

To: Edmund Ward[Edmund.Ward@ofgem.gov.uk]
Cc: Wightman, Stuart[Stuart.Wightman@economy-ni.gov.uk]
From: Marten, Lucy
Sent: 2016-12-15T17:29:18Z
Importance: Normal
Subject: FW: Whistle-blower details - Talkback - 15.12.16 (12.39)
Received: 2016-12-15T17:29:23Z

Edmund

As per the email below, you'll see that the media are beginning to look at domestic/non domestic use.

Lucy

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Please consider the environment - do you really need to print this e-mail?

From: McCann, Brendan
Sent: 15 December 2016 16:56
To: Wightman, Stuart; Marten, Lucy
Subject: FW: Whistle-blower details - Talkback - 15.12.16 (12.39)

To note re the Domestic heating issue in the final paragraph.

Brendan

From: Cousins, Philip [<mailto:Philip.Cousins@justice-ni.x.qsi.gov.uk>]
Sent: 15 December 2016 14:10
Subject: Whistle-blower details - Talkback - 15.12.16 (12.39)

Programme	Talkback
Date & Time	15.12.16 (12.39)
Subject	Whistle-blower details
Prepared By	Typist: Jennifer Higgins

Received from OFGEM on 25.05.2017

Annotated by RHI Inquiry

MMU: PC

WILLIAM CRAWLEY

Reference was made earlier to the whistle-blower email in this case, which has been put into the public domain, put into the public domain by Nigel Dodds, the deputy leader of the DUP, last night, who has now questioned whether Arlene Foster was actually contacted with allegations by a whistle-blower, I think he used the expression the so-called whistle-blower because he's now wondering whether it's appropriate to even use that term of this initial contact email, which was published in a redacted form. Some bits of it were blacked out. On the Nolan Show this morning the whistle-blower herself was clearly unhappy with the DUP's decision to publish that initial email, even with some parts of it blacked out, this is what she said.

WHISTLE-BLOWER (EXCERPT)

I wrote an email into DETI, just via the generic email address, marked for the attention of Arlene Foster and I did this at the end of August 2013 and in that original email which was shared by the DUP and might I say only in Northern Ireland would somebody with the label of whistle-blower have an email shared without their consent which was so poorly redacted.

WILLIAM CRAWLEY

That was what the whistle-blower in this case said this morning on the Nolan Show. Clearly concerned that her identity could be revealed by some of the details that were left in that redacted email. And it would appear that she has good reason to be concerned about that, because Talkback has been contacted by a member of the public who was able to piece together information left in that email to properly identify the whistle-blower in question. And that member of the public has provided us with those details which we have independently confirmed. We've asked that member of the public not to reveal the identity of the whistle-blower, even though they have identified her and we're not going to be revealing the identity of the whistle-blower in this programme either, but there are some serious questions here, aren't there, for Nigel Dodds and for the DUP, about the decision they've taken to put information into the public domain about this very serious issue which has, in effect, identified a whistle-blower without her consent. How this would work for journalists is, if I had a source whose identity I wished to protect, I would not put out information which we understood, even though a jigsaw, could identify indirectly that source, because no other source would ever come to you, quite reasonably, if you cannot protect their identity. We've asked the DUP to explain to us why they believe they did get the consent of the whistle-blower in advance to put this email out, because you've just heard the whistle-blower this morning saying she didn't give her consent, and this is what they've told us. They say, permission was sought to use the letter, but they are unclear when that was. They are not clear if it was sought by the Department for the Economy, where Arlene Foster was Minister at the time it was sent; or if separate consent was sought yesterday. So they're checking it out for us today, but they said reasonably confidently, Sam, that consent was obtained, and now they're not sure if, when and where consent was obtained.

SAM McBRIDE

I'm genuinely baffled by this, because I don't see why the DUP would have done what they seem to have done, because I mean it just digs a hole for them. There was a period for about two or three hours last night where they seemed to have got the initiative back on this with this email. It clearly was not a whistle-blowing email, it was a follow up meeting with officials in which the whistle-blowing allegations, as such, if that's the correct way to characterise them were made. But the DUP were very clear with me last night, we have got the consent of this individual. And, of course, we would not have published the email had we not been told that.

We don't have her identity, but they told us, we have spoken to her, she is happy for this to be published. I find it extraordinary that they are now in a situation where they're saying we're not sure when we asked her; we're not sure who asked her. She's saying she wasn't asked and, of course, as lots of people have been saying, pointing out online, she's identifiable.

