



Damien Hegarty
Room 16 Hse
Netherleigh
Massey Avenue
Belfast
BT4 2JP

28 November 2018

By Post and Email: Damien.Hegarty@economy-ni.gov.uk

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').

The Terms of Reference of the RHI Inquiry continue to be available on the Inquiry's website: www.rhiinquiry.org

I am sure that you are aware that the RHI Inquiry is conducting its investigations into the matters set out in its Terms of Reference. Although the Inquiry's oral hearings are largely complete, it is still engaged in 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.

The RHI Inquiry considers, arising from material provided to it, that you may be able to assist the RHI Inquiry with its work.

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 in order to assist you in preparing your statement. In particular, you may wish to see documentation to which you previously had access but now no longer have access in your current post. If that applies in your case, arrangements have been made with

DfE to facilitate this; and you should contact Terence Coyne, the RHI Task Force's Information Manager, in the first instance. Alternatively, or if you encounter any difficulties, of whatever kind, you should not hesitate to get in touch with me.

I further refer you to Restriction Order No 2 made by the Chairman of the RHI Inquiry on 22 June 2017, a copy of which is also available on the Inquiry website. This restriction order prohibits you from publishing any documentation received from the RHI Inquiry (save that you may show it to your, or the Department's, legal representative, as appropriate) unless you first obtain the consent in writing of the Inquiry Chairman.

In addition to the four restriction orders made by the Chairman of the RHI Inquiry (which you will find published on the Inquiry website) receipt of this correspondence and its enclosures also places you under a duty of confidentiality to the RHI Inquiry in respect of them. You may share the correspondence and the enclosed Notice and documents with your legal representative(s), but neither you nor they may show, communicate the contents of, nor provide this correspondence or the Notice or documents 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

A handwritten signature in black ink that reads "Patrick Butler". The signature is written in a cursive style with a large initial 'P' and a long horizontal stroke at the end.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE
[No 237 of 2018]

Introduction

1. Set out your position and role within DETI / DfE during the period 2012 to 2016.

Summer 2015

2. At **DFE-466169 to DFE-466170** there is a screen-shot from the Private Office Knowledge Network relating to SUB-1075-2015 (the submission of 8 July 2015 in relation to the introduction of cost control measures in the RHI Scheme). This has an entry (at 08.23 on 09/07/2015) which suggests that the submission was "*Referred to [the] Minister*" on 9 July 2015, so that its status was then "*With Minister*". DfE has already indicated to the Inquiry on your behalf (**DFE-466687**) that, "*Recording papers on Knowledge Network as being referred to the Minister is not conclusive proof they are actually with the Minister. Although recorded as being with the Minister, the hard copy will initially be passed to [the Special Adviser] for consideration who in turn either passes them directly to the Minister or back to the [Private Secretary] to give to the Minister.*" As to this:
 - a. Set out what you consider the Knowledge Network record referred to above shows as to how the submission of 8 July 2015 was processed and dealt with.
 - b. On the basis of the information you have available to you, are you able to say when Minister Bell himself actually received a copy of the submission?
 - c. Have you any further evidence you can provide as to how the submission of 8 July 2015 was dealt with, processed and cleared during the summer of 2015?

The evidence of the Minister's Private Secretary

3. You are referred to the written evidence to the Inquiry of Sean Kerr, Minister Bell's Private Secretary (see **WIT-25819 to WIT-25830** and **WIT-25843 to WIT-25857**). Insofar as the issues addressed within his written evidence are within your own knowledge, information or belief, please:
 - d. Set out any respect in which you believe Mr Kerr's evidence is materially incomplete or in respect of which you have additional relevant information or evidence to provide (and, if so, please provide it).
 - e. Specify whether there is any issue in respect of which you materially disagree with the evidence provided by Sean Kerr (and, if so, please identify same and provide your reasons for disagreement).

