



RHI Inquiry
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The Rt Hon Mrs Arlene Foster MLA
DUP Headquarters
91 Dundela Avenue
Belfast
BT4 3BU

By post and email (arlene@arlenefoster.org.uk)

4 May 2017

Dear Madam

Re: The Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme
Provision of a Section 21 Notice requiring the provision of evidence in the form of a written statement

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

I know that you will be familiar, from my previous correspondence, with the RHI Inquiry's Terms of Reference, which remain available on the Inquiry's website. You will also be aware 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.

In addition, the Inquiry has also now begun the process of requiring individuals 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 keeping with the approach we are taking with other 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 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 you have within your knowledge, information or belief 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 which you can provide, please state this in your response. Where you can provide evidence, the more comprehensive your statement is, the less likely it may be 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.

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

I appreciate that you may require or desire access to some documentation, to which you previously had access in your role as Minister but to which you no longer have access, in order to assist you in preparing your statement. If so, I understand that the Department for the Economy (DfE) is making arrangements to permit such access, at least in the first instance. You should contact Terence Coyne at DfE, who is the Department's RHI Task Force Information Manager, to organise this. He is contactable at Terence.Coyne@economy-ni.gov.uk. I have informed Mr Coyne that you may be making contact with him to arrange access to documentation; but

there is, of course, no obligation upon you to do so. A similar arrangement will be available in relation to documentation held by the Executive Office and the Department of Finance. The relevant contact in the Executive Office is Ms Olive Maybin, in the Office of the Head of the Civil Service, who is contactable at Olive.Maybin@executiveoffice-ni.gov.uk; and the relevant contact in the Department of Finance is Emer Morelli, Head of Supply, who is contactable at Emer.Morelli@finance-ni.gov.uk.

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 your legal representative(s), but neither you nor they may show, communicate the contents of, nor 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.

A copy of this correspondence has also been provided to your legal representative, John McBurney of John McBurney Solicitors (by email only).

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, appearing to read 'Patrick Butler', with a stylized flourish at the end.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE**[No 135 of 2017]***Background*

1. Set out a description of your occupational history, qualifications and experience.
2. Set out a summary of your Ministerial roles (this includes the dates between which you held the role/s; when, how and why you were appointed to the role/s; and what the role/s entailed). In each instance, describe how this role related, if at all, to the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland ('the Scheme').

Ministerial responsibility and Special Advisers

3. Describe your understanding of your position as a Minister, including:
 - a. what duties you considered yourself to owe as a Minister;
 - b. what rules or codes governed the exercise of your Ministerial functions; and
 - c. your relationship, as a Minister, with the political party to which you were affiliated (including whether you were in any way under the direction or control of that party in the exercise of your Ministerial functions).
4. Describe your understanding of your relationship, as a Minister, with your Special Adviser/s, including:
 - a. the rules which governed the position of Special Adviser;
 - b. who would give your Special Adviser/s instructions, and who was entitled to do so;
 - c. how your Special Adviser/s interacted with other Special Advisers, and whether there was an understood or accepted hierarchy within your or any team of Special Advisers;

- d. what duties your Special Adviser/s owed (or may have considered himself or herself to owe) to the political party to which you were affiliated and how, if at all, that affected their role or performance of it; and
- e. how your Special Adviser/s interacted with civil servants, including the procedures which operated within a Department between civil servants, the special adviser/s and the minister and, in particular, the persons to whom your Special Adviser/s were entitled to issue instructions or directions.

