



David Sterling
Permanent Secretary
Department of Finance
Clare House
303 Airport Road
Belfast
BT3 9ED

By post and email: david.sterling@finance-ni.gov.uk

30 June 2017

Dear Sir

Re: The Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme

Provision of a Section 21 Notice requiring the production of documents

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 enclose a copy of the RHI Inquiry's Terms of Reference for your information.

You may be aware that the RHI Inquiry is conducting its investigations into the matters set out in its Terms of Reference. A key part of that process is gathering all of the relevant documentation from relevant departments, organisations and individuals.

The Inquiry is aware from witness statements received by it that civil servants involved with the RHI Scheme (such as those from Energy Division, and their seniors) had personal responsibility plans, or personal objectives plans, and also

would have been subject to appraisals of various kinds.

The Inquiry has sought this material from the Department for the Economy in relation to relevant staff from that department (and its predecessor). That department has indicated that it does not hold that material, and has indicated that instead Human Resources hold it, which, as the Inquiry understands it, is within the Department of Finance.

Consequently, the Inquiry is serving a Section 21 Notice on you to allow Human Resources to produce to the Inquiry this type of material for those individuals the Inquiry may from time to time identify to you in writing.

The service of the Section 21 Notice will also allow the Department of Finance to provide the documentation without any concerns around data protection.

The Inquiry would be very grateful if you could use your best endeavours to ensure this material is provided to the Inquiry as a matter of urgency.

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 addition, as referred to above, you will also find enclosed a copy of the RHI Inquiry's Terms of Reference to assist you in understanding the scope of the Inquiry's work and therefore the ambit of the Section 21 Notice.

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.

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

Yours faithfully

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

A handwritten signature in black ink, appearing to read 'Patrick Butler', written in a cursive style.

SCHEDULE**[No 347 of 2017]**

1. Any documents in the form of personal responsibility plans, personal objectives plans, appraisals, or relating to disciplinary issues (which are related directly to their work on the RHI Scheme or which relate to the standard of the relevant person's performance of their duties as a civil servant generally and which might be thought to be potentially relevant to the administration of the RHI Scheme) held by the Department of Finance, relating to the period 2008 to 2017, in respect of the following individuals:
 - a. David Sterling;
 - b. Andrew McCormick;
 - c. David Thomson;
 - d. Chris Stewart;
 - e. Jenny Pyper;
 - f. Fiona Hepper;
 - g. John Mills;
 - h. Alison Clydesdale;
 - i. Joanne McCutcheon;
 - j. Davina McCay
 - k. Peter Hutchinson;
 - l. Stuart Wightman;
 - m. Seamus Hughes;
 - n. Trevor Cooper; and
 - o. Bernie Brankin;

2. Any documents of the type referred to at paragraph 1 above relating to any other individuals the RHI Inquiry may from time to time specify in writing, by letter from the Inquiry Solicitor to the Department, and which refers to and relies upon this Notice.

NOTE:

By virtue of section 43(1) of the Inquiries Act 2005, “document” in this context has a very wide interpretation and includes information recorded in any form. This will include, for instance, correspondence, handwritten or typed notes, diary entries and minutes and memoranda. It will also include electronic documents such as emails, text communications and recordings. In turn, this will also include relevant email and text communications sent to or from personal email accounts or telephone numbers, as well as those sent from official or business accounts or numbers. By virtue of section 21(6) of the Inquiries Act 2005, a thing is under a person’s control if it is in his possession or if he has a right to possession of it.

INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME**RHI REF: Notice 347 of 2017****DATE: 21.07.17**

Witness Statement of: Hugh Widdis

I, Hugh Widdis, will say as follows: -

1. This written statement has been provided by me in response to the s.21 Notice, No. 347 of 2017, "the s.21 Notice".

2. By Paragraph 1 of the Schedule to the s.21 Notice, the RHI Inquiry has requested specific documentation which might be thought potentially relevant to the administration of the RHI Scheme in respect of 15 named individuals, all of whom comprise Northern Ireland Civil Servants and former Civil Servants. The documentation includes performance appraisal reports, (which comprise personal performance agreements, personal development plans, in year and end of year reviews). Since 2009/10, these documents have been created and recorded electronically on the HRConnect system. In addition to these electronically created documents, HRConnect also retains scanned copies of personnel files for all employees' for the years prior to 2009/10. Consequently, in order to comply with the s.21 Notice, all available information held on HRConnect, (i.e. electronically created documents, scanned personnel files and other documents), has been considered and cross referenced, to ensure that all relevant information has been identified, and the documentation requested by the s.21 Notice for the years 2008 to 2017 extracted.

3. The exception to the above is John Mill's hard copy file, which is not registered with HRConnect. A search for the hard copy file has been conducted by NICS Human Resources, (NICS HR), within the current Department (and previous Department) where Mr Mills works. The file has not, however, been located.

