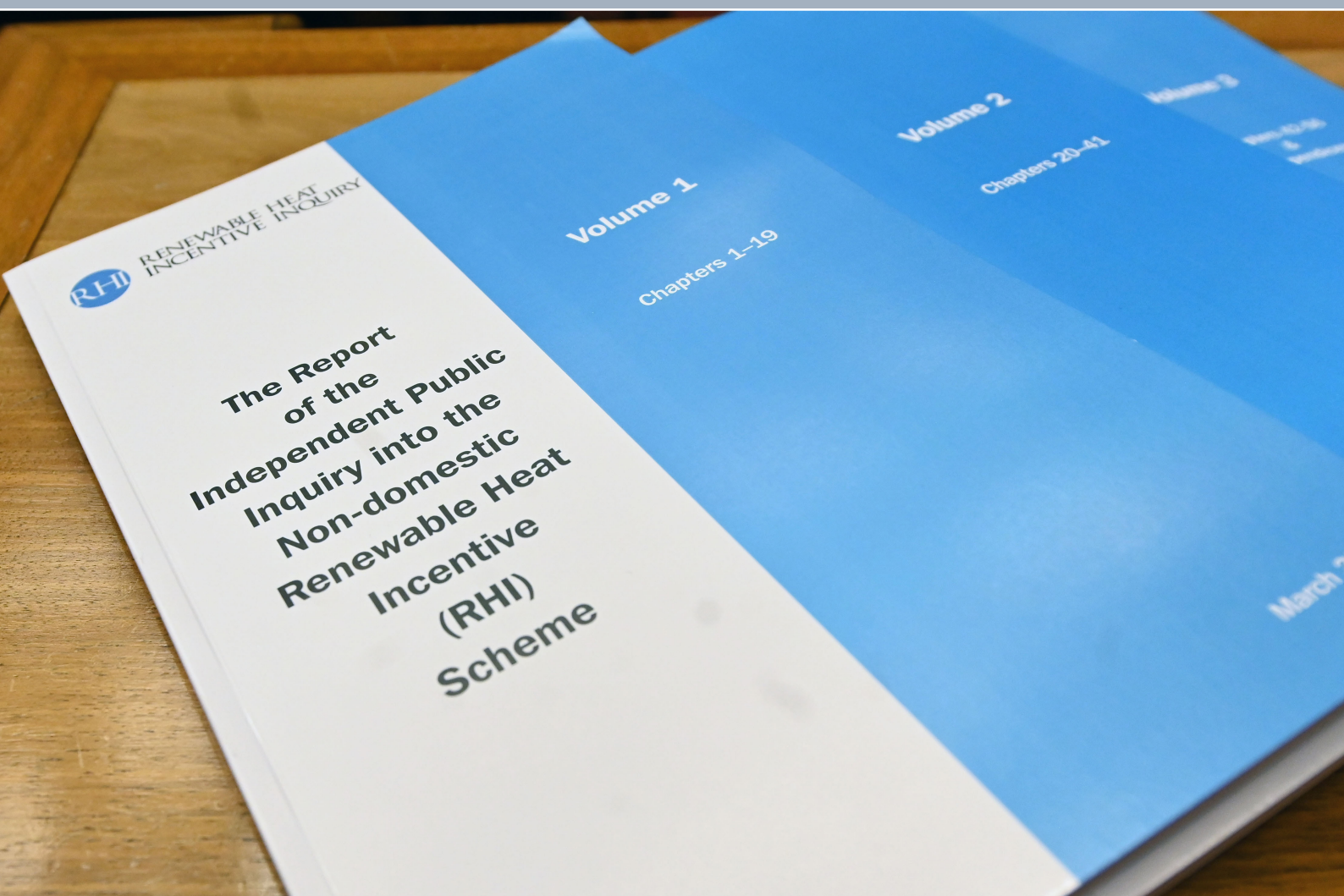




Northern Ireland Audit Office

# Northern Ireland Non-Domestic Renewable Heat Incentive Scheme: Progressing implementation of the Public Inquiry recommendations



REPORT BY THE COMPTROLLER AND AUDITOR GENERAL  
22 March 2022

This report has been prepared under Article 8 of the Audit (Northern Ireland) Order 1987 (for presentation to the Northern Ireland Assembly in accordance with Article 11 of the Order).

K J Donnelly CB  
Comptroller and Auditor General  
22 March 2022

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## List of Abbreviations

Acronym	Definition
ALB	Arm's Length Body
AME	Annually Managed Expenditure
C&AG	Comptroller and Auditor General
CLG	Chairpersons' Liaison Group
CPD	Construction and Procurement Delivery
DEL	Departmental Expenditure Limit
DETI	Department of Enterprise, Trade and Investment
DfE	Department for the Economy
DoF	Department of Finance
FBC	Full Business Case
GB	Great Britain
GIAFIS	Group Internal Audit and Fraud Investigation Service
GOST	Government On-line Skills Tool
HMT	Her Majesty's Treasury
HPRM	Hewlett Packard Records Management
HR	Human Resources
kW	Kilowatt
kWh	Kilowatt Hour
NI	Northern Ireland
NIAO	Northern Ireland Audit Office
NICS	Northern Ireland Civil Service
OBC	Outline Business Case
ODT	Organisational Development and Transformation Programme
Ofgem	The Office of Gas and Electricity Markets
PAC	Public Accounts Committee
PfG	Programme for Government
P3O	Portfolio, Programme and Project Offices
RHI	Renewable Heat Incentive
SIB	Strategic Investment Board
SOC	Strategic Outline Case
SRO	Senior Responsible Owner
UK	United Kingdom
VBO	Voluntary buy-out

## Executive Summary

### Background

1. In November 2012, the Department for the Economy (DfE)<sup>1</sup> launched the Non-Domestic Renewable Heat Incentive scheme (the RHI scheme). The objective of the RHI scheme was to encourage the uptake of renewable heating solutions over conventional heating solutions by providing long-term financial support to participants.
2. The design of the RHI scheme contained critical flaws that enabled participants using medium-sized biomass boilers to claim financial support from the government in excess of the cost of fuel burnt. In effect, this created a perverse incentive for scheme participants to generate excessive heat to increase their financial support.
3. Uptake on the scheme was initially slow and the RHI scheme was under-budget in its early years. However, by the middle of 2015, the opportunity to profit through the scheme had become more widely known and applications increased significantly. Legislative changes, to add a form of cost control to the scheme through tiering, were introduced in September 2015 but only took effect in November 2015, causing a surge of applications in the interim.
4. The Comptroller and Auditor General (C&AG) qualified his opinion on DfE's 2015-16 accounts. He estimated that the flaws in the scheme would have a potential impact on the Northern Ireland block grant of approximately £140 million over the next five years. He also identified the likelihood of significant scheme overspends for many years as applicants were to receive returns for 20 years.
5. In January 2017, the Independent Public Inquiry into the Non-Domestic Renewable Heat Incentive (RHI) Scheme (the RHI Inquiry) was established. The purpose of the RHI Inquiry was to investigate and report on the RHI scheme and make observations as considered appropriate. In March 2020, the RHI Inquiry published '*The Report of the Independent Public Inquiry into the Non-Domestic Renewable Heat Incentive (RHI) Scheme*' (the Report) which contained 314 findings and 44 recommendations. All findings and recommendations were accepted by the NI Executive.
6. As recommended by the RHI Inquiry, this report provides an update on the non-domestic RHI scheme and tracks progress by the Northern Ireland (NI) Executive and NI Civil Service (NICS) in implementing the recommendations from the RHI Inquiry up to September 2021. The NICS has continued to progress reform work in the period since September 2021 and this work, as well as any future work on reform, will be considered in future iterations of this report.

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<sup>1</sup> In May 2016, under the Departments Act (Northern Ireland) 2016, the Department of Enterprise, Trade and Investment merged with the Department of Employment and Learning to form the Department for the Economy.

#### *Update on the RHI scheme*

7. Steps were taken to control the cost of the RHI scheme prior to the work of the RHI Inquiry, with the introduction of tiering and caps on support for applicants accredited after 18 November 2015. The RHI scheme was closed to new applicants in February 2016.
8. Cost controls for scheme participants accredited before 18 November 2015 were not introduced until 2017, when the tariff payable for heat generated for 1,314 hours (equivalent to 15 per cent of total hours in a year) was reduced. More recently, payments were capped at the 1,314 hour threshold and the tariff payable was more sharply reduced.
9. These changes have significantly reduced the cost of the RHI scheme. In 2020-21 the scheme reported an underspend of £26 million, which will be returned to HM Treasury. Four years earlier, in 2016-17, the overspend position for the scheme was £27 million, which was funded by the NI Executive.
10. Although heat produced fluctuates within any given year, to account for seasonal demand, the introduction of tariffs and caps on funding has resulted in a significant reduction in the output of renewable heat generated by scheme participants. For example, the average monthly eligible heat output in kilowatt hours (kWh) for the three months ending March 2017 was 100,080 kWh, compared to 64,246 kWh for the three months ending March 2021.
11. In February 2021, a consultation was launched to gauge opinion on the future of the RHI scheme. The Executive's preferred option, presented in the consultation document, was to close the scheme and provide compensation to legitimate participants. No final decision on the future of the Scheme has yet been reached by the Executive.

#### *Update on the RHI disciplinary process and governance at the Department for the Economy*

12. The Department of Finance (DoF) established an external, independent panel to consider whether or not there was a need to invoke the disciplinary process in relation to civil servants based on the contents of the RHI Inquiry Report. This external panel commented on fourteen individuals, recommending disciplinary charges should be considered at misconduct level for eleven individuals, and that no action should be taken in relation to three individuals. In regard to the eleven individuals, an internal NICS panel and a UK Government Cabinet Office panel concluded that charges of gross misconduct should be considered for six individuals and misconduct for four individuals; the internal panel further determined that the disciplinary process action should not be invoked in relation to one individual. At the point of four cases having been heard by the NICS panel legal action was launched which stayed the process. At that stage four cases had been heard. Ultimately, one individual received a written warning for misconduct; three cases were concluded on the basis of no evidence to support the allegations; three cases on the basis of no further action; two cases on no case to answer; and one case was closed as the individual was no longer employed by the NICS.
13. DfE was subject to much criticism during the course of the RHI Inquiry and in the Report. Whilst the recommendations within the Report primarily concerned government or the civil service as a whole, rather than individual departments, we contacted DfE and requested an overview of the changes and improvements made in governance at the Department since the RHI Inquiry commenced. Details of information provided to us by DfE in relation to



improvements introduced are set out in [Part Two](#) of this report.