Involvement with RHI Scheme

5. Explain your position and role in relation to the Scheme.
6. Explain in detail any involvement you had in relation to, or touching upon, the Scheme including (but not limited to) any role or involvement you had in respect of the setting up, design, implementation, operation, promotion, oversight, governance, funding, amendment (including the introduction of cost controls), suspension and/or closure of the Scheme, from its inception up to the present day.
7. Without prejudice to the generality of paragraph 6 above, explain your involvement (if any) in:
 - a. the creation and development of the Scheme in, or before, 2012;
 - b. the administration/operation of the Scheme;
 - c. any problems or difficulties which emerged in respect of the Scheme (including, but not limited to, the causing or permitting, identification, consideration and/or remediation of any such problems);
 - d. the amendment, suspension or closure of the Scheme;

in each instance providing:

- i. details of any relevant interactions with Civil Servants, Ministers, Special Advisers, MLAs, politicians, political parties and other potentially relevant persons (e.g. consultants, the renewable heating industry, actual or potential applicants for accreditation under the Scheme, journalists, etc.);
 - ii. where you made any decision, or gave any advice, in respect of any of the matters set out at paragraph 6 above, the reasons for that decision or that advice (as the case may be); and
 - iii. details of any documents which are of significance or particular relevance (which should be annexed to the witness statement if you have access to the documentation which permits you to do so; or, otherwise, which is identified as clearly as you can).
8. Again without prejudice to the generality of paragraph 6 above, provide a full explanation of your involvement, if any, in the decision-making processes as to (a) the introduction of costs controls into the Scheme, (b) the suspension of the Scheme to new applicants, (c) the timing of each of those steps, and (d) any announcement or publication relating to those matters.
9. Insofar as it is within your knowledge, provide a response to the allegations made by former Minister Bell in his televised interview with Stephen Nolan, including (but not limited to):
 - a. The allegation that his Special Adviser (Timothy Cairns) sought to conceal, or render less obvious, the involvement of other persons from or connected with the Democratic Unionist Party in the decision-making processes mentioned above.
 - b. The allegation that you (as either Minister for Finance and Personnel or First Minister) sought to influence the decision-making processes described above and/or put pressure on him in respect of them. This should include full details of the facts and circumstances of your meeting with Minister Bell described in his interview with Stephen Nolan.

10. Explain your understanding of the funding arrangements for the Scheme, including how that understanding was gained, how (if at all) it developed, and what steps (if any) you took or directed in any of your Ministerial roles to clarify the funding arrangements for the Scheme.
11. Identify, in your view, any flaws or difficulties with the Scheme and/or its operation, explaining in each instance, so far as you can, how these difficulties or flaws came about and with whom (if anyone) responsibility or accountability for them lay.
12. Specify whether you promoted the Scheme and/or encouraged any third party to seek accreditation under the Scheme, assisted any third party in so doing, or provided any third party with information to the end that they might apply, or consider applying, for accreditation under the Scheme. In respect of any such instance, please provide full details including (but not limited to) the third party concerned and the date of any steps taken by you in that regard.
13. Identify any instances, to your knowledge or belief, of lobbying or encouragement of Ministers, Special Advisers, Civil Servants or other relevant persons in relation to the terms of the Scheme and/or the introduction, non-introduction, variation or delay of the introduction of cost controls into the Scheme (including, but not limited to, the amendment of tariffs, tiering, degression and Scheme suspension or closure) at any stage but, in particular, at the creation of the Scheme and in the period from mid-2015 to early 2016.
14. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on you in relation to any aspect of the RHI Scheme. In respect of any such instance specify:
 - a. who provided that influence or pressure;
 - b. when it occurred;
 - c. what it consisted of and how it was conveyed;
 - d. what you believed the motivation to have been (and what you now believe the motivation to have been, if different), and why you believe that; and
 - e. how you dealt with it.

15. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on someone else in relation to the RHI Scheme. In respect of any such instance identify:
- a. who provided that influence or pressure;
 - b. who it was exerted on;
 - c. when it occurred;
 - d. what it consisted of and how it was conveyed;
 - e. what you believe the motivation to have been, and why you believe that;
 - f. how it was dealt with; and
 - g. how and when you came to be aware of the influence or pressure.
16. Identify any instances, to your knowledge or belief, where a Minister, Special Adviser, Civil Servant or any other person involved in the RHI Scheme (including, if applicable, yourself):
- a. breached relevant standards (including, but not limited to, the Nolan Principles, the Ministerial Code of Conduct, the Civil Service Code of Conduct, the Code of Conduct for Special Advisers and/or terms or conditions of employment or service) or acted in a way incompatible with their duties (including, but not limited to, by means of making premature or unauthorised disclosures);
 - b. acted in circumstances relating to or touching upon the Scheme in any way where they had a real or perceived conflict of interest;
- in respect of any such instances, providing details and specifying the basis for any belief that there has been a breach of a relevant standard or duty or that a conflict of interest arose.
17. Specify whether, to your knowledge, you have any connection to a person or body receiving payment under the Scheme or benefiting commercially from the Scheme in some other way (for instance, by supplying equipment, plant, fuel or other goods or services used by Scheme claimants). In this request, a 'connection' includes (but is not limited to) circumstances where the Scheme claimant or beneficiary is a relative, friend,

close acquaintance, business associate or (in the case of politicians or special advisers) donor or supporter (either to or of you or your political party).

Whistle-blowing and raising of concerns

18. Identify any instances of which you are aware of whistle-blowing in relation to the Scheme, or disclosures made in the public interest raising concerns about the Scheme, setting out details of when this occurred, to whom and by whom any relevant disclosure was made and how it was dealt with.
19. In particular, provide an account of how you dealt with any disclosures raising concerns about the Scheme made to you, or your Civil Service officials or party staff, at any time. In relation to each such instance, identify precisely how the concerns were communicated to you (or, as the case may be, your officials or staff).
20. Specify when you first became aware that subsidies payable under the Scheme exceeded the cost of biomass fuel used to produce heat (so that there was an incentive in some cases to produce heat merely to make profit from the Scheme) and how you so became aware.

General

21. Considering the RHI Inquiry's Terms of Reference, please identify any representations made to you about the RHI Scheme (which you regard as significant and about which you consider the RHI Inquiry should be aware), whether those representations were made by colleagues, or otherwise. In respect of any such representations please indicate when they occurred, where they occurred, who was involved, and what was said or communicated to you.
22. Considering the RHI Inquiry's Terms of Reference, please identify any conversations or discussions you had about the RHI Scheme (which you regard as significant and about which you consider the RHI Inquiry should be aware), whether those conversations or discussions involved colleagues, or otherwise. In respect of any such conversations or discussions please indicate when they occurred, where they occurred, who was involved, and what was said to you.

23. Provide any further evidence within your knowledge or belief which is relevant to the matters which the RHI Inquiry is investigating as set out in the RHI Inquiry's Terms of Reference.

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 135 of 2017

DATE:

Witness Statement of: ARLENE FOSTER

I, Arlene Foster, will say as follows:

Background

1. Set out a description of your occupational history, qualifications and experience.

Graduated in Law QUB 1993

Institute of Professional Legal Studies 1996

Solicitor at Cooper Wilkinson 1996 to 2001

Solicitor at Richard Monteith 2001 to 2007

2. Set out a summary of your Ministerial roles (this includes the dates between which you held the role/s; when, how and why you were appointed to the role/s; and what the role/s entailed). In each instance, describe how this role related, if at all, to the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland ('the Scheme').

Elected to Assembly November 2003 (UUP)

Fermanagh District Council 2005 – 2007 and again 2008 to 2009 (DUP)

Minister of the Environment 2007 – 2008

Minister of Enterprise Trade and investment 2008 – May 2015

Minister of Finance and Personnel May 2015 – December 2016

First Minister December 2016 - 2017

Ministerial responsibility and Special Advisers

3. Describe your understanding of your position as a Minister, including:

a. what duties you considered yourself to owe as a Minister;

I consider that I owe the duties set out in the Northern Ireland Executive Ministerial Code incorporating the Pledge of Office, the Ministerial Code of Conduct and the Seven Principles of Public Life.

b. what rules or codes governed the exercise of your Ministerial functions; and

The Northern Ireland Executive Ministerial Code incorporating the Pledge of Office, the Ministerial Code of Conduct and the Seven Principles of Public Life.

c. your relationship, as a Minister, with the political party to which you were affiliated (including whether you were in any way under the direction or control of that party in the exercise of your Ministerial functions).

