



RENEWABLE HEAT
INCENTIVE INQUIRY

WIT-155541

RHI Inquiry

Headline Building
10-14 Victoria Street
BELFAST, BT1 3GG

T: 028 9040 8833

E: general@rhiinquiry.org

W: www.rhiinquiry.org

Mr Mervyn Storey
DUP Headquarters
91 Dundela Avenue
Belfast
BT4 3BU

By email to: johnmcburneysolicitors@gmail.com

21 November 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 will be 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 statement you have already provided.

However, as you may be 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 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.

Where you have been asked about a matter which has been addressed to some degree in your previous written and you are clear that there is no further evidence which you can provide, please simply say so.

In the interests of fairness, you are also encouraged to provide, through the further written statement now being requested of you, any additional information that you can which is relevant to the Inquiry's investigation of the matters falling within its Terms of Reference in relation to any of its phases, in light of any additional matters which have emerged during the course of the Inquiry's evidence-gathering processes, particularly in the period since your provided your last witness statement.

As the text of the Section 21 Notice explains, you are required by law to comply with it.

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, the Department of Finance (DoF) can make arrangements to permit such access, at least in the first instance, and you should contact Emer Morelli at DoF. Alternatively, please contact me. However, for the most part documents referred to in the attached notice are enclosed.

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.

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

SCHEDULE**[No 228 of 2018]***Appointment of Special Advisers*

1. Attached to this Notice is the 'Code Governing the Appointment of Special Advisers' as applicable from 20 August 2013 to 16 June 2016 (marked **DOF-00592 to DOF-00631**). Please explain in detail, including by reference to the Code, the process by which you appointed your Special Advisers while Social Development Minister and Finance Minister, respectively. Your answer should address, in relation to each Special Adviser appointment made by you, but need not be limited to the following issues:
 - a. Whether, and if so how, the Code was complied with (including matters such as who created the job description; how a pool of potential candidates was identified; who created the list of candidates suitable for interview and on what criteria; how many candidates were interviewed and by whom; who the successful candidate was; what the reasons were for appointing this candidate);
 - b. Whether, at any point during the process to select and appoint your Special Adviser, you consulted with or received advice or direction from, any other person within the DUP (and, if so, the details and outcome);
 - c. Where the process adopted by you failed to follow or adhere to, or deviated from, the process laid down in the Code Governing the Appointment of Special Advisers at the applicable time, the reasons for the failure or deviation; and
 - d. Insofar as it is within your knowledge, whether the approach adopted by you in these appointments was similar to, or different from, other such appointments made by DUP Ministers and/or Ministers of other parties.

Meeting with Moy Park

2. In her written evidence to the Inquiry (at **WIT-263849**) Janet McCollum of Moy Park provided evidence of a meeting she and Mike Mullan had with you and Andrew Crawford on 15 January 2016, at Moy Park Head Office, at which Andrew Crawford is said to have informed Moy Park that the RHI scheme would soon be closing. Andrew Crawford gave oral evidence in relation to this meeting (see **TRA-13251 to TRA-13257**). As to this meeting, please address the following matters:
 - a. Explain whether the meeting was arranged by you, officials within DFP, Moy Park and/or some other person.
 - b. Explain why the meeting was arranged to take place at Moy Park Head Office and not some other location.
 - c. Prior to the meeting taking place, what did you believe the purpose of the meeting to be and what items were on the agenda?
 - d. Did you use your Ministerial car to travel to the meeting?
 - e. If you believed the meeting related only to constituency business, why was your departmental Special Adviser present?
 - f. If you believed the meeting was to include discussion of issues in your capacity as Finance Minister, why were no DFP officials present at the meeting and what briefing(s) did you seek from officials in advance of the meeting?
 - g. Was the RHI scheme an agenda item and, if so, who requested that it be placed on the agenda and for what reason(s) was it placed on the agenda for discussion?

