



RENEWABLE HEAT
INCENTIVE INQUIRY

WIT-202012

RHI Inquiry

Headline Building
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Paul (Frank) McCullagh

Personal information redacted by the
RHI Inquiry

By Post and E-Mail: [paul_mccullagh](mailto:paul_mccullagh@rhiinquiry.org) Personal information redacted by
the RHI Inquiry

15 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').

The Inquiry is grateful for the witness statement you have provided to it.

There are a number of further matters that the Inquiry would be grateful for your assistance with.

Therefore, 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 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.

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 remind you again 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.

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 long horizontal stroke at the end.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE
[No 222 of 2018]

Solmatix Letter of the 10 July 2015 and your meeting with DETI on 22 July 2015

You are referred to the following documents:

- Solmatix letter of 10 July 2015 (DFE-107131)
- Email from Frank McCullagh to Seamus Hughes of the 10 July 2015 arranging the meeting with DETI (WIT-198845)
- Frank McCullagh's notes of the meeting of 22 July 2015 (COM-06310)
- Seamus Hughes' handwritten notes of the meeting of 22 July 2015 (IND-04426)
- Email from Fergal Hegarty about the meeting of 22 July 2015 (WIT-198863)
- Email from Fergal Hegarty to Seamus Hughes 23 July 2015 (WIT-198860)

In your letter to DETI of the 10 July 2015 you stated that:

"unscrupulous beneficiaries are not only taking full advantage of RHI support, but in many cases, notably within the poultry sector, appear to be actively exploiting it".

In your covering email to DETI of the same day you stated that:

"...we are keen to ensure that commercial and industrial customer are not penalised due to the exploitation of the RHI by others."

You, together with Fergal Hegarty of Alterative Heat, then meet with DETI's Stuart Wightman and Seamus Hughes on the 22 July 2015.

The following day, the 23 July 2015, Fergal Hegarty emailed Seamus Hughes discussing the meeting and the proposed changes and stated:

"We understand that this was required because and was fundamentally triggered by the fact that the poultry market was exploiting the RHI scheme."

1. In relation to your letter of the 10 July 2015:
 - a. When did you first learn that the RHI scheme was being “*actively exploited*”?
 - b. How did you come to learn that the RHI Scheme was being “*actively exploited*”?
 - c. Please give examples of the exploitation that led you to describe the RHI Scheme as being “*actively exploited*” in your letter of the 10 July 2015.
 - d. Please describe the extent of your awareness that the RHI Scheme was being “*actively exploited*”?
2. What discussions, in advance of the 22 July 2015 meeting with DETI officials, did you have with Fergal Hegarty about any exploitation of the RHI Scheme? Was he aware of the RHI Scheme being “*actively exploited*”? What examples was he in a position to give you?
3. In relation to your meeting with DETI officials on the 22 July 2015:
 - a. What did the DETI officials ask you in respect of your statement to DETI in your letter of the 10 July 2015 that “*unscrupulous beneficiaries*” were engaged in activity that saw the RHI Scheme being “*actively exploited*”?
 - b. What did you, or Fergal Hegarty, tell the DETI officials about the activity of which you were aware that that amounted to the RHI Scheme being “*actively exploited*”?
 - c. How did the DETI officials react to any information you provided about “*unscrupulous beneficiaries*” engaged in the active exploitation of the RHI Scheme?
 - d. Were the DETI officials in a position to provide you with any information about “*unscrupulous beneficiaries*” engaged in the active exploitation of the

RHI Scheme? Please give a full account of any information that was provided to you on this issue.

4. If you have any other relevant information about the exploitation of the RHI Scheme, and DETI's knowledge of it, that is not provided through answering the above questions then please set out that information.

