



Ian Snowden
Chief Executive
Land and Property Services
Lanyon Plaza
7 Lanyon Place
Belfast
BT1 3LP

By post and email: Ian.Snowden@finance-ni.gov.uk

20 September 2018

Dear Sir

Re: The Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme
Provision of a Section 21 Notice requiring the production of documents

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 enclose a copy of the RHI Inquiry's Terms of Reference for your information.

As you are aware the RHI Inquiry is conducting its investigations into the matters set out in its Terms of Reference. A key part of that process is gathering all of the relevant documentation from relevant departments, organisations and individuals.

The Inquiry is aware that Land and Property Services [LPS], its servants and agents may have had some involvement in matters coming within the Inquiry's aforementioned Terms of Reference. Consequently, the Inquiry anticipates that you or LPS may hold documents relevant to the RHI Inquiry's Terms of Reference.

In keeping with the approach we are taking with other organisations and individuals, the RHI Inquiry is now issuing to you a Statutory Notice (known as a 'Section 21 Notice') pursuant to its powers to compel the production of relevant documentation.

This Notice is issued to you in your capacity as Chief Executive.

It relates to documents within the custody or control of you or LPS.

If for any reason you consider that this Notice does not cover all documents that may be relevant to the RHI Inquiry, either received by or emanating from the LPS, then the RHI Inquiry would be grateful if you could identify to it any other individual or body that should be served with a similar Notice so as to ensure that there are no areas of relevant documentation which are not so covered.

It is hoped that this Section 21 Notice will alleviate any concerns that you and/or LPS may have in relation to data protection or confidentiality. As the text of the Section 21 Notice explains, you are required by law to comply with it.

It is possible that in due course you will be required by a further Section 21 Notice, pursuant to section 21(2)(a) of the Act, to provide evidence to the Inquiry Panel in the form of a written statement to the effect that, as Chief Executive, you are satisfied that there has been full compliance with the terms of the enclosed Notice.

If it would assist you, I am happy to meet with you and/or your legal representative(s) to discuss what documents the LPS has and whether they are covered by the Section 21 Notice.

You will also find attached to the Section 21 Notice a Guidance Note explaining the nature of a Section 21 Notice and the procedures that the RHI Inquiry has adopted in relation to such a notice. In addition, as referred to above, you will also find enclosed a copy of the RHI Inquiry's Terms of Reference to assist you in understanding the scope of the Inquiry's work and therefore the ambit of the Section 21 Notice.

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.

If your organisation does not hold documentation in respect of some of the categories of document specified in the Section 21 Notice, please state this in your response. If it is possible to indicate by whom such information might be held, if it is not held by your organisation, the Inquiry would find that of assistance.

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

Yours faithfully

A handwritten signature in black ink, appearing to read "Patrick Butler". The signature is written in a cursive, slightly slanted style.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE

[No 183 of 2018]

1. Any file / documents within the custody or control of Land & Property Services relating to the property at **Personal information redacted by the RHI Inquiry**

Personal information redacted

2. Any other documents, whether in electronic or hard copy, which relate to a matter in question at the RHI Inquiry, or which might be relevant to the matters the RHI Inquiry is investigating (see, further, the note below).

NOTE:

By virtue of section 43(1) of the Inquiries Act 2005, "document" in this context has a very wide interpretation and includes information recorded in any form. This will include, for instance, correspondence, handwritten or typed notes, diary entries and minutes and memoranda. It will also include electronic documents such as emails, text communications and recordings. In turn, this will also include relevant email and text communications sent to or from personal email accounts or telephone numbers, as well as those sent from official or business accounts or numbers. By virtue of section 21(6) of the Inquiries Act 2005, a thing is under a person's control if it is in his possession or if he has a right to possession of it.



RHI Inquiry

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BELFAST, BT1 3GG

T: 028 9040 8833

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W: www.rhiinquiry.org

Ian Snowden
Chief Executive
Land and Property Services
Lanyon Plaza
7 Lanyon Place
Belfast
BT1 3LP

By post and email: Ian.Snowden@finance-ni.gov.uk

20 September 2018

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 enclose a copy of the RHI Inquiry's Terms of Reference for your information.

You may be aware from media reports that the RHI Inquiry is conducting its investigations into the matters set out in its Terms of Reference. The Inquiry is continuing with the process of gathering all of the relevant documentation from relevant departments, organisations and individuals, as well as requiring persons who have been, or who may have been, involved in the range of matters which come within the Inquiry's Terms of Reference to provide written evidence to the Inquiry Panel.

In this context, it would be of assistance to the Inquiry to have a statement from you setting out your involvement with the Non Domestic Renewable Heat Incentive Scheme in Northern Ireland ('the Scheme').

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

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

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

If it would assist you, I am happy to meet with you (or your legal representative) to discuss what evidence you may be able to provide and whether it is covered by the Inquiry's request.

Receipt of this correspondence and its enclosures places you under a duty of confidentiality to the RHI Inquiry in respect of them. You may share the correspondence and the enclosed Notice with a legal representative or representatives, but neither you nor they may show, communicate the contents of, or provide this correspondence or the Notice to any other person or organisation without

the express permission of the RHI Inquiry. Any breach of this duty of confidentiality is actionable at the suit of the Inquiry Chairman.

