



John Robinson

Personal information redacted
by the RHI Inquiry

By post and email (johnrobinson@dup.org.uk)

11 May 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 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').

I know that you will be familiar, from my previous correspondence, with the RHI Inquiry's Terms of Reference, which remain available on the Inquiry's website. You will also be aware that the RHI Inquiry is conducting its investigations into the matters set out in its Terms of Reference. The Inquiry is continuing with the process of gathering all of the relevant documentation from relevant departments, organisations and individuals.

In addition, the Inquiry has also now begun 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.

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 in your position as a Special Adviser within a Department but to which you now no longer have access. If that applies in your case, I understand that the Department for the Economy (DfE) is making arrangements to permit such access, at least in the first instance. You

should contact Terence Coyne at DfE, who is the Department's RHI Task Force Information Manager, to organise this. He is contactable at Terence.Coyne@economy-ni.gov.uk. I have informed Mr Coyne that you may be making contact with him to arrange access to documentation; but there is, of course, no obligation upon you to do so.

Receipt of this correspondence and its enclosures places you under a duty of confidentiality to the RHI Inquiry in respect of them. You may share the correspondence and the enclosed Notice with your legal representative(s), but neither you nor they may show, communicate the contents of, nor provide this correspondence or the Notice 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.

A copy of this correspondence has also been provided to your legal representative, John McBurney of John McBurney Solicitors (by email only).

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, appearing to read 'Patrick Butler', written in a cursive style.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE**[No 153 of 2017]***Background*

1. Set out a description of your occupational history, qualifications and experience.
2. Set out a summary of your role as a Special Adviser in any such posts you have held from 2011 to date (this includes the dates between which you held the role/s, what the role/s entailed, to whom you reported, *etc.*). In each instance, describe how this role related, if at all, to the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland ('the Scheme').

Role of Special Advisers

3. Describe the role of Special Adviser, including:
 - a. the rules which governed your position;
 - b. who would give you instructions, and who was entitled to do so;
 - c. how you interacted with other Special Advisers, and whether there was an understood or accepted hierarchy within your or any team of Special Advisers;
 - d. what duties you owed (or considered yourself to owe) to the political party to which you were affiliated and how, if at all, that affected your role or your performance of it;
 - e. how you interacted with civil servants, including the procedures which operated within a Department between civil servants, the Special Adviser/s and the Minister; and

- f. the relationship between you and Ministers affiliated to the Democratic Unionist Party, including whether any Minister was expected or required (as a matter of political reality or on any other basis) to accept advice or direction provided by you, on your behalf or through you on behalf of your Minister.

Involvement with RHI Scheme

4. Explain in detail any involvement you had in relation to, or touching upon, the Scheme including (but not limited to) any role or involvement you had, whether by way of giving advice or otherwise, in respect of the setting up, design, implementation, operation, promotion, oversight, governance, funding, amendment (including the introduction of cost controls), suspension and/or closure of the Scheme, from its inception up to the present day.
5. Without prejudice to the generality of paragraph 4 above, explain your involvement (if any) in:
 - a. the creation and development of the Scheme in, or before, 2012;
 - b. the administration/operation of the Scheme;
 - c. any problems or difficulties which emerged in respect of the Scheme (including, but not limited to, the causing or permitting, identification, consideration and/or remediation of any such problems);
 - d. the amendment, suspension or closure of the Scheme;

in each instance providing:

- i. details of any relevant interactions with Civil Servants, Ministers, Special Advisers, MLAs, politicians, political parties and other potentially relevant persons (e.g. consultants, the renewable heating industry, actual or potential applicants for accreditation under the Scheme, journalists, etc.);

- ii. where you made any decision, or gave any advice, in respect of any of the matters set out at paragraph 4 above, the reasons for that decision or that advice (as the case may be); and
 - iii. details of any documents which are of significance or particular relevance (which should be annexed to the witness statement if you have access to the documentation which permits you to do so; or, otherwise, which is identified as clearly as you can).
6. Again without prejudice to the generality of paragraph 4 above (and the remainder of the issues addressed in this Schedule), please address the following matters:
- a. Provide a full explanation of your involvement in the decision-making processes as to (a) the introduction of costs controls into the Scheme, (b) the suspension of the Scheme to new applicants, (c) the timing of, and any delay in respect of, the above steps, and (d) any announcement or publication relating to those matters.
 - b. Provide a full account and explanation of any contact between you and Timothy Cairns in relation to the Scheme, identifying all contact made between you and Timothy Cairns about the Scheme (including so far as possible the date and time of such communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.
 - c. In respect of any contact covered by sub-paragraph b. above, indicate whether that contact, or series of contact, was initiated by Timothy Cairns or by you.
 - d. Specify whether, in 2015, you influenced or encouraged Timothy Cairns, as Special Adviser to the DETI Minister, to seek to delay or in

any way soften or reduce the costs controls being introduced into the Scheme at that time.

