



RHI Inquiry
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Mark George
C/O OFGEM
9 Millbank
London
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6 October 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 is also engaged in 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.

As you may be aware, the Inquiry has already required the provision of a statement setting out the corporate position of Ofgem in relation to the Northern Ireland RHI Scheme. However, the Inquiry Panel is also interested in the roles played by individual officials from Ofgem who were involved with the Scheme. Moreover, the Inquiry Panel recognise that individual officials may have a different perspective from, or may even disagree with certain aspects of, the position adopted by the organisation they work for. The statement, which is required from you pursuant to

the enclosed Notice, is your opportunity to explain what you did in relation to the Northern Ireland RHI Scheme and why you did it; and also to make the Inquiry aware of any concerns you may have about the actions of others.

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 but now no longer have access in your current post. If that applies in your case, I understand that Ofgem will assist you, at least in the first instance. You should contact Mark Mills, Principal Legal Advisor at Ofgem. He is contactable at Mark.Mills@ofgem.gov.uk. I have informed Mark Mills that you may be making contact with him to arrange access to documentation, or for general assistance and support; but there is, of course, no obligation upon you to do so. If you encounter any difficulties, of whatever kind, you should not hesitate to get in touch with me.

I also refer you to Restriction Order No 2 made by the Chairman of the RHI Inquiry on 22 June 2017, a copy of which is enclosed for your convenience. This restriction order prohibits you from publishing any documentation received from the RHI Inquiry (save that you may show it to your legal representative) unless you first obtain the consent in writing of the Inquiry Chairman.

In addition to the four restriction orders made by the Chairman of the RHI Inquiry (which you will find published on the Inquiry website) receipt of this correspondence and its enclosures also places you under a duty of confidentiality to the RHI Inquiry in respect of them. You may share the correspondence and the enclosed Notice and documents with your legal representative(s), but neither you nor they may show, communicate the contents of, nor provide this correspondence or the Notice or documents 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.

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



Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE**[No 497 of 2017]***Background*

1. Set out a description of your occupational history, qualifications and experience.
2. Set out a summary of your role or roles within Ofgem. Please provide details of dates between which you held the role/s, and what the role/s entailed. In each instance, describe how this role related, if at all, to the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland ('the NI RHI Scheme').
3. Explain, insofar as is relevant to any involvement you had with the RHI Scheme, to whom you were accountable and/or reported in Ofgem and who, if anyone, was accountable and/or reported to you.

Involvement with Northern Ireland RHI Scheme

4. Please summarise any involvement you had with the NI RHI Scheme, whether in respect of its creation, operation, administration, or otherwise, and during what period you were so involved.
5. In respect of your particular role or position:
 - a. Explain what proportion or percentage of your role was devoted to work on the NI RHI Scheme (giving details, if applicable, of how this altered over time or at different periods);
 - b. Explain how you carried out your roles or responsibilities in relation to the NI RHI Scheme on a day-to-day basis; and
 - c. Specify whether you consider you were adequately trained and/or resourced in respect of your roles or responsibilities in relation to the NI

RHI Scheme. (If not, please specify clearly in what respects you contend this was not so and, if applicable, what steps you took in relation to this).

6. Identify, in your view, any actual or potential problems, flaws, anomalies, or difficulties with the NI RHI Scheme and/or its operation or administration, explaining in each instance, so far as you can, how those problems, flaws, anomalies, or difficulties manifested themselves, how they came about, and with whom (if anyone) responsibility or accountability for them lay.
7. Please identify when, and how, you first became aware of each of the aforementioned problems, flaws, etc..
8. Please identify and explain any difficulties you encountered within Ofgem in respect of the operation of the administration of the RHI Scheme.
9. Please identify and explain any difficulties you encountered in the relationship between Ofgem and the Department of Enterprise, Trade and Investment (DETI) (later, the Department for the Economy) in Northern Ireland in respect of the operation of the administration of the NI RHI Scheme.

