



Máirtín Ó'Muilleoir MLA
C/o Pádraig Ó'Muirigh LL.B.
24-26 Springfield Road
BELFAST
BT12 7AG

By email to: padraig@omuirighsolicitors.com

6 December 2018

Dear Sir,

Re: The Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme
Provision of a Section 21 Notice requiring the provision of evidence in the form of a written statement

I am writing to you in my capacity as Solicitor to the Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme (known as 'the RHI Inquiry') which has been set up under the Inquiries Act 2005 ('the Act').

I know that you are familiar with the work of the Inquiry and its Terms of Reference from your previous engagement with it and the Inquiry remains grateful for the witness statements, documents, and oral evidence you have already provided.

As you are aware, the Inquiry continues to seek some further written evidence from witnesses and participants, particularly where issues have arisen in evidence recently provided in respect of which it is necessary, or appropriate, to provide an opportunity for further response. The Inquiry Chairman also retains the right to

Chairman: **Rt Hon Sir Patrick Coghlin** | Secretary: **Andrew Browne** | Solicitor: **Patrick Butler**

require witnesses to attend to provide (further) oral evidence, and consideration will be given to whether that is necessary in light of additional written evidence which is received.

In the circumstances, please find enclosed with this letter a further Section 21 Notice requiring you to provide evidence to the RHI Inquiry Panel in the form of a further written statement addressing the matters identified in the Schedule to the Section 21 Notice. Those matters arise out of your previous witness statement and relate, in particular, to **A** from whom the Inquiry has more recently received written evidence.

As the text of the Section 21 Notice explains, you are required by law to comply with it. However, in this particular regard your attention is drawn to the terms of the undertaking provided to the Inquiry by the Director of Public Prosecutions on 23 May 2017 (see copy enclosed herewith). Your attention is specifically drawn to the limits to that undertaking (as expressed in paragraph 5 of the undertaking) and to the fact that it may be appropriate to seek the advice of your legal representative on this issue.

As before, it is vital that the further 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.

In the event that you require or desire access to some documentation, not already in your possession, in order to assist you in preparing your statement, please revert to me.

The questions in the attached notice refer to various documents. For the most part, these documents have already been provided to you or your solicitor. Where they have not, a copy of the relevant document is enclosed with the Notice.

I also remind you, as before, of the restriction orders made by the Chairman of the RHI Inquiry, which affect how you may deal with this correspondence and its enclosures (which are also provided to you under a duty of confidentiality to the RHI

Inquiry). You may, of course, share the correspondence and the enclosed Notice and documents with your legal representative(s), under the same conditions as I set out in my previous correspondence.

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, Pádraig Ó'Muirigh (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 blue ink that reads "Patrick Butler". The signature is written in a cursive style with a long horizontal stroke at the end.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

[No 245 of 2018]

Your evidence of 23 October and 23 November 2018

1. On 23 October 2018, during the course of your oral evidence to the Inquiry, you were asked a number of questions about the process in which you engaged during 2016 regarding the selection and appointment of a Special Adviser ('SpAd') to assist you in your position as Finance Minister (see, in this regard, the following portion of that day's transcript – **TRA-16239 to TRA-16247**¹). Your evidence on this issue included the following:

- That your pool of potential candidates for the role of SpAd included two people from the private sector (**TRA-16240, lines 18 to 20**);
- That you spoke to one of those persons (**TRA-16240, lines 20 to 21**) on the telephone (**TRA-16242, lines 16 to 18**) and that you especially remembered this (**TRA-16244, lines 8 to 16**);
- That performing the role of SpAd was not going to be viable for that person because her (private sector) wage could not be matched and because of the '24/7' nature of the SpAd role (**TRA-16240, lines 21 to 25 and TRA-16241, line 1**); and
- That you could provide the names of the aforementioned people from the private sector to the Inquiry (**TRA-16244, lines 14 to 16**).

By Section 21 Notice dated 12 November 2018 (**WIT-162043 to 162047**), you were asked to provide the name (as well as some other details) of each of the private sector persons you considered for the role of SpAd and to clarify to which of the said persons you had spoken regarding the possibility of appointment to that role.