- e. Specify whether you influenced or encouraged any person, or made representations to any person, at any time, to the end of delaying, softening or reducing the introduction of costs controls into the Scheme or to the end of increasing or maintaining the opportunity for applicants to the Scheme to achieve more favourable subsidies. In respect of each such instance, provide full details including who you contacted, when, by what means, for what particular purpose and with what result.
- f. In respect of any matters covered by sub-paragraphs d. or e., if there was any such influence, encouragement and/or representations, specify whether these steps were taken on your own behalf or on behalf of, or at the instigation of, any other person; and, if so, who that other person was in each instance.
- g. In respect of any matters covered by sub-paragraphs d. or e., if there was any such influence, encouragement and/or representations, specify who else (to your knowledge) was aware of any such influence, encouragement and/or representations.
- h. Provide full details of any discussion(s) or communications you had with other DUP Special Advisers in relation to the Scheme (including so far as possible the date, time and place of such discussion or communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.
- i. Provide full details of any discussion(s) or communications you had with Minister Foster about the Scheme at any time (including so far as possible the date, time and place of such discussion or communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.

- j. Provide full details of all contact you had with applicants to the Scheme, or potential applicants to the Scheme, which related to the Scheme (including so far as possible the date and time of such communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.
 - k. Provide full details of any contact you had in relation to or touching upon the Scheme with any persons to whom you were connected, again providing so far as possible the date and time of such communication and the means of such communication and specifying, in each instance, the nature and purpose of the contact. For this purpose, a relevant connection is intended to be construed as defined at paragraph 14 below.
 - l. Without prejudice to the generality of sub-paragraphs j. and k. above, specify whether you shared information touching or relating to the Scheme which was received in the course of your employment as a Special Adviser with third parties not employed by or acting in the course of a role within the Government of Northern Ireland.
7. Explain your understanding of the funding arrangements for the Scheme, including:
- a. how that understanding was gained;
 - b. how (if at all) that understanding developed;
 - c. what steps (if any) you took or directed to clarify the funding arrangements for the Scheme;
 - d. whether, if you misunderstood the funding arrangements for the Scheme at any material time, you consequently communicated an inaccurate description of the Scheme's funding to other persons at any material time (identifying the approximate date and recipient of such communications); and
 - e. if applicable, the steps you took to correct any misunderstanding on the part of other persons regarding the funding arrangements for the

Scheme (identifying the approximate date of each such step and the name of each relevant person).

8. Identify, in your view, any flaws or difficulties with the Scheme and/or its operation, explaining in each instance, so far as you can, how these difficulties or flaws came about and with whom (if anyone) responsibility or accountability for them lay.
9. Specify whether you promoted the Scheme and/or encouraged any third party to seek accreditation under the Scheme, assisted any third party in so doing, or provided any third party with information knowing that they might apply, or consider applying, or that they might advise, encourage, assist, or cause other persons to apply, or consider applying, for accreditation under the Scheme. In respect of any such instance, please provide full details including (but not limited to) the third party concerned and the date of any steps taken by you in that regard.

Lobbying and pressure

10. Identify any instances, to your knowledge or belief, of lobbying or encouragement of Ministers, Special Advisers, Civil Servants or other relevant persons in relation to the terms of the Scheme and/or the introduction, non-introduction, variation or delay of the introduction of cost controls into the Scheme (including, but not limited to, the amendment of tariffs, tiering, degression and Scheme suspension or closure) at any stage but, in particular, at the creation of the Scheme and in the period from mid-2015 to early 2016.
11. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on you in relation to any aspect of the RHI Scheme. In respect of any such instance specify:
 - a. who provided that influence or pressure;
 - b. when it occurred;
 - c. what it consisted of and how it was conveyed;

- d. what you believed the motivation to have been (and what you now believe the motivation to have been, if different), and why you believe that; and
 - e. how you dealt with it.
12. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on someone else in relation to the RHI Scheme. In respect of any such instance identify:
- a. who provided that influence or pressure;
 - b. who it was exerted on;
 - c. when it occurred;
 - d. what it consisted of and how it was conveyed;
 - e. what you believe the motivation to have been, and why you believe that;
 - f. how it was dealt with; and
 - g. how and when you came to be aware of the influence or pressure.