I was not under the direction or control of the party in relation to the exercise of my Ministerial functions. In common with all elected representatives, I would consider it appropriate, where relevant, to take my party's mandate into account.

4. Describe your understanding of your relationship, as a Minister, with your Special Adviser/s, including:

a. the rules which governed the position of Special Adviser;

The Civil Service (Special Advisers) Act (Northern Ireland) 2013 and the Code Governing the Appointment of Special Advisers.

b. who would give your Special Adviser/s instructions, and who was entitled to do so;

In my role as Minister and therefore as the appointing authority for each of my Special Advisers, I consider that I was the only person entitled to give instructions to them.

c. how your Special Adviser/s interacted with other Special Advisers, and whether there was an understood or accepted hierarchy within your or any team of Special Advisers;

My Special Advisers at various times would have discussed issues with others, particularly where those issues were cross-cutting, to obtain the perspective of other Ministers/Departments, seek advice, and co-ordinate work.

- d. **what duties your Special Adviser/s owed (or may have considered himself or herself to owe) to the political party to which you were affiliated and how, if at all, that affected their role or performance of it; and**

My Special Advisers' primary duty was to me in exercise of my Ministerial functions. In fulfilling this duty their role included considering the political implications of matters and advising me accordingly.

- e. **how your Special Adviser/s interacted with civil servants, including the procedures which operated within a Department between civil servants, the special adviser/s and the minister and, in particular, the persons to whom your Special Adviser/s were entitled to issue instructions or directions.**

Special Advisers are not entitled to issue instructions or directions to civil servants. They would liaise closely with civil servants, be privy to Departmental submissions and other communications, and attend meetings. In relation to Departmental submissions, Special Advisers would consider these and raise issues as appropriate to assist the Minister.

Involvement with RHI Scheme

5. **Explain your position and role in relation to the Scheme.**

See reply to 7, below.

6. **Explain in detail any involvement you had in relation to, or touching upon, the Scheme including (but not limited to) any role or involvement you had in respect of the setting up, design, implementation, operation, promotion, oversight, governance, funding, amendment (including the introduction of cost controls), suspension and/or closure of the Scheme, from its inception up to the present day.**

See reply to 7, below.

7. **Without prejudice to the generality of paragraph 6 above, explain your involvement (if any) in:**

- a. **the creation and development of the Scheme in, or before, 2012;**
- b. **the administration/operation of the Scheme;**
- c. **any problems or difficulties which emerged in respect of the Scheme (including, but not limited to, the causing or permitting, identification, consideration and/or remediation of any such problems);**
- d. **the amendment, suspension or closure of the Scheme;**

in each instance providing:

- i. **details of any relevant interactions with Civil Servants, Ministers, Special Advisers, MLAs, politicians, political parties and other potentially relevant persons (e.g. consultants, the renewable heating industry, actual or potential applicants for accreditation under the Scheme, journalists, etc.);**
 - ii. **where you made any decision, or gave any advice, in respect of any of the matters set out at paragraph 6 above, the reasons for that decision or that advice (as the case may be); and**
 - iii. **details of any documents which are of significance or particular relevance (which should be annexed to the witness statement if you have access to the documentation which permits you to do so; or, otherwise, which is identified as clearly as you can).**
- a. and b. I was Minister for Enterprise, Trade and Investment during the period in which the scheme was created and developed, and thereafter during its operation until May 2015. I was provided with advice from officials in the form of Departmental submissions at various times during this period. I considered the advice I was being given by officials and received input from my Special Adviser before making decisions. My involvement insofar as decision-making is concerned is therefore documented within those submissions which should be in the possession of the inquiry, either from the documents provided by me or my colleagues or from the Department. The work of the Department was also scrutinised by the ETI Committee.