¹ The full transcript for Day 108 of the Inquiry's public hearings is available at <https://www.rhiinquiry.org/septemberoctober-2018> .

Through your witness statement dated 23 November 2018 (WIT-162048 to 162050), you identified **A** as the private sector person whom you had considered for the role of SpAd and with whom you had spoken about it. In particular, you stated as follows at WIT-162048-162049:

A had **Personal information redacted by the RHI Inquiry**

Personal information redacted by the RHI Inquiry

Personal information redacted by the RHI Inquiry I discussed this possibility in a phone call with **A** but it quickly became clear that there were three insurmountable obstacles to such an appointment; the high profile political nature of the post; the inability to match her current salary and the punishing 24-7 schedule entailed with the post.

You also went on to identify her 'current bio' as: **Personal information redacted by the RHI Inquiry**

Personal information redacted by the RHI Inquiry

Arising out of your evidence, as summarised above, **A** was served with a Section 21 Notice asking her a number of questions about your communications with her. The relevant Section 21 Notice, and **A's** witness statement of 6 December 2018 in response thereto, are served with this Notice bearing Inquiry reference WIT-275701 to WIT-275716. In summary, **A's** evidence is as follows:

- She denies that she ever had a conversation with you in which you explored her interest in becoming a SpAd;
- She states that you spoke to her on 12 November 2018 (the date of your last Section 21 Notice from the Inquiry) to enquire whether you had previously had a conversation with her about potentially becoming your SpAd and that she told you that you had not done so;
- She states that, in an exchange of text messages with you on 17 November 2018, she advised you that you should not submit her name to the Inquiry; and

- She states that, in an email to you on 28 November 2018 (to which you replied on 5 December 2018), she repeated what she had told you on 12 and 17 November 2018;

In all of the circumstances, you are asked to address the following issues:

- a. Clarify the nature and duration of your relationship with **A** (for example, *business acquaintance of X years*);
- b. Confirm whether you agree that you were in communication with **A** on each of 12 and 17 November and 5 December 2018;
- c. Clarify the last time you were in communication with **A** prior to your communication of 12 November 2018, and explain the purpose of that communication;
- d. Explain the purpose(s) of your communications with **A** on each of 12 and 17 November and 5 December 2018;
- e. Provide your full account of each of the said communications including, but not limited to, clarification of whether you agree with **A's** account of each such communication (as set out in her witness statement and the text messages and emails exhibited thereto) or, if you do not do so, the extent to which, and respects in which, you disagree with her account;
- f. Provide your full account of any other relevant communications with **A** which are relevant to the Inquiry's Terms of Reference;
- g. Explain why you failed, either in your witness statement of 23 November 2018 or in any subsequent statement volunteered to the Inquiry, to advise the Inquiry of what had transpired during your November 2018 communications with **A**

- h. Provide details of any revision or amendment you now wish to make in respect of the evidence previously given by you on the issue of communications you had, or did not have, with potential SpAd candidates during 2016;
- i. Provide any other evidence which you consider to be of potential relevance to the evidence given by **A** on this issue.

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 245 of 2018

DATE:

Witness Statement of:

I, *Mairtin O Muilleoir*, will say as follows: -*Your evidence of 23 October and 23 November 2018*

1. On 23 October 2018, during the course of your oral evidence to the Inquiry, you were asked a number of questions about the process in which you engaged during 2016 regarding the selection and appointment of a Special Adviser ('SpAd') to assist you in your position as Finance Minister (see, in this regard, the following portion of that day's transcript – **TRA-16239 to TRA-16247¹**). Your evidence on this issue included the following:
 - That your pool of potential candidates for the role of SpAd included two people from the private sector (**TRA-16240, lines 18 to 20**);
 - That you spoke to one of those persons (**TRA-16240, lines 20 to 21**) on the telephone (**TRA-16242, lines 16 to 18**) and that you especially remembered this (**TRA-16244, lines 8 to 16**);
 - That performing the role of SpAd was not going to be viable for that person because her (private sector) wage could not be matched and because of the '24/7' nature of the SpAd role (**TRA-16240, lines 21 to 25 and TRA-16241, line 1**); and

¹ The full transcript for Day 108 of the Inquiry's public hearings is available at <https://www.rhiinquiry.org/septemberoctober-2018>.



