

Timothy Johnston

Sent: 06 January 2017 13:21

To: Richard Bullick Personal information redacted by the RHI Inquiry

Attachments: BBC letter.docx (40 KB)

see tracked

t

Dear

I write in relation to the reporting by BBC Northern Ireland and in particular the Nolan Show regarding its coverage of the First Minister and the Renewable Heat Initiative. I request that these issues are examined and investigated as a matter of urgency and that all issues set out below are answered in detail.

Timothy Johnston 6/1/2017 11:21
Deleted: would be grateful if this matter could be investigated.

I have serious and fundamental concerns about the way in which this matter was reported and the coverage of the issue by the BBC in Northern Ireland. These are not limited to a single incident but encompass a considerable number of examples of where I believe that the BBC has fallen beneath acceptable standards and where fairness and balance in reporting has not been achieved and in some instances basic factual inaccuracies have occurred.

Timothy Johnston 6/1/2017 11:24
Deleted: .

In this letter I want to set out some of the most significant areas in which I believe that the BBC has failed in its duty to the public. This is not an exhaustive list of areas of concern and I reserve the right to bring further matters to the attention of the BBC Executive in due course.

Let me make it clear that I take no exception to proper investigative journalism and support fair reporting of matters of public importance even when they present views which are critical of the Democratic Unionist Party, the First Minister of Northern Ireland or the Northern Ireland Executive. In the main that has been the case in relation to the reporting of this matter by the majority of BBC Northern Ireland news programmes.

Timothy Johnston 6/1/2017 11:27
Deleted: or of

Timothy Johnston 6/1/2017 11:29
Deleted: For the most part

However, it has certainly not been the case in relation to the Nolan Show output on BBC Radio Ulster and BBC television. Let me set out in detail the following examples.

Timothy Johnston 6/1/2017 11:31
Deleted: in news coverage on BBC Northern Ireland.

£400m 'up in smoke'

Timothy Johnston 6/1/2017 12:59
Deleted: in particular

A consistent feature of the Nolan show has been the often repeated allegation that a loss of £400m had already been incurred in relation to the RHI scheme.

Timothy Johnston 6/1/2017 12:58
Deleted: [U]

This claim set the tone and framed the debate for much of the coverage across the entire media, but this allegation has always been demonstrably and obviously false.

By way of example, on 7 December Stephen Nolan stated,

"One of the biggest financial scandals to have ever happened in Northern Ireland: under the government's watch £400 million of your money has been allowed to go up in smoke."

This is just one of dozens of similar statements.

In particular, it should be noted that this statement is in the past tense but the projected loss is being reported as though it had already occurred. This was despite the fact that the BBC knew that this was not the case. Indeed, they also were aware that even at this time mitigation measures were planned.

As it has turned out, there is the prospect that there will actually be no further loss to the Northern Ireland budget beyond this financial year.

Disregard for the facts

There has also been a casual disregard for the accuracy of certain other factual statements which demonstrate the approach of the Nolan show to this issue.

For example, on 13 December Stephen Nolan stated,

"In September, 2015, before the spike, Ofgem, the regulator, were in discussions with Arlene Foster's department on a daily basis in terms of the number of applications and they say they were making it clear what the impact would be."

It need hardly be stated that Arlene Foster ceased to be DETI Minister in May 2015 months before the events described.

Treatment of Charles Hurst

The way in which the Nolan Show story relating to Charles Hurst's participation in the RHI scheme was packaged was sensationalist, to say the least. To begin with the Formula One theme tune and constantly talk about 'millionaires' and their 'ferraris' demonstrated the worst kind of tabloid approach and unfairly put a negative spin on both the Charles Hurst dealership and any other business or individual that is a legitimate participant in the scheme.

To prove my point, one listener even phoned in to say she was going to stage a sit-in at the showroom. Stephen Nolan interjected at this point to say there was no suggestion Charles Hurst had done anything wrong – but the tone of the package clearly suggested otherwise to listeners.

No wonder then, that in the wake of how Charles Hurst was treated, other businesses and individuals are so reluctant to allow their names to be disclosed publicly.

'Empty-chairing' the First Minister

Also instructive as to the attitude of the Nolan Show was their approach to the First Minister while she was on an important Ministerial trip to China (which the deputy First Minister had already been forced to pull out of due to health issues).

I quote extensively from this exert as an illustration of how the matter has been approached,

Stephen Nolan reported,

"The whistle blower, when she wrote in 2016, in January 2016, to the then Office of First and

Timothy Johnston 6/1/2017 11:50

Deleted:

Timothy Johnston 6/1/2017 11:32

Deleted: made

Deputy First Minister, gave them a number of examples. The allegations included a farmer who has no need for a biomass boiler is aimed to collect approximately £1million for heating an empty shed. Over the next 20 years, £1million he's going to get for heating an empty shed and our government was told about that and they did nothing to stop it."