- h. If the RHI scheme was not an agenda item, by whom and in what context was the matter of the RHI scheme raised?
- i. Set out, in as full detail as you can, what you recall being discussed in relation to the RHI scheme at this meeting.
- j. Without prejudice to the foregoing enquiry, set out whether you take issue with the evidence provided by Janet McCollum that Andrew Crawford told her and Mark Mullan that the RHI scheme would soon be closing and, if so, please detail what you believe was said and by whom.
- k. If you recall, or believe, that Andrew Crawford did provide information to Moy Park to the effect that the RHI scheme would soon be closing, please also address the following issues:
 - i. Did you believe it was appropriate for Andrew Crawford to disclose this information to Moy Park in the meeting? If different, do you now believe so? Please give reasons for your response.
 - ii. Did you believe any information given by Andrew Crawford to Moy Park was potentially commercially sensitive? Again, please give reasons for your response.
 - iii. Did you undertake any steps, actions or discussions following Andrew Crawford's disclosure to Moy Park? If so, please give details.
- l. Set out whether you took any minutes or notes of what was discussed at the meeting or caused or directed anyone else to take a note or minute. If not, please explain why not.

Evidence from Chris Stewart

- 3. Chris Stewart, Deputy Permanent Secretary in DETI, in his written evidence (see **WIT-27546 to WIT-27547**) stated that in a phone call between him and the Head of the Civil Service, Malcolm McKibbin, on 27 January 2016, Dr McKibbin

told him that “Mrs Foster had been advised by the Finance Minister, Mervyn Storey, that he (Mr Storey) had been advised by DfP officials that DETI had been aware of the need to close the RHI scheme in July 2015, but had done nothing since then.” As to this:

- a. Please comment on the assertion by Chris Stewart as to what you allegedly told Arlene Foster.
- b. If you did make such a comment to Arlene Foster (or any similar comment or such comment as might, in your opinion, have given rise to this report), describe in detail what you were told by your official, who the official was, when they told you it and to whom else, if anyone, you communicated the information and when.

Hebron Free Presbyterian Church

4. The document **MED-00245 to MED-00247** attached to this Notice is a copy of a *Newsletter* article published on 12 December 2016 which, in the course of the report, describes you as being an elder of Hebron Free Presbyterian Church ('the church'), a recipient of subsidy under the RHI Scheme. Other evidence provided to the Inquiry indicates that the church applied for accreditation under the RHI Scheme on both 3 February 2015 and 19 October 2015. As to this, please address the following matters:
 - a. Please confirm whether you are (or were, at any material time) an elder of the church or held any position within it.
 - b. To your knowledge or belief:
 - i. When did the church install a renewable heat system?
 - ii. Was the decision to install a renewable heat system influenced, either in whole or in part, by the existence of the RHI scheme?

- c. Did you have any role in the church's decision(s) to install a renewable heat system? If so, please provide full details.

- d. Did you at any time gain any knowledge through the church's participation in the scheme as to:
 - i. the benefits or rate of return of the RHI scheme;
 - ii. the duration of the 'payback' period over which the church could recoup the capital cost of the renewable heat installation;
 - iii. the fact that payments under the RHI scheme exceeded the cost of the fuel for the church's renewable heat system; and/or
 - iv. the availability of 'surplus' funds as a result of participation in the scheme for use by the church for other purposes.

In each instance, please give as full details as you can of what you learned; when you learned it; and what, if anything, you did with any such knowledge.

- e. In particular, if you did come by knowledge of the potential generosity of the scheme but did not inform any official within either DFP or DETI, please set out the reasons why you did not inform any officials within either or both of two departments.

- f. At any time as Finance Minister did you advise any person of a potential conflict of interest in you dealing with matters relating to the closure of the RHI scheme given your role as an elder in the church (if indeed you were an elder or had any relevant role within the church). If so, please provide details; and, if not, please set out your reasons for not advising anyone of such a potential conflict.

General

- 5. To the extent (recognising that you are not an enhanced participant in the Inquiry) that you are aware of the evidence of any other witness or participant

contradicting your evidence on a significant issue, or being materially incomplete in respect of any significant issue, you should take this opportunity to address those issues by way of further written evidence (to the extent that the said issues have not already been addressed in your existing written evidence).

6. Please set out any further significant evidence you have or of which you are aware, having regard to the Inquiry's Terms of Reference, which has not been addressed either adequately or at all in your previous written or oral evidence.