The RHI scheme was intended to incentivise the uptake of renewable heat technologies to support the EU wide target. During my time as Minister there was an underspend in the non-domestic scheme and uptake was slow. In the period following the consultation on Phase II of the scheme, the focus within the Department was on moving forward with the domestic scheme. In relation to this aspect, I recall visiting the production facility at Lisburn of Warmflow Engineering Co. Limited in early July 2014, and being asked during that visit about the possible timeline for the introduction of the domestic RHI scheme.

- c. By the time problems or difficulties began to emerge I was no longer DETI Minister. While I now understand that there was communication about RHI between DETI and DFP from May 2015 onwards, this was not escalated to Ministerial level. I was First Minister when it was confirmed by HM Treasury that the expenditure above the approved AME budget would have to be DEL resourced and discussions regarding closure of the scheme to new applicants began (see further reply to d., below.)

d. I did not have a role in the amendment of the scheme in Autumn 2015. In January 2016, a submission recommending closure of the scheme to new applicants came to the attention of OFMDFM. The date proposed was mid March. Given the concerns that had been raised about the scheme by end January, including the budget implications, and the allegations made to me by a whistleblower (see further at reply to 18) the Deputy First Minister and I believed action needed to be taken more quickly. A decision was taken on 5th February 2016 to bring the date forward to 15th February 2016. However, concerns were raised about this short timeframe and, on the basis that cost controls were now in place; there was a risk of legal challenges from those who had installed boilers but had not yet been accredited; and with the agreement of civil servants, the DETI Minister decided to allow the scheme to remain open for a further two weeks. The scheme therefore closed on 29th February 2016.

8. **Again without prejudice to the generality of paragraph 6 above, provide a full explanation of your involvement, if any, in the decision-making processes as to (a) the introduction of costs controls into the Scheme, (b)**

the suspension of the Scheme to new applicants, (c) the timing of each of those steps, and (d) any announcement or publication relating to those matters.

See reply to 7, above.

9. Insofar as it is within your knowledge, provide a response to the allegations made by former Minister Bell in his televised interview with Stephen Nolan, including (but not limited to):

- a. The allegation that his Special Adviser (Timothy Cairns) sought to conceal, or render less obvious, the involvement of other persons from or connected with the Democratic Unionist Party in the decision-making processes mentioned above.**

Timothy Cairns amended a draft submission in early February 2016 i.e. before it was finalised for the then DETI Minister Jonathan Bell to consider. The reference that was removed highlighted the role of OFMDFM in wanting the scheme to be closed more quickly than initially proposed and without consultation. The submission evidencing this with its changes tracked should be within the documents before the Inquiry.

- b. The allegation that you (as either Minister for Finance and Personnel or First Minister) sought to influence the decision-making processes described above and/or put pressure on him in respect of them. This should include full details of the facts and circumstances of your meeting with Minister Bell described in his interview with Stephen Nolan.**

I had no influence whatsoever in relation to the cost controls introduced in 2015. However, in relation to the closure of the scheme in 2016 and with the agreement of the deputy First Minister, I suggested to the DETI Minister that the scheme should be closed as soon as reasonably practicable and certainly before the mid-March date that had been proposed. Following the indication of a very early closure date representations were made by a number of public representatives that a little more time should be allowed before the scheme was closed. On this basis I asked the DETI Minister to delay the closure by several weeks. This was still inside the original date proposed by the DETI Minister.

I met with Minister Bell around this time in the presence of my Special Adviser Timothy Johnston. We discussed the need to allow a further two weeks for those with boiler installations in progress to complete the works. As set out in my interview with Stephen Nolan, I felt intimidated by Jonathan Bell's aggressive attitude at this meeting.

OFMdfM involvement in January and February 2016 regarding the timing of the closure of the scheme to new applicants was necessary and appropriate given the fact that the matter was by then cross-cutting.