Standards of conduct and conflict of interest

13. Identify any instances, to your knowledge or belief, where a Minister, Special Adviser, Civil Servant or any other person involved in the RHI Scheme (including, if applicable, yourself):
- a. breached relevant standards (including, but not limited to, the Nolan Principles, the Ministerial Code of Conduct, the Civil Service Code of Conduct, the Code of Conduct for Special Advisers and/or terms or conditions of employment or service) or acted in a way incompatible with their duties (including, but not limited to, by means of making premature or unauthorised disclosures);
 - b. acted in circumstances relating to or touching upon the Scheme in any way where they had a real or perceived conflict of interest;

in respect of any such instances, providing details and specifying the basis for any belief that there has been a breach of a relevant standard or duty or that a conflict of interest arose.

14. Specify whether, to your knowledge, you have any connection to a person or body receiving payment under the Scheme or benefiting commercially from the Scheme in some other way (for instance, by supplying equipment, plant, fuel or other goods or services used by Scheme claimants). In this request, a 'connection' includes (but is not limited to) circumstances where the Scheme claimant or beneficiary is a relative (not limited to a parent, child or sibling but extending also to aunts/uncles, nephews/nieces, cousins and relatives by marriage), friend, close acquaintance, business associate. In the case of politicians or special advisers, it also includes a donor to you or your political party or a supporter of you or your political party.

Whistle-blowing and raising of concerns

15. Identify any instances of which you are aware of whistle-blowing in relation to the Scheme, or disclosures made in the public interest raising concerns about the Scheme, setting out details of when this occurred, to whom and by whom any relevant disclosure was made and how it was dealt with.
16. In particular, provide an account of how you dealt with any disclosures raising concerns about the Scheme made or communicated to you at any time. In relation to each such instance, identify precisely how the concerns were communicated to you.
17. Without prejudice to the generality of paragraph 16 above, provide a full account of the following matters in particular:
 - a. When you first became aware of communications from Janette O'Hagan to the Department of Enterprise, Trade and Investment (DETI), its Minister, and Departmental officials, commencing in 2013

and continuing until 2015, seeking to draw the Department's attention to alleged flaws in and/or abuses of the RHI Scheme;

- b. How you became aware of the said communications and/or the issues being raised by Ms O'Hagan;
 - c. Every action you took to ensure that the concerns raised by Ms O'Hagan were investigated and addressed;
 - d. How, if at all, her concerns were investigated and addressed; and
 - e. Any steps which you consider ought properly to have been taken in response to Ms O'Hagan's communications but which were not taken either in time or at all.
18. Specify when you first became aware that subsidies payable under the Scheme exceeded the cost of biomass fuel used to produce heat (so that there was an incentive in some cases to produce heat merely to make profit from the Scheme) and how you so became aware.

General

19. Considering the RHI Inquiry's Terms of Reference, please identify any representations made to you about the RHI Scheme (which you regard as significant and about which you consider the RHI Inquiry should be aware), whether those representations were made by colleagues, or otherwise. In respect of any such representations please indicate when they occurred, where they occurred, who was involved, and what was said or communicated to you.
20. Considering the RHI Inquiry's Terms of Reference, please identify any conversations or discussions you had about the RHI Scheme (which you regard as significant and about which you consider the RHI Inquiry should be aware), whether those conversations or discussions involved colleagues, or otherwise. In respect of any such conversations or discussions please

indicate when they occurred, where they occurred, who was involved, and what was said to you.

21. 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 153 of 2017

DATE:

Witness Statement of: JOHN ROBINSON

I, John Robinson, will say as follows: -

*Background***1. Set out a description of your occupational history, qualifications and experience.**

I graduated from Ulster University in 2007 with a BSc (Hons) Communication, Advertising and Marketing Degree (First-Class). I was appointed DUP Director of Communications in May 2007 and held this position until May 2016. The Northern Ireland Economy Minister Simon Hamilton then appointed me as his Special Adviser in June 2016. I held this position until 2 March 2017.