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

Given the tight time-frame within which the RHI Inquiry must operate, the Chairman of the Inquiry would be grateful if you would comply with the requirements of the Section 21 Notice as soon as possible and, in any event, by the date set out for compliance in the Notice itself.

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

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

Yours faithfully



Patrick Butler

Solicitor to the RHI Inquiry

02890 408928

SCHEDULE**[No 184 of 2018]**

1. If a building is recorded by LPS as an agricultural building, is it the position that it would be liable for non-domestic/commercial rates, but that it would attract an exemption because it was of an agricultural nature?
2. Please refer to the following document which has been provided to the Inquiry and is enclosed with this Notice: IND-25532. This document is an email from Stephen Brimstone to his installer, Terence Cassidy, dated 26 August 2015. In the email, Mr Brimstone is providing answers to Mr Cassidy as part of the RHI scheme application process. At the top of the page there is the following statement:

"no rates bill as it was built as an agricultural shed and LPS exempted it from rates when they valued the new build dwelling house in the same yard".

As to this statement, please confirm if the text quoted above is an accurate account of what happened in relation to the agricultural shed when its rating value was assessed by LPS? Please explain your answer with reference to any relevant documents where appropriate.

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.



Stephen Brimstone Personal information redacted by the RHI Inquiry

Stephen Brimstone RHI application letter template

Stephen Brimstone Personal information redacted by the RHI Inquiry

26 August 2015 at 00:25

To: "Terence@C2 Eenergy" <terence@c2energy.co.uk>

No rates bill as it was built as an agricultural shed and LPS exempted it from rates when they valued the new build dwelling house in the same yard.

1. Space is used as an agricultural workshop/storage and shed for both machinery and at times animal pens for outfarm where it is located.
 2. Workshop was originally constructed for the above purpose - replacing a number of smaller units on the same site which were used for agricultural purposes.
 3. Shed is standalone.
 4. Shed was always standalone and was built for the purpose to which it is used (see above). Shed is constructed from steel portal frame with block cavity wall and insulated profile roof. Shed has been cladded on three walls with dash to blend in with domestic dwelling which its shares a yard.
 5. Shed is used as non-domestic. One small area is used at times for storage of firewood sourced from the farm.
 6. Heavy duty Workbench and spray/work bench have been constructed in the shed along with industrial shelving to store tools etc. Shed has appropriate industrial lighting and has compressor etc within.
 7. Furnishings are typical of any agricultural workshop - space also has the flexibility to hold temporary sheep pens when required during lambing season. Shed has 13ft steel roller door to accommodate tractors etc.
 8. Family have access to shed, contractors working on the farm when required and mechanics when required for specialised work on machinery.
 9. Shed is accessed from back yard at dwelling house. Shed is not physically connected to dwelling house and has its own industrial steel roller door and pedestrian access.
 10. No
 11. Only visitors would be authorised persons working on farm e.g mechanics or agricultural contractors requiring tools or use of the space directly related to activities on the farm.
- [Quoted text hidden]



INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME

RHI REF: Notice 183 and 184 of 2018

DATE: 21 September 2018

Witness Statement of:**Alan Brontë**

I, Alan Brontë, will say as follows: -

1. I am the Commissioner of Valuation for Northern Ireland, (appointed in accordance with Article 36 of the Rates (Northern Ireland) Order 1977, (the 1977 Order). I am the person most suitably placed to answer questions regarding valuation matters in Northern Ireland, for this reason the s.21 Notices (Nos. 183 and 184) dated 20 September 2018 have been passed to me for response.

No.183 of 2018

2. The Schedule to the above mentioned s. 21 Notice requires: "Any file / documents within the custody or control of Land & Property Services relating to the property at **Personal information redacted by the RHI Inquiry**
3. I can advise that within Land & Property Services (LPS) there are four major business areas and their supporting systems, namely:-
 - i. **Valuation** – primarily valuation information relating to statutory valuations for rating purposes under the Rates (NI) Order 1977. The Assessment Office system supports the valuation business and contains all property and valuation related information that brings together rateable valuations to form the current and indeed past Valuation Lists. This system also includes information on valuations carried out for non-rating purposes – for example, for HMRC, Government Departments, and other statutory bodies.



ii. **Ordnance Survey for Northern Ireland** – this business area and its many systems includes all mapping (spatial) data including aerial photography with historic data stretching back over many years.

iii. **Land Registry** - this contains all information of registered land titles for Northern Ireland. The IT system that supports Land Registry is LandWeb. The records include the title and transfer details for the land on which the dwelling house known as [Personal information redacted by the RHI Inquiry] is constructed.

iv. **Revenues and Benefits** – the Abacus system draws rating information from valuation, in particular the Valuation Lists for the purpose of levying rate bills. This system creates a rate bill and manages the process of billing and collection, recovery of debts and court processes relating to same. This system also includes the management of various rating reliefs and allowances. Note that these reliefs and allowances do not relate to the treatment of agricultural land and buildings. See paragraphs 6 iv & v below.

