



Mark Gerald Roberts
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By post and email to: mark.roberts@rhiltd.co.uk Personal information redacted by the RHI Inquiry

9 June 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 enclose a copy of the RHI Inquiry's Terms of Reference for your information.

You will no doubt 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 persons 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 this context, it would be of assistance to the Inquiry to have a statement from you setting out the involvement of Renewable Heat Generation Ltd, its servants and agents, ('the Company') with the Non Domestic Renewable Heat Incentive Scheme in Northern Ireland ('the RHI Scheme').

In keeping with the approach we are taking with others, 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.

Please bear in mind that, although the RHI Inquiry now has a good working knowledge of the RHI Scheme, the witness statement required by the enclosed Notice is likely (in common with others) to be published by the RHI Inquiry in due course. It should therefore ideally be written in a way which is as accessible as possible in terms of public understanding.

The aim of the enclosed Notice is to require you to provide all relevant evidence within your knowledge and that of the Company 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 or the Company have no evidence, please state this in your response. Where you or the Company can provide evidence, then the more comprehensive your statement is, the less likely it is 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.

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), and with relevant employees, servants or agents of the Company but neither you nor they may show, communicate the contents of, or 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.

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 280 of 2017]

1. Summarise the involvement of Renewable Heat Generation Ltd, its servants and agents ('the Company') in each of the following areas during the period from 2010 onwards:

a. the Renewable Heat Industry in Northern Ireland;

b. the Renewable Heat Industry in Great Britain;

(such as, for example, involvement in the manufacture or supply of biomass fuel, involvement in the manufacture, supply or maintenance of biomass heating plant, involvement in any relevant representative bodies, etc.).

2. Explain any direct or indirect involvement that the Company had in the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland ('the RHI Scheme') or any aspect of it prior to its suspension in February 2016, including, in particular:

a. any involvement that the Company had in the process leading to the creation of the RHI Scheme;

b. any involvement that the Company had in the 2011 public consultation exercise concerning the proposed Scheme;

c. any involvement that the Company had in the 2013 public consultation exercise concerning the RHI Scheme;

d. the nature and number (or approximate number) of commercial transactions (if any) engaged in by or on behalf of the Company connected to the RHI Scheme (such as, for example, the supply and installation of biomass heating plant for accreditation under the

Scheme) including a breakdown of the number of such transactions engaged in by or on behalf of the Company in each relevant financial year and the name and address of the other party / parties to each such transaction;

- e. whether the Company, either directly or indirectly, ever earned any tariff income from the RHI Scheme and, if it did so, provide details of each sum earned by it as well as details of when, how, the precise installations in respect of which, and the terms under which, it earned same;
- f. without prejudice to the foregoing request, provide details of the commercial transactions, connected to the RHI Scheme, entered into by the Company:
 - i. with Countrywide Care Homes Ltd in respect of Ashbrooke Care Home, Ashbourne Manor, Co. Fermanagh;
 - ii. with Maria Mallaband Care Group in respect of Abbey View Care Home, 48 Newtownards Road, Bangor, County Down;
 - iii. with Countrywide Care Homes Ltd in respect of Ard Mhacha, Desart Lane, Co. Armagh;
 - iv. with Countrywide Care Homes Ltd in respect of Geanann Care Home, 31 Ballygawley Road, Dungannon, Co. Tyrone;
 - v. in respect of installations accredited under the RHI Scheme in any of the following Northern Ireland post code areas: BT20, BT61, BT70, and BT74;
- g. (if applicable) the Company's experience of the amount of time (in terms of days or weeks) that typically elapsed between:

- i. the date of biomass heating plant being ordered and its installation;
- ii. the date of biomass heating plant being ordered and its commissioning into service;
- iii. the date of biomass heating plant being ordered and its accreditation under the RHI Scheme;
- iv. the date of application for accreditation of biomass heating plant under the RHI Scheme and its accreditation;

(if, in the Company's experience there was no typical time lapse in this regard, then please provide details of both the minimum and maximum periods experienced by the Company in respect of each of the foregoing sub-paragraphs);

- h. any involvement of the Company in representative, trade, or other similar groups along with other persons or bodies with an interest in the Renewable Heat Industry in Northern Ireland and/or the RHI Scheme;
- i. any involvement, whether direct or indirect, that the Company had in advertising or promoting the RHI Scheme, and/or providing information, education, assistance, guidance or advice regarding the Scheme (in particular, the financial benefits available under the Scheme), to the Northern Ireland market including details of every step taken in this regard, the date (or approximate date) when every such step was taken, the persons in respect of whom every such step was taken, and the results of same;
- j. any potential risks, flaws, problems, anomalies, loopholes, or other issues regarding the proposed RHI Scheme, or the RHI Scheme as enacted, which came to the Company's attention, including details of

when the Company first became aware of each such issue and the actions (if any) taken by the Company as a result;

