence (damning or otherwise) in relation to the RHI**, including in relation to Ofgem's management or mismanagement of the RHI. I would note that Mr Fyfe qualified this statement by stating 'I feel', and I do not believe the information put to me provides any further information on this matter to which it is possible to respond. In summary, and as I have set out before the Inquiry, my approach has always been to act with integrity, and in line with the Civil Service code, and I have responded to every question that has been asked of me honestly and truthfully.

109. I also note that it has been necessary for me to refer to certain matters of a personal nature in relation to Mr Fyfe, in order to fully address the questions asked and to give appropriate context to my responses. I would note that, out of respect for the privacy of the individual concerned, I have not elaborated in this written statement beyond the extent that I believe is required. And I have done so in the knowledge that the Inquiry will, as part of its processes, consider carefully which of this material may ultimately be published.
110. Mr Fyfe's allegations are unsubstantiated and based upon conjecture and surmises, without any direct supporting evidence. His serious allegations have not been tested by the Inquiry, yet they have the potential to cause significant damage to my employment prospects and reputation as an individual and as a civil servant. Therefore, I emphasise the need for the Inquiry to give due consideration to the evidence and, in fairness to me, should there be reference to these allegations against me in the Inquiry's final report, I would respectfully ask the Inquiry to make a clear and unequivocal statement in its final report that there is no evidence of me having engaged in the conduct that has been the subject of the allegations raised against me.



Statement of Truth

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

Signed:

Dated: 29th January 2019

24 February 2017

Friday

February 2017

Mo	Tu	We	Th	Fr	Sa	Su
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28					

March 2017

Mo	Tu	We	Th	Fr	Sa	Su
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

FRIDAY		Daily Task List
	24	Arrange by: Due Date
	Conference Call Number (Room 2A1 - 020 7901 7376) - Gareth John	
	GJ A/L - Gareth John	
	MT WFH - Marc Tischler	
07		
08		
09	St Nicholas Court Farm Ofgem, 9 Millbank, Westminster SW1P 3GE Edmund Ward	
10		
11	Catch up TBC; Tasfin Ahmed	
12		
13	Payments start stop review CR6 Vanessa Cook	
14	Edmund to dig out documents	Weekly Catch-up with Band E's: EW/TC/J 2C1 / LGF Gareth John
15		
16	Revisiting the HVP review threshold with more data Conference Room 7 Melissa Vogeley	
17	Mili's leaving drinks Marquis, then the Rose (booked from 7pm) Milica Malic	
18		