***Progress with the implementation of the RHI Inquiry's recommendations***

14. Following publication of the Report, the NI Executive established a dedicated Sub-committee on Reform Following the RHI Inquiry (the Executive Sub-Committee) to oversee the response by government to the RHI Inquiry's findings and recommendations. The Executive Sub-Committee is principally assisted in this task by DoF.
15. Following the first meeting of the Executive Sub-committee in July 2020, a commitment was made to produce an action plan in response to the RHI Inquiry by the autumn of 2020. This commitment, and a later revised commitment to publish an action plan by Christmas 2020, lapsed. The *'Executive Response to the RHI Inquiry Report Recommendations and Action Plan'* was finally published in October 2021.
16. Work to address the findings emerging from RHI and during the course of the RHI Inquiry's hearings commenced before the return of the NI Executive in January 2020 and before publication of the Report in March 2020. This work has centred around seven themes:
  - ministers and special advisers;
  - professional skills;
  - resourcing and people;
  - collaboration and communication;
  - governance and financial controls;
  - record keeping; and
  - raising concerns.
17. Of the 44 recommendations made by the RHI Inquiry in the Report, 42 have been allocated by DoF to one of the seven themes. The remaining two recommendations are the responsibility of the NI Assembly and the Northern Ireland Audit Office (NIAO).
18. We have reviewed the actions taken to date against each of these recommendations, or discrete elements of these recommendations where appropriate, and based on the actions taken to date or the planned future actions we have assessed whether a recommendation is implemented, likely to be implemented or not likely to be implemented. The results of this assessment are summarised below.

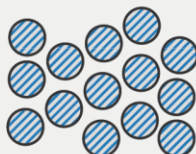


**Just over three quarters of the recommendations made have either been implemented or are likely to be implemented**

**18 implemented**



**14 likely to be implemented**



**10 where planned actions are not likely to address the recommendation**



THEME	NUMBER OF RECOMMENDATIONS	
Ministers and Special Advisors	10	●●●●●●●●●●
Professional skills	10	●●●●●●●●●●
Governance and financial controls <sup>1</sup>	10	●●●●●●●●●●
Resourcing and people	4	●●●●
Raising concerns <sup>1</sup>	4	●●●●
Record keeping	3	●●●
Collaboration and communication	2	●●

**NOTE**

<sup>1</sup> Recommendation 32 has been split by DoF into two distinct elements, each addressing a separate theme. As one element is currently assessed as Not currently likely to be implemented, the recommendation as a whole is assessed as such and not double counted for totalling purposes.

### Conclusion

- Two years on from the publication of the RHI Inquiry Report, progress in addressing the recommendations has been disappointing in areas. Only 18 of the recommendations can be categorised as implemented and in some themes there has been minimal progress. We concluded that actions planned in response to 10 recommendations were unlikely to address the concerns of the Inquiry in full. The remaining 14 recommendations relate to areas where planned action will take some time to embed but will, in our view, eventually address the Inquiry concerns. More detail on individual recommendations is set out in [Part Three](#) of this report. Full details of actions proposed across the NICS is provided in the separate [Annex illustrating progress against individual RHI Report recommendations](#) attached to this report.

20. In response to the actions taken by the NICS and to ensure that effective procedures are embedded we have raised three recommendations:

**Recommendation 1 (paragraph 3.7)**

We recommend that the Group Internal Audit and Fraud Investigation Service (GIAFIS) within the NICS monitor compliance with requirements for the DoF to maintain and publish registers of declared interests, lobbying and meetings as appropriate.

**Recommendation 2 (paragraph 3.13)**

We recommend that attendance at departmental inductions and developmental training for Ministers and Special Advisers should be regarded as compulsory within a reasonable timeframe of assuming their position, as circumstances permit. Departments should take all possible steps to encourage attendance by their minister.

**Recommendation 3 (paragraph 3.53)**

We recommend that GIAFIS monitor compliance with standards and processes for record keeping across all departments on an ongoing basis, particularly where matters should be documented for complex or major decisions.

21. Given the limited progress to date, we intend to continue monitoring the work of the Executive Sub-committee and relevant developments across the NICS.

## Part One: Introduction and background

The Northern Ireland Non-Domestic Renewable Heat Incentive Scheme was introduced in November 2012 to encourage businesses to switch from conventional to renewable heat sources

- 1.1 DfE<sup>2</sup> is responsible for implementing appropriate policies to support the development of renewable heat technologies. In November 2012, DfE introduced the Northern Ireland Non-Domestic Renewable Heat Incentive Scheme (the RHI scheme) which offered long term, public sector, financial support<sup>3</sup> to commercial, public or industrial premises switching from conventional to renewable heating technologies, such as biomass fuelled boilers.
- 1.2 Payments through the scheme were set out in a tariff system which remunerated successful applicants on the basis of pence per kilowatt hour of heat generated. Individual payments covered capital and operating costs over the lifetime of the technology and varied depending on the heating technology adopted and the output generated. Participation in the RHI scheme was to last for a period of 20 years from the initial date of an installation's accreditation. The RHI scheme was based on the GB Renewable Heat Incentive Scheme but operated with different tariff rates and crucially the absence of cost controls such as a tiered tariff structure.

The scheme inadvertently incentivised businesses to burn more because the tariffs offered were higher than the cost of producing the heat

- 1.3 In early 2015, it became apparent that the tariff support for small and medium scale biomass was set at a level higher than the actual cost of producing the heat and, as a result, businesses were incentivised to attract additional financial support by producing more heat than they needed. As a consequence of this incentive, it transpired that the cost of the RHI scheme would exceed the available budget for 2015-16 and future years.
- 1.4 To address the impact of this, DfE amended conditions for **new** applicants (after 18 November 2015) by introducing a tiered tariff structure and setting a heat generation limit for small and medium biomass installations, which account for 98 per cent of accredited installations. However, application numbers spiked prior to the introduction of the new tariff structure and additional pressure was placed on the budget. The RHI scheme was suspended to new applicants on 29 February 2016.

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<sup>2</sup> In May 2016, under the Departments Act (Northern Ireland) 2016, the Department of Enterprise, Trade and Investment merged with the Department of Employment and Learning to form the Department for the Economy.

<sup>3</sup> The Scheme was to contribute to the 2009 Renewable Energy Directive (2009/28) UK target of increasing the UK share of renewable energy to 15 per cent by 2020 and the NI Executive Programme for Government (PfG) target of achieving 4 per cent of renewable heat by 2015. The PfG target was an interim milestone towards achieving the target of 10 per cent renewable heat by 2020 (as set out in the Executive's Strategic Energy Framework).

Legislative changes to the RHI scheme's tariffs, which limited payments, are potentially subject to legal action

- 1.5 Even with suspension of the RHI scheme to new applicants, payments due were set to breach available budgets. To address this, DfE introduced the Renewable Heat Incentive Scheme (Amendment) Regulations 2017 which extended the tiered tariff and cap to all small and medium biomass installations. In the absence of devolved government, the UK Parliament extended the 2017 tariff structure for a further 12 months through the Northern Ireland (Regional Rates and Energy) Act 2018 and then drastically reduced the tariffs under the Northern Ireland (Regional Rates and Energy) Act 2019. Judicial reviews against the 2017 and 2019 legislative changes to the RHI scheme's tariffs have been unsuccessful to date, however, they may be subject to further appeal.
- 1.6 The Northern Ireland (Regional Rates and Energy) Act 2019 also allowed DfE to operate voluntary buy-out (VBO) arrangements during the period while there was no NI Executive. On 14 October 2019, DfE called for applications under the 2019-20 VBO arrangements which were open until November 2019.

Under *New Decade, New Approach*, the RHI Scheme is expected to be closed. The results of a public consultation will inform the Executive's final decision on the way forward

- 1.7 The NI Executive's publication *New Decade, New Approach*<sup>4</sup> stated the intention that: "RHI will be closed down and replaced by a scheme that effectively cuts carbon emissions". On 23 March 2020, DfE advised applicants that the 2019-20 VBO arrangements would be halted and no offers were issued. VBO arrangements ceased, in order to ensure equitable treatment of all participants as the options for the future of the scheme were developed.
- 1.8 DfE launched its consultation on the future of the RHI scheme on 11 February 2021. While the NI Executive's preferred option is to close the scheme and provide compensation for legitimate participants, the outcomes of the consultation, which was open until 9 April 2021, will inform the NI Executive's final decision. The consultation document acknowledged that the existing RHI Scheme failed to effectively reduce carbon emissions by incentivising the efficient use of renewable heat whilst providing value for money to the taxpayer.
- 1.9 DfE launched a new energy strategy for Northern Ireland in December 2021. This strategy sets out Northern Ireland's policy to support the achievement of the UK Government's legislative target of net-zero carbon and affordable energy by 2050. Three targets were also set: to deliver energy savings of 25 per cent from buildings and industry by 2030; to meet at least 70 per cent of electricity consumption from a diverse mix of renewable sources by 2030; and to double the size of the low carbon and renewable energy economy in NI to a turnover of more than £2 billion by 2030.

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<sup>4</sup> The *New Decade, New Approach* (NDNA) document, published in January 2020 by the UK and Irish Governments, provided the basis for restoration of devolution in Northern Ireland.

The 2015-16 DfE financial statements were qualified on the basis of two issues relating to the operation of the RHI scheme

- 1.10 The Comptroller and Auditor General (C&AG) for Northern Ireland qualified<sup>5</sup> his opinion on the DfE 2015-16 financial statements following identification of two issues, both relating to the RHI scheme.
- 1.11 The first qualification issue related to RHI scheme expenditure of £11.9 million which had not been approved by the DoF<sup>6</sup>. The second qualification issue concerned the absence of robust DfE systems to prevent or detect scheme abuse, which prevented the C&AG from securing sufficient assurance that £30.5 million RHI scheme expenditure had been incurred for the purposes intended.
- 1.12 The C&AG reported that the RHI scheme, estimated to cost £140 million over the following five years, had “serious system weaknesses from the start” and did not “include any viable cost controls”. Key weaknesses identified included the absence of tiered tariff rates, to reduce payments as heat output increased above thresholds, and the requirement for DfE to adhere to agreed tariffs regardless of the level of demand for, or uptake of, the scheme. The combination of these weaknesses created a perverse incentive for successful applicants<sup>7</sup> to needlessly burn fuel to generate a greater financial return.