- That you could provide the names of the aforementioned people from the private sector to the Inquiry (TRA-16244, lines 14 to 16).

By Section 21 Notice dated 12 November 2018 (WIT-162043 to 162047), you were asked to provide the name (as well as some other details) of each of the private sector persons you considered for the role of SpAd and to clarify to which of the said persons you had spoken regarding the possibility of appointment to that role.

Through your witness statement dated 23 November 2018 (WIT-162048 to 162050), you identified [REDACTED] A as the private sector person whom you had considered for the role of SpAd and with whom you had spoken about it. In particular, you stated as follows at WIT-162048-162049:

[REDACTED] A had [REDACTED] Personal information redacted by the RHI Inquiry
 [REDACTED] Personal information redacted by the RHI Inquiry
 [REDACTED] Personal information redacted by the RHI Inquiry I discussed this possibility in a
 phone call with [REDACTED] A but it quickly became clear that there were
 three insurmountable obstacles to such an appointment; the high
 profile political nature of the post; the inability to match her current
 salary and the punishing 24-7 schedule entailed with the post.

You also went on to identify her 'current bio' as:

[REDACTED] Personal information redacted by the RHI Inquiry

[REDACTED] Personal information redacted by the RHI Inquiry

Arising out of your evidence, as summarised above, [REDACTED] A was served with a Section 21 Notice asking her a number of questions about your communications with her. The relevant Section 21 Notice, and [REDACTED] A's witness statement of 6 December 2018 in response thereto, are served with this Notice bearing Inquiry reference WIT-275701 to WIT-275716. In summary, [REDACTED] A's evidence is as follows:



- She denies that she ever had a conversation with you in which you explored her interest in becoming a SpAd;
- She states that you spoke to her on 12 November 2018 (the date of your last Section 21 Notice from the Inquiry) to enquire whether you had previously had a conversation with her about potentially becoming your SpAd and that she told you that you had not done so;
- She states that, in an exchange of text messages with you on 17 November 2018, she advised you that you should not submit her name to the Inquiry; and
- She states that, in an email to you on 28 November 2018 (to which you replied on 5 December 2018), she repeated what she had told you on 12 and 17 November 2018;

In all of the circumstances, you are asked to address the following issues:

- a. Clarify the nature and duration of your relationship with **A** (for example, *business acquaintance of X years*);

*I have had a professional relationship and personal friendship with **A** at least since 2013 when I served as Lord Mayor of Belfast and*

Personal information redacted by the RHI Inquiry

Personal information redacted by the RHI Inquiry

- b. Confirm whether you agree that you were in communication with **A** on each of 12 and 17 November and 5 December 2018;

Yes.



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- c. Clarify the last time you were in communication with **A** prior to your communication of 12 November 2018, and explain the purpose of that communication;

*I was in contact with **A** on 18 October in relation to the visit to Belfast of mutual friends.*

- d. Explain the purpose(s) of your communications with **A** on each of 12 and 17 November and 5 December 2018;

*I called **A** on 12 November to do her the courtesy of informing her that I would be relaying the contents of our 2016 conversation re the appointment of my Special Advisor to the RHI Inquiry. I felt it was more appropriate to have this conversation face-to-face and we arranged to meet up on Sunday 18 November. I sent her a text on 17 November to confirm that meeting. On 5 December, I was responding to her email relating to my evidence to the RHI Inquiry.*

- e. Provide your full account of each of the said communications including, but not limited to, clarification of whether you agree with **A's** **A's** account of each such communication (as set out in her witness statement and the text messages and emails exhibited thereto) or, if you do not do so, the extent to which, and respects in which, you disagree with her account;

