



Mr Andrew Crawford

Personal information redacted by the
RHI Inquiry

By post and email (andrewdcrawford@

Personal information redacted
by the RHI Inquiry

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

However, as you may be aware, the Inquiry continues to seek some further written evidence from witnesses and participants, particularly where issues have arisen in evidence recently provided in respect of which it is necessary, or appropriate, to provide an opportunity for further response. The Inquiry Chairman also retains the

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

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

In the circumstances, please find enclosed with this letter a further Section 21 Notice requiring you to provide evidence to the RHI Inquiry Panel in the form of a further written statement addressing the matters identified in the Schedule to the Section 21 Notice.

Where you have been asked about a matter which has been addressed to some degree in your previous written and you are clear that there is no further evidence which you can provide, please simply say so.

In the interests of fairness, you are also encouraged to provide, through the further written statement now being requested of you, any additional information that you can which is relevant to the Inquiry's investigation of the matters falling within its Terms of Reference in relation to any of its phases, in light of any additional matters which have emerged during the course of the Inquiry's evidence-gathering processes, particularly in the period since the completion of your oral evidence.

As the text of the Section 21 Notice explains, you are required by law to comply with it.

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

In the event that you require or desire access to some documentation, the arrangements set out in my previous correspondence continue to pertain; and you may contact Terence Coyne at DfE to make arrangements to permit such access or, alternatively, revert to me.

The questions in the attached notice refer to various documents. For the most part, these documents have already been provided to you or are already available to you in your capacity as an enhanced participant (e.g. references to the bundle of witness statements with a WIT prefix and references to the Inquiry hearing transcript bundle with a TRA prefix). Where they have not been provided previously, a copy of the relevant document is enclosed with the Notice.

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

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

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

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

Yours faithfully

A handwritten signature in black ink that reads "Patrick Butler". The signature is written in a cursive, slightly slanted style.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE
[No 241 of 2018]

2016 Annual Dinner of the Northern Ireland Food and Drink Association ("NIFDA")

You are referred to the witness statement you provided to the Inquiry dated the 26 November 2018 (WIT-21932 to WIT-21933). Amongst other things, you addressed whether the conversation you had with Dr Andrew McCormick about the RHI Scheme, the contents of which are disputed, occurred at a NIFDA dinner in 2015, rather than 2016. You said to the Inquiry that you believed you did not in fact attend the 2016 NIFDA dinner.

You are referred to the following material:

- *Irish News* article of 24 October 2016 indicating the presence of DAERA Minister Michelle McIlveen at the NIFDA dinner (INQ-85500 to INQ-85503);
- YouTube video of the 2016 NIFDA dinner captured by the Inquiry as an MP4 video (referred to at INQ-85505 and provided to you as an MP4 clip); and
- Screenshot taken from the YouTube video of the 2016 NIFDA dinner (INQ-85504)

1. Having considered the above material, please address the following issues:

- a. Do you still believe you were not at the 2016 NIFDA dinner?
- b. If you were at the 2016 NIFDA dinner, is the 2016 NIFDA dinner likely to have been the occasion of the disputed conversation with Dr Andrew McCormick about RHI?
- c. Prior to considering the above material, what had caused you to believe you were not at the 2016 NIFDA dinner, and that the disputed conversation occurred at the 2015 NIFDA dinner?

- d. Having reflected on the position, would there have been sufficient knowledge of the difficulties/events by October 2015 to have had the type of conversation you and Dr McCormick had in relation to the RHI Scheme, albeit the precise content is disputed?
2. Is there anything else you wish to say about the disputed conversation between you and Dr Andrew McCormick?

Dr McCormick's oral evidence as to your knowledge in July 2015 about the hearing of empty sheds, perverse incentive and opportunity for systemic abuse

During your own oral evidence you were asked about your state of knowledge at given points in time as to whether the RHI Scheme was providing excessive returns to scheme members and was being abused¹.