2. Set out a summary of your role as a Special Adviser in any such posts you have held from 2011 to date (this includes the dates between which you held the role/s, what the role/s entailed, to whom you reported, etc.). In each instance, describe how this role related, if at all, to the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland ('the Scheme').

Economy Minister Simon Hamilton MLA appointed me as his Special Adviser in the Department for the Economy in June 2016. My contract ended at close of polls for the Northern Ireland Assembly Election in March 2017.

I reported to my Appointing Authority, the Economy Minister.

The policy governing the Non-Domestic Renewable Heat Incentive Scheme in Northern Ireland was the responsibility of the then newly created Department for the Economy.

I held no other Special Adviser roles.

Role of Special Advisers

3. Describe the role of Special Adviser, including:

a. the rules which governed your position;

Civil Service Commissioners (Northern Ireland) Order 1999

Civil Service (Special Advisers) Act (Northern Ireland) 2013

Official Secrets Acts 1911-1989

Code of Conduct for Special Advisers

b. who would give you instructions, and who was entitled to do so;

My Appointing Authority would give me instructions. I was very aware that only my Appointing Authority was entitled to give me instructions.

c. how you interacted with other Special Advisers, and whether there was an understood or accepted hierarchy within your or any team of Special Advisers;

Where my Appointing Authority's actions impacted on another Minister, I would have spoken with the relevant Special Adviser. From time to time a policy decision by my Appointing Authority would require the approval of the Northern Ireland Executive. In this circumstance, I would liaise with the Sinn Fein Adviser(s) to garner their Ministers' view or likely support.

The Executive Office helped coordinate the work of Ministers. There was no formal hierarchy of Special Advisers for the purposes of giving instructions. As a new Special Adviser, I was aware that each Special Adviser could only take instruction from their Appointing Authority.

d. what duties you owed (or considered yourself to owe) to the political party to which you were affiliated and how, if at all, that affected your role or your performance of it;

My singular role was to serve the Minister as my Appointing Authority and where that required me to work with others such as the party, I would.

- e. how you interacted with civil servants, including the procedures which operated within a Department between civil servants, the Special Adviser/s and the Minister; and**

I attended meetings between the Minister and civil servants. Some meetings were routine (weekly) others were organized as needed.

Submissions were made to the Minister from civil servants. As Special Adviser, I also received a copy. Some submissions related to correspondence, some were for information and others required decisions to be made by the Minister.

From time to time civil servants would contact me (could be by landline, mobile phone, face-to-face or email) to ascertain if the Minister had arrived at a decision on a particular submission which they were waiting on. On other occasions, civil servants would ask if I could find out the Minister's view on a particular matter so they could take it into consideration whilst formulating a submission.

- f. the relationship between you and Ministers affiliated to the Democratic Unionist Party, including whether any Minister was expected or required (as a matter of political reality or on any other basis) to accept advice or direction provided by you, on your behalf or through you on behalf of your Minister.**

Democratic Unionist Ministers were party colleagues. I was not aware of anyone being 'expected' or 'required' to accept my advice or direction as a Special Adviser.

Involvement with RHI Scheme

- 4. Explain in detail any involvement you had in relation to, or touching upon, the Scheme including (but not limited to) any role or involvement you had, whether by way of giving advice or otherwise, in respect of the setting up, design, implementation, operation, promotion, oversight, governance, funding, amendment (including the introduction of cost controls), suspension and/or closure of the Scheme, from its inception up to the present day.**

I gave no advice relating to the design, implementation, operation, oversight, governance, funding, amendment (including cost controls), suspension, or closure of the Scheme prior to becoming a Special Adviser in June 2016.

As DUP Director of Communications, I was responsible for Party's Press Office which issued press comments relating to the Scheme. The Press Office also managed the Party website and social media which carried press statements relating to the Scheme.

Following my appointment as DfE Special Adviser in June 2016, I worked with the DfE Minister in pressing for unannounced inspections of all facilities availing of the non-domestic RHI scheme. This, alongside the publishing of all recipients' names were priorities which the Minister sought to advance. I worked with him in doing so. I was aware of the Department's funding pressures relating to the Scheme. I also worked with the Minister as he introduced tariff changes which became effective from 1 April 2017.