The RHI Inquiry was established in January 2017 to investigate, inquire into and report on the failings of the RHI Scheme

- 1.13 The Independent Public Inquiry into the Non-Domestic Renewable Heat Incentive (RHI) Scheme (the RHI Inquiry) was formally established in January 2017<sup>8</sup>. The Chair, a retired Lord Justice of Appeal, was assisted by a former senior civil servant from the Home Civil Service with previous public inquiry experience and an energy industry and policy expert. The RHI Inquiry team was supported by dedicated expert legal and administrative support teams.

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<sup>5</sup> An auditor expresses a qualified opinion when either misstatements, individually or in the aggregate, are material but not pervasive to the financial statements; or the possible effects on the financial statements of undetected misstatements, arising from an inability to obtain sufficient appropriate audit evidence, could be material but not pervasive.

<sup>6</sup> Under the Departments Act (Northern Ireland) 2016, the Department of Finance and Personnel was renamed the Department of Finance.

<sup>7</sup> This related to 100 kilowatt (kW) biomass boilers and arose because the tariff available from DfE exceeded the cost of the biomass fuel.

<sup>8</sup> The RHI Inquiry was established under the Inquiries Act 2005 (Section 1).

1.14 The purpose of the RHI Inquiry was:

- “To investigate, inquire into and report on the Non-Domestic Renewable Heat Incentive Scheme (“the RHI scheme”). This will include its design, governance, implementation and operation, and efforts to control the costs of that scheme, from its inception in 2011 to the conclusion of the Inquiry”; and
- “To make findings of fact, report on these matters and to make such other observations and recommendations as the Inquiry considers appropriate.”

The RHI Inquiry commenced its work in early 2017 and reported its findings in March 2020

1.15 The RHI Inquiry commenced its work on 1 February 2017. Evidence was gathered from written witness statements, oral evidence hearings and documents obtained following issue of over 800 statutory ‘Section 21 Notices’<sup>9</sup> to individuals and organisations.

1.16 The RHI Inquiry’s oral evidence sessions ended on 26 October 2018 and closing submissions were completed on 14 December 2018. Witness statements continued to be received for several months during 2019. The RHI Inquiry Report (the Report) was published on 13 March 2020. Following publication of the Report, the RHI Inquiry closed its offices on 30 June 2020.

1.17 The Report concluded that the “vast majority of what went wrong was due to an accumulation and compounding of errors and omissions over time and a failure of attention, on the part of all those involved in their differing roles, to identify the existence, significance or implications of those errors and omissions.”

All of the RHI Inquiry’s report findings and recommendations were accepted by the Northern Ireland Executive

1.18 The RHI Inquiry’s report included 314 findings and made 44 recommendations. On 16 March 2020, the Minister of Finance confirmed that all findings had been accepted by the NI Executive and that it would move immediately to consider how the recommendations could be taken forward.

1.19 An Executive Sub-Committee on Reform Following the RHI Inquiry (the Executive Sub-Committee), chaired by the Finance Minister and which included representation from all Northern Ireland political parties, was established<sup>10</sup> to consider the findings of the RHI Inquiry and “to recommend to the Executive any further work to be commissioned to rebuild public confidence”. The Executive Sub-Committee was to “produce and publish an action plan by the autumn outlining how the sustained, system-wide change that is needed to rebuild public confidence will be implemented.”

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<sup>9</sup> Under Section 21 of the Inquiries Act 2005, the chairman of an inquiry may, by notice, require a person to attend to give evidence or to produce documents or anything else in his custody relevant to a matter in question at the inquiry.

<sup>10</sup> Under the *New Decade, New Approach* agreement.

- 1.20 The commitment to publish an action plan by the autumn of 2020 lapsed, as did a revised commitment to publish by Christmas of 2020. The NI Executive approved the Executive Response to the RHI Inquiry Report Recommendations and Action Plan (the Executive Response and Action Plan) on 7 October 2021 and the Executive Response and Action Plan was subsequently published on 16 October 2021.

[The Northern Ireland Assembly's Chairpersons Liaison Group has included a recommendation from the RHI Inquiry on its forward work programme](#)

- 1.21 The RHI Inquiry Report<sup>11</sup> recommended that the Northern Ireland Assembly “should consider what steps are needed to strengthen its scrutiny role, particularly as conducted by Assembly Committees.” This recommendation arose in response to the Inquiry’s finding that the Northern Ireland Assembly Committee for the Economy<sup>12</sup> had failed to act as an effective check in scrutinising the RHI scheme.
- 1.22 The Chairpersons’ Liaison Group (CLG)<sup>13</sup> has included responding to this recommendation within its forward work programme, with terms of reference for a review on the effectiveness and resourcing of Assembly committee scrutiny agreed in May 2020. The CLG has also received briefs and presentation of research and best practice on the subject of strengthening the scrutiny role of Assembly Committees.
- 1.23 Assessing this work, and any such work performed by the Northern Ireland Assembly to strengthen its scrutiny role, is excluded from the scope of this report and future reports. We will however continue to report progress for information purposes.

[This report presents the first update on the implementation of the lessons learned and response to recommendations from the RHI Inquiry’s report](#)

- 1.24 The RHI Inquiry’s report highlighted that “often, once a public inquiry has completed its work, recommendations that it has made may not be given effect by those whose responsibility it is to do so. There can be a wide variety of reasons for this; some better than others”. As a mechanism for avoiding a similar outcome in this case, the C&AG was asked to monitor and, as necessary, pursue the effective implementation of this Inquiry’s recommendations and report its findings to the Northern Ireland Assembly and the people of Northern Ireland.

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<sup>11</sup> Included in the Report as recommendation 38.

<sup>12</sup> The Northern Ireland Assembly Enterprise, Trade and Investment Committee was renamed the Committee for the Economy following the restructuring of Northern Ireland departments under the Departments Act (Northern Ireland) 2016.

<sup>13</sup> The Chairpersons’ Liaison Group is made up of the Chairpersons of all Statutory and Standing Committees within the Northern Ireland Assembly. It fulfils a strategic and practical liaison role, helping to develop common approaches to common problems and promoting good practice across Committees.



- 1.25 In line with that recommendation, this first update report assesses and validates “the extent of progress in implementing the lessons learned from the NI RHI scheme and implementing these recommendations”.

Reform and transformation of culture and practice has been a key focus for both the NICS and the NIAO in recent years

- 1.26 The RHI Inquiry cast a spotlight on cultural and procedural failings within the NICS. Cultural issues identified included failings in the key areas of risk management and governance, which are particularly important when designing and operating novel and complex schemes, such as RHI.
- 1.27 Work on reform and transformation has been a key civil service focus for several years now, and in turn we have performed several pieces of work on this subject which deal with specific issues raised by the Inquiry:
- I. *Records matter: a view from regulation and oversight bodies on the importance of good record keeping* (January 2020)
  - II. *Raising Concerns: A Good Practice Guide for the Northern Ireland Public Sector* (June 2020)
  - III. *Capacity and Capability in the Northern Ireland Civil Service* (November 2020)
- 1.28 We also intend to publish a good practice guide on Developing Policy in our future work programme.

We have considered the actions taken to date and further proposed actions, and assessed whether these are sufficient to fully implement the recommendations of the RHI Inquiry

- 1.29 The purpose of this report is to consider whether the actions taken to date by the NI Executive and NICS, and any further proposed actions, are likely to be sufficient to address the recommendations raised by the RHI Inquiry:
- Part Two presents an update on the RHI scheme itself, including heat output and the financial position of the scheme, as well as governance changes at the responsible department, the Department for the Economy.
  - Part Three considers the actions taken to date by the NI Executive and the NICS against the recommendations from the RHI Inquiry, as well as considering the potential impact of actions proposed to be taken in the future.

- 1.30 We have considered progress achieved by the end of September 2021. Due to the long-term nature of many of the actions, it was not possible, at this stage, to offer a definitive view on their effectiveness. We will only have full confidence in the measures taken over a period of time when it becomes clearer that similar issues do not continue to arise in either new energy schemes or other parts of the public service. We will revisit this in future reports. We acknowledge also that the NICS has continued to make improvements in the interim period between this report's launch and the end of September 2021 when we have assessed progress, and will assess the impact of such improvements in any future report on this topic.
- 1.31 Our review used a range of investigative and research methods. Our audit methodology is set out in [Appendix One](#).

## Part Two: RHI scheme developments since 2017

Since April 2017, both DfE and the UK Government have introduced various tariff reductions for medium biomass boilers to reduce future expenditure through the RHI scheme

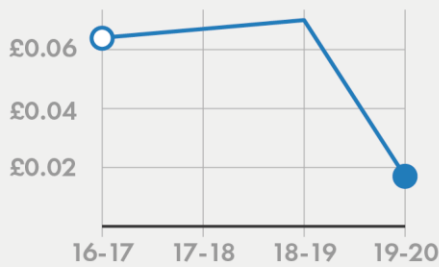
- 2.1 While the 2012 NI RHI scheme was based on the 2011 GB Renewable Heat Incentive Scheme, the inclusion of different tariff rates based on incorrect assumptions and the absence of cost control measures such as a tiered tariff structure for NI applicants proved to be critically flawed.
- 2.2 In combination, the flaws in the RHI scheme inadvertently created a financial incentive for scheme participants to produce more heat than they required. This, coupled with the popularity of scheme, had serious budgetary consequences, overcompensated participants and, most significantly, undermined the environmental objectives of the scheme.
- 2.3 Budgetary overspends in the three years to 2017-18<sup>14</sup> amounted to almost £34 million. In an attempt to reduce the level of recurring overspends, the Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2015 were enacted to introduce tariff tiering and set an annual cap on the level of heat generated by small and medium biomass installations accredited after 18 November 2015. However, those installations accredited **before** 18 November 2015 continued to receive tariffs without tiering and without a cap, creating further pressure on public expenditure within Northern Ireland.
- 2.4 The Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2016 gave DfE the power to suspend the scheme to new applicants. This step was taken on 29 February 2016.
- 2.5 Since 1 April 2017, further tariff reductions have been enacted. [Figure 2.1](#) sets out the tariff rates payable for a typical 99 kilowatt (kW) boiler accredited onto the scheme before 18 November 2015.
- 2.6 In addition, the introduction of a tier system (effective from 1 April 2017) reduced the tariff payable to owners generating heat for 1,314 hours or more (which is 15 per cent of total hours in a standard year of 8,760). For heat generated in excess of 1,314 hours, no tariff is paid to the owner.

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<sup>14</sup> Annual overspends were as follows: 2015-16 - £4.7 million; 2016-17 - £26.9 million; 2017-18 - £2.2 million.