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 228 of 2018

DATE: 28 November 2018

Witness Statement of: MERVYN STOREY

I, Mervyn Storey, will say as follows: -

Appointment of Special Advisers

1. Attached to this Notice is the 'Code Governing the Appointment of Special Advisers' as applicable from 20 August 2013 to 16 June 2016 (marked **DOF-00592 to DOF-00631**). Please explain in detail, including by reference to the Code, the process by which you appointed your Special Advisers while Social Development Minister and Finance Minister, respectively. Your answer should address, in relation to each Special Adviser appointment made by you, but need not be limited to the following issues:
 - a. Whether, and if so how, the Code was complied with (including matters such as who created the job description; how a pool of potential candidates was identified; who created the list of candidates suitable for interview and on what criteria; how many candidates were interviewed and by whom; who the successful candidate was; what the reasons were for appointing this candidate);
 - b. Whether, at any point during the process to select and appoint your Special Adviser, you consulted with or received advice or direction from, any other person within the DUP (and, if so, the details and outcome);



- c. Where the process adopted by you failed to follow or adhere to, or deviated from, the process laid down in the Code Governing the Appointment of Special Advisers at the applicable time, the reasons for the failure or deviation; and
- d. Insofar as it is within your knowledge, whether the approach adopted by you in these appointments was similar to, or different from, other such appointments made by DUP Ministers and/or Ministers of other parties.

1 a-d.

Dr Crawford was Special Adviser within DFP when Mrs Foster was Finance Minister. Upon my appointment Dr Crawford remained in post to become Special Adviser to me. I considered that this was appropriate as he had experience in the role and he could therefore better assist me.

Meeting with Moy Park

2. In her written evidence to the Inquiry (at **WIT-263849**) Janet McCollum of Moy Park provided evidence of a meeting she and Mike Mullan had with you and Andrew Crawford on 15 January 2016, at Moy Park Head Office, at which Andrew Crawford is said to have informed Moy Park that the RHI scheme would soon be closing. Andrew Crawford gave oral evidence in relation to this meeting (see **TRA-13251 to TRA-13257**). As to this meeting, please address the following matters:
 - a. Explain whether the meeting was arranged by you, officials within DFP, Moy Park and/or some other person.

The meeting was requested by me in an email dated 1 October 2015 to Janet McCollum (see attached). Upon receiving no response, I subsequently followed up on my request by email



dated 5 November 2015 (it transpired by initial email had not been received). The meeting was then arranged by my constituency office.

- b. Explain why the meeting was arranged to take place at Moy Park Head Office and not some other location.

The Chief Executive of Moy Park was located at Head Office and therefore I was happy to go there.

- c. Prior to the meeting taking place, what did you believe the purpose of the meeting to be and what items were on the agenda?

The purpose of the meeting is as set out in the email dated 1 Oct 2015 sent from me as DUP MLA for North Antrim to Janet McCollum. This was primarily a constituency engagement - see constituency diary attached.

- d. Did you use your Ministerial car to travel to the meeting?

Yes, I believe I did as I had been at a Ministerial appointment in North Belfast prior to going to the meeting. I believe it is permitted and appropriate to use the Ministerial car on a day of 'mixed business' i.e. when going between Ministerial constituency engagements.

- e. If you believed the meeting related only to constituency business, why was your departmental Special Adviser present?

I had only recently taken up post and saw no reason why Dr Crawford shouldn't have been with me to assist in relation to any DFP issues that might arise.



- f. If you believed the meeting was to include discussion of issues in your capacity as Finance Minister, why were no DFP officials present at the meeting and what briefing(s) did you seek from officials in advance of the meeting?

The principal reason for the meeting was as set out in the email dated 1 Oct 2015. As special adviser Dr Crawford had been in the Department prior to my appointment and therefore he would be able to answer any questions relating to the Department in the event they should arise.

- g. Was the RHI scheme an agenda item and, if so, who requested that it be placed on the agenda and for what reason(s) was it placed on the agenda for discussion?

As far as I was concerned the agenda was per the email of 1 Oct 2015, however, as my circumstances had changed since requesting the meeting and I now was the Finance Minister, I believed other matters would undoubtedly be raised.

- h. If the RHI scheme was not an agenda item, by whom and in what context was the matter of the RHI scheme raised?

See reply to g, above.

- i. Set out, in as full detail as you can, what you recall being discussed in relation to the RHI scheme at this meeting.

I have no detailed recollection of the discussion, and as I had only arrived in the Department and had previously been concentrated on issues relating to my previous Ministerial post, that of Social Development, I would not have had the detail of the issue.