During his oral evidence Dr Andrew McCormick asserted², in summary, that by the summer of 2015 (1) you knew the RHI Scheme contained a perverse incentive that encouraged, by way of example, the heating of empty sheds in order to burn to earn, (2) you knew that industry could and/or was systemically exploiting or abusing the RHI Scheme, and (3) you (and Timothy Cairns) withheld that information from DETI officials at a time when you knew the DETI officials were trying to grapple with problems in relation to the RHI Scheme:

3. Insofar as you wish to add to your previous written and oral evidence, what do you say in response to the evidence of Dr Andrew McCormick in this regard?
4. For the avoidance of doubt, when do you say you first knew:

¹ See, for example, TRA-13082 to TRA-13096, TRA-130101 to TRA-130107, TRA-13130 to TRA-13133, TRA-13138 to TRA-13155, TRA-13165 to TRA-13184, TRA-131197 to TRA-131198, TRA-13200 to TRA-13215, TRA-13248 to TRA-13249 and TRA-13271 to TRA-13272

² TRA-15264 to TRA-15274, TRA-15280 to TRA-15288, TRA-15436, TRA-15455 to TRA-15456, TRA-16629, TRA-16672 to TRA-16674, and TRA-16692

- a. that the RHI Scheme contained a perverse incentive that encouraged, by way of example, the heating of empty sheds in order to burn to earn? Please explain your answer.
- b. that industry could and/or was systemically exploiting or abusing the RHI Scheme? Please explain your answer.

General

5. To the extent that you consider the evidence of any other witness or participant contradicts your evidence on a significant issue, or is materially incomplete in respect of any significant issue, you should take this opportunity to address those issues by way of further written evidence, but only to the extent (a) that the said issues have not already been addressed in your existing oral and written evidence and (b) that the further material you wish to provide constitutes evidence of fact as opposed to mere commentary on the evidence of another witness or participant which would be more appropriate for submissions.
6. Please set out any further significant evidence you have or of which you are aware, having regard to the Inquiry's Terms of Reference, which has not been adequately addressed in your previous written or oral evidence.

NOTE:

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



INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME

RHI REF: Notice 341 of 2018

DATE:

Witness Statement of: ANDREW CRAWFORD

I, Andrew Crawford, will say as follows: -

2016 Annual Dinner of the Northern Ireland Food and Drink Association ("NIFDA")

You are referred to the witness statement you provided to the Inquiry dated the 26 November 2018 (**WIT-21932 to WIT-21933**). Amongst other things, you addressed whether the conversation you had with Dr Andrew McCormick about the RHI Scheme, the contents of which are disputed, occurred at a NIFDA dinner in 2015, rather than 2016. You said to the Inquiry that you believed you did not in fact attend the 2016 NIFDA dinner.

You are referred to the following material:

- *Irish News* article of 24 October 2016 indicating the presence of DAERA Minister Michelle McIlveen at the NIFDA dinner (**INQ-85500 to INQ-85503**);
- YouTube video of the 2016 NIFDA dinner captured by the Inquiry as an MP4 video (referred to at **INQ-85505** and provided to you as an MP4 clip); and
- Screenshot taken from the YouTube video of the 2016 NIFDA dinner (**INQ-85504**)

1. Having considered the above material, please address the following issues:

- a. Do you still believe you were not at the 2016 NIFDA dinner?



It appears I did in fact attend the 2016 NIFDA dinner. I did not remember having done so and am grateful to the Inquiry for giving me the opportunity to correct the evidence in my last statement on the issue.

- b. If you were at the 2016 NIFDA dinner, is the 2016 NIFDA dinner likely to have been the occasion of the disputed conversation with Dr Andrew McCormick about RHI?

I do not believe that there was any detailed conversation with Dr. Andrew McCormick at the 2016 NIFDA dinner in relation to the RHI scheme.

- c. Prior to considering the above material, what had caused you to believe you were not at the 2016 NIFDA dinner, and that the disputed conversation occurred at the 2015 NIFDA diner?

I did not recall having attended the NIFDA dinner in 2016. However, at the time of the 2016 NIFDA dinner I was aware of the funding problems which resulted in the closure of the RHI scheme, and the implications that this would have in relation the Economy Department including a Public Accounts Committee investigation. By October 2016 I was also aware that Dr. McCormick was blaming me wrongly, for the delay in the introduction of cost controls and this would have resulted in me being very guarded in having any discussion with him around this period. This issue was raised during my evidence on day 90 of the oral hearings (TRA 13217).