4. On 6 July 2017, Mark Bailey, (NICS HR), in the Department of Finance, (DoF), wrote to 12 of the 15 named individuals, (excluding David Thomson, Jenny Pyper and Bernie Brankin who have all left the NICS), requesting that they provide hard copies of their Personal Performance Agreements (PPAs) and End of Year reviews (EoY reviews) for the period 2008 to 2017. See attached, at HW1, a sample of that letter. The reason for this letter was that, when accessed by NICS HR, the form and layout of an official's individual performance appraisal reports is not reader friendly, that situation is however reversed when accessed at individual official level. For this reason, and so as to assist the Inquiry, it was considered prudent to approach the 12 NICS officials

and request they provide NICS HR with the above documentation for the years 2008 to 2017.

5. In response to the letter, PPAs and EoY reviews in relation to some of the years 2008 to 2017, have been provided from 9 officials, namely:-

- I. David Sterling
- II. Andrew McCormick
- III. Chris Stewart;
- IV. Fiona Hepper;
- V. Davina McCay;
- VI. Peter Hutchinson;
- VII. Stuart Wightman;
- VIII. Seamus Hughes;
- IX. Trevor Cooper;

6. It would however appear that two other NICS officials are currently on annual leave:-

- X. Alison Clydesdale; and
- XI. John Mills.

7. Joanne McCutcheon is Personal information redacted by the RHI Inquiry.

8. Officials Personal information redacted by the RHI Inquiry have no access to HRConnect system. In addition, in relation to those officials potentially on annual leave, the Inquiry may wish to contact those officials directly requesting the documentation or allow a further extension of time to this s.21 Notice so that the officials concerned can provide DoF with reader friendly versions of their performance appraisal reports. In relation to those former officials who have now left the NICS, their performance appraisal reports are attached, but were accessed by NICS HR at HRConnect level only.

9. There have been no recorded disciplinary issues recorded on HRConnect in relation to any of the 15 named individuals.

10. The Performance Appraisal Reports, currently held by NICS HR, in respect of all 15 named individuals, are attached to this statement. Against each of those 15 individuals, I have explained the source of documentation, i.e. whether it has been retrieved by NICS HR solely from HRConnect or from both HRConnect and the individual official. In relation to each of the 15 named individuals an electronically generated "HRConnect Performance download" has been provided. This download, generated by NICS HR from HRConnect, provides an extract of all of the performance appraisals, available on the HRConnect system. For this reason there is some duplication in the attached documentation insofar as information contained within the HRConnect Performance download will also appear in an individual official's PPA/EoY. You will see that not all officials have provided hard copies of their PPAs and EoY reviews since 2008. If further PPAs/EoY reviews are received from any of the 15 named individuals, these documents will be converted into PDF format and

submitted to the Inquiry. I have further outlined against each individual where I have received a representation from their legal representative in relation to the disclosure of Officials' performance appraisal reports.

a. David Sterling: the documentation consists of documentation retrieved from HRConnect and documentation provided by David Sterling;

b. Andrew McCormick: the documentation consists of documentation retrieved from HRConnect and documentation provided by Andrew McCormick;

c. David Thomson: the documentation consists of information retrieved from HRConnect. David Thomson has retired from NICS. Personal information redacted by the RHI Inquiry

d. Chris Stewart: the documentation consists of information retrieved from HRConnect and documentation provided by Chris Stewart. Personal information redacted by the RHI Inquiry

e. Jenny Pyper: the documentation consists of information retrieved from HR Connect. Jenny Pyper has left NICS;

f. Fiona Hepper: the documentation consists of documentation retrieved from HRConnect and documentation provided by Fiona Hepper. Personal information redacted by the RHI Inquiry

g. John Mills: the documentation consists of documentation retrieved from HRConnect. Personal information redacted by the RHI Inquiry. The legal representative advising Mr Mills has requested that the Inquiry is informed that Mr Mill has already submitted to the Inquiry, as annexes to his statement, PPAs and EoY reviews for the reporting years 2014/15 and 2015/16. This was because he considered them relevant to the Inquiry given that they relate to the period when he worked as Director of Energy Division in the then Department for Enterprise Trade and Investment, (DETI). The legal representative has stated that Mr Mills moved to DETI, to fill this post, in January 2014 and left that Department in May 2016. The legal representative has further stated:-

“With respect, we have some difficulty seeing how End of Year reviews / PPAs for the period from 2008-2014, some 6 years before my client had any involvement in the RHI Scheme, or for the period after he stopped working at DETI, “might be thought to be potentially relevant to the administration of the RHI scheme””.

The legal representative has further stated:-

“Access to EoY reviews/PPAs is normally limited very strictly to the job holder, his/her line manager and the counter signing officer. We have concerns about sending such confidential personnel document to the Inquiry via what may end up being numerous other civil servants, who would not normally be able to see this sort of documentation about any of their colleagues.”

The legal representative ultimately states:-

“If it is the case any such documentation is ultimately sent by DoF to the inquiry, we would ask for assurances that it will be carefully protected, and that further disclosure is strictly limited, since it contains personal data (and possibly sensitive personal data) relating to individuals”;

h. Alison Clydesdale: the documentation consists of documentation retrieved from HR Connect.