- 5. Without prejudice to the generality of paragraph 4 above, explain your involvement (if any) in:**

- a. the creation and development of the Scheme in, or before, 2012;**

None.

- b. the administration/operation of the Scheme;**

None.

- c. any problems or difficulties which emerged in respect of the Scheme (including, but not limited to, the causing or permitting, identification, consideration and/or remediation of any such problems);**

I had no involvement prior to being appointed as Special Adviser in June 2016 beyond that outlined above in point 4. Press statements would have been drafted and released by the DETI and forwarded to the DUP Press Office by Executive Information Service as part of the distribution. I don't recall any specific advice relating to the publicity.

- d. the amendment, suspension or closure of the Scheme;**

None prior to June 2016. Whilst serving as Special Adviser, the Minister and I worked with civil servants to reduce the cost of the Scheme. This action would have been partially founded on reports by the Northern Ireland Audit Office, PWC as well as work by Departmental officials.

in each instance providing:

- i. details of any relevant interactions with Civil Servants, Ministers, Special Advisers, MLAs, politicians, political parties and other potentially relevant persons (e.g. consultants, the renewable heating industry, actual or potential applicants for accreditation under the Scheme, journalists, etc.);**
- ii. where you made any decision, or gave any advice, in respect of any of the matters set out at paragraph 4 above, the reasons for that decision or that advice (as the case may be); and**
- iii. details of any documents which are of significance or particular relevance (which should be annexed to the witness statement if you have access to the documentation which permits you to do so; or, otherwise, which is identified as clearly as you can).**

- 6. Again without prejudice to the generality of paragraph 4 above (and the remainder of the issues addressed in this Schedule), please address the following matters:**

- a. Provide a full explanation of your involvement in the decision-making processes as to (a) the introduction of costs controls into the Scheme, (b) the suspension of the**

Scheme to new applicants, (c) the timing of, and any delay in respect of, the above steps, and (d) any announcement or publication relating to those matters.

I had none beyond that outlined in point 4. This involved working with the Minister to put in place rigorous unannounced inspections to identify abuse of the Scheme. The Minister then introduced legislation to reduce the cost of the Scheme by amending the tariff for 2017/2018 financial year.

- b. Provide a full account and explanation of any contact between you and Timothy Cairns in relation to the Scheme, identifying all contact made between you and Timothy Cairns about the Scheme (including so far as possible the date and time of such communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.**

I recall receiving criticism whilst attending a social function in January 2016 about what I now understand to be the non-domestic RHI scheme. This was from an individual who was aware of my employment with the DUP and who I think had a connection to an applicant. This person assumed that I understood the nature of the Scheme. I did not. I don't recollect the exact points they raised but I remember the criticism about my lack of answers, the DUP generally and Minister Bell in particular.

I may have made Timothy Cairns aware of this criticism on the margins of a DUP Assembly Group meeting. In terms of timing, I am uncertain. It may have been January 2016.

Beyond this, I don't recollect having any discussion with Timothy Cairns about the Scheme.

- c. In respect of any contact covered by sub-paragraph b. above, indicate whether that contact, or series of contact, was initiated by Timothy Cairns or by you.**

I don't recall exactly but I don't rule out that it may have been by me.

- d. Specify whether in 2015, you influenced or encouraged Timothy Cairns, as Special Adviser to the DETI Minister, to seek to delay or in any way soften or reduce the costs controls being introduced into the Scheme at that time.**

I did not influence or encourage anyone, including Timothy Cairns, to delay, soften or reduce cost controls at any time.

- e. Specify whether you influenced or encouraged any person, or made representations to any person, at any time, to the end of delaying, softening or reducing the introduction of costs controls into the Scheme or to the end of increasing or maintaining the opportunity for applicants to the Scheme to achieve more favourable subsidies. In respect of each such instance, provide full details including who you contacted, when, by what means, for what particular purpose and with what result.**

I did not encourage, influence or make representations to anyone to soften or delay cost controls.

- f. In respect of any matters covered by sub-paragraphs d. or e., if there was any such influence, encouragement and/or representations, specify whether these steps were taken on your own behalf or on behalf of, or at the instigation of, any other person; and, if so, who that other person was in each instance.**

Not applicable.

