



RHI Inquiry
1st Floor, Waterfront Plaza
8 Laganbank Road
BELFAST BT1 3LY

T: 028 9040 8833
E: general@rhiinquiry.org
W: www.rhiinquiry.org

Stephen Brimstone

Personal information
redacted by the RHI
Inquiry

By post and email

Personal information redacted by the RHI
Inquiry

11 May 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 has also now begun 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.

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 in your position as a Special Adviser within a Department but to which you now no longer have access. If that applies in your case, I understand that the Executive Office is making arrangements to permit such access, at least in the first instance. You should contact Ms Olive Maybin, in the Office of the Head of the Civil Service, to organise this. She is contactable at Olive.Maybin@executiveoffice-ni.gov.uk. I have informed Ms Maybin that you may be making contact with her to arrange access to documentation; but there is, of course, no obligation upon you to do so.

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), but neither you nor they may show, communicate the contents of, nor 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.

A copy of this correspondence has also been provided to your legal representative, John McBurney of John McBurney Solicitors (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



Patrick Butler

Solicitor to the RHI Inquiry

02890408928

THE INDEPENDENT PUBLIC INQUIRY INTO
THE NON DOMESTIC RENEWABLE HEAT INCENTIVE (RHI) SCHEME
(KNOWN AS 'THE RHI INQUIRY')

Chairman's Notice

[No 151 of 2017]

pursuant to Section 21(2) of the Inquiries Act 2005

WARNING

If, without reasonable excuse, you fail to comply with the requirements of this Notice you will be committing an offence under section 35 of the Inquiries Act 2005 and may be liable on conviction to a term of imprisonment and/or a fine.

Further, if you fail to comply with the requirements of this Notice, the Chairman may certify the matter to the High Court of Justice in Northern Ireland under section 36 of the Inquiries Act 2005, where you may be held in contempt of court and may be imprisoned, fined or have your assets seized.

To: Stephen Brimstone

Personal information redacted
by the RHI Inquiry

A large black rectangular redaction box covers the majority of the recipient's contact information, including their name, address, and phone number.

IMPORTANT INFORMATION FOR THE RECIPIENT

1. This Notice is issued by the Chairman of the Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme on foot of the powers given to him by the Inquiries Act 2005.
2. The Notice requires you to do the acts set out in the body of the Notice.
3. You should read this Notice carefully and consult a solicitor as soon as possible about it.
4. You are entitled to ask the Chairman to revoke or vary the Notice in accordance with the terms of section 21(4) of the Inquiries Act 2005.
5. If you disobey the requirements of the Notice it may have very serious consequences for you, including you being fined or imprisoned. For that reason you should treat this Notice with the utmost seriousness.

EVIDENCE TO BE PROVIDED

TAKE NOTICE that the Chairman of the Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme ('the RHI Inquiry') requires you, pursuant to his powers under section 21(2)(a) of the Inquiries Act 2005 ('the Act'), to provide to the RHI Inquiry Panel evidence in the form of a written statement addressing the matters set out in the Schedule to this Notice by **12.00 noon on Thursday 1 June 2017**.

APPLICATION TO VARY OR REVOKE THE NOTICE

AND FURTHER TAKE NOTICE that you are entitled to make a claim to the Chairman of the RHI Inquiry, under section 21(4) of the Act, on the grounds that you are unable to comply with the Notice, or that it is not reasonable in all the circumstances to require you to comply with the Notice.

If you wish to make such a claim you should do so in writing to the Chairman of the RHI Inquiry at **RHI Inquiry, 1st Floor, Waterfront Plaza, 8 Laganbank Road, Belfast, BT1 3LR** setting out in detail the basis of, and reasons for, your claim by **12.00 noon on Tuesday 23 May 2017**.

Upon receipt of such a claim the Chairman will then determine whether the Notice should be revoked or varied, including having regard to his obligations under section 21(5) of the Act, and you will be notified of his determination.

Dated this 11th day of May 2017

Signed:

A handwritten signature in cursive script, reading "Patrick Coghlin", written over a horizontal line.

Sir Patrick Coghlin
Chairman of the RHI Inquiry

SCHEDULE
[No 151 of 2017]

Background

1. Set out a description of your occupational history, qualifications and experience.
2. Set out a summary of your role as a Special Adviser in any such posts you have held from 2011 to date (this includes the dates between which you held the role/s, what the role/s entailed, to whom you reported, *etc.*). In each instance, describe how this role related, if at all, to the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland ('the Scheme').

Role of Special Advisers

3. Describe the role of Special Adviser, including:
 - a. the rules which governed your position;
 - b. who would give you instructions, and who was entitled to do so;
 - c. how you interacted with other Special Advisers, and whether there was an understood or accepted hierarchy within your or any team of Special Advisers;
 - d. what duties you owed (or considered yourself to owe) to the political party to which you were affiliated and how, if at all, that affected your role or your performance of it;
 - e. how you interacted with civil servants, including the procedures which operated within a Department between civil servants, the Special Adviser/s and the Minister; and

- f. the relationship between you and Ministers affiliated to the Democratic Unionist Party, including whether any Minister was expected or required (as a matter of political reality or on any other basis) to accept advice or direction provided by you, on your behalf or through you on behalf of your Minister.