**Figure 2.1 Tariffs have reduced over the life of the scheme for those accredited onto the scheme prior to 18 November 2015**

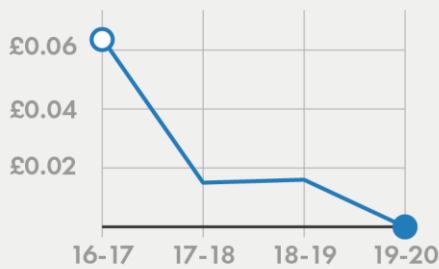
**AMOUNT PAID PER kWh UP TO 1,314 kWh**



In 2016-17 the tariff payable was 6.5p/kWh, which was subject to annual inflationary uplifts in the following two years, increasing to 7p/kWh in 2018-19.

A significant reduction was then applied in 2019-20 to 1.7p/kWh which remains the current rate.

**AMOUNT PAID PER kWh ABOVE 1,314 kWh**



In 2016-17 there was no difference in the tariff payable for outputs beyond 1,314 kWh/hour: 6.5p/kWh.

In 2017-18 a lower tariff was applied (1.6p/kWh rising to 1.7p/kWh in 2018-19) and a maximum output of 400,000 kWh introduced.

In 2019-20 the tariff payable for any outputs above 1,314 kWh was reduced to zero.

Source: Department for the Economy

- 2.7 As a result of the reduced tariffs and heat output, expenditure through the RHI scheme as a whole (including the domestic RHI scheme) significantly reduced (see [Figure 2.2](#)). All budget underspends must be returned to HM Treasury.

**Figure 2.2 Expenditure incurred on the RHI scheme has fallen significantly**

In the last two years there have been significant underspends which have to be returned to HMT

	ANNUAL COSTS (£ MILLION)			ANNUAL FUNDING (£ MILLION)			ANNUAL UNDERSPEND
	NON DOMESTIC RHI SCHEME	DOMESTIC RHI SCHEME	TOTAL	NI SHARE OF UK RHI BUDGET	NI EXECUTIVE	TOTAL	
2016-17	42.3	2.9	45.2	18.3	26.9	45.2	0
2017-18	21.7	2.8	24.5	22.3	2.2	24.5	0
2018-19	21.1	2.7	23.8	25.7	0	25.7	-1.9
2019-20	3.8	2.9	6.7	28.9	0	28.9	-22.2
2020-21	2.9	4.4	7.2	33.5	0	33.5	-26.2

**NOTE**

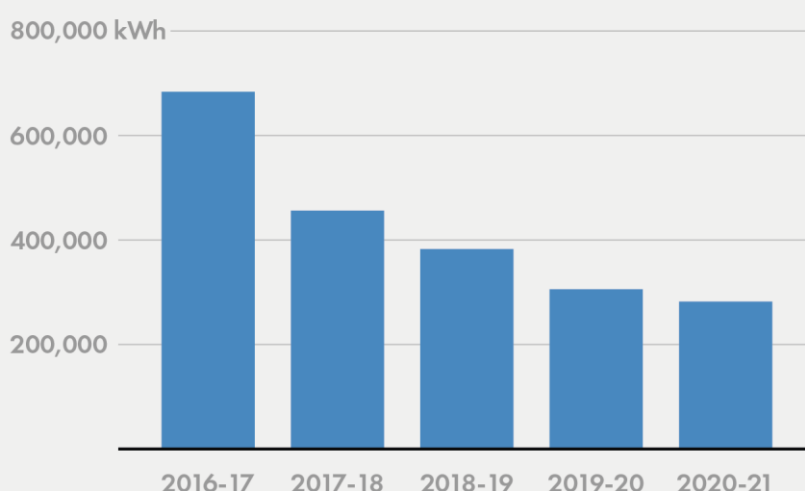
Columns and rows may not total correctly due to roundings

Source: Department for the Economy

- 2.8 The introduction of the reduced and tiered tariffs on 1 April 2017, alongside caps on usage, has reduced heat outputs, as shown in the below graph which demonstrates the total annual energy output under the scheme (see [Figure 2.3](#)).

**Figure 2.3 Annual energy outputs have fallen significantly since 2016-17**

**TOTAL ENERGY OUTPUT PER FINANCIAL YEAR**



Source: Department for the Economy

- 2.9 In February 2021, DfE launched a consultation which ran until April 2021 to gauge opinion on the future of the RHI scheme. Whilst the outcomes are not yet known, the consultation identified four options (see [Figure 2.4](#)):

**Figure 2.4 Options identified by the Department for the Economy for the future of the RHI scheme**

DfE CONSULTATION OPTION	DESCRIPTION
Option 1	Scheme remains operational for current participants with present tariffs for all technologies (status quo).
Option 2	Scheme remains operational for current participants with all tariffs subject to review and adjustments as necessary.
Option 3	Scheme closure with no further payments made to participants.
Option 4	Scheme closure with compensation paid to legitimate current participants.

Source: Department for the Economy

- 2.10 The NI Executive's preferred option was "scheme closure with compensation paid to legitimate current participants". The indicative compensation payments for the operators of medium biomass boilers of 80-99 kW ranged from £33,000 to £35,500, dependent on the year the boiler was accredited for the scheme and whether any monies were owed in relation to compliance issues identified during inspection. The estimated cost of closure of the scheme under option four was £68.4 million. At this stage, no final decision on the future of the Scheme has been made by the Executive.

Disciplinary proceedings were instigated against a number of civil servants involved with the RHI scheme, with an independent panel established to consider potential disciplinary charges

- 2.11 An adapted disciplinary process was agreed by non-conflicted members<sup>15</sup> of the NICS Board<sup>16</sup> in November 2019. An independent panel was established by DoF in March 2020 to consider the RHI Inquiry's report and identify any potential disciplinary charges. This panel was external to the NICS and was composed of three experienced former senior civil servants from across the UK and Ireland. The purpose of the external panel was to identify potential disciplinary charges for consideration by an internal NICS panel of three non-conflicted Permanent Secretaries, or a separate UK Government Cabinet Office panel where potential charges were identified for NICS staff above Grade 3.
- 2.12 The external panel was asked to consider the contents of the RHI Inquiry Report and determine if in its view there had been potential breaches of NICS standards of conduct. The external panel commented on fourteen individuals, recommending disciplinary charges should be considered at misconduct level for eleven individuals, and that no action should be taken in relation to three individuals. In regard to the eleven individuals, an internal NICS panel and a UK Government Cabinet Office panel concluded that charges of gross misconduct should be considered for six individuals and misconduct for four individuals; the internal panel further determined that the disciplinary process should not be invoked against one individual.
- 2.13 In May 2020, the NICS internal panel held disciplinary proceedings in relation to four individuals, with a written warning of misconduct issued to one individual and misconduct charges were not upheld in the other three cases as there was no evidence to support the allegations. A judicial review was initiated against in June 2020, with the six remaining cases stayed.
- 2.14 The Cabinet Office stood down its disciplinary panel (which had been due to consider two cases) in December 2020 and the former Treasury Solicitor and Head of the Government Legal Department (and, in that capacity, adviser to the Cabinet Secretary) was engaged by the Cabinet Office to undertake a fact finding review of the evidence relating to the conduct of two civil servants, prior to the Cabinet Secretary holding the disciplinary hearings for the two cases which the NICS had referred to the Cabinet Office. Disciplinary hearings took place in January 2021 and the Cabinet Secretary concluded that, in each instance, there was no case to answer.

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<sup>15</sup> The two conflicted members included the Head of the Civil Service and another permanent secretary.

<sup>16</sup> The NICS Board comprises the departmental Permanent Secretaries and is chaired by the Head of the Civil Service.

- 2.15 In January 2021, the legal action was resolved and the NICS internal panel offered three of the four remaining individuals the choice of going through the same adapted process as the four other NICS cases considered to date (see [2.13](#)) or the disciplinary process as established in the NICS handbook. Each chose the handbook process and, following a preliminary enquiry, there was a determination of no further action in each case. The fourth remaining case was closed as the individual concerned was no longer employed by the NICS.
- 2.16 In our view, the gravity of the issues that were discussed on an almost daily basis during the RHI Inquiry would have led most people to believe that significant disciplinary consequences would have arisen from it and in that context the outcome seems surprising in that only one individual has received a written warning for misconduct. However, we are satisfied that the disciplinary process appears to have been followed properly. It is important that this experience is closely considered to identify any lessons that can be learned and built into the full and ongoing review of NICS disciplinary process initiated by the Minister for Finance.

#### [DfE has introduced improvements in its governance and oversight arrangements](#)

- 2.17 The RHI Inquiry recommendations generally apply to the NICS as a whole, rather than DfE specifically. Nevertheless, the findings of the RHI Inquiry's report specifically noted DfE failings. We engaged with DfE to understand the improvements made in areas of particular concern identified by the Inquiry, such as governance and risk management.
- 2.18 Following discovery of the RHI problems, DfE created a new Corporate Governance Division and developed a new Governance Strategy. The Corporate Governance Division, created in anticipation of the RHI Inquiry's report, is responsible for corporate governance functions and considers how the Department manages commercial relationships (including grant schemes). DfE told us that its Board has endorsed the new Governance Strategy which makes recommendations on DfE's culture, learning and development and leadership. Implementation of the Governance Strategy is being taken forward as part of the Organisational Transformation Programme referenced (see [2.24](#)), and by Corporate Governance Division itself.



- 2.19 The DfE Casework Committee is an important aspect of the Department's governance structure, designed to scrutinise significant expenditure proposals. The Committee attracted significant criticism from the Inquiry Team in relation to its consideration of the RHI business case. Specific criticisms included:
- the lack of separation between advisory and challenge functions and, as a result, a lack of independent scrutiny;
  - the significant errors, omissions and inconsistencies in the Business Case Addendum;
  - the presentation of misinformation where one attendee suggested that a decision had been taken at ministerial level to prioritise the domestic scheme over the introduction/deferral of cost controls; and
  - the five month delay in signing off the minutes of the meeting which the Inquiry Team found unacceptable and "clearly a practice that was not consistent with either efficient administration or the production of an accurate contemporary record of the meeting".
- 2.20 In July 2018, given the emerging problems with the RHI scheme, DfE's Internal Audit made twelve recommendations to improve the functioning of the Casework Committee.
- 2.21 Key changes made in response to these recommendations raised by Internal Audit include:
- clarifying the role of the Casework Committee to "deliver better value for money for the taxpayer by challenging expenditure proposals on the grounds of deliverability, affordability and value for money"; and
  - an explicit requirement for the senior Grade 3 official submitting the expenditure proposal to highlight complexities within the proposal which may require the Casework Committee to engage specialist skills or expertise to support their assessment.
- 2.22 A follow-up review by Internal Audit in September 2021 was satisfied that sufficient progress had been made in implementing the recommendations raised in July 2018, with only a single minor recommendation not implemented or partially implemented.
- 2.23 Furthermore, economists are now prohibited from being involved in both the spend proposal and providing advice to the Casework Committee, and DfE's Finance Division is also required to make a formal assessment of affordability. Several other minor improvements were also introduced following a further DfE review of the Casework Committee in April 2019.
- 2.24 DfE has also set up and launched an Organisational Development and Transformation Programme (ODT), which is the vehicle through which DfE intends to drive cultural change. The ODT Programme is taking forward DfE's response to a number of the RHI Inquiry's recommendations and findings and will be advanced under three pillars: Policy, People and Systems.