*I attended a meeting in Stormont with Martin McGuinness at 3pm on Tuesday 24 May at which he told me he would be appointing me as Finance Minister with the public announcement to be made in the Assembly the following day. At 4:43pm that day, I had a discussion with **A** which lasted nine minutes. From my perspective the purpose of this discussion was to assess her interest, if any, in taking on the role of my Special Advisor in my role as Minister of Finance. I did not make a specific job offer to **A** as it was very clear she had no interest in pursuing the role for the reasons I have already outlined in my evidence.*

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In my call on 12 November, I did not ask if we had such a conversation but discussed with her the conversation we did have after my nomination as Finance Minister. She was very clear that she did not want to be associated in any way with the Inquiry due to the reputational damage she felt this would cause her. However, I told her I was under oath and would have to submit a truthful account of our conversation as I recalled it on May 2016. We agreed to meet on Sunday 18 November. On 17 November, [A] said she could no longer keep this commitment but agreed to call me on 18 November. In the event, she did not call.

On Sunday 25 November, I had a phone call with [B] in response to a message I had left on [B's] voicemail that I had also considered [B] as a Special Advisor and was obliged to give [B's] name to the Inquiry. Obviously, [B] did not know I had considered [B] at the time. [B] did not wish to be mentioned by name in my evidence to the Inquiry, also citing reputational damage. Again, I explained that I had no choice in this matter.

- f. Provide your full account of any other relevant communications with [A] which are relevant to the Inquiry's Terms of Reference;

There are no other communications of relevance to the Inquiry.

- g. Explain why you failed, either in your witness statement of 23 November 2018 or in any subsequent statement volunteered to the Inquiry, to advise the Inquiry of what had transpired during your November 2018 communications with [A]

Nothing transpired in any of the November 2018 communications which altered the evidence I gave to the Inquiry.



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- h. Provide details of any revision or amendment you now wish to make in respect of the evidence previously given by you on the issue of communications you had, or did not have, with potential SpAd candidates during 2016;

I do not wish to make any revision or amendment in respect of my evidence to the Inquiry.

- i. Provide any other evidence which you consider to be of potential relevance to the evidence given by **A** on this issue.

A sent me an email on the 25th May at 12:46pm, immediately after my appointment as Finance Minister had been announced to the public, to congratulate me. We continued to keep in touch as I settled in to the position of Finance Minister. On 21, 22 June and 29 June, I kept her informed of discussions on her possible appointment to the proposed Personal information redacted by the RHI Inquiry for Northern Ireland.

I told **A** that I was considering her for nomination to Personal information redacted by the RHI Inquiry. She forwarded her bio to me on 22 June for consideration. Membership of the Personal information redacted by the RHI Inquiry did not present the challenges which were associated with the post of Special Advisor – there would be no formal political linkage, she could maintain her private sector role and the workload was manageable.

Throughout the summer, we continued to discuss this role. On 6 August, I confirmed to her that I had put her name forward for the Personal information redacted by the RHI Inquiry to which she replied on 7 August, "ok M let's see how it goes". I cite these facts to show that she is someone whose skill-set I valued and wanted to utilise to the benefit of the Department of Finance.



Statement of Truth

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

Signed: Martin O Muilleor

Dated: 22/12/2018

Your bill period
Up to 17 Jun 16

Your account number
Personal information redacted by the RPI

Your bill date
18 Jun 16

Your bill number
Personal information redacted by the RPI

Your Three phone number
Personal information redacted by the RPI

Customer services
333 or 0333 300 3333
Or visit My3 on your handset



Three.co.uk

Itemised usage

Voice calls

Your allowance includes units entitling you to minutes.

Calls to service numbers e.g. 084, 087, 09, 118 are excluded from your plan allowance.