This is a conflation and confusion which has been a hallmark of the reporting of this issue. To clarify, Mr Nolan is mixing up two different whistleblowers. In addition, it is simply factually incorrect to say nothing was done when claims of fraud made to the First Minister in January 2016. These matters were immediately raised with the Head of the Civil Service.

Stephen Nolan continued,

"I take it there are phones in China, so let's just hear if the First Minister has scrambled to a phone either yesterday or this morning to reassure the public of Northern Ireland how seriously she is taking the £400million of spend that has happened under her watch, a scheme when she was in charge of a department. Let's just hear the Minister's pronouncements to reassuring the people of Northern Ireland from China."

SILENCE

"Oh my goodness, has Arlene not been speaking from China about this? My goodness"

To 'empty-chair' the First Minister in such circumstances was an outrageous abuse of Mr Nolan's position. It should also be noted that the First Minister did an interview with the UTV news reporter who was covering the trip to China.

Stephen Nolan also stated,

"Arlene Foster's trip to China was planned long before she knew this story was breaking today. But actually she knew the story was going to be on the BBC this week before she flew to China. What do you make of her decision to go to China and not be here to handle this?"

Again the notion that the First Minister should cancel an important trip to China based on a BBC broadcast which largely repeated the findings of a report by the Northern Ireland Audit Office, which were published in September, is hardly a credible position.

I do not believe BBC output in any other part of the United Kingdom would, in such circumstances, have treated either the Prime Minister or any other First Minister of a devolved region in such a disrespectful fashion and this requires a full explanation as to why it happened.

The TV show

However, the issues I want to focus upon most are the events surrounding and in the aftermath of the BBC Nolan's TV show on the 15 December.

It is accepted that the allegations made by Jonathan Bell were of a very serious nature and

specifically included the First Minister, senior civil servants and a number of specifically identified Special Advisors.

Timothy Johnston 6/1/2017 11:39

Deleted: which implicated

The allegations related to complex, technical matters which occurred some time in the past. In order to respond to queries from the Nolan Show, which required detailed replies involving the trawling of government records, less than 24 hours was not an acceptable period of time to afford a right of reply. Furthermore the correspondence from the BBC to those concerned did not set out in any detail the claims that had been made against them, and by whom.

Timothy Johnston 6/1/2017 13:03

Deleted: were

In the build up to the broadcast of the Nolan TV Show on 14 December, Stephen Nolan stated,

"The Nolan Show has evidence to suggest that the most (?) civil servant in Northern Ireland, Andrew McCormick, wanted the scheme closed. He said it should be closed in June 2015. That takes time, so he said it should actually be closed after the summer recess, September 2015. Pressure then came from an individual or individuals within the Office of First and Deputy First Minister and the DUP to keep it open, and it was after that period, after that period when it could have been closed, that the spike happened. Had the pressure not been applied the spike, which has cost you hundreds of millions of pounds of committed money, might never have happened. That is our story."

Lest there be any misunderstanding, this allegation is without foundation.

No prior viewing

In relation the television broadcast itself it should be noted that the First Minister was not afforded the opportunity to see Mr Bell's interview before doing her own interview despite the fact that it clearly involved very serious allegations.

It also later became apparent that the BBC had released a transcript of the Bell interview to the media. How is it justifiable to be able to release the detail of the interview with Mr Bell to colleagues from other media outlets while withholding it from the First Minister who had indicated a willingness to be interviewed in an attempt to balance output? This request was made to the BBC well in advance of recording the First Minister's interview and I would ask for the basis upon which that decision was made and by whom?

Treatment of Interviewee

The differential treatment of the First Minister and Jonathan Bell in relation to the conduct of the interview was also marked. The Jonathan Bell interview was not only given more air time, it was also conducted in a much less confrontational manner. While the First Minister was constantly interrupted and badgered, the most serious allegations were made by Jonathan Bell which were not adequately challenged or scrutinised by Stephen Nolan. Indeed, the BBC's own Julian O'Neill commented on the contrast the next day, when he tweeted in reply to @AlwynOllieMcKee "contrasting interview techniques, I thought"

Written responses to Nolan

Turning to the allegations made, it is necessary to point out that a number of questions were put to those implicated and the allegations contained therein were categorically denied by those involved.

I attach at Annex [] a full copy of the responses provided to the Nolan Show.