2.25 The improvements in governance structures at DfE noted above are welcomed. It is however critical that these are supported by an appropriate corporate culture grounded in the Nolan Principles and the highest standards in public life, underpinned by transparency.

2.26 Since the issues associated with RHI emerged, the NIAO has continued to observe a culture at DfE where on some occasions issues have not been shared with us. We have identified matters and reported on some separately, which have included:

- Non-disclosure of issues relating to the payment of Covid grants to wind turbines;
- Failure to get required approvals from DoF in an area of expenditure; and
- Retention of information which would have been relevant to one of our public reports.

2.27 We are therefore concerned at what can sometimes appear to be a closed and defensive approach to engagement on audit matters. This leads us to conclude that the culture within the Department has not yet changed sufficiently and we would urge continued improvement, especially in relation to openness.

#### Changes have been made in DfE's risk management processes

2.28 A new Corporate Governance Division now offers a risk management 'health check' to all business areas across DfE and to its Arms-Length Bodies (ALBs) on request. Guidance has been developed and issued to staff on when to escalate identified risks, including the introduction of escalation 'trigger points'. All risks rated as 'Extreme' are now formally considered for escalation to the Corporate Risk Register which is subject to the Departmental Board's attention. DfE has also introduced a web-based risk management database which centralises all the Department's risks and provides a more effective risk management tool, with a visual dashboard and automated alert and tracking functions.

2.29 DfE's Risk Management Framework was also reviewed in August 2020 to align it more closely with the revised HM Treasury Orange Book on the Management of Risk, formalising the process of reviewing Divisional risk registers and providing additional guidance on risk identification, assessment and treatment. Work is also ongoing to improve risk assessments concerning ALBs, and Partnership Agreements are being developed which will clarify engagement and information sharing expectations between DfE and each ALB with a phased introduction expected from April 2022. These Partnership Agreements are aligned to the principle of proportionate autonomy which will essentially increase the autonomy in well-performing and well-managed ALBs, while ensuring the Department exercises greater oversight over higher-risk ALBs.

- 2.30 DfE has told us that it is also undertaking improvement in commercial policy and skills development in line with its own strategic governance and capability plan. A Commercial Management Framework has been developed and implemented to support the design, commissioning, procurement, management and evaluation of all DfE spending arrangements. A Framework checklist is also in development to signpost individual roles and responsibilities at every stage of the commercial lifecycle. Further developments include a Commercial Induction Policy to ensure all new staff and job changers are aware of and understand their respective roles and responsibilities, including expert mentoring to support the practical acquisition of commercial knowledge and skills. DfE has also introduced a mandatory commercial development policy for all staff with a commercial role or responsibility, accredited development resources provided by Cabinet Office's Government Commercial College and aligned to their People Standards for the Profession. DfE is also in the process of implementing a new digital governance system through DoF's Enterprise Shared Services to improve transparency and both corporate and operational oversight of all DfE spending arrangements.
- 2.31 A dedicated Fraud and Raising Concerns branch has been established within the Corporate Governance Division to investigate concerns raised both internally and externally, and the branch has begun a series of reviews of the procedures and advice on undertaking fraud risk assessments within DfE. The head of this branch has experience investigating fraud and whistleblowing concerns. DfE has also given prominence on its website to its Raising Concerns guidance and how concerns can be raised by staff and members of the public.<sup>17</sup>

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<sup>17</sup> <https://www.economy-ni.gov.uk/raising-concerns-whistleblowing-guidance>

## Part Three – Assessment of progress with implementing the RHI Inquiry’s recommendations

The Executive Sub-committee on Reform Following the RHI Inquiry, supported by the NI Civil Service, has taken ownership of responding to the majority of the RHI Inquiry’s findings and recommendations

3.1 The 44 recommendations made by the RHI Inquiry address many different areas (see [Appendix Two](#)). To assist in responding to these recommendations, DoF categorised 42 of the recommendations into 7 thematic groupings. Of the two remaining recommendations, one relates to the Northern Ireland Assembly and one to the NIAO. The thematic groupings are:

- ministers and special advisers;
- professional skills;
- resourcing and people;
- collaboration and communication;
- governance and financial controls;
- record keeping; and
- raising concerns.

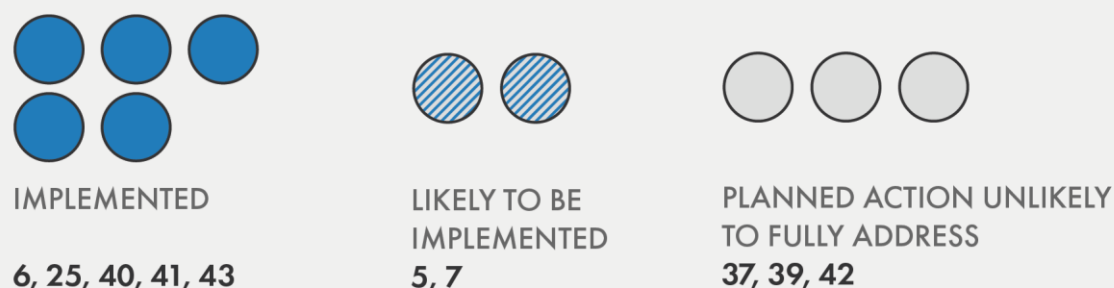
3.2 The NICS began considering how to respond to the RHI Inquiry during the course of the Inquiry’s work and in advance of publication of the final report. The above thematic groupings and many of the planned actions were identified in a draft lessons learned action plan developed during 2017 and 2018.

3.3 In this section of our report, we have assessed the progress made in addressing the Inquiry’s recommendations. By September 2021, we concluded that 18 recommendations had been fully implemented. A further 14 are likely to be implemented over time. In our view, the actions taken to date and further actions proposed to address the remaining 10 recommendations, whilst welcome, are not likely to be sufficient to address the concerns of the RHI Inquiry.

### Considerable progress has been made to address recommendations relating to Ministers and Special Advisers

3.4 The Executive Sub-Committee’s action plan notes ten recommendations made by the RHI Inquiry team under the grouping Ministers and Special Advisers (see [Figure 3.1](#)). These recommendations can be found in full in the [Annex illustrating progress against individual RHI Report recommendations](#).

**Figure 3.1 There were ten recommendations made within the Ministers and Special Advisors theme**



- 3.5 In our view, action has been taken to fully address five of these recommendations. Revised codes concerning the appointment of Special Advisors pre-empted the Inquiry's report and were issued in January 2020. The revised Special Adviser Code of Conduct, which was further revised in October 2021, clarifies that Special Advisors serve the Executive as a whole and not just their own Minister, and strengthens the record keeping requirements for Special Advisors to ensure all records are retained within official systems. In addition, departments are now required to publish the details of Special Advisors' meetings with external organisations each quarter, with these reports available on the Open Data NI portal<sup>18</sup>.
- 3.6 The Functioning of Government (Miscellaneous Provisions) Act, which received Royal Assent in March 2021, requires Ministers and Special Advisors to inform their department if they are lobbied, with the relevant department required to keep a record of this. In addition, under the Act, DoF is required to maintain and publish a register of interests for Ministers and Special Advisors, which includes gifts and hospitality. These reports are also available on the Open Data NI portal. Ministers and Special Advisors have 28 days from appointment, or from a change in registrable interests, to inform DoF of registrable interests for themselves, their spouses, partners and close family members.

#### **Recommendation 1**

- 3.7 **We recommend that the Group Internal Audit and Fraud Investigation Service (GIAFIS) within the NICS monitor compliance with requirements for the DoF to maintain and publish registers of declared interests, lobbying and meetings as appropriate.**

<sup>18</sup> <https://www.opendatani.gov.uk/dataset/special-adviser-meetings-with-external-organisations-individuals-january-to-june-2020>

- 3.8 The Functioning of Government (Miscellaneous Provisions) Act has also sharpened focus on recording keeping and information management, requiring in law that NICS departments have arrangements to ensure that records of relevant meetings between Ministers, Special Advisers, civil servants and third parties are made and retained. The Act also creates a specific criminal offence for Ministers and Special Advisers who disclose official information to third parties for improper benefit, with public interest or reasonable behaviour clauses. The revised NICS Code of Ethics<sup>19</sup> also reinforces the requirement to keep accurate official records, and practical considerations are aided by the Records Management Protocol for Special Advisers guidance.
- 3.9 In March 2020, a revised Ministerial Code of Conduct was produced together with new guidance for Ministers on their role and responsibilities, and this revised Ministerial Code of Conduct was enacted in legislation with the passage of the Northern Ireland (Ministers, Elections and Petitions of Concern) Act through the UK Parliament and receiving Royal Assent in February 2022. The revised Ministerial Code of Conduct enhances the requirements of Ministers regarding conflicts of interests, requiring them to ensure no conflicts of interest, and no perceptions of a conflict of interest, arise whereas previously Ministers merely had to declare their interests. The revised Ministerial Code also confirms Ministers responsibility for the management, conduct and discipline of their Special Advisers.
- 3.10 The RHI Inquiry (recommendation 43 – included in full in the [Annex illustrating progress against individual RHI Report recommendations](#)) recommended that the Northern Ireland Executive and Assembly ought to “give due consideration to an independent mechanism to assess compliance with codes of conduct in public life as they apply to Ministers and Special Advisers”. Under the Functioning of Government (Miscellaneous Provisions) Act, the remit of the Assembly Commissioner for Standards has also been extended to investigate and report on genuine complaints concerning potential breaches of the Ministerial Code. Furthermore, the Bill legislates that Special Advisers are subject to the disciplinary policies and procedures of the NICS, without ministerial interference.
- 3.11 A Panel for Ministerial Standards was proposed in March 2020 by the Executive as an independent mechanism to assess compliance with the Ministerial Code. The function of the Panel for Ministerial Standards is to investigate complaints of breaches of the Ministerial Code and report findings, including comment on the seriousness of any breach. The Panel has no reprimanding powers and its reports will not include suggested sanctions. Commissioners to the Panel are yet to be appointed, except for the implied appointment to the standing position on the Panel for the Assembly Commissioner for Standards acting ex officio.