- g. In respect of any matters covered by sub-paragraphs d. or e., if there was any such influence, encouragement and/or representations, specify who else (to your knowledge) was aware of any such influence, encouragement and/or representations.**

Not applicable.

- h. Provide full details of any discussion(s) or communications you had with other DUP Special Advisers in relation to the Scheme (including so far as possible the date, time and place of such discussion or communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.**

I have no recollection of any discussions with any other Special Adviser about the Scheme prior to becoming a Special Adviser in June 2016. Following my appointment as a Special Adviser, problems relating to the Scheme would have been discussed in the presence of other Ministers and their Advisers.

- i. Provide full details of any discussion(s) or communications you had with Minister Foster about the Scheme at any time (including so far as possible the date, time and place of such discussion or communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.**

To the best of my knowledge, I had no discussions with Minister Foster prior to becoming a Special Adviser in June 2016.

- j. Provide full details of all contact you had with applicants to the Scheme or potential applicants to the Scheme, which related to the Scheme (including so far as possible the date and time of such communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.**

My father-in-law is a recipient of the Scheme but I do not recall any conversation with him about the Scheme prior to becoming a Special Adviser in June 2016. Beyond this, while I know people who have applied to the scheme (see 14, below), I have not had contact with them about their applications.

- k. Provide full details of any contact you had in relation to or touching upon the Scheme with any persons to whom you were connected, again providing so far as possible the date and time of such communication and the means of such communication and specifying, in each instance, the nature and purpose of the contact. For this purpose, a relevant connection is intended to be construed as defined at paragraph 14 below.**

See 6j, above.

- I. Without prejudice to the generality of sub-paragraphs j. and k. above, specify whether you shared information touching or relating to the Scheme which was received in the course of your employment as a Special Adviser with third parties not employed by or acting in the course of a role within the Government of Northern Ireland.**

After the Northern Ireland Audit Office report, occasionally journalists would have raised the Scheme with me but this would have been about matters already in the public domain. On one occasion, I recall a BBC journalist, Connor McCauley, seeking information as to when the inspections would commence. I am unsure of times but I may have alerted him, the day before the announcement was made, that the Minister was willing to be interviewed about the rigorous inspection process. The Minister and I had discussed this and agreed it would maximize the impact on abusers of the Scheme.

- 7. Explain your understanding of the funding arrangements for the Scheme, including:**

- a. how that understanding was gained;**

Briefing would have been provided upon taking up my role as the DfE Special Adviser in June 2016. Prior to that I had no understanding of the funding arrangements for the Scheme.

- b. how (if at all) that understanding developed;**

At an early stage upon taking up the role of Special Adviser in the DfE, the Permanent Secretary and other civil servants briefed the Minister of the funding difficulties. I was present for some of those discussions. We were briefed about the misunderstanding as to the budget cover where some considered that it was AME. As a result, work began on reducing the cost. This was a twin track approach of more rigorous inspections and also considering tariff adjustment.

- c. what steps (if any) you took or directed to clarify the funding arrangements for the Scheme;**

By June 2016, there was clarity around the funding arrangement. Focus at this stage was on dealing with the cost.

- d. whether, if you misunderstood the funding arrangements for the Scheme at any material time, you consequently communicated an inaccurate description of the Scheme's funding to other persons at any material time (identifying the approximate date and recipient of such communications); and**

Prior to taking up the role of the DfE Special Adviser, I don't recollect having any knowledge of the funding arrangements and don't recall any discussions with anyone about such.

- e. if applicable, the steps you took to correct any misunderstanding on the part of other persons regarding the funding arrangements for the Scheme (identifying the approximate date of each such step and the name of each relevant person).**

When appointed as the DfE Special Adviser in June 2016, the Permanent Secretary was already aware of the mistaken understanding of some around the Scheme's funding arrangements.

- 8. Identify, in your view, any flaws or difficulties with the Scheme and/or its operation, explaining in each instance, so far as you can, how these difficulties or flaws came about and with whom (if anyone) responsibility or accountability for them lay.**

With the benefit of review, it is clear there were systemic failures rooted in the Scheme's design and implementation.

Cost controls should have been present throughout the scheme to avoid such budgetary pressures.

Whilst the business case for EU State Aid approval envisioned a 12% rate of return over the Scheme's lifetime, some recipients were significantly in excess of this. This raises questions about the methodology of such forecasts.