WILLIAM CRAWLEY

And there may be questions here for committees on standards on public life about whether legislators, whether they're MPs or MLAs, should act in response to a whistle-blower in a way which essentially identifies the whistle-blower. Allison.

ALLISON MORRIS

Well she clearly shouldn't have been identified in any way and you know, as a journalist, there's times you come under great flak from people for refusing to give further details about your sources and you take that, you take it on the chin. But I think this strange sequence of events has happened over the past few days are leaving me with the question, is was there a second whistle-blower, because Arlene Foster did say she spoke to the whistle-blower and passed in onto officials. That letter seems to suggest she didn't, it was a letter sent that was passed on to officials. So now we've got to ask, were the DUP confusing one whistle-blower with another? Was there two? How much information was sent over? Is it a bigger cover up or a bigger blunder even than we first suspected? Because if two people raised the red flag in relation to this and both were ignored well then that raises even more concerns.

WILLIAM CRAWLEY

And maybe you're asking that question because I noticed this in the Audit Report as well, a reference to a whistle-blower in 2014, and this emails 2013. But perhaps the bigger question...

SAM McBRIDE

Just on that point, sorry just to clarify for the listeners, this individual seems to have contacted the department in 2013 and then went back in 2014, if I understand it correctly...

WILLIAM CRAWLEY

That's right an initial contact, an initial contact. Now the question here is, in terms of the DUP push back last night with Nigel Dodds on this, and you saw a lot of people from the DUP saying there's your proof, as if there's nothing here. But of course the story isn't how the whistle-blower got in contact with the department and brought it to Arlene Foster's attention, that's not the story, the story is, having been told about this, as the responsible Minister, what did you do about it to protect the public's interest and to ensure that hundreds of millions of pounds were not wasted? That's the story, isn't it?

ALLISON MORRIS

The story is that, we had a scheme where you spent £1 and you got £1.60 back. So you walk into the shop and you hand the shopkeeper £1 and he gives you back £1.60 and you stand there for the next 20 years handing him a pound and getting £1.60 back. That's basically the story and nobody seen this and nobody noticed it. and Arlene Foster was the Minister, Jonathan Bell followed her into that role and neither of them did anything about it until now, until it was raised by the Audit Report and that's the story. So the story is, who was responsible for allowing that to carry on. Not when the whistle-blower contacted the DUP, who she forwarded on to, what officials were the result. That's all window dressing, it's all deflection, it's all distraction, it's not getting away from the fact that there's 480 something million pound unaccounted for because the scheme had no rules, and that's basically it.

SAM McBRIDE

It's a measure of the gravity of the situation Arlene Foster faces that she is effectively dumping onto her

department and saying that there were aspects of her department, significant aspects in terms of how they handled the whistle-blower, in terms of how they handled the regulations, in terms of how they implemented the regulations which were dysfunctional. Normally we have a situation where the Minister, because they know that that would reflect badly on them, is attempting to say, no, it was not dysfunctional. She's actually trying to persuade us and the DUP is actually trying to persuade us that this was a department which had serious difficulties in terms of how it was run, but that was not her fault.

ALLISON MORRIS

And also, can I just point back to that, when Arlene Foster was challenged about this on the 29th October by my colleague John Manley, she did blame it on the officials at that point as well and she did say that how is she meant to be across every jot and tittle of her brief, which, you imagine as the Minister, she should have been. But at that point, even then in October, before this current storm she was still deflecting that onto her officials and batting the problem off onto them.

WILLIAM CRAWLEY

Incidentally, there are so many dimensions to this story, it's like a novel, every day brings another episode in it. We've been talking previously about the Stephen Brimstone, former Special Adviser role in this and what's happened in his own personal case, in terms of being a claimant to, we suspect, the non-domestic scheme. He's not taking all calls, we're updating you on this as we go, he's not taking our calls, we still want to talk to Stephen Brimstone and just ask just questions on the record. The Reverend David Park of Hebron Free Presbyterian Church, that church that has been in the news you'll remember because, not just because the DUP MLA Mervyn Storey serves as an elder in the church, but also because this church itself was part of the non-domestic scheme and has been benefitting, and that church has offered now to give away any profits it makes from the scheme to charity. We've been in touch with David Park the minister, unfortunately he's declined to do an interview with us today as well, but he has confirmed on the phone with us that not only is his church being heated as part of the non-domestic scheme, his own home, the manse, which belongs to the church, so it constitutes church property as well, is also being heated as part of the scheme. So obviously there'll be questions we'd like to talk to him about, but he's not doing the interview, about the distinction between non-domestic and domestic heating schemes when your home is being heated as part of a non-domestic scheme.

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