



From: ANDREW McCORMICK

Tel No: 028 90529441

Date: 23 December 2016

[cc Chris Stewart]

To: Simon Hamilton MLA

RENEWABLE HEAT INCENTIVE (RHI) – INTERVIEW WITH FORMER MINISTER BELL, 15 DECEMBER 2016

1. The attached note, which is intended for publication, sets out my summary of the true sequence of events in relation to the key matters of public interest in relation to the Non-Domestic Renewable Heat Incentive, including several matters raised by former Minister Jonathan Bell during the interview with Stephen Nolan.
2. It will be for consideration whether this note should issue only to the Stephen Nolan show, given the approach they have made seeking an interview with me, or whether, in a modified form, it should be issued to a wider group of media outlets. I have a draft of the modified version available against the possibility that that proves necessary or expedient.
3. As I act under your direction and control, I can only issue this to any media outlet if you agree. It would be a breach of my duty to the Public Accounts Committee to release other than under your authority.
4. The attached note has been seen and agreed by Chris Stewart as a true record of the events insofar as he was involved.
5. I would be happy to discuss.

A handwritten signature in black ink, appearing to read "Andrew McCormick".

ANDREW McCORMICK

RENEWABLE HEAT INCENTIVE (RHI)**STATEMENT BY DR ANDREW McCORMICK, PERMANENT SECRETARY,
DEPARTMENT FOR THE ECONOMY**

1. This note sets out a summary of the key relevant information known to me concerning a number of stages in the work on the Non-Domestic RHI.

Conversations with Former Minister Jonathan Bell

2. Many may ask why I am making a statement at this time, when I have consistently declined to comment on the RHI, other than when giving evidence to the formal inquiry established by the Assembly's Public Accounts Committee (PAC).
3. I remain of the firm view that the public interest in this matter is best served by officials providing evidence to the PAC, or to any other inquiry that Ministers may choose to establish. Advice to Ministers (and former Ministers) should otherwise remain confidential for the time being; at least until such inquiries are complete.
4. I understand that a record of my conversation with Mr Bell has been provided to the BBC, which has invited me to comment or to be interviewed. I have asked for a copy of the record, but this has been declined. Therefore, I am unable to verify whether the record is accurate and complete, or has been edited in any way.
5. I understand that it is highly likely that the (as yet unverified) record of my meeting with Mr Bell will be made public. In these circumstances, I am satisfied that it is in the public interest for me to make a statement, setting out the facts as I understand them. This will prevent any misunderstanding or misinterpretation that might otherwise arise from the disclosure of a private conversation. The Minister for the Economy, Simon Hamilton MLA, has agreed to this action.
6. The circumstances around the engagement with the former Minister were as follows. I took a phone call on Sunday afternoon, 11 December, in which Jonathan Bell said he wanted to exercise his right to access the documents concerning the RHI which he had seen during his time as Minister. I agreed to meet him with the relevant documents the following afternoon;
7. I alerted Minister Hamilton and the Head of the Civil Service to this request. I discussed the approach with the Head of the Civil Service at a meeting at 2pm on 11 December in Stormont Castle. On the Minister's instruction, I took the papers which had been provided to me by Energy Division, and discussed them with the Special Advisers to the First Minister (Richard Bullick and Timothy Johnston) (also in Stormont Castle) later the same afternoon. I then returned to Netherleigh, where former Minister Bell was waiting to meet me.
8. Jonathan Bell was accompanied by Ken Cleland, and Ken opened the discussion by explaining the contact between himself and former Minister Bell

in terms that I respect as private. Jonathan then went on to say that he was motivated to ensure that the truth in relation to what had happened through the RHI would come out, even if it cost him his political career. He also said that he would strongly protect the interests of civil servants and not allow us to carry blame that should be carried by others. I have to say that it is not immediately clear that his subsequent actions are entirely consistent with that motive, and it is possible to infer a possible additional or alternative motive.

9. My conversation with Mr Bell during the meeting was frank and candid, reflecting the seriousness of the matters under discussion, and our many similar candid conversations during his time as Minister. I am satisfied that nothing that I said during the meeting was untrue. Nevertheless, there are things that I might have said differently, or not said at all, had I been advised that there were to be made public before I could refer to them in evidence to the PAC. And not having
10. A number of matters were discussed, some of which were subsequently addressed by Mr Bell in his television interview of 15 December with Stephen Nolan.