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 222 of 2018

DATE: 20th November 2018

Witness Statement of: Frank McCullagh

I, Frank McCullagh, will say as follows: -

Solmatix Letter of the 10 July 2015 and your meeting with DETI on 22 July 2015

You are referred to the following documents:

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- Email from Frank McCullagh to Seamus Hughes of the 10 July 2015 arranging the meeting with DETI (WIT-198845)
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- Email from Fergal Hegarty about the meeting of 22 July 2015 (WIT-198863)
- Email from Fergal Hegarty to Seamus Hughes 23 July 2015 (WIT-198860)

In your letter to DETI of the 10 July 2015 you stated that:

“unscrupulous beneficiaries are not only taking full advantage of RHI support, but in many cases, notably within the poultry sector, appear to be actively exploiting it”.

In your covering email to DETI of the same day you stated that:

“...we are keen to ensure that commercial and industrial customer are not penalised due to the exploitation of the RHI by others.”



You, together with Fergal Hegarty of Alterative Heat, then meet with DETI's Stuart Wightman and Seamus Hughes on the 22 July 2015.

The following day, the 23 July 2015, Fergal Hegarty emailed Seamus Hughes discussing the meeting and the proposed changes and stated:

"We understand that this was required because and was fundamentally triggered by the fact that the poultry market was exploiting the RHI scheme."

1. In relation to your letter of the 10 July 2015:

a. When did you first learn that the RHI scheme was being *"actively exploited"*?

As stated in my 1st witness statement, a more appropriate term may have been "overcompensation" rather than "exploitation". Rumours started in July 2015.

b. How did you come to learn that the RHI Scheme was being *"actively exploited"*?

Fergal Hegarty contacted me in July 2015 to discuss rumours about changes to the NI Non Domestic RHI. He said the changes were due to an exceeded budget. This was driven by the poultry industry both in terms of uptake and the large amount of heat they generated.

In parallel, the same rumours circulated among the renewables industry and applicants.

c. Please give examples of the exploitation that led you to describe the RHI Scheme as being *"actively exploited"* in your letter of the 10 July 2015.



Rumours circulated among the industry that some poultry and wood chip producers were receiving large RHI incomes due to excessive heat generation beyond their heat requirement.

- d. Please describe the extent of your awareness that the RHI Scheme was being “*actively exploited*”?

My awareness was hearsay only rather than evidence. Solmatix installations were not within these sectors (excluding 1no. installation at a new poultry farm).

2. What discussions, in advance of the 22 July 2015 meeting with DETI officials, did you have with Fergal Hegarty about any exploitation of the RHI Scheme? Was he aware of the RHI Scheme being “*actively exploited*”? What examples was he in a position to give you?

Fergal Hegarty repeated rumours that the driver for change to the NI Non Domestic RHI was excessive heat generated by some poultry and wood chip producers. I believe Fergal Hegarty was aware that there was an opportunity for this to happen but no evidence or examples were discussed.

3. In relation to your meeting with DETI officials on the 22 July 2015:

- a. What did the DETI officials ask you in respect of your statement to DETI in your letter of the 10 July 2015 that “*unscrupulous beneficiaries*” were engaged in activity that saw the RHI Scheme being “*actively exploited*”?

DETI officials did not ask me about “*unscrupulous beneficiaries*” or “*actively exploited*”. DETI officials communicated their concerns over the budget and the proposed changes to the NI Non Domestic RHI.



- b. What did you, or Fergal Hegarty, tell the DETI officials about the activity of which you were aware that that amounted to the RHI Scheme being “*actively exploited*”?

I provided a short introduction that supported changes to the NI Non Domestic RHI in order to manage the budget. Namely, by reducing the opportunity for overcompensation. No examples were discussed and I had no evidence to share.

- c. How did the DETI officials react to any information you provided about “*unscrupulous beneficiaries*” engaged in the active exploitation of the RHI Scheme?

As mentioned above, this was not discussed other than in my introduction from which I received no feedback from DETI officials.

- d. Were the DETI officials in a position to provide you with any information about “*unscrupulous beneficiaries*” engaged in the active exploitation of the RHI Scheme? Please give a full account of any information that was provided to you on this issue.

No information was provided.

4. If you have any other relevant information about the exploitation of the RHI Scheme, and DETI’s knowledge of it, that is not provided through answering the above questions then please set out that information.

I have no further information.



Statement of Truth

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

Signed: _____

Dated: 20th November 2018