- k. any instances of whistle-blowing by or on behalf of, or to, the Company in relation to the RHI Scheme, or any disclosures made by or on behalf of, or to, the Company raising concerns about the RHI Scheme, of which you are aware, including details of when such communications occurred and to whom, and by whom, each such communication was made;
 - l. any instances of lobbying or encouragement, by or on behalf of the Company, of Ministers, Special Advisers, Civil Servants, politicians, political parties, their respective servants or agents, or other relevant persons in relation to the terms of the 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, degression and Scheme suspension or closure).
3. Without prejudice to the generality of the foregoing:
- a. summarise the involvement of the Company in the Great Britain Non-Domestic Renewable Heat Incentive Scheme ('the GB Scheme');
 - b. summarise the key differences (if any) between the GB Scheme and the RHI Scheme of which the Company was aware prior to November 2015, with particular regard to biomass heating plant;
 - c. clarify whether the Company, prior to November 2015, considered the RHI Scheme to have the potential to provide a greater financial return, for persons seeking to generate heat through eligible biomass heating plant and/or for those persons commercially connected to them such as suppliers or installers, than the GB Scheme, and, if it did so consider, explain the Company's reasoning in this regard;

- d. clarify whether the Company, prior to late November 2015, considered the RHI Scheme to be potentially more open to abuse or gaming, for persons seeking to generate heat through eligible biomass heating plant and/or for those persons commercially connected to them such as suppliers or installers, than the GB Scheme, and, if it did so consider, explain the Company's reasoning in this regard;
 - e. if the Company at any such time considered the RHI Scheme to have the aforementioned potential to provide a greater financial return, and/or to be potentially more open to abuse or gaming, than the GB Scheme, set out in detail the actions (if any) taken by the Company as a result of, or which were influenced by, such knowledge or belief on its part (e.g. focussing its commercial activities in the NI, rather than the GB, market, or communicating with Ofgem about potential abuse or gaming).
4. Without prejudice to the generality of the foregoing:
- a. please provide details of all communications, passing in either direction, between the Company or any person connected to it (on the one side) and Ministers, Special Advisers, Civil Servants, politicians, political parties, or their respective servants or agents (on the other side) in relation to the introduction, non-introduction, variation or delay of the introduction of cost controls into the RHI Scheme (including, but not limited to, the amendment of tariffs, tiering, degression and Scheme suspension or closure), in particular during 2015 (providing the nature, date, and place of each communication as well as details of the persons between whom each such communication occurred);
 - b. in particular and, once again, without prejudice to the generality of the foregoing, please provide details of each and every communication between the Company or any person connected to it and officials in the Department for Enterprise, Trade, and Investment ('DETI'), DETI Energy Division, and/or DETI Renewable Heat Branch in relation to the

introduction, non-introduction, variation or delay of the introduction of cost controls into the RHI Scheme (including, but not limited to, the amendment of tariffs, tiering, degression and Scheme suspension or closure), in particular during 2015 (providing the nature, date, and place of each communication as well as details of the persons between whom each such communication occurred);

- c. identify each and every document containing, recording, or relating to the communications to which reference is made in sub-paragraphs a. and b.;
 - d. please provide details of all communications, passing in either direction, between the Company or any person connected to it (on the one side) and any persons other than Ministers, Special Advisers, Civil Servants, politicians, political parties, or their respective servants or agents (on the other side) in relation to the introduction, non-introduction, variation or delay of the introduction of cost controls into the RHI Scheme (including, but not limited to, the amendment of tariffs, tiering, degression and Scheme suspension or closure), in particular during 2015 (providing the nature, date, and place of each communication as well as details of the persons between whom each such communication occurred).
5. In respect of the period prior to the suspension of the Scheme in February 2016, and to the extent that it has not already been covered when addressing the issues raised in the preceding paragraphs of this Schedule, please provide details of all dealings that the Company, or other persons connected to it, had with:
- a. Ministers, Special Advisers, Civil Servants, politicians, political parties, or their respective servants or agents;
 - b. Ofgem, its servants or agents;

- c. persons *other than* Ofgem, Ministers, Special Advisers, Civil Servants, politicians, political parties, or their respective servants or agents

which are relevant to the matters that the RHI Inquiry is investigating as set out in the Inquiry's Terms of Reference.

6. Identify any instances, of which either you or the Company is aware, 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;
 - 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.

7. Provide any further evidence within your knowledge or belief, or that of the Company, which is relevant to the matters that 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 280 of 2017

Date 10th July 2017

Witness Statement of Mark Roberts RHG Ltd

I, Mark Roberts, will say as follows

1. Renewable Heat Generation (RHG) is a business that specifically installs Biomass boilers into care homes in conjunction with the RHI incentives available at the time of installation.