Collective responsibility

11. During the Nolan interview, Mr Bell stated that I had told him that he must accept that his Ministerial decisions could be overruled by the First Minister, or by political advisors from The Executive Office¹. He referred to this as 'collective responsibility'.
12. Mr Bell was (and remains) greatly concerned that his ministerial decisions were being overruled or 'second guessed' by the First Minister or officials from his party. That is not a matter of collective responsibility, but rather one of party governance, though we may have used collective responsibility loosely in the conversation.² I may have said that it is quite normal in many jurisdictions for there to be discussions between the Minister and/or SpAd of a Department and party colleagues within other parts of Government and such discussions could affect decisions. [Legally, and constitutionally, it remains the case that a Minister exercises control and direction over his/her department. A Minister is responsible for the decisions taken, and for the actions of the department; and is accountable to the Assembly for them.]
13. An unusual part of the context of this issue is that throughout Minister Bell's tenure as Minister some differences of view between, him, his SpAd and other SpAds were talked about much more openly than in any other context I have known. In one very important case (nothing to with RHI), the SpAd challenged the Minister's view that he had the sole and direct responsibility for the decision ("this will have to go to party colleagues"). That led to a period

¹ Formerly the Office of the First Minister and deputy First Minister.

² Collective responsibility is the convention under which cabinet (or Executive) Ministers agree to endorse any collective decision that they take; regardless of the view that they held on the matter before the decision was taken.

of difficulty which was only patched up a few days before the key submission on the RHI came forward for consideration. I cannot remember if that point came up directly in the conversation on 12 December, but it was certainly in my mind as we discussed the handling of the RHI issue.

The source of external influence on the Minister's decisions

14. In the phone call on 11 December, and the meeting on 12 December, Jonathan Bell was clear that he recalled that there had been influence from outside DETI on the timing of the introduction of cost controls (ie the changes which took effect in November 2015). In the phone call, I remember being surprised to hear him attribute that influence to Timothy Johnston, as I had and have no recollection of being told that Timothy had played any part in that period (and I certainly have no personal memory of him being involved). He asked me about the identity of the advisors who had been exercising influence over the development of advice to him, and overruling key decisions on RHI matters. His particular focus was on the introduction of cost control measures in 2015, and the suspension of the schemes (closure to new applicants) in 2016. I am concerned that there may have been confusion between the separate episodes in this period, as Timothy Johnston was involved in aspects of the work on the final closure of the scheme in 2016. While I do not have a detailed recollection of the conversation, I may well have said that it had our supposition that the influence was coming from Dr Andrew Crawford.

Departmental records

15. Mr Bell was concerned that Departmental records may have been altered to remove references to the input from OMdFM and/or advisors. This particular matter is dealt with in some detail in the statement by my colleague, Chris Stewart dated 17 December (Annex C).
16. During the conversation I may have used the word 'expunge' when referring to the alteration of a document. If so, I now regret using that particular word, as it may have given rise to the mistaken impression that documents were altered after signature, or that changes were concealed, and it would be wholly wrong to give that impression. There is no evidence of this, and I am satisfied that the changes made are properly reflected in the Departmental record.

Resistance to suggested changes to the RHI

17. The most significant matter that Mr Bell and I discussed is referred to in my email of [the one that JB asked to be made public], namely an initial reluctance [on the part of advisors] to agree to the introduction of cost controls in 2015.
18. The facts of that matter are that, in July 2015, when serious concerns about the RHI emerged, officials concluded that the introduction of a broad range of cost controls was a matter of urgent necessity. There was, indeed, some reluctance on the part of advisors, who emphasised that any controls

introduced should be no more than was necessary and proportionate. Concern was expressed that any action should not curtail the benefits of RHI in terms of carbon reduction and public investment in the Northern Ireland economy. In conversation I expressed the belief that these views had originated from Dr Andrew Crawford, and were conveyed to officials by the then Minister's advisor, Timothy Cairns.

Conclusion

19. I have made this statement in the interests of ensuring that the content of a private conversation that may be made public is not misunderstood or misinterpreted.
20. It is the role of officials to give free and frank advice to Ministers (and former Ministers) in private, and to give candid evidence to committees or other inquiries in public (or closed session if the Committee requires it). Notwithstanding the requirements of freedom of information legislation, it is important that these conventions continue to be properly observed, in the interests of good government.
21. At all times I have sought to give advice and evidence on the RHI candidly, truthfully, and in the appropriate public or private domain. There are a number of matters on which I gave advice privately to Mr Bell, but on which I have not yet had an opportunity to give evidence to the PAC. This is a matter of regret, and it may ill-serve the public interest if the established conventions are not respected, through the premature disclosure of matters that have yet to be brought to the proper public forum - the PAC.

ANDREW McCORMICK