Involvement with Great Britain RHI Scheme

10. If you had any involvement in the Northern Ireland RHI Scheme (as addressed above), please also address the following issues:
 - a. State whether you were also involved in the analogous RHI Scheme which operated in Great Britain ('the GB RHI Scheme');
 - b. If you were involved in the GB RHI Scheme, summarise briefly the extent and nature of your involvement in it;
 - c. If you were involved in both RHI Schemes:

- i. state whether, based upon your experience of each, there were lessons to be learned for the NI RHI Scheme from the GB RHI Scheme and, if there were, clarify what those lessons were, whether they were learned, and, if they were not learned, what you understand to be the reasons for this;
- ii. state whether, based upon your experiences of each, there were differences in how Ofgem dealt with each Scheme and if there were such differences, clarify whether any of them impacted adversely upon the NI RHI Scheme (in particular, concerning the proper administration of that Scheme), clarify what those particular differences were, and set out the reasons for those differences as you understand them.

Promotion of the NI RHI Scheme

11. Specify whether you promoted the NI RHI 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

12. 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 NI RHI 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, deggression 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.

13. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on you in relation to any aspect of the NI 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.
14. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on someone else in relation to the NI 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

15. Identify any instances, to your knowledge or belief, where a Minister, Special Adviser, Civil Servant or any other person involved in the NI 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.

- 16. Specify whether, to your knowledge, you have any connection to a person or body receiving payment under the NI RHI 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, friend, close acquaintance, business associate or (in the case of politicians or special advisers) donor or supporter (either to or of you or your political party).

Whistle-blowing and raising of concerns

- 17. 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 NI RHI Scheme, setting out details of when this occurred, to whom and by whom any relevant disclosure was made and how it was dealt with.
- 18. In particular, provide an account of how you dealt with any disclosures raising concerns about the NI RHI Scheme made or communicated to you at any time. In relation to each such instance, identify precisely how the concerns were communicated to you.
- 19. Specify when you first became aware that subsidies payable under the NI RHI 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

20. 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.
21. 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.
22. 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 497 of 2017****DATE: 17/10/2017**

Witness Statement of: Mark George

I, Mark George will say as follows: -

Background

1. I have been employed by Ofgem since September 2012. During this time I have held various roles within the Non-Domestic RHI Scheme operational team. These include positions as ND RHI Operations Manager, ND RHI Senior Manager - Projects & Processes, ND RHI Senior Manager – Audit & Compliance. Prior to joining Ofgem I had been living in the USA (2010-2012) and Austria (2006-2010). During these years I worked within the not-for-profit clean energy and international program management arena. I was employed by the Renewable Energy & Energy Efficiency Partnership and held positions as Programme Manager in Austria and latterly as Project Director in the USA. Prior to 2006 I gained widespread operational and project management experience within the global insurance underwriting, and television media sectors.

I hold a BSc(Hons) degree in Valuations Surveying, and am a qualified Prince 2 Project Management Practitioner.

- 2.

22/09/2012 – 28/02/2014 – Manager RHI Operations – ND RHI Scheme

My responsibilities under this role did not relate to the Non Domestic RHI Scheme in Northern Ireland.

Other Role Responsibilities:-

- Responsible for reviewing submitted applications for accreditation onto the GB RHI Scheme, also providing a 2nd stage peer review and quality check to ensure regulatory eligibilities had been evidenced.



- Performed recruitment and line management duties of 3 permanent personnel within the operational accreditation assessment and support team.

1/03/2014 – 30/11/2015 – Senior Manager Projects and Processes – ND RHI Scheme

My ND RHI NI responsibilities under this role included:-

- Conducting the 2nd line quality control and approval of amendments to ND RHI Northern Ireland installation details.
- Managed the Technical Support Team responsible for providing advice to internal and external stakeholders regarding the complex technical eligibilities of an installations design and operation (GB & NI RHI Scheme).