We either install them for the care home operator on an installation-only basis whereby the care home operator pays for the installation and collects the RHI income, or we pay for the boilers to be installed / maintained and we collect the RHI income.

We have currently have 4 care home installations in Northern Ireland that we own / operate whereby we collect the RHI income, and we have 46 care home installations in Great Britain that we own / operate and collect the RHI income.

2.

2a. None whatsoever

2b. None whatsoever

2c. None whatsoever

2d. As detailed above we have installed biomass boilers into 4 care homes in Northern Ireland. Three care homes were owned by Countrywide Care Homes Ltd and one owned by Maria Mallaband Care Group (all of which are owned by one group of companies) and the details of which are correctly listed in 2f of your form. Due to high operating costs of the care homes in question, the owners commissioned us to convert to biomass so they could benefit from the significant reduction in heating costs derived from converting to biomass.

All locations had their boilers installed in 2014 between June and August of that year

2e. RHG paid for the installation of the biomass boilers into all four care homes and RHG subsequently collect any RHI income derived.

Current heat meter readings as of 1st March 2017 are as follows

Ard Mhacha care home Armagh	1185794 kw/h	£74,112 over the last 3 years
Abbey View Bangor	578990 Kw/h	£36,186 over the last 3 years
Geannan Care Home Dungannon	757395 Kw/h	£ 47,337 over the last 3 years
Ashbrooke care Home Enniskillen	998843 Kw/h	£62.427 over the last 3 years

Based on average price per kilowatt 6.25p

2f. Details of commercial transactions

RHG paid for the installation of the biomass boilers and claim the RHI income derived from the installation.

RHG service the boilers 2 times a year

The customer pays for their own biomass fuel pellets from local suppliers

The customer derives the savings from the reduced fuel costs (all the 4 care homes RHG converted in Northern Ireland used to be heated by oil)

2g.

- (i) 3 weeks (from ordering to delivery to site)
- (ii) 5 weeks (installation typically takes 2 weeks)
- (iii) 9 weeks (RHI accreditation was taking between 4-6 weeks)
- (iv) RHI accreditation was taking between 4-6 weeks

2h. None whatsoever

2i. None whatsoever...were were previously working in the UK with the owners of the care homes we converted in Northern Ireland and because the Oil heating bills were so high in Ireland they asked us to convert their care homes in Northern Ireland. We never promoted or marketed our services to anyone in Northern Ireland....we simply responded to the request of the care home owner to convert to Biomass.

2j. None whatsoever

2k. None whatsoever

2l. None whatsoever

3.

3a. As previously disclosed we were already active in the Great Britain scheme since 2013 offering installation only services whereby the customer paid for the installation and collected the RHI income, or RHG paid for the installation and collected the RHI income.

3b. The only differences we could see at the time of installing in 2014 was the flat rate of the Northern Ireland RHI scheme as opposed to the two tier system of the GB scheme, and the upper limit of 99 kw/h of the Northern Ireland scheme compared to the upper limit of 199 kw/h of the GB scheme.

3c. For the work we do with Care homes, (most of which have a single heat circuit with high heat loads) the Northern Ireland scheme actually produces lesser income and returns as compared to the GB scheme because heat loads in most care homes will always exceed the output of the 99 kw/h Northern Ireland upper limit output restriction. If the Northern Irish RHI had copied the 2-tier GB scheme with the higher 199kw/h allowance, our / the customers income and returns would have been greater.

I would suggest perhaps in hindsight the weakness of the Northern Ireland scheme was not the single tier rate, it was the 99 kw/h cap which I think encouraged investors / installers to mechanically separate heat circuits so they could have multiple 99 kilowatt installations on one site instead of one boiler room with a higher capacity feeding multiple heat circuits like we advocate in the UK. For clarity and for the avoidance of doubt, at the time of installing in Northern Ireland we did not realise the implications of such practices and we did not create un-necessary multiple heat circuits. All our installations in Northern Ireland still have the original single heat circuit as found on site and we simply swapped out the oil boilers for biomass boilers leaving one existing oil boiler as back up for peak demand periods.

3d. As detailed above we considered the NI scheme to be less attractive than the UK scheme in our particular circumstances whereby we install biomass boilers into care homes with a single heat circuit.

3e. Absolutely not. We carried out the four installations we were asked to carry out and never considered doing any more work in NI as we were very busy in the UK.

4

4a None to disclose

4b None to disclose

4c Not applicable

4d. None to disclose

5.

5a. Nothing relevant to disclose

5b. Nothing relevant to disclose

5c. Nothing relevant to disclose

6.

6a. Nothing relevant to disclose

6b. Nothing relevant to disclose

7.

Nothing to disclose