Whilst inspections were ineffective, the rules governing the proper use of heat also lacked clarity. Even if the recipient who was said to be heating an empty space had been found would the rules have been sufficient to prosecute?

- 9. Specify whether you promoted the Scheme and/or encouraged any third party to seek accreditation under the Scheme, assisted any third party in so doing, or provided any third party with information knowing that they might apply, or consider applying, or that they might advise, encourage, assist, or cause other persons to apply, or consider applying, for accreditation under the Scheme. In respect of any such instance, please provide full details including (but not limited to) the third party concerned and the date of any steps taken by you in that regard.**

I did not encourage anyone to apply to the Scheme, advise anyone to apply to the Scheme or assist anyone in their accreditation.

Lobbying and pressure

- 10. Identify any instances, to your knowledge or belief, of lobbying or encouragement of Ministers, Special Advisers, Civil Servants or other relevant persons in relation to the terms of the Scheme and/or the introduction, non-introduction, variation or delay of the introduction of cost controls into the Scheme (including, but not limited to, the amendment of tariffs, tiering, degression and Scheme suspension or closure) at any state but, in particular, at the creation of the Scheme and in the period from mid-2015 to early 2016.**

Beyond the allegations outlined in the media and the Public Accounts Committee, I am not aware of any other lobbying as described. I have no firsthand information about lobbying relating to the Scheme prior to becoming a Special Adviser.

When Minister Hamilton was amending the tariff in 2017, Moy Park sought to speak with the Minister. This conversation did not take place. The Minister asked the Permanent Secretary to deal with the matter. Prior to that Mr Mike Mullan from Moy Park had sought to reach me via telephone but a conversation never took place.

I can recall suggestions being made to the Minister as to how to reduce the cost of the Scheme. This may have been through media comment or other correspondence.

11. **Identify any instances, to your knowledge or belief, where influence or pressure was exerted on you in relation to any aspect of the RHI Scheme. In respect of any such instance specify:**
- a. **who provided that influence or pressure;**
 - b. **when it occurred;**
 - c. **what it consisted of and how it was conveyed;**
 - d. **what you believed the motivation to have been (and what you now believe the motivation to have been, if different), and why you believe that; and**
 - e. **how you dealt with it.**

I don't recall any instance where I felt influence or pressure was being exerted on me or the Minister beyond that outlined in point 10.

12. **Identify any instances, to your knowledge or belief, where influence or pressure was exerted on someone else in relation to the RHI Scheme. In respect of any such instance identify:**
- a. **who provided that influence or pressure;**
 - b. **who it was exerted on;**
 - c. **when it occurred;**
 - d. **what it consisted of and how it was conveyed;**
 - e. **what you believe that motivation to have been, and why you believe that;**
 - f. **how it was dealt with; and**
 - g. **how and when you came to be aware of the influence or pressure.**

I have no firsthand information about influence or pressure being applied. I am aware of allegations which have been documented in the media.

Standards of conduct and conflict of interest

13. Identify any instances, to your knowledge or belief, where a Minister, Special Adviser, Civil Servant or any other person involved in the RHI Scheme (including, if applicable, yourself):

- a. breached relevant standards (including, but not limited to, the Nolan Principles, the Ministerial Code of Conduct, the Civil Service Code of Conduct, the Code of Conduct for Special Advisers and/or terms or conditions of employment or service) or acted in a way incompatible with their duties (including, but not limited to, by means of making premature or unauthorised disclosures);**

I am not aware of any breaches.

- b. acted in circumstances relating to or touching upon the Scheme in any way where they had a real or perceived conflict of interest;**

My father-in-law was a recipient of the Scheme. I regret not seeking an opportunity to declare this matter earlier in my employment. I accept that some may have perceived this as a conflict of interest with my work as a Special Adviser in the DfE. Those who worked alongside me will testify that I always favored more rigorous inspections, publishing of recipients' names and action to curb the costs of the Scheme. I have no financial interest in my father-in-law's business and at no time was my judgement conflicted.

in respect of any such instances, providing details and specifying the basis for any belief that there has been a breach of a relevant standard or duty or that a conflict of interest arose.