Involvement with RHI Scheme

4. Explain in detail any involvement you had in relation to, or touching upon, the Scheme including (but not limited to) any role or involvement you had, whether by way of giving advice or otherwise, in respect of the setting up, design, implementation, operation, promotion, oversight, governance, funding, amendment (including the introduction of cost controls), suspension and/or closure of the Scheme, from its inception up to the present day.
5. Without prejudice to the generality of paragraph 4 above, explain your involvement (if any) in:
 - a. the creation and development of the Scheme in, or before, 2012;
 - b. the administration/operation of the Scheme;
 - c. any problems or difficulties which emerged in respect of the Scheme (including, but not limited to, the causing or permitting, identification, consideration and/or remediation of any such problems);
 - d. the amendment, suspension or closure of the Scheme;

in each instance providing:

- i. details of any relevant interactions with Civil Servants, Ministers, Special Advisers, MLAs, politicians, political parties and other potentially relevant persons (e.g. consultants, the renewable heating industry, actual or potential applicants for accreditation under the Scheme, journalists, etc.);

- ii. where you made any decision, or gave any advice, in respect of any of the matters set out at paragraph 4 above, the reasons for that decision or that advice (as the case may be); and
 - iii. details of any documents which are of significance or particular relevance (which should be annexed to the witness statement if you have access to the documentation which permits you to do so; or, otherwise, which is identified as clearly as you can).
6. Again without prejudice to the generality of paragraph 4 above (and the remainder of the issues addressed in this Schedule), please address the following matters:
- a. Provide a full explanation of your involvement in the decision-making processes as to (a) the introduction of costs controls into the Scheme, (b) the suspension of the Scheme to new applicants, (c) the timing of, and any delay in respect of, the above steps, and (d) any announcement or publication relating to those matters.
 - b. Provide a full account and explanation of any contact between you and Timothy Cairns in relation to the Scheme, identifying all contact made between you and Timothy Cairns about the Scheme (including so far as possible the date and time of such communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.
 - c. In respect of any contact covered by sub-paragraph b. above, indicate whether that contact, or series of contact, was initiated by Timothy Cairns or by you.
 - d. Specify whether, in 2015, you influenced or encouraged Timothy Cairns, as Special Adviser to the DETI Minister, to seek to delay or in

any way soften or reduce the costs controls being introduced into the Scheme at that time.

- e. Specify whether you influenced or encouraged any person, or made representations to any person, at any time, to the end of delaying, softening or reducing the introduction of costs controls into the Scheme or to the end of increasing or maintaining the opportunity for applicants to the Scheme to achieve more favourable subsidies. In respect of each such instance, provide full details including who you contacted, when, by what means, for what particular purpose and with what result.
- f. In respect of any matters covered by sub-paragraphs d. or e., if there was any such influence, encouragement and/or representations, specify whether these steps were taken on your own behalf or on behalf of, or at the instigation of, any other person; and, if so, who that other person was in each instance.
- g. In respect of any matters covered by sub-paragraphs d. or e., if there was any such influence, encouragement and/or representations, specify who else (to your knowledge) was aware of any such influence, encouragement and/or representations.
- h. Provide full details of any discussion(s) or communications you had with other DUP Special Advisers in relation to the Scheme (including so far as possible the date, time and place of such discussion or communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.
- i. Provide full details of any discussion(s) or communications you had with Minister Foster about the Scheme at any time (including so far as possible the date, time and place of such discussion or communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.

- j. Provide full details of all contact you had with applicants to the Scheme, or potential applicants to the Scheme, which related to the Scheme (including so far as possible the date and time of such communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.
 - k. Provide full details of any contact you had in relation to or touching upon the Scheme with any persons to whom you were connected, again providing so far as possible the date and time of such communication and the means of such communication and specifying, in each instance, the nature and purpose of the contact. For this purpose, a relevant connection is intended to be construed as defined at paragraph 14 below.
 - l. Without prejudice to the generality of sub-paragraphs j. and k. above, specify whether you shared information touching or relating to the Scheme which was received in the course of your employment as a Special Adviser with third parties not employed by or acting in the course of a role within the Government of Northern Ireland.
7. Explain your understanding of the funding arrangements for the Scheme, including:
- a. how that understanding was gained;
 - b. how (if at all) that understanding developed;
 - c. what steps (if any) you took or directed to clarify the funding arrangements for the Scheme;
 - d. whether, if you misunderstood the funding arrangements for the Scheme at any material time, you consequently communicated an inaccurate description of the Scheme's funding to other persons at any material time (identifying the approximate date and recipient of such communications); and
 - e. if applicable, the steps you took to correct any misunderstanding on the part of other persons regarding the funding arrangements for the

Scheme (identifying the approximate date of each such