4. The information attached is retrieved from both Ordnance Survey and the Valuation business areas. The data from the Valuation system records is solely in connection with valuation for rating purposes. It is understood that this is the focus of the Inquiry's query. Information from the other two business areas (Land Registry and Rate Billing) has not been accessed at this stage. If the Inquiry seeks access to documents from these business areas, that can be provided upon confirmation that that is the case.
5. LPS is in receipt of a letter dated 13 July 2018 from ofgem – Senior Counter Fraud Manager, seeking information similar to this enquiry. That letter is attached at Annex 1. LPS has not yet issued a written response.

No.184 of 2018

6. The following information may be helpful, by way of explanation, in relation to the information submitted (pursuant to the s.21 Notice No. 183 of 2018) regarding the valuation for rating purposes of [Personal information redacted by the RHI Inquiry]



Personal information redacted by the RHI Inquiry

- i. The District Valuer within Land & Property Services, acting in response to regular, ongoing flows of information from the then Personal information redacted by the RHI Inquiry Council Building Control, registered a case on 1 August 2007 to value a new dwelling house at Personal information redacted by the RHI Inquiry (See screen shots from the Valuation system at Annex 2) .

- ii. The property was inspected on 4 November 2008 by an LPS officer acting on behalf of the District Valuer. The house was surveyed, details collated and a rateable capital value prepared. A Valuation Certificate was issued by the District Valuer on 25 November 2008 placing the house in the Valuation List with a valuation of Personal information redacted (See screen shots from the Valuation system at Annex 2).

- iii. Since that time no further inspection by LPS Valuation has taken place.

- iv. Article 37 of and Schedule 11 (Properties not to be treated as Hereditaments) to the 1977 Order defines properties not to be treated as rateable hereditaments for the purposes of the 1977 Order. At item 2 of Schedule 11, there is listed, “Agricultural buildings”. Agricultural buildings is in turn defined at Schedule 1 to the 1977 Order, in particular at paragraph 2.

- v. In general, if an outbuilding within the curtilage of a dwelling house meets the definition of Paragraph 2 of Schedule 1 to the 1977 Order, the outbuilding would not be measured or referenced in the Valuer’s survey and may not be mentioned in the details recorded on the Valuation system. Any outbuilding that existed at the time of inspection and was considered by the Valuer to be an “agricultural building” is not a rateable hereditament in accordance with Article 37(2) of and Schedule 11 to the 1977 Order (see also subparagraph iv above). As it does not then fall to be valued, there is no valuation to be considered for an exemption under the 1977 Order.



- vi. The details recorded by the Valuer on the system (see screen shots from the Valuation system - Annex 2) and photographs attached for Personal information redacted by the R
[REDACTED] (Annex 2) do not reference any outbuildings that existed on 4 November 2008. No actual reference is made to an outbuilding which the Valuer identified as an “agricultural building” in accordance with Schedule 1 to the 1977 Order.
- vii. In preparing this evidence statement, I asked Ordnance Survey within LPS to check for photographic data , in particular aerial photography from in and around the time of the construction of the new dwelling house (see subparagraph i). An aerial image captured by Ordnance Survey on 8 May 2008 shows both the new dwelling house and the outbuilding in situ (see Annex 3). This is evidence that at the time of the inspection by LPS the outbuilding existed.
- viii. It would appear therefore that at the time of inspection, in November 2008, the Valuer determined that the outbuilding was an “agricultural building” as defined in the 1977 Order.
- 7. If a building is recorded by LPS as an agricultural building, is it the position that it would be liable for non-domestic/commercial rates, but that it would attract an exemption because it was of an agricultural nature?**

See my comments above at paragraph 6. v. Any building considered to fall within Article 37(2) of, and Schedule 11, (specifically item 2), to the 1977 Order, is not a rateable hereditament. It is not correct to speak in terms of exemptions.

- 8. Please refer to the following document which has been provided to the Inquiry and is enclosed with this Notice: IND-25532. This document is an email from Stephen Brimstone to his installer, Terence Cassidy, dated 26 August 2015. In the email, Mr Brimstone is providing answers to Mr**



Cassidy as part of the RHI scheme application process. At the top of the page there is the following statement:

“no rates bill as it was built as an agricultural shed and LPS exempted it from rates when they valued the new build dwelling house in the same yard”.

As to this statement, please confirm if the text quoted above is an accurate account of what happened in relation to the agricultural shed when its rating value was assessed by LPS? Please explain your answer with reference to any relevant documents where appropriate.

See paragraph 6 and 7 above. From a consideration of the records available to me it appears that the Valuer determined that the outbuilding was an agricultural building under the 1977 Order. As such, the building does not appear in the Valuation List and therefore no rates are levied. No exemption was granted.

Statement of Truth

I believe that the facts stated in this 5 page witness statement are true.

A handwritten signature in black ink that reads 'Alan Bronte'.

Signed: —

Dated: 21st September 2018