14. Specify whether, to your knowledge, you have any connection to a person or body receiving payment under the Scheme or benefiting commercially from the Scheme in some other way (for instance, by supplying equipment, plant, fuel or other goods or services used by Scheme claimants). In this request, a 'connection' includes (but is not limited to) circumstances where the Scheme claimant or beneficiary is a relative (not limited to a parent, child or sibling but extending also to aunts/uncles, nephews/nieces, cousins and

relatives by marriage), friend, close acquaintance, business associate. In the case of politicians or special advisers, it also includes a donor to you or your political party or a supporter of you or your political party.

My wife's father is a director in Highgate Poultry Ltd which is a recipient. I did not discuss the application with him.

I worked with Stephen Brimstone who is a recipient. I became aware of his involvement in the Scheme subsequent to becoming a Special Adviser.

Whilst I know Henry Sinnamon, Colin Watt, John Crawford, Richard Crawford, Neil Somerville, William Fannin and Avril Robson, I have never discussed their applications with them or anyone on their behalf.

Whistle-blowing and raising of concerns

- 15. Identify any instances of which you are aware of whistle-blowing in relation to the Scheme, or disclosures made in the public interest raising concerns about the Scheme, setting out details of when this occurred, to whom and by whom any relevant disclosure was made and how it was dealt with.**

I was not aware of any whistle-blowing relating to the Scheme prior to becoming a Special Adviser in June 2016.

I am aware of correspondence to Arlene Foster from a whistle-blower which was subject of much media attention. The Permanent Secretary also briefed the Minister and I about a letter to the NIAO relating to Stephen Brimstone. As far as I can remember, this briefing took place after an investigation into the matter had been completed.

I also recall overhearing a conversation where an allegation was made. Whilst I don't have a perfect recollection of the conversation, it related to a location where it was alleged an empty shed was being heated. I passed this location to the Permanent Secretary. I was informed shortly afterwards, that there was no record matching the information given.

- 16. In particular, provide an account of how you dealt with any disclosures raising concerns about the Scheme made or communicated to you at any time. In relation to each such instance, identify precisely how the concerns were communicated to you.**

No disclosure was made directly to me. If that had happened, I would have passed the information to the DfE Permanent Secretary.

- 17. Without prejudice to the generality of paragraph 16 above, provide a full account of the following matters in particular:**

- a. When you first became aware of communications from Janette O'Hagan to the Department of Enterprise, Trade and Investment (DETI), its Minister, and Departmental officials, commencing in 2013 and continuing until 2015, seeking to draw the Department's attention to alleged flaws in and/or abuses of the RHI Scheme;**
- b. How you became aware of the said communications and/or the issues being raised by Ms O'Hagan;**
- c. Every action you took to ensure that the concerns raised by Ms O'Hagan were investigated and addressed;**
- d. How, if at all, her concerns were investigated and addressed; and**
- e. Any steps which you consider ought properly to have been taken in response to Ms O'Hagan's communications but which were not taken either in time or at all.**

I became aware of the Janette O'Hagan note after I became a Special Adviser.

Indeed, I may have become aware of it first of all through the media. The Permanent Secretary briefed the Minister and myself about it. I am unaware of dates or times.

- 18. Specify when you first became aware that subsidies payable under the Scheme exceeded the cost of biomass fuel used to produce heat (so that there was an incentive in some cases to produce heat merely to make profit from the Scheme) and how you so became aware.**

I became aware of this subsequent to becoming a Special Adviser. It would have been through a Departmental briefing with the Minister.

General

- 19. Considering the RHI Inquiry's Terms of Reference, please identify any representations made to you about the RHI Scheme (which you regard as significant and about which you consider the RHI Inquiry should be aware), whether those representations were made by colleagues, or otherwise. In respect of any such representations please indicate when they occurred, where they occurred, who was involved, and what was said or communicated to you.**

I don't recall any significant representations.

- 20. Considering the RHI Inquiry's Terms of Reference, please identify any conversations or discussions you had about the RHI Scheme (which you regard as significant and about which you consider the RHI Inquiry should be aware), whether those conversations or discussions involved colleagues, or otherwise. In respect of any such conversations or discussions please indicate when they occurred, where they occurred, who was involved, and what was said to you.**

I don't recall any significant conversations.

- 21. 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 endeavoured to supply all information under my control to the Inquiry. If further information becomes available I will pass it to the Inquiry.

Statement of Truth

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

Signed:



Dated: 1 June 2016