- d. Having reflected on the position, would there have been sufficient knowledge of the difficulties/events by October 2015 to have had the type of conversation you and Dr McCormick had in relation to the RHI Scheme, albeit the precise content is disputed?



In October 2015, the DUP was operating a policy of ‘in-out Ministers’ following the murder of Kevin McGuigan. For much of this period Arlene Foster was the only DUP Minister remaining in post. At the time, the policy of ‘in-out Ministers’ was causing uncertainty around the ability to get legislation approved by the Assembly in various Departments including DETI. I believe that any discussion, if one actually took place, would have been related to this issue rather than the funding of the scheme.

2. Is there anything else you wish to say about the disputed conversation between you and Dr Andrew McCormick?

My evidence regarding the content of the conversation and in particular that I did not say: “I thought this was AME, and we could fill our boots” remains. I am absolutely clear that I did not say this.

Dr McCormick’s oral evidence as to your knowledge in July 2015 about the heating of empty sheds, perverse incentive and opportunity for systemic abuse

During your own oral evidence you were asked about your state of knowledge at given points in time as to whether the RHI Scheme was providing excessive returns to scheme members and was being abused¹.

During his oral evidence Dr Andrew McCormick asserted², in summary, that by the summer of 2015 (1) you knew the RHI Scheme contained a perverse incentive that encouraged, by way of example, the heating of empty sheds in order to burn to earn, (2) you knew that industry could and/or was systemically exploiting or abusing the RHI

¹ See, for example, TRA-13082 to TRA-13096, TRA-130101 to TRA-130107, TRA-13130 to TRA-13133, TRA-13138 to TRA-13155, TRA-13165 to TRA-13184, TRA-131197 to TRA-131198, TRA-13200 to TRA-13215, TRA-13248 to TRA-13249 and TRA-13271 to TRA-13272

² TRA-15264 to TRA-15274, TRA-15280 to TRA-15288, TRA-15436, TRA-15455 to TRA-15456, TRA-16629, TRA-16672 to TRA-16674, and TRA-16692



Scheme, and (3) you (and Timothy Cairns) withheld that information from DETI officials at a time when you knew the DETI officials were trying to grapple with problems in relation to the RHI Scheme:

3. Insofar as you wish to add to your previous written and oral evidence, what do you say in response to the evidence of Dr Andrew McCormick in this regard?

I have little further to add to my previous evidence except that in the summer of 2015 I provided information to Timothy Cairns, the DETI Special Adviser. I believed that at the time Timothy Cairns was sharing all the content of my emails with both the DETI Minister and the DETI officials and at no stage did I ask him to withhold any information from the Minister or officials. I cannot answer why Timothy Cairns was selective on sharing some information but not it all. I believed that by being forthright in my emails to Timothy Cairns during this period my warnings would have been highlighted to the Minister and senior officials in the Department.

4. For the avoidance of doubt, when do you say you first knew:
 - a. that the RHI Scheme contained a perverse incentive that encouraged, by way of example, the heating of empty sheds in order to burn to earn? Please explain your answer.

Following the discussion with a boiler installer in July 2015.

- b. that industry could and/or was systemically exploiting or abusing the RHI Scheme? Please explain your answer.

Following the discussion with a boiler installer in July 2015.

General



5. To the extent that you consider the evidence of any other witness or participant contradicts your evidence on a significant issue, or is materially incomplete in respect of any significant issue, you should take this opportunity to address those issues by way of further written evidence, but only to the extent (a) that the said issues have not already been addressed in your existing oral and written evidence and (b) that the further material you wish to provide constitutes evidence of fact as opposed to mere commentary on the evidence of another witness or participant which would be more appropriate for submissions.

I have nothing further to add to my previous oral and written evidence.

6. Please set out any further significant evidence you have or of which you are aware, having regard to the Inquiry's Terms of Reference, which has not been adequately addressed in your previous written or oral evidence.

I have nothing further to add to my previous oral and written evidence.

Statement of Truth

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

Signed: Andrew Crawford

Dated: 6th December, 2018