10. **Explain your understanding of the funding arrangements for the Scheme, including how that understanding was gained, how (if at all) it developed, and what steps (if any) you took or directed in any of your Ministerial roles to clarify the funding arrangements for the Scheme.**

During my time as DETI Minister my understanding, as gained from officials, was that the scheme was funded by a separate budget of Annually Managed Expenditure. I was aware that there was a budget of just under £38 million provided by HMT for the five year period from 2011 to 2016. By the end of 2014 there was an underspend of approximately £15 million. I became aware of the true funding position in or around the end of December 2016 or early January 2017 when the clarification from HM Treasury was communicated. The matter was then an issue for the Executive, rather than solely DETI.

11. **Identify, in your view, any flaws or difficulties with the Scheme and/or its operation, explaining in each instance, so far as you can, how these difficulties or flaws came about and with whom (if anyone) responsibility or accountability for them lay.**

It is clear that there were a number of significant flaws with the scheme. One of the crucial mistakes was that the tariff for small to medium biomass was set at a level higher than the cost of the fuel. I believe that the Inquiry is best placed to identify with whom responsibility for those flaws lies.

12. **Specify whether you promoted the Scheme and/or encouraged any third party to seek accreditation under the Scheme, assisted any third party in so doing, or provided any third party with information to the end that they**

might apply, or consider applying, for accreditation under the Scheme. In respect of any such instance, please provide full details including (but not limited to) the third party concerned and the date of any steps taken by you in that regard.

During my time as DETI Minister I was engaged in promoting the scheme to encourage uptake generally as there was a significant underspend. Aside from this, I do not recall any specific instances where I encouraged, promoted, assisted, or provided information to a third party with regard to applying to the scheme.

13. **Identify any instances, to your knowledge or belief, of lobbying or encouragement of Ministers, Special Advisers, Civil Servants or other relevant persons in relation to the terms of the Scheme and/or the introduction, non-introduction, variation or delay of the introduction of cost controls into the Scheme (including, but not limited to, the amendment of tariffs, tiering, degression and Scheme suspension or closure) at any state but, in particular, at the creation of the Scheme and in the period from mid-2015 to early 2016.**

I can not recall any specific instances save for those outlined elsewhere in this statement or that might be apparent from the documents provided by me and my colleagues to the inquiry.

14. **Identify any instances, to your knowledge or belief, where influence or pressure was exerted on you in relation to any aspect of the RHI Scheme. In respect of any such instance specify:**
- a. **who provided that influence or pressure;**
 - b. **when it occurred;**
 - c. **what it consisted of and how it was conveyed;**
 - d. **what you believed the motivation to have been (and what you now believe the motivation to have been, if different), and why you believe that; and**
 - e. **how you dealt with it.**

I can not recall any specific instances save for those outlined elsewhere in this statement or that might be apparent from the documents provided by me and my colleagues to the inquiry.

- 15. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on someone else in relation to the RHI Scheme. In respect of any such instance identify:**
- a. who provided that influence or pressure;**
 - b. who it was exerted on;**
 - c. when it occurred;**
 - d. what it consisted of and how it was conveyed;**
 - e. what you believe that motivation to have been, and why you believe that;**
 - f. how it was dealt with; and**
 - g. how and when you came to be aware of the influence or pressure.**

I can not recall any specific instances save for those outlined elsewhere in this statement or that might be apparent from the documents provided by me and my colleagues to the inquiry.

- 16. Identify any instances, to your knowledge or belief, where a Minister, Special Adviser, Civil Servant or any other person involved in the RHI Scheme (including, if applicable, yourself):**
- a. breached relevant standards (including, but not limited to, the Nolan Principles, the Ministerial Code of Conduct, the Civil Service Code of Conduct, the Code of Conduct for Special Advisers and/or terms or conditions of employment or service) or acted in a way incompatible with their duties (including, but not limited to, by means of making premature or unauthorised disclosures);**
 - b. acted in circumstances relating to or touching upon the Scheme in any way where they had a real or perceived conflict of interest;**
- in respect of any such instances, providing details and specifying the basis for any belief that there has been a breach of a relevant standard or duty or that a conflict of interest arose.**

I am not aware of any instances aside from those already in the public domain or within the documentation provided by me and my colleagues.