- j. Without prejudice to the foregoing enquiry, set out whether you take issue with the evidence provided by Janet McCollum that Andrew Crawford told her and Mark Mullan that the RHI scheme would soon be closing and, if so, please detail what you believe was said and by whom.

No, I do not take issue with this evidence but similarly I have no detailed recollection of the discussions that took place.

- k. If you recall, or believe, that Andrew Crawford did provide information to Moy Park to the effect that the RHI scheme would soon be closing, please also address the following issues:
- i. Did you believe it was appropriate for Andrew Crawford to disclose this information to Moy Park in the meeting? If different, do you now believe so? Please give reasons for your response.
 - ii. Did you believe any information given by Andrew Crawford to Moy Park was potentially commercially sensitive? Again, please give reasons for your response.
 - iii. Did you undertake any steps, actions or discussions following Andrew Crawford's disclosure to Moy Park? If so, please give details.

As stated above and in my previous statement, I cannot recall the detail of the discussion. I do not believe I undertook any steps following the meeting.

- l. Set out whether you took any minutes or notes of what was discussed at the meeting or caused or directed anyone else to take a note or minute. If not, please explain why not.

No, I did not take a note. It was not the case that I would always take a note of every meeting.



Evidence from Chris Stewart

3. Chris Stewart, Deputy Permanent Secretary in DETI, in his written evidence (see **WIT-27546 to WIT-27547**) stated that in a phone call between him and the Head of the Civil Service, Malcolm McKibbin, on 27 January 2016, Dr McKibbin told him that “*Mrs Foster had been advised by the Finance Minister, Mervyn Storey, that he (Mr Storey) had been advised by DfP officials that DETI had been aware of the need to close the RHI scheme in July 2015, but had done nothing since then.*” As to this:
 - a. Please comment on the assertion by Chris Stewart as to what you allegedly told Arlene Foster.

I have no recollection of this.

- b. If you did make such a comment to Arlene Foster (or any similar comment or such comment as might, in your opinion, have given rise to this report), describe in detail what you were told by your official, who the official was, when they told you it and to whom else, if anyone, you communicated the information and when.

Any information that would have been conveyed to me in relation to matters regarding the RHI Scheme would have been relayed to me by either David Sterling, Emer Morelli or another senior DFP official but I have no direct recollection.

Hebron Free Presbyterian Church

4. The document **MED-00245 to MED-00247** attached to this Notice is a copy of a *Newsletter* article published on 12 December 2016 which, in the course of the report, describes you as being an elder of Hebron Free Presbyterian Church (‘the church’), a recipient of subsidy under the RHI Scheme. Other evidence provided to the Inquiry indicates that the church applied for



accreditation under the RHI Scheme on both 3 February 2015 and 19 October 2015. As to this, please address the following matters:

- a. Please confirm whether you are (or were, at any material time) an elder of the church or held any position within it.

I am an Elder of Hebron Free Presbyterian Church and have been since 2006.

- b. To your knowledge or belief:

- i. When did the church install a renewable heat system?

I am not aware of the precise date of installation but I assume each boiler would have been installed shortly before the application dates.

- ii. Was the decision to install a renewable heat system influenced, either in whole or in part, by the existence of the RHI scheme?

I believe the decision would have been influenced in part by the scheme.

- c. Did you have any role in the church's decision(s) to install a renewable heat system? If so, please provide full details.

As I said in my previous statement, I had no involvement in procuring these boilers.

- d. Did you at any time gain any knowledge through the church's participation in the scheme as to:

- i. the benefits or rate of return of the RHI scheme;

I knew it was an incentive by the name but nothing more.



- ii. the duration of the 'payback' period over which the church could recoup the capital cost of the renewable heat installation;

I was not across any of the detail regarding 'payback'.

- iii. the fact that payments under the RHI scheme exceeded the cost of the fuel for the church's renewable heat system; and/or

No.

- iv. the availability of 'surplus' funds as a result of participation in the scheme for use by the church for other purposes.

I was simply aware that the previous oil bill costs were higher than this new arrangement.

In each instance, please give as full details as you can of what you learned; when you learned it; and what, if anything, you did with any such knowledge.