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<sup>19</sup> The NICS Code of Ethics applies to Special Advisers (who are employed as temporary civil servants) except for the requirements to be appointed on merit and to behave with political impartiality and objectivity, and a revised version of the Code of Ethics was issued in February 2022.

- 3.12 As a routine matter, Ministers receive departmental inductions and briefings upon taking up their role and we understand that the Institute of Government is expected to deliver further development training for Ministers and Special Advisers when possible. The effectiveness of such support and training will need to be reinforced on an ongoing basis for new incoming Ministers. We also note that new guidance for supporting Private Offices was issued in July 2019, and further revised in March 2021 to take into account the Functioning of Government (Miscellaneous Provisions) Act.

**Recommendation 2**

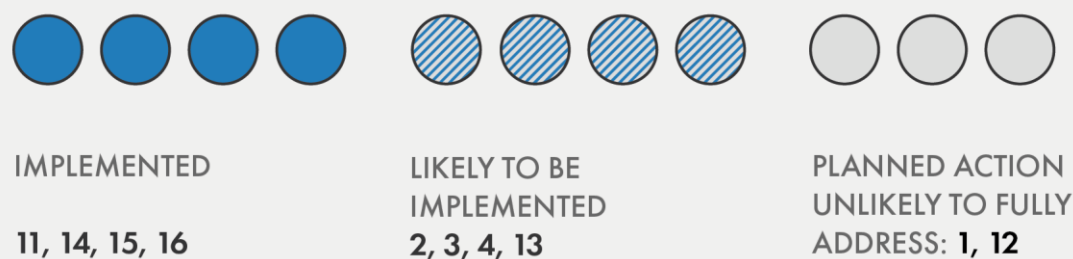
- 3.13 **We recommend that attendance at departmental inductions and developmental training for Ministers and Special Advisers should be regarded as within a reasonable timeframe of assuming their position, as circumstances permit. Departments should take all possible steps to encourage attendance by their minister.**
- 3.14 **In our view, the combination of actions made to date, together with those planned, will in time be sufficient to address seven of the ten recommendations of the RHI Inquiry in relation to Ministers and Special Advisers. We consider that additional work is required to address the three outstanding recommendations (37, 39 and 42) which relate to reducing organisational silos, ensuring an appropriate evidence base is publicly available to demonstrate that the benefits of legislation presented to the NI Assembly justify any attendant costs, and strengthening the ministerial code of conduct (specifically to include a requirement on ministers to take an active role in questioning and challenging advice they receive).**

Limited progress has been made to date in responding to Professional Skills related recommendations

- 3.15 The RHI scheme was a novel, complex and potentially volatile scheme which the RHI Inquiry concluded was a “project too far” for the Northern Ireland Government. Failures by government and the NICS included not appreciating the unique risks of the scheme, failing to incorporate budget control mechanisms when developing the policy and inadequate project management throughout the life of the scheme.
- 3.16 The RHI Inquiry made several recommendations relating to Professional Skills (see [Figure 3.2](#)). These recommendations can be found in full in the [Annex illustrating progress against individual RHI Report recommendations](#).



**Figure 3.2 There were ten recommendations made within the Professional Skills theme**



- 3.17 In November 2020, the NIAO published a report on *Capacity and Capability in the Northern Ireland Civil Service*, echoing many of the RHI Inquiry findings<sup>20</sup>. We identified that NICS departmental workforce planning templates did not adequately consider functional skills but focussed on headcount. We note that recruitment policies and practices were reviewed during the development of the NICS People Strategy and that work has been done by the NICS Economist Profession to develop links with their UK Government and Irish Government counterparts to share best practice and learning. However, in our view, there is much more to be done to ensure that staff hold the requisite qualifications, skills and/or experience for their post. We welcome that a fundamental review of NICS recruitment policy is underway (see 3.27).
- 3.18 In relation to improving project management skills, the NICS has developed a range of accredited training programmes including a six day PRINCE2 training programme and five day accredited programmes in the Management of Risk and Managing Successful Programmes (targeted at senior staff involved in programme or project delivery). Furthermore, in line with developments in the UK civil service, the NICS Board endorsed the establishment of an NICS Project Delivery Profession in March 2019 and further work is planned to complete the establishment of this profession in the civil service, as part of the development of the workplace model.
- 3.19 Revised policy and guidance on best practice in project delivery was also issued in February 2020, and further revised in September 2021. This formalised the process for appointing a Senior Responsible Owner (SRO) for programmes and projects and recommended that each NICS department establish a Portfolio, Programme or Project Office (also known as P3Os) to provide support and oversight of the delivery of programmes and projects and link in with the Gateway™ assurance system<sup>21</sup>. We welcome the inclusion in the guidance that it is the SRO for a programme or project who must take ownership of arrangements with other government bodies and contractors, a pointed issue which affected the RHI scheme.

<sup>20</sup> <https://www.niauditoffice.gov.uk/publications/capacity-and-capability-northern-ireland-civil-service-0>

<sup>21</sup> The Gateway™ review is an assurance mechanism designed to provide an objective view of the ability of a programme or project to deliver on time and to budget through a series of independent peer reviews at key decisions or stages in the lifecycle of a project.

- 3.20 In May 2020, the NICS also adopted the revised risk management guidance prepared by HM Treasury (The Orange Book), which requires government bodies to explain any deviations from the five main principles on risk management.
- 3.21 We understand that further work is planned to make improvements in this area, including a fundamental review of the NICS' Practical Guide to Policy Making. The review is expected to reinforce the importance of including statutory powers to suspend or close schemes. Other work will focus on improving the knowledge and functional skills of staff in policy, embedding the P3Os in each department and improving relationships between NICS departments and Invest NI and the Strategic Investment Board<sup>22</sup>. DoF are also seeking to introduce a commercial peer case review system across the NICS.
- 3.22 **We acknowledge that progress has been made in this area, with four recommendations considered addressed and planned work likely, over time, to address a further four recommendations of the RHI Inquiry. However, in our view, considerable additional work is required in relation to the remaining two recommendations under this theme to address concerns relating to, for example, rigorous assessments at an early stage to determine whether the NICS has the necessary skills and resources to deliver policy, and the use of the NICS' experts in the Strategic Investment Board and Invest NI.**

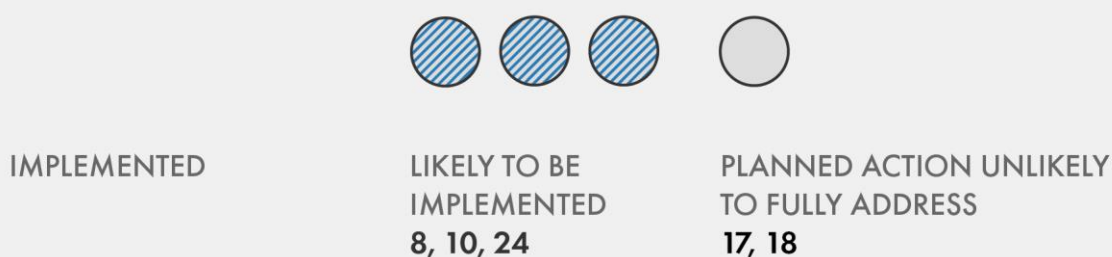
Reasonable progress has been made against recommendations in the Resourcing and People theme and further action is still required

- 3.23 The RHI Inquiry's report criticised the lack of resources and specialist expertise that DfE assigned to the development, delivery and running of the RHI scheme. Acknowledging the hard work of many of the civil servants involved, the Report identified that the lack of expertise and support was due to an inadequate understanding of the risk of the scheme and reflected general pressures on staffing resources in the NICS.
- 3.24 The RHI Inquiry made four recommendations relating to Resourcing and People (see [Figure 3.3](#)) can be found in full in the [Annex illustrating progress against individual RHI Report recommendations](#).

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<sup>22</sup> Invest NI is NI's regional business development agency, with a role to grow the local economy which is achieved by helping new and existing businesses to compete internationally, and by attracting new investment to Northern Ireland. The Strategic Investment Board helps government plan infrastructure, deliver major projects and manage assets.

**Figure 3.3 There were four recommendations made within the Resourcing and People theme**



- 3.25 Our November 2020 report, *Capacity and Capability in the Northern Ireland Civil Service*, noted that the majority of specialist, professional, technical and Senior Civil Service posts are recruited to specific roles. However, the report concluded that more can be done in generalist position recruitments to assess the skills and experience of prospective candidates and match these to current vacancies. The recommendations from the NIAO report were endorsed by the Northern Ireland Assembly's Public Accounts Committee in their May 2021 *Report on Capacity and Capability in the Northern Ireland Civil Service*.
- 3.26 DoF has told us that job-specific appointments were made within the NICS generalist grades, for example the recruitment of policy experts at Grade 7 and Staff Officer level to work on European Union matters. We also note their assurance that open recruitment competitions for Staff Officers and Deputy Principals have matched over 900 candidates to roles based on their skills and experience.
- 3.27 We welcome that a review of recruitment and selection policy in the NICS is underway (along with the procedural guidance which will support its implementation) which aims to support the fundamental principle of the 'right people, with the right skills for the role, in the right posts, at the right time'. The review is also expected to identify ways in which recruitment and selection policies can support the delivery of the Civil Service People Strategy and the NICS ambition to be representative of society here. The review aims to support the NICS ambition to open up recruitment more widely, to attract the best possible candidates, and to expand the resourcing mix, through methods such as a greater use of apprenticeships, broadening secondment opportunities and introducing initiatives to support the employment of people furthest from employment such as disabled people or young care leavers.
- 3.28 The Review's Terms of Reference have been agreed and an external advisory panel of HR experts formed to support the review. A sub-group of senior departmental stakeholders (the Workforce Senior Stakeholder Group) will also engage with the review. We note also that early work has started on improving workforce planning in the NICS. We will continue to monitor the effectiveness of actions taken to implement improvements in recruitment and selection procedures in the NICS.