17. **Specify whether, to your knowledge, you have any connection to a person or body receiving payment under the Scheme or benefiting commercially from the Scheme in some other way (for instance, by supplying equipment, plant, fuel or other goods or services used by Scheme claimants). In this request, a 'connection' includes (but is not limited to) circumstances where the Scheme claimant or beneficiary is a relative, friend, close acquaintance, business associate or (in the case of politicians or special advisers) donor or supporter (either to or of you or your political party).**

I am not aware of any connections aside from those already in the public domain or within the documentation provided by me and my colleagues.

Whistle-blowing and raising of concerns

18. **Identify any instances of which you are aware of whistle-blowing in relation to the Scheme, or disclosures made in the public interest raising concerns about the Scheme, setting out details of when this occurred, to whom and by whom any relevant disclosure was made and how it was dealt with.**

As has been widely documented, I was contacted by Janette O'Hagan in September 2013 to my DETI email account and, later, to my personal email account. Only the email to my personal account included reference to concerns. She met with, and was in subsequent communication with, officials in DETI but her concerns were not escalated to Ministerial level.

I also received a note containing serious allegations from a constituent named George Gallagher who attended with me at my Fermanagh Constituency office in January 2016. He spoke to me about other matters but as he was leaving he gave me the note saying he would "leave it with me". I passed this to the Head of the Civil Service and it was subsequently attached to a minute from HOCS dated 27th January 2016. If the Inquiry seeks to obtain more information from Mr Gallagher he can be contacted at **Personal information redacted by the RHI Inquiry**

I also became aware in October 2016 that an anonymous whistleblower had made allegations about Stephen Brimstone's installation. I understand that these allegations have been investigated and Ofgem were satisfied that his installation is eligible under the scheme.

19. **In particular, provide an account of how you dealt with any disclosures raising concerns about the Scheme made to you, or your Civil Service officials or party staff, at any time. In relation to each such instance, identify precisely how the concerns were communicated to you (or, as the case may be, your officials or staff).**

See above at 18.

20. **Specify when you first became aware that subsidies payable under the Scheme exceeded the cost of biomass fuel used to produce heat (so that there was an incentive in some cases to produce heat merely to make profit from the Scheme) and how you so became aware.**

I first became aware of this in or around July 2016 when the problem was identified by the NIAO.

General

21. **Considering the RHI Inquiry's Terms of Reference, please identify any representations made to you about the RHI Scheme (which you regard as significant and about which you consider the RHI Inquiry should be aware), whether those representations were made by colleagues, or otherwise. In respect of any such representations please indicate when they occurred, where they occurred, who was involved, and what was said or communicated to you.**

See reply to 22, below.

22. **Considering the RHI Inquiry's Terms of Reference, please identify any conversations or discussions you had about the RHI Scheme (which you regard as significant and about which you consider the RHI Inquiry should be aware), whether those conversations or discussions involved colleagues, or otherwise. In respect of any such conversations or discussions please indicate when they occurred, where they occurred, who was involved, and what was said to you.**

Following a telephone conversation on 13th November 2015, with a constituent, Stephen Harron, I telephoned Timothy Cairns and enquired about the possibility of moving back by a week or so the introduction of the tiered tariffs. However, on being briefed on costing dimensions around such a possibility I accepted matters should proceed as planned.

23. **Provide any further evidence within your knowledge or belief which is relevant to the matters which the RHI Inquiry is investigating as set out in the RHI Inquiry's Terms of Reference.**

I have no further relevant evidence.

Statement of Truth

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

Signed:

A handwritten signature in black ink, appearing to read "Arelne Foster". The signature is written in a cursive style with a large initial 'A'.

Dated: 25/05/17