- e. In particular, if you did come by knowledge of the potential generosity of the scheme but did not inform any official within either DFP or DETI, please set out the reasons why you did not inform any officials within either or both of two departments.

In 2014/2015 I was Minister for Social Development. This unfortunately meant that I was not as regularly in attendance at Committee Meetings, where these decisions were made, as I might have been. My focus and time was taken up with the issues relating to DSD and not what was going on in other Departments.

- f. At any time as Finance Minister did you advise any person of a potential conflict of interest in you dealing with matters relating to the closure of the RHI scheme given your role as an elder in the church (if indeed you were an elder or had any relevant role within the church). If



so, please provide details; and, if not, please set out your reasons for not advising anyone of such a potential conflict.

I may have said to David Serling, but I cannot be certain.

General

5. To the extent (recognising that you are not an enhanced participant in the Inquiry) that you are aware of the evidence of any other witness or participant contradicting your evidence on a significant issue, or being materially incomplete in respect of any significant issue, you should take this opportunity to address those issues by way of further written evidence (to the extent that the said issues have not already been addressed in your existing written evidence).

I have no further evidence to provide.

6. Please set out any further significant evidence you have or of which you are aware, having regard to the Inquiry's Terms of Reference, which has not been addressed either adequately or at all in your previous written or oral evidence.

I have no further evidence to provide.

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.



Statement of Truth

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

Signed: _____

28/11/2018

Dated: _____

From: Ballymoney DUP Office <ballymoneydup@gmail.com>
Sent: 05 November 2015 10:17
To: 'Mervyn Storey' <mervynstorey> Personal information redacted by the RHI Inquiry
Subject: RE: Ballymoney 0/1079

Morning

Email had not been received! I have sent again this morning to Janet's PA as Janet will not be in the office until Monday.

E

From: Mervyn Storey [<mailto:mervynstorey>] Personal information redacted by the RHI Inquiry
Sent: 04 November 2015 19:44
To: Ballymoney DUP Office
Subject: Fwd: Ballymoney

Elaine,

I had sent the email, see below to Janet McCollum on the 1st Oct 2015. To date I haven't received a response.

Could you contact MoyPark in Portadown Office and see if the email was received.

Thanks

Mervyn

Sent from my iPad

Begin forwarded message:

From: MERVYN STOREY <mervynstorey> Personal information redacted by the RHI Inquiry
Date: 1 October 2015 17:56:38 BST
To: Janet.McCollum@moypark.com
Subject: Ballymoney

Janet,

Can I take this opportunity in congratulating you and all at Moypark in the successful completion of the take over by JBS. I have no doubt that Moypark will continue to be an integral part of JBS in the future. That is in no small measure to the leadership that you have given since taking up post at the company.

You will recall that not long after taking up post I along with my party colleague Ian Paisley MP came and meet with you. At that time a number of issues were discussed, one being the 5 year cooperate plan of the company. You will recall that I was particularly interested to know if the company had any plans to further expand its operation especially in Ballymoney.

Given the recent acquisition and no doubt the intension of Moypark to continue to grow in Northern Ireland, could consideration be given to bringing some of the production to Ballymoney.

I know that you appreciate that as an elected member for the area I am mandated to do all in my power to work for the best interests of the people I represent. Ballymoney has had a long history of involvement with the meat industry. However in recent years for a variety of reasons those employed in the industry have all but disappeared.

Would be happy to meet if that was helpful.

Regards

Mervyn

Fri

15

Eoin McCurdy Work Experience

GMT+00

1am

2am

3am

4am

5am

6am

7am

8am

9am

Irrelevant information redacted by the RHI Inquiry

10am

11am

12pm

1pm

2pm

3pm

Meeting with Janet McCollum Moy Park and Mike Mullan HR Director 0/1079
2:30pm, Moypark Craigavon Boardroom

4pm

5pm

6pm





Meeting with Janet McCollum Moy Park and Mike Mullan HR Director 0/1079

Created by: mervynstoreymla@gmail.com

Time

2:30pm - 3:30pm (United Kingdom
Time)

Date

Fri 15 Jan 2016

Where

Moypark Craigavon Boardroom

Description

EM 6/11/15

At Mervyn's Request. This is the earliest date
available to suit all. Confirmed with Joanne (PA)

38368004.

Confirmed via email 6/11/15

My Notes