- 3.29 A suite of training has been developed and made available to NICS staff on commercial skills and other topics highlighted by the RHI Inquiry, such as project and programme management. The NICS also piloted the UK Government Cabinet Office's Commercial Skills Assessment and Development Centre to evaluate its potential as a commercial skills development tool, and has agreed to roll out the training to all staff responsible for contracts with a value of over £20 million.
- 3.30 To assist with knowledge retention following staffing changes, guidance and a knowledge transfer template have also been developed and issued to departments for implementation. We also note that sequencing and handling staff moves to maintain business continuity is included in the review of recruitment policy.
- 3.31 We understand, however, that there is a significant amount of further planned work in this area. Headline actions include reforming the role and sponsorship of the Civil Service Commissioners for NI, which we accept will require engagement with the Northern Ireland Office as the Commissioners are appointed by the Secretary of State, and developing the NICS workforce model and workforce planning, with a focus on incorporating key functional skills and disciplines and associated learning and delivery into the model. DoF also intends to launch and implement talent management products across the civil service and develop the existing guidance for the use of professional services, including consultants.
- 3.32 **While we acknowledge that reasonable progress has been made in this overall area, in our view, considerable additional work is required to fully address the RHI Inquiry's recommendations on improving commercial and business awareness of staff and providing staff with guidance on identifying and handling commercially sensitive information.**

Further work is required to address both recommendations grouped under the Collaboration and Communication theme

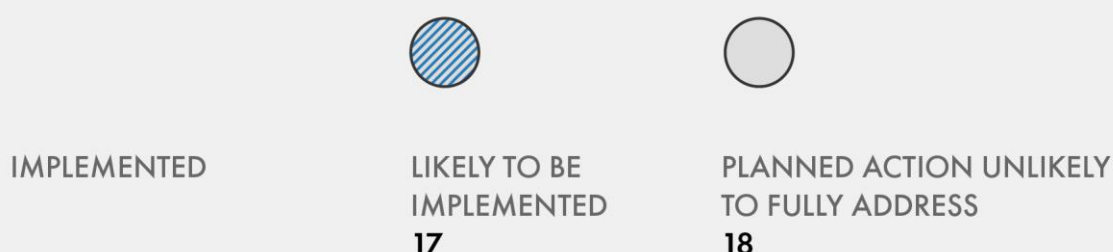
- 3.33 A recurring theme throughout the RHI Inquiry's report was the failure to communicate and collaborate effectively throughout the design and operational phases of the RHI scheme. This included failures both internally, across the different bodies of the NICS and NI Executive, and externally, including, for example, the failure of the scheme's administrator, Ofgem<sup>23</sup>, to pass relevant information to DfE.

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<sup>23</sup> The Office of Gas and Electricity Markets (Ofgem) is a non-ministerial government department operating on behalf of the Gas and Electricity Markets Authority (GEMA). GEMA, through Ofgem, regulates the gas and electricity markets in Great Britain. Ofgem administers the NI non-domestic RHI scheme on behalf of DfE.

- 3.34 The RHI Inquiry made two recommendations on Collaboration and Communication (see [Figure 3.4](#)). These recommendations can be found in full in the [Annex illustrating progress against individual RHI Report recommendations](#).

**Figure 3.4 There were two recommendations made within the Collaboration and Communication theme**



- 3.35 Specifically relating to economists within the NICS, links have been developed with the economist profession in the UK and Irish Governments in order to share best practice and learning. A Learning and Development framework has also been developed for NICS economists, providing a structured learning and development pathway linked to expected knowledge and skills at each step of their career, with commercial awareness a mandatory skillset to develop and maintain.
- 3.36 We welcome the establishment of a Project Delivery profession in the NICS, with a Project Delivery Business Unit established in March 2021 headed by the Chief Executive of Construction and Procurement Delivery (CPD)<sup>24</sup>. As part of the profession's implementation process, a pilot of the UK Government's Infrastructure and Project Authority capability assessment tool (Government On-line Skills Tool (GOST)) was successfully concluded in July 2021. GOST is currently being rolled out across the NICS for project professionals to evaluate their current project delivery capability and signpost areas and approaches for development.
- 3.37 We understand that DoF, along with the Finance Directors group in the NICS is developing a strategic approach to how it will build capacity and capability within the finance profession, akin to that established for the economist profession mentioned previously.
- 3.38 We are aware that further work is planned to develop a framework for engagement between the NICS and neighbouring administrations across all grades and disciplines where relevant.

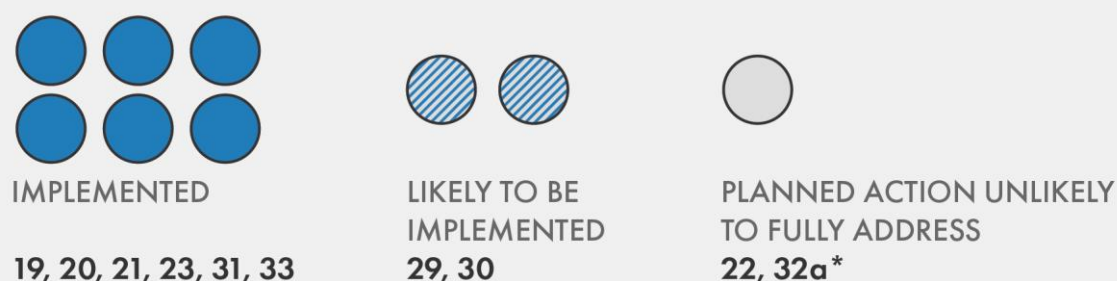
<sup>24</sup> CPD is a division of the Department of Finance that helps the NI public sector deliver successful projects.

- 3.39 We also acknowledge the work performed as part of the Cabinet Office led review on improving intergovernmental relations between and amongst the UK Government and devolved administrations. In January 2022, the UK Government Cabinet Office and Department for Levelling Up, Housing and Communities published the review of intergovernmental relations. The review establishes the principles of intergovernmental relations going forward, as well as the engagement structures (split into three groups headed by a council of the Prime Minister and heads of devolved governments), secretariat support and dispute resolutions for intergovernmental relations. Principles of future relations have been established and progress has been made on determining the supporting machinery and framework.
- 3.40 **We acknowledge that some progress has been made in this area and consider that the planned action will fully address one recommendation. However in our view, further work is required to improve information exchange and co-operation between the NICS and the other government bodies across the UK and the Republic of Ireland.**

Significant progress has been made against the recommendations grouped under the Governance and Financial Controls theme

- 3.41 The RHI Inquiry identified a number of failings in the governance of the RHI scheme by all public bodies with an oversight role. The RHI Inquiry concluded that the scheme had been badly designed from the beginning, critically failing to include appropriate cost control measures, such as tiering of tariffs.
- 3.42 The RHI Inquiry made several recommendations relating to Governance and Financial Controls (see [Figure 3.5](#)). These recommendations can be found in full in the [Annex illustrating progress against individual RHI Report recommendations](#).

**Figure 3.5 There were ten\* recommendations made within the Governance and Financial Controls theme**



\* Note that recommendation 32 has been split into two distinct elements, with the other element considered under the Raising Concerns theme.

- 3.43 A key change since RHI has been the adoption of the Five Case Model approach to developing business cases for significant public expenditure in November 2020. The Five Case Model is endorsed by HM Treasury and its adoption was recommended in the 2019 DoF *Review of the Expenditure Approval and Business Case Processes*<sup>25</sup>. That review identified that the practical application of existing guidance and roles and responsibilities within the business case process were not fully understood. Concerns were identified that the amount of effort expended in the business case process was often disproportionate for smaller, routine expenditure and that business cases, rather than expenditure, were being approved. Adoption of the Five Case Model for business cases is intended to bring clarity on the roles and responsibilities in the process, improve efficiency, and link better with the existing Gateway™ assurance mechanism for major proposals. The adoption of the Five Case Model has been supported by the development of comprehensive guidance and templates on a hub website, plus the roll-out of accompanying training for staff.
- 3.44 The Review of Expenditure Approval and Business Case Processes also consulted with all departments and considered the role of Casework Committees in the approval process. It recommended that all departments consider introducing Casework Committees, as a means of providing added assurance to the decision-maker in relation to large or complex expenditure proposals. This recommendation was reinforced in the *Better Business Cases NI: Best Practice in Business Cases* version two guidance issued in August 2021.
- 3.45 *Better Business Cases NI* also encourages departments to adopt a three stage process<sup>26</sup> for large or complex projects, producing a Strategic Outline Case (SOC), Outline Business Case (OBC) and finally Full Business Case (FBC). These reflect the development of the proposal from its initial inception right through to final procurement. For those projects costing over £50 million or which are considered novel or contentious, the SOC must be submitted to DoF Supply for approval. Such projects cannot proceed to OBC stage without DoF approval.
- 3.46 The protocol that the Public Spending Directorate within the DoF should be the conduit for formal communication with HM Treasury was also reinforced in April 2019. One of the early problems with the RHI scheme was that the flow of communication in 2011 on the funding for RHI was unconventional and primarily between HM Treasury and DfE.
- 3.47 From October 2021, DoF also confirmed to departments that DoF Supply will include a line in approval letters to say that any non-standard conditions of approval should be brought to the attention of Ministers; and that it will be for departments to determine the most suitable method for advising their Ministers.

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<sup>25</sup> The five 'Cases' that a business case must demonstrate under the Five Case Model are: the Strategic Case; the Economic Case; the Commercial Case; the Financial Case; and the Management Case.

<sup>26</sup> Note that the Five Case Model referred to in 3.39 separates the business case into five component parts, or 'Cases'. The five 'Cases' are not individual business cases, they are a systematic framework for the development and presentation of the business case. *Better Business Cases NI* suggests splitting the business case into three business case stages for large or complex projects (the SOC, the OBC, and the FBC).