The Nolan Show was therefore aware of the position before even the first television programme was broadcast. Nonetheless allegations were broadcast without an evidence base but rather on the basis several one-sided emails and other unsubstantiated covert material provided to the Nolan Show.

The timing of Mr Bell's decision to amend the scheme

Mr Bell alleged on several occasions during the interview that he took action immediately to introduce cost control measures into the scheme and signed off the submission at the most immediate point he could. This was untrue.

For example he said,

“SN: ...So why didn't you close it?”

JB: Because his [Andrew McCormick's] explanation was that now these concerns were raised it takes like a month period to process a submission for me to address and that we would do that immediately we would take action on that immediately.

SN: Did you?

JB: And we did.”

And later,

“JB: Yes and my signature at the earliest possible date I believe is on a document currently with the Department of the Economy signed by me at the most immediate point I can, the most immediately practical point.”

I attach a copy of the submission received by Mr Bell at Annex []

This demonstrates that the Minister received a submission on 8 July 2015 recommending the introduction of cost control measures. It also indicates that the original proposal from officials was to introduce cost controls from October 1 2015, but was amended to 4 November 2015 and signed off by the Minister on 3 September 2015. It is apparent from this document that action was not taken immediately, but after considerable delay.

The role of Special Advisors

Timothy Johnston 6/1/2017 13:09

Deleted: detail of the

Timothy Johnston 6/1/2017 13:05

Deleted: the main allegations made by Mr Bell

Timothy Johnston 6/1/2017 13:05

Deleted: by his assertions

Mr Bell also claimed during the interview that other SPADs became involved in the process. He was asked when his signature was on a document presumably agreeing to the introduction of cost controls,

SN: When? What date

JB: September 2015

SN: So why didn't they?

SN: Other DUP Spads involved themselves in the process.

SN: So these are special advisers

JB: Special advisers

SN: You hear us talk about Spads, these are special advisers, these are the key advisors within Government, they are senior people they are senior political advisers.

JB: I was then informed by my special adviser in the Department that other DUP Spads were not allowing this scheme to be closed.

SN: Now that is a big allegation

JB: It is a fact.

SN: Not allowing it to be closed.

JB: This is a fact."

Again the documentary evidence published in the Assembly disproves this allegation. After the submission was signed off on 3 September with an implementation date of 4 November the only reason for further delay was as a result of the officials resolving legal and financial matters which meant that implementation was put back to 18 November. This is covered in the Assembly debate of 17 November. The record shows that the earliest date that the Minister ever decided the scheme should be closed was November 4.

In addition this allegation was also contradicted by the reply to [the Nolan programme](#) from the DETI SPAD at the time as well as Timothy Johnston and Andrew Crawford.

Timothy Johnston 6/1/2017, 12:28

Deleted: Spotlight

Amendment of Government records

In discussing the decisions around the autumn of 2015, Mr Bell also claimed that he has a fact that reveals the role of special advisers in the scheme staying open. He then referred to a conversation he had with the deputy secretary of the Department, claiming his own special adviser had been asked by other special advisers to remove references to "Arlene Foster" and "the Department of Finance and Personnel".

The truth is very different from that suggested by Mr Bell. I can set out the simple facts, based on the official records of the Department for the Economy.

First, the only conversation approximating to this version of events took place in February 2016, not in 2015.

Secondly, it relates to paperwork concerning the closure of the scheme in 2016, not the introduction of cost controls in 2015.

Thirdly, the DETI adviser accepts that any changes he made were made of his volition and not at the request of others.

Fourthly, the amendment that was made relates to one draft submission before it was finalised for the Minister to consider, not to any attempt to delete emails or Government records.

Fifthly, the reference that was removed was one that highlighted the role of OFMDFM in wishing to see the scheme close more quickly and without consultation. The removal of that reference had the effect of avoiding any impression that the Enterprise, Trade and Investment Minister had been told that he had agreed to a process of closing the scheme that was too slow.

Sixthly, this was a submission for the Enterprise, Trade and Investment Minister only and did not impact on the document that was being forwarded to the First Minister and deputy First Minister.

Seventhly, and most importantly, the change to the submission had absolutely no effect on anything in the real world; the timing and process for the suspension of the scheme had already been agreed.

Minister Hamilton asked for urgent clarification on that issue from officials, who provided a note setting out the factual position. That was released to the media the next evening, and the Minister has also placed in the Assembly Library copies of the draft submission with the tracked changes marked. The final version was then approved by the then Minister.

Closing the scheme

In relation to the closure of the scheme in 2016, Mr Bell has alleged that he wanted to close the scheme immediately.