Personal information redacted by the RHI Inquiry

Personal information redacted by the RHI Inquiry

i. Joanne McCutcheon: the documentation consists of information retrieved from HR Connect.

Personal information redacted by the RHI Inquiry

j. Davina McCay: the documentation consists of information retrieved from HR Connect and documentation provided by Davina McCay.

Personal information redacted by the RHI Inquiry

k. Peter Hutchinson: the documentation consists of information retrieved from HRConnect and documentation provided by Peter Hutchinson.

Personal information redacted by the RHI Inquiry

l. Stuart Wightman: the documentation consists of information retrieved from HRConnect and documentation provided by Stuart Wightman.

Personal information redacted by the RHI Inquiry

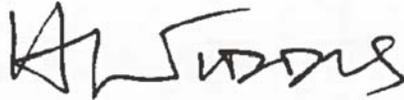
m. Seamus Hughes: the documentation consists of information retrieved from HRConnect and documentation provided by Seamus Hughes.

Personal information redacted by the RHI Inquiry

- n. Trever Cooper: the documentation consists of information retrieved from HRConnect and documentation provided by Trevor Cooper;
- o. Bernie Brankin: the documentation consists of information retrieved from HRConnect. Bernie Brankin has left NICS.

Statement of Truth

I believe that the facts stated in this 5 page witness statement are true.

A handwritten signature in black ink, appearing to read "K. J. Judd", is centered on the page.

Signed: _____

Dated: 21 July 2017 _____

Director of Pay & Reward
NICS HR
1st Floor
2-4 Bruce Street
BELFAST
BT2 7JD
☎ **028 9025 1718 (51718)**
E-mail: Mark.Bailey@finance-ni.gov.uk



David Sterling
Department of Finance

06 July 2017

Dear David

I am writing to you in my capacity as the NICS HR Strategic Business Partner tasked with gathering information required by the RHI Public Inquiry under a Section 21 Notice served on Hugh Widdis as Acting Permanent Secretary in the Department of Finance.

The Section 21 notice requires the Department to provide by 21 July 2017 copies of PPA/End of Year Reviews for named individuals (including you) relating to dates which could potentially be relevant to the administration of the RHI scheme. The relevant dates are between 2007/08 and 2016/17 inclusive.

I have requested information centrally from HRConnect but in parallel I am also asking you for any hard copies of PPA/EoY reviews that you might hold personally. Also the EOY review 'printable page' format can only be generated by you logging onto the HRConnect system and printing it yourself. Therefore I would also request that you log onto HRConnect Self Service, select Performance Management and print the EoY review for the relevant years (if available).

Given the urgency of the timescales I would appreciate if you could provide these documents (in pdf format) to Valerie McCloskey (Valerie.McCloskey@finance-ni.gsi.gov.uk) as soon as possible but in any event by close of business on Monday, 17 July.

My apologies for the urgency of this request, particularly given the holiday season, but unfortunately the timing is outside my control.

Any queries on this should be directed to Valerie McCloskey (email Valerie.McCloskey@finance-ni.gsi.gov.uk, Phone x51611).

Many thanks for your assistance.

Yours sincerely

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

MARK BAILEY
Director

Bell, Jacqueline

From: Stitt, Teresa
Sent: 21 July 2017 11:22
To: Bell, Jacqueline
Subject: FW: s.21 Notice No.347 of 2017 Stuart Wightman , Davina McCay, Seamus Hughes & Chris Stewart

From: Martin, Caroline [mailto:Caroline.Martin@finance-ni.gsi.gov.uk]
Sent: 21 July 2017 10:59
To: Stitt, Teresa <Teresa.Stitt@finance-ni.gsi.gov.uk>
Subject: RE: s.21 Notice No.347 of 2017 Stuart Wightman , Davina McCay, Seamus Hughes & Chris Stewart

Teresa,

As discussed each of my clients understood the letter from Mark Bailey to require their PDP/PPA for the years on which they worked on RHI and responded accordingly. At no point did they receive a response indicating that DoF had interpreted the Section 21 Notice as requiring these for all of the years from 2008 until 2017. Given that DoF hold this information (albeit in a less reader friendly version) and intends to disclose this in response to the Section 21 Notice, each of my clients have agreed to provide the additional documentation which they have access to. I understand they do not have access to all of the years. I have requested that they provide this additional documentation directly to Valerie McCloskey.

Disclosure of the PDPs/PPAs is strictly for the Inquiry only to assist the Inquiry. I would request that when disclosing these documents you advise the Inquiry, that any further disclosure beyond the Inquiry, should not be made without notice to the subject of the material and with an opportunity being given for that person to make representations on the question of further disclosure.

Kind Regards,
Caroline

Caroline Martin
Senior Principal Legal Officer
Departmental Solicitor's Office
Centre House
79 Chichester Street
Belfast
BT1 4JE

Tel: 02890542531
Fax: 02890542540

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