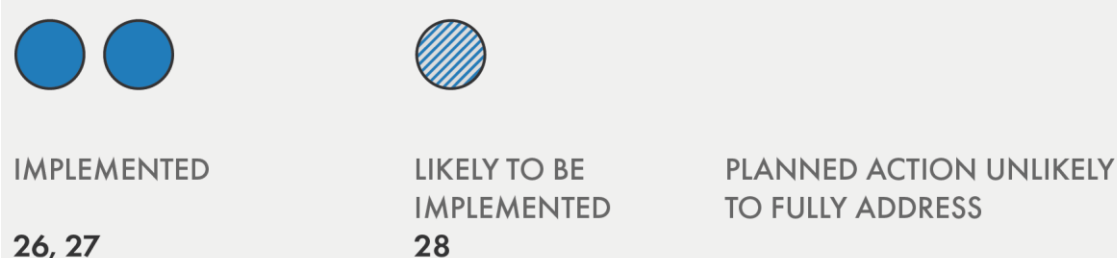


- 3.48 The ability of the NI Executive and the NICS to modify public expenditure rules to avoid false economies is limited, as this is governed by UK budgeting rules set by HM Treasury. The November 2020 Statement of Funding Policy between HM Treasury and the devolved governments introduced additional flexibility for departments to carry forward resource Department Expenditure Limit budget from 2021-22. DoF has engaged with HM Treasury on budgeting rules, with HM Treasury confirming that the budgeting rules are set with the macro-economic picture in mind and NI is expected to abide by such rules.
- 3.49 A number of further actions are planned, with a critical action being a review of the current public sector expenditure guidance, Managing Public Money NI, which was due in autumn 2021.
- 3.50 **We consider that significant progress has been made in this area and note that the additional planned work will ensure that eight of the ten recommendations under this theme have been implemented or will be implemented over time. We concluded that further work is still required to address, for example, the recommendation that DoF takes a more proactive role in the financial monitoring of initiatives on an ongoing basis or that all departments review whether their governance systems appropriately act as checks and balances designed to detect problems and risks in schemes. We acknowledge the oversight role provided by DoF in identifying several issues since RHI and that these matters have been brought to the NIAO's attention, however we consider this indicative of a failure by departments to sufficiently improve their own governance systems and procedures.**

### Reasonable progress has been made against recommendations concerning Record Keeping

- 3.51 The RHI Inquiry identified significant concerns with record keeping and information management at the then DETI, with issues over minute taking and recording Ministerial discussions hampering the work of the RHI Inquiry.
- 3.52 The RHI Inquiry therefore made three recommendations relating to Record Keeping (see [Figure 3.6](#)). These recommendations can be found in full in the [Annex illustrating progress against individual RHI Report recommendations](#).

**Figure 3.6 There were three recommendations made within the Record Keeping theme**



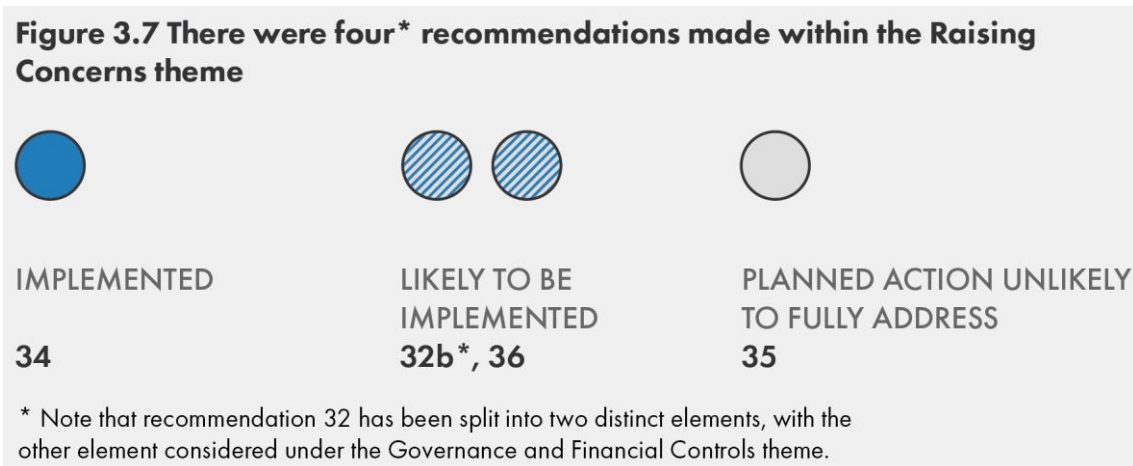
- 3.53 The revised NICS Code of Ethics, issued in February 2022, includes an explicit requirement that NICS staff must keep accurate records, including minutes of ministerial meetings, and handle information as openly as possible within legal parameters. The record keeping requirements in the revised Code of Ethics are reinforced by the Functioning of Government (Miscellaneous Provisions) Act which received Royal Assent in March 2021. The Act requires that arrangements are made to capture and retain a written record of relevant meetings between Ministers, Special Advisers and civil servants where official business is conducted. The requirement also applies to relevant meetings with third parties. Specific guidance on record keeping functions was issued to Ministerial Private Offices in July 2019, and revised further in January 2020 and March 2021.
- 3.54 Projects were also initiated in July 2019 to review the records management policies and practices of the NICS and separately to review the document records management system Hewlett Packard Records Management (HPRM). A number of products emerged from these two reviews, including the launch of a data protection and information intranet hub accessible by NICS staff, which holds much of the guidance further developed, and an NICS Record Management Governance Framework. A full list is available in the [Annex illustrating progress against individual RHI Report recommendations](#). Planned upgrades to HPRM were also performed in late 2020 for most departments, with the Department of Justice, which operates a separate network, due to follow. Implementation of the recommendations from these reviews will continue to be monitored by the NICS Information Management Council.
- 3.55 A further project has been established where the NICS will fundamentally examine what it needs in a records management system now and in the future. The programme board for this project met for the first time in March 2021 however there have been delays to the initial scoping exercise for the review which was due to be completed by June 2021.

### **Recommendation 3**

- 3.56 **We recommend that GIAFIS monitor compliance with standards and processes for record keeping across all departments on an ongoing basis, particularly where matters should be documented for complex or major decisions.**
- 3.57 **We note the progress made to date in this area. We have concluded that two of the recommendations are fully implemented, and we consider that the additional work planned is likely to address the Inquiry Report's final recommendation under this theme over time.**

Limited progress has been made in addressing recommendations on how the public, businesses and civil servants are raising concerns

- 3.58 The existence of the “perverse incentive” in the RHI scheme, whereby participants generating heat from medium biomass boilers had the opportunity to earn more than the variable cost of generating heat, was known during the early stages of the scheme’s operation. The RHI Inquiry’s report noted how one concerned citizen repeatedly contacted DETI between 2013 and 2015 with their concerns, however the DETI response was well below the expected standard.
- 3.59 The RHI Inquiry made several recommendations relating to Raising Concerns (see [Figure 3.7](#)). These recommendations can be found in full in the [Annex illustrating progress against individual RHI Report recommendations](#).



- 3.60 Efforts have been made to improve the reporting of concerns internally within the NICS, with the development of a revised NICS Code of Ethics which was issued in February 2022. The revised Code of Ethics clarifies the options available to civil servants if they are being required to act in an unethical manner or are concerned with a Minister’s instructions. Civil servants are also required under the revised Code of Ethics to give appropriate considerations to concerns raised externally.
- 3.61 Recommendations regarding raising concerns were also made by NICS Internal Audit in their September 2019 review *Whistleblowing Across the NICS*. The Internal Audit review recommended that whistleblowing arrangements be improved in three departments and that the NICS adopt a sector wide whistleblowing policy, with an appropriate training package to be developed and dedicated raising concerns resources created in all departments. We understand that all departments now have a dedicated raising concerns resource.
- 3.62 The NICS GIAFIS has also developed its investigation capacity to support delivery of fraud investigations and other relevant investigations. Staff were trained in investigative techniques and a dedicated whistleblowing investigation team was established for the Department of Education and Department for Communities, although other departments also have utilised this resource.

- 3.63 We understand that further action is planned in this area, including the development of an overarching *Raising a Concern* policy to support NICS staff. This policy is expected to address concerns and complaints beyond whistleblowing alone. For the three departments with issues identified in Internal Audit 's 2019 review, a follow-up review is due to commence for one department in January 2022, with follow-up reviews to be performed in the other two departments once the *Raising a Concern* policy has been implemented.
- 3.64 Nevertheless, there has been minimal progress made in implementing the recommendations of the RHI Inquiry in this area, particularly with regards to concerns raised by the public and businesses external to the NICS. We encourage DoF to ensure that dealing with concerns raised by the public is a key focus of its planned actions under this theme and welcome that DoF have considered *Raising Concerns: A Good Practice Guide for the Northern Ireland Public Sector* published by the NIAO in June 2020 as an important part of this work. We intend to perform further work on assessing whether improvements in recording and responding to concerns raised have been embedded across the public sector.
- 3.65 **We consider that the progress in this area is sufficient to consider one of the RHI Inquiry's recommendations as implemented, and with the further work planned we expect that two additional recommendations are likely to be addressed. However, more work needs to be undertaken to fully address the final recommendation under this theme, such as developing better early warning systems for concerns raised and learning lessons from past failures. We will be examining and reporting on compliance with good practice as part of our future work programme.**

## Appendix One – Report Methodology (paragraph 1.31)

### Methodology

This report's methodology comprised:

- **Desk research** – collated and analysed information on and within the Department of Finance and the Department for the Economy, including:
  - Strategies;
  - Policies;
  - Guidance;
  - Reviews;
  - Evaluations; and
  - Press releases.
- **Considered the impact of relevant legislation, such as the Functioning of Government (Miscellaneous Provisions) Act.**
- **Reviewed work undertaken by various Northern Ireland Assembly Committees.**
- **Followed the work and progress of the NI Executive's Sub-Committee on Reform Following the RHI Inquiry.**
- **Interviews/meetings** – conducted semi-structured interviews with Departmental officials.

## Appendix Two – RHI Inquiry recommendations and detailed responses (paragraph 3.1)

The RHI Inquiry's report contained 44 recommendations.

The NI Executive's Sub-Committee has accepted responsibility for implementing 42 of the recommendations.

One recommendation falls to the NI Assembly and the remaining recommendation relates to the Northern Ireland Audit Office.

To assist its response to the Inquiry's recommendations, the Executive Sub-Committee, supported by the Department of Finance, has grouped recommendations which address similar areas into seven thematic groupings (we note that Recommendation 32 spans two themes).

The summary table below shows where each recommendation has been assigned.

Theme	RHI Inquiry Team Recommendation Number
Ministers and Special Advisers	5, 6, 7, 25, 37, 39, 40, 41, 42, 43
Professional Skills	1, 2, 3, 4, 11, 12, 13, 14, 15, 16
Resourcing and People	8, 9, 10, 24
Collaboration and Communication	17, 18
Governance and Financial Controls	19, 20, 21, 22, 23, 29, 30, 31, 32 a, 33
Record Keeping	26, 27, 28
Raising Concerns	32b, 34, 35, 36
Other	38, 44