Date	Time	Phone number	Destination	Duration hh:min:sec	Add-on/ allowance	Charge (£)
Wed	18 May	[Redacted]	Belfast	00:00:18	Included	0.000
			Belfast	00:00:10	Included	0.000
			Mobile	00:01:30	Included	0.000
Thu	19 May	[Redacted]	Belfast	00:00:40	Included	0.000
			Mobile	00:01:04	Included	0.000
			Mobile	00:00:34	Included	0.000
			Belfast	00:02:51	Included	0.000
			Belfast	00:01:16	Included	0.000
Fri	20 May	[Redacted]	Mobile	00:00:25	Included	0.000
			Mobile	00:00:54	Included	0.000
			Mobile	00:04:32	Included	0.000
			Mobile	00:00:41	Included	0.000
			Mobile	00:05:52	Included	0.000
Sat	21 May	[Redacted]	Mobile	00:00:28	Included	0.000
			Mobile	00:00:38	Included	0.000
			Mobile	00:01:32	Included	0.000
			Mobile	00:00:18	Included	0.000
Sun	22 May	[Redacted]	Mobile	00:01:36	Included	0.000
			Belfast	00:00:23	Included	0.000
Mon	23 May	[Redacted]	Mobile	00:01:51	Included	0.000
			Mobile	00:01:53	Included	0.000
Tue	24 May	[Redacted]	Mobile	00:03:30	Included	0.000
			Mobile	00:09:04	Included	0.000
			Mobile	00:01:29	Included	0.000
			Mobile	00:00:44	Included	0.000
			Mobile	00:02:44	Included	0.000
			Mobile	00:00:32	Included	0.000
Wed	25 May	[Redacted]	Mobile	00:03:34	Included	0.000
			Mobile	00:00:12	Included	0.000
			Mobile	00:00:45	Included	0.000
			3 Mobile	00:01:57	Included	0.000
			3 Mobile	00:00:16	Included	0.000
			3 Mobile	00:00:18	Included	0.000
			Mobile	00:01:23	Included	0.000
			Belfast	00:05:16	Included	0.000
			Mobile	00:07:54	Included	0.000
			Mobile	00:00:52	Included	0.000
Thu	26 May	[Redacted]	Mobile	00:01:05	Included	0.000
			Mobile	00:06:56	Included	0.000
			Mobile	00:00:24	Included	0.000
			Mobile	00:00:23	Included	0.000
			Mobile	00:02:51	Included	0.000
			Belfast	00:03:02	Included	0.000
			Mobile	00:00:40	Included	0.000
			Mobile	00:00:24	Included	0.000
			Mobile	00:01:44	Included	0.000
			Mobile	00:00:06	Included	0.000
Fri	27 May	[Redacted]	Mobile	00:00:10	Included	0.000
			Mobile	00:00:10	Included	0.000
			Mobile	00:04:35	Included	0.000
			Mobile	00:00:13	Included	0.000
			Mobile	00:00:30	Included	0.000
			Mobile	00:01:38	Included	0.000
			Mobile	00:02:28	Included	0.000
			Mobile	00:03:21	Included	0.000
Sat	28 May	[Redacted]	Mobile	00:02:28	Included	0.000
			Mobile	00:03:21	Included	0.000

cont'd

Padraig

From: Mairtin O'Muilleoir <m.omuilleoir@belfastmediagroup.com>
Sent: 11 December 2018 13:35
To: Padraig
Subject: FW: Marriage Equality

On 06/08/2016 21:45, "Máirtín Ó Muilleoir" <mairtin@newbelfast.com> wrote:

>It really is all over when you are answering emails on a saturday night!
>FYI I have put forward your name for Personal information redacted by the we shall see how it goes.

>Mairtin

>On 06/08/2016 21:39, **A**

>>Yes I think so M

>>> On 6 Aug 2016, at 20:35, Máirtín Ó Muilleoir <mairtin@newbelfast.com> wrote:

>>> **A** as you may know, marriage law falls into my department.

>>> In that respect, I wonder should I try to engage with the business people on Personal information redacted by the who were upset
some years back when the backwoodsmen and women were opposing marriage equality.

>>> That could be an interesting new point of engagement?

>>> Mairtin

>>>>This email is for the use of the intended recipient(s) only. If you have received this email in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not keep, use, disclose, copy or distribute this email without the author's prior permission. We have taken precautions to minimize the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this message. We cannot accept liability for any loss or damage caused by software viruses. The information contained in this communication may be confidential. If you are the intended recipient and you do not wish to receive similar electronic messages from us in future then please respond to the sender to this effect or contact Personal information redacted by the RHI Inquiry