General

4. 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 237 of 2018

DATE: 3 December 2018

Witness Statement of: Damien Hegarty

I, Damien Hegarty, will say as follows: -

Introduction

1. Set out your position and role within DETI / DfE during the period 2012 to 2016.

During the period mentioned I held the position of Correspondence Secretary (EOII Grade) within DETI Private Office. My role was to manage the Ministers Correspondence with the help of the Assistant Correspondence Secretary, Mrs Christine McLaughlin.

Summer 2015

2. At **DFE-466169** to **DFE-466170** there is a screen-shot from the Private Office Knowledge Network relating to SUB-1075-2015 (the submission of 8 July 2015 in relation to the introduction of cost control measures in the RHI Scheme). This has an entry (at 08.23 on 09/07/2015) which suggests that the submission was "*Referred to [the] Minister*" on 9 July 2015, so that its status was then "*With Minister*". DfE has already indicated to the Inquiry on your behalf (**DFE-466687**) that, "*Recording papers on Knowledge Network as being referred to the Minister is not conclusive proof they are actually with the Minister. Although recorded as being with the Minister, the hard copy will initially be passed to [the*



Special Adviser] for consideration who in turn either passes them directly to the Minister or back to the [Private Secretary] to give to the Minister." As to this:

- a. Set out what you consider the Knowledge Network record referred to above shows as to how the submission of 8 July 2015 was processed and dealt with.

The Screenshot **DFE-466169** and **DFE-466170** shows the Knowledge Network (KN) record for a submission from Stuart Wightman entitled "ETI Committee RHI – Introduction of Cost Control Measures and Ensuring Effective Administration of Domestic Scheme". This submission was registered on KN on 9 July 2015 by the Assistant Correspondence Secretary. The edit referrals stage is the way in which those officials named on the cc list in the submission are added to the cc list on KN. The Assistant Correspondence Secretary would have printed out a hard copy of this submission along with any Annexes and placed them in an A4 Plastic Project Folder and passed to myself. I would have checked the process that all the documents were contained in the folder correctly and that it was recorded on KN correctly. The fact that I edited referrals on KN would suggest that this field required a correction although I have no recollection of what the correction was. I would then have passed the hard copy to the Assistant Private Secretary to place in the bundle of papers to go to the SpAd (either directly or via the Private Secretary). The SpAd/Minister did not receive electronic copies through KN.

Under the comments box on KN the Assistant Correspondence Secretary has recorded a revised version of this submission as going to SpAd/Minister on 28 August 2015. Again this would have been in hard



copy only. This revised version showing tracked changes was saved to KN on 28 August 2015.

On the 3 September I have recorded and saved the Ministers clearance of SUB-1075-2015 on KN. I then notified this decision to Stuart Wightman and those officials on the cc list via KN.

- b. On the basis of the information you have available to you, are you able to say when Minister Bell himself actually received a copy of the submission?

No, I have no knowledge when the Minister actually received a copy of this submission

- c. Have you any further evidence you can provide as to how the submission of 8 July 2015 was dealt with, processed and cleared during the summer of 2015?

No, I have no further evidence to provide beyond the part of the process that I was involved.

The evidence of the Minister's Private Secretary

3. You are referred to the written evidence to the Inquiry of Sean Kerr, Minister Bell's Private Secretary (see **WIT-25819 to WIT-25830** and **WIT-25843 to WIT-25857**). Insofar as the issues addressed within his written evidence are within your own knowledge, information or belief, please:

- d. Set out any respect in which you believe Mr Kerr's evidence is materially incomplete or in respect of which you have additional relevant information or evidence to provide (and, if so, please provide it).

I have nothing further to add to Mr Kerr's evidence as I was not involved at the level which his evidence covers.



- e. Specify whether there is any issue in respect of which you materially disagree with the evidence provided by Sean Kerr (and, if so, please identify same and provide your reasons for disagreement).

I have nothing further to add to Mr Kerr's evidence as I was not involved at the level which his evidence covers.

General

4. 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 nothing further to add.

Statement of Truth

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

Signed: Damien Hegarty

Dated: 3/12/2018