Other Role Responsibilities:-

- Acted as a second stage reviewer for escalated stakeholder complaints and disputes regarding compliance issues and accreditation decisions (GB installations only).
- Recruited and managed a team of 18 contract staff performing GB ND RHI Scheme application assessments.
- Performed budget and operational resource forecasting activities.

1/12/2015 – present – Senior Manager Compliance & Technical – ND RHI Scheme

My ND RHI NI responsibilities under this role included:-

- Peer reviewed and approved installation audit reports, validating content and assessment findings as detailed by third party auditors and Ofgem 2nd line reviewers.
- Peer reviewed outcomes from compliance team investigations into potential non-compliances identified by audit assessments or other internal Ofgem teams.
- Approved, under Delegated Authority, the application of sanctions against non-compliant installations in line with NI RHI Scheme Regulations.
- Undertook the review of Complaints and Disputes received regarding process or accreditation decisions made by Ofgem – recommending appropriate actions to senior management.

Other Role Responsibilities:-

- Managed the ND RHI Audit and Compliance teams, responsible for 3 managers and a wider team of 8 additional staff.
- Resource and strategic planning activities in line with departmental aims and objectives.
- Monitoring on progress against goals and KPI's, reporting to senior management and monthly RHI scheme boards.

3. My Ofgem line managers have been:-

- In my position as ND RHI Operations Manager my line manager was Dr Edmund Ward.
I subsequently line managed a team of 3 junior operational staff.
- In my position as ND RHI Senior Manager Projects & Processes my line manager was Dr Edmund Ward.
I subsequently line managed a team of 4 junior technical support team members, and up to 18 temporary agency operational staff.
- In my position as ND RHI Senior Manager Compliance & Technical my line managers are Dr Edmund Ward & Mr David Calderbank (current).
I subsequently line managed 3 operational managers, and up to 8 additional junior support staff.

Involvement with Northern Ireland RHI Scheme

4. My involvement in the NI RHI Scheme covers the period 2014 to present day, and is limited to the activities connected to the administration of the scheme in line with my role responsibilities listed above. In summary this consists of:-

- Reviewing / approving amendments to installation details or configurations.
- Peer reviewing and approving installation audit reports.
- Peer reviewing Compliance team investigation outcomes, and approving the application of relevant enforcement measures (in line with Delegated Authority permissions).
- Reviewing complaints and disputes received regarding accreditation or operational decisions, recommending appropriate action to senior management.

5.

- a. 2012-2014 - 0% of role devoted to administration of NI Scheme
2014-2016 – 15% of role devoted to administration of NI Scheme
2016-2017 – 50% of role devoted to administration of NI Scheme
- b. My day to day duties were conducted in line with my agreed personal and departmental objectives, with daily workloads and tasks being agreed and monitored by my line manager.



- c. I consider that I have had access to the relevant training, guidance and supporting documentation, including RHI NI Regulations and Ofgem standard operational procedure documents, necessary for me to carry out the daily responsibilities of my role. I consider that resourcing requirements within my area of responsibility have been adequately monitored and adjusted in response to the changing operational environment of the NI RHI Scheme.

6. In my view there have not been any actual or potential problems, flaws, anomalies, or difficulties with the NI RHI Scheme and/or its operation or administration.
7. I am not aware of any of the issues aforementioned in question 6.
8. I am not aware of any difficulties encountered within Ofgem concerning the operation of the administration of the RHI Scheme.
9. I have not personally encountered any difficulties in the relationship between Ofgem and the Department of Enterprise, Trade and Investment (and later DfE) in the operation of the administration of the NI RHI Scheme.

Involvement with Great Britain RHI Scheme

- 10.
- a. Yes, I have been involved in the GB Non-Domestic RHI Scheme during the period of my employment by Ofgem.
- b. All my roles at Ofgem since 2012 have been directly related to the operational administration of the GB Non-Domestic RHI Scheme. My roles have covered various activities including assessment and approval / rejection of applications for RHI Scheme accreditation; review and approval / rejection of amendments to accredited installations, review and approval of installation audit reports; review of compliance investigation outcomes; recommendation and/or approval of potential enforcement actions; review and response to participant disputes and complaints; management of technical and operational teams and associated strategic management activities.



c.