Again this is untrue.

I attach at Annex [] a document which is dated 19 January 2016.

That document proposed a closure date of early to mid-March 2016 and was signed off by the then Minister, Mr Bell. It is therefore clear that Mr Bell did not wish to see the scheme

closed immediately.

Rebroadcast of the Bell interview

The interview with Mr Bell was not only broadcast on television on 15 December and rebroadcast on the radio show the following day, it was also repeated on [insert date]. Whatever the state of knowledge on the first occasion the BBC either knew or ought to have known the accurate position by the time the subsequent broadcast was transmitted.

In this respect it was even more outrageous that they still decided to broadcast material which, by this point they must have known was inaccurate and untrue.

In setting out in detail in this correspondence a clear record of the facts, based on evidence, I trust the BBC, in addition to its ongoing obligations, will ensure it cross-checks any further allegations and proposed output against the material that has been supplied.

Andrew McCormick's correspondence with the BBC

Subsequent to the broadcast, I also understand that the Departmental Solicitors Office have written to the BBC on Andrew McCormick's behalf contradicting key claims contained within Mr Bell's interview including those that he believed Special Advisors from OFMDFM overruled Mr Bell.

Following the broadcast, the BBC also repeated unsubstantiated allegations online before, following the issue being raised directly with the BBC NI's Head of News Kathleen Carragher, they were taken down.

I attach a copy of the article on the BBC website at Annex []

Departmental contradiction of Jonathan Bell's allegation

On the evening of 18 December the Department of the Economy published a note for the record by civil servant Chris Stewart in relation to claims made by Jonathan Bell during the Nolan interview.

I attach a copy of the the note at Annex []

These documents provided by Senior Civil Servants comprehensively disproved one of the central allegations by Jonathan Bell.

Indeed, on the basis of the department statement, the BBC's Michael Cairns tweeted on the evening of 18 December, "A clever Exocet to hole Mr Bell's claim below the water line."

Revealingly David Thompson, producer on the Nolan Show replied,

"That's a claim in itself."

One would then have anticipated that the Nolan Show would have taken the opportunity to report in detail on the fact that Jonathan Bell's allegations had been disproven.

Timothy Johnston 6/1/2017 12:39

Deleted: been

Andrew McCormick 'DUP spokesman'

However, on the programme on 19 December the BBC Nolan Show did not report the detailed evidence issued by Department rather they sought to undermine Andrew McCormick as evidenced by Stephen Nolan's comments in relation to Andrew McCormick,

"Have you noticed that Andrew McCormick, the Permanent Secretary, is being brought in by the Minister, the DUP Minister Simon Hamilton, to support his position, to confirm some of Mr Hamilton's claims on behalf of the DUP are correct. That's the same Andrew McCormick who, when the BBC asked questions of him, he said he's unable to speak publicly. Have you noticed that he's able to speak on behalf of the DUP?"

On foot of this the Departmental Solicitor wrote to the BBC seeking clarification of this which was provided during the course of the Nolan Show on 23 December in the following terms,

"NICOLA WEIR

There's something we need to clarify on the show. On the 19th December on the programme, in the coverage of the RHI scandal, Stephen Nolan said that the Permanent Secretary for the Department of the Economy, Andrew McCormick, was speaking on behalf of the DUP and in support of the DUP Minister Simon Hamilton. Dr McCormick has asked us to point out that he is an independent civil servant, known for his integrity, and is not a spokesperson for any political party. As a civil servant he works under the direction and control of Ministers. We are happy to provide this clarification that Dr McCormick was not speaking on behalf of the DUP."

Conclusion

In my view it is clear from the facts that have been set out above that:

- (1) The BBC did not act in a fair or reasonable way towards the First Minister in a number of regards;
- (2) The BBC Nolan Show broadcast allegations which are demonstrably untrue;
- (3) The BBC Nolan Show re broadcast these allegations even after the independent evidence was published;
- (4) The BBC Nolan Show did not take the opportunity at any point to correct the record when evidence which contradicted the allegations made by Mr Bell.

I therefore ask that these issues are examined and thoroughly investigated as a matter of urgency and that all aspects set out in this correspondence are treated as complaints and answered in detail.

Timothy Johnston 6/1/2017 12:41

Formatted: Normal, No bullets or numbering

I am copying this to the BBC Director General Lord Hall of Birkenhead.

I await your response in due course.

Yours sincerely

Xxxxxxxx

Timothy Johnston 6/1/2017 12:41
Formatted: Font color: Text 1
Timothy Johnston 6/1/2017 12:41
Formatted: Normal, No bullets or numbering