

Chapter 44 – Anonymous provision of emails showing disclosures about RHI changes in 2015

- 44.1 Meanwhile, whilst seeking to introduce changes to the RHI scheme which would reduce its overspend and during the height of public and political controversy in relation to the RHI scheme, on 5 January 2017, during a period in which he was engaged in giving evidence to the PAC, Dr McCormick received hard copies of a number of emails in an envelope postmarked 23 December 2016. These documents were sent anonymously and included evidence of disclosures made to commercial stakeholders by Mr Wightman and Mr Hughes regarding possible changes to the RHI scheme in 2015. One was dated 1 July 2015, **before** (the Inquiry’s emphasis) the 8 July submission was sent to Minister Bell setting out the proposals to amend the scheme; the second, dated 23 July, confirmed that stakeholders had been briefed about further emerging proposals, including October as the proposed date for implementation of the proposed amendments. The emails were exchanges between the stakeholders passing on the information that they had received from the officials in question.²²⁸⁴ Copies of the two emails, as well as being posted to Dr McCormick, were also sent to the Economy Committee Chairman, Conor Murphy MLA, on the same date (23 December 2016).²²⁸⁵
- 44.2 Dr McCormick wrote to the PAC to give notice that he had received copies of the emails and he referred them to the PwC representatives carrying out a fact-finding process that he initiated in response to evidence which emerged in preparation for his appearance before the PAC in autumn of 2016.²²⁸⁶ During a subsequent PAC hearing on 18 January 2017 Dr McCormick, as a consequence of what he had been told by Mr Cairns, named Dr Crawford as the SpAd who had sought to delay the introduction of tariffs in 2015.²²⁸⁷
- 44.3 On 19 January 2017, the day after Dr McCormick spoke at the PAC, copies of the emails were also sent anonymously to Sam McBride at the *Newsletter* and Kathleen Carragher, Head of BBC News.²²⁸⁸ Dr McCormick appreciated that the evidence contained in the emails was serious, since neither he nor Mr Stewart had authorised the degree or the extent of disclosure which they revealed. He was referred by the Inquiry to the Code permitting officials to engage informally with potential or actual stakeholders but he told the Inquiry that he was satisfied that, in the context in question, the disclosure clearly overstepped the line.²²⁸⁹ Dr McCormick emailed Minister Hamilton with regard to receipt of the emails pointing out that one, dated 1 July 2015, indicated the inference drawn by the person briefed by officials was that applicants should move quickly to ensure they secured access to the favourable tariff that was then in force.²²⁹⁰
- 44.4 In a written statement of evidence John Robinson, the SpAd to Minister Hamilton, said that he had received copies of the emails from Dr Crawford on 16 December 2016. He said that when they discussed the documents some days later Dr Crawford’s primary point was that

2284 WIT-10601 to WIT-10604; WIT-26310; TRA-16683 to TRA-16684

2285 WIT-22047

2286 TRA-16685

2287 TRA-16686

2288 TRA-16685; WIT-22046 to WIT-22047

2289 TRA-16687 to TRA-16688

2290 IND-32926 to IND-32927

the documents proved that the industry was being given advanced briefing by civil servants rather than political sources. Mr Robinson said that he was encouraged by both Mr Bullick and Dr Crawford to share the emails with the media, although the latter did not want the original source of the material, i.e. himself, to be disclosed. According to Mr Robinson, Minister Hamilton primarily wanted the material to be shared with the departmental investigation; but he also recognised the benefit of challenging the ‘media narrative’ then being portrayed against the Democratic Unionist Party.²²⁹¹

44.5 The Inquiry’s Senior Counsel asked Minister Hamilton, in the course of his oral evidence to the Inquiry, about the disclosure of these emails, which might have shifted the focus from Dr Crawford back onto departmental officials. Minister Hamilton accepted that the disclosures were “not unhelpful” to Dr Crawford and he stated that he had become aware of them through his SpAd, Mr Robinson.²²⁹² Minister Hamilton referred to the argument that DUP SpAds had caused the spike during the summer of 2015 by making disclosures and he expressed the view that the emails, “if not completely refuting that, cast a significant shadow of doubt on the accusations.”²²⁹³

44.6 He told the Inquiry that Mr Robinson had sent the emails anonymously to Dr McCormick and to a journalist. Minister Hamilton conceded that he had agreed with Mr Robinson to make the disclosures.²²⁹⁴ It was put to Minister Hamilton by the Inquiry that what he had done was to use a cloak of anonymity in order to take the pressure off a SpAd.²²⁹⁵ He conceded in the course of further questioning by the panel:

“But you’re right: it is not my proudest moment. It is one of many things that I regret around this period. It was – the only thing I offer in mitigation – and it is not a wonderful thing to offer in mitigation – is the atmosphere that we found ourselves in. It was an incredibly difficult time.”²²⁹⁶

2291 WIT-22040 to WIT-22041

2292 TRA-16217 to TRA-16218

2293 TRA-16218

2294 TRA-16217 to TRA-16221

2295 TRA-16222

2296 TRA-16223

Findings

227. Andrew Crawford, John Robinson and Richard Bullick were employed as civil servants, albeit specialised civil servants, and they were paid as civil servants from public funds. Irrespective of the pressures to which Minister Hamilton and his party were being subjected at the material time, the Inquiry finds it unacceptable that emails relating to the conduct of, albeit not to or from, junior civil servants were leaked to the media by a political party. This disclosure of emails was intended to relieve, to some degree, the pressure on one form of civil servant, a SpAd, by making public the identities and actions of more junior civil servants. While, in some respects, Mr Robinson, Mr Bullick and Dr Crawford were all participants in this action, it was a quite extraordinary and unacceptable step for an Executive Minister to also acquiesce.