- i. In my experience of the operational administration of both the RHI Schemes there were potentially lessons to be learned by the NI Scheme from the GB Scheme. I believe the inclusion of a tiered tariff mechanism within the GB Scheme has been successful in reducing the incentive for participants to generate high volumes of unnecessary heat, or for applicants to create heat uses that did not previously exist. I am not aware of the reasons that such a provision was not originally included in the NI Scheme regulations, but as of April 2017 tiered tariffs were retrospectively introduced for small and medium sized biomass installations.
- ii. It is my opinion that Ofgem administered the RHI Scheme in line with the respective GB and NI regulations, and any difference in approach to operational activities, such as the assessment of eligibilities for accreditation (i.e. fuel sustainability requirements, air quality and emissions requirements) were as a result of those regulatory or policy inconsistencies. It is my opinion that these differences did not impact adversely on Ofgem's ability to administer the RHI Scheme.

Promotion of the NI RHI Scheme

11. I confirm that I have not undertaken any of the third party related promotion, advisory or assistance activities as specified in question 11.

Lobbying and pressure

12. To the best of my knowledge I cannot recollect or identify any instances of the activities as specified in question 12 as occurring during the periods in question, or at any other time.
13. I do not believe that I have been subject to any influence or pressure in relation to any aspect of the NI RHI Scheme.

a. n/a



- b. n/a
- c. n/a
- d. n/a
- e. n/a
- f. n/a

14. I do not believe that I have been witness to any influence or pressure exerted on any other person in relation to any aspect of the NI RHI Scheme.

- a. n/a
- b. n/a
- c. n/a
- d. n/a
- e. n/a
- f. n/a
- g. n/a

Standards of conduct and conflict of interest

15.

- a. I am not aware of any such person as outlined in question 15 having breached relevant standards, or acted in a way incompatible with their duties.
- b. I am not aware of any such person as outlined in question 15 having acted in circumstances relating to or touching upon the Scheme in any way where they had a real or perceived conflict of interest.

16. I confirm that I have no connection to any person or body receiving payment under the NI RHI Scheme, or benefiting commercially from the Scheme in any way.

Whistle-blowing and raising of concerns

17. In the course of my duties and role responsibilities I have received referrals from the Ofgem Counter Fraud team requesting the audit of specific installations. The Counter

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Fraud representative has declared that they were given certain information by 'whistle blower' contacts and are requesting an audit be conducted to verify the situation on site. In these cases I am not aware of the full nature of the allegations or the identity of whom it was that made those allegations. In such cases the installation(s) in question are added to the site audit schedule and our third party audit contractors commissioned to schedule and conduct site assessments. The results of any such audit are processed in line with the Ofgem RHI Scheme Audit & Compliance team SOP's.

18. As per the above answer, I have handled any such request for audit resulting from a disclosure in line with the Ofgem RHI Scheme Audit & Compliance SOP's.
I have not received any such disclosures directly from any party on a 'first hand' basis.
19. I do not recall when or how I first became aware that subsidies payable under the NI RHI Scheme exceeded the cost of biomass fuel used to produce heat.

General

20. In considering the RHI Inquiry's Terms of Reference I confirm that no representations have been made to me about the RHI Scheme of which I consider the RHI Inquiry should be aware.
21. In considering the RHI Inquiry's Terms of Reference I confirm that I have not had any conversations or discussions about the RHI Scheme of which the Inquiry should be aware.
22. I do not hold any further evidence which I believe is relevant to the matters of the RHI Inquiry's investigation, as set out in the RHI Inquiry's Terms of Reference.

Statement of Truth

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

Signed: *M Page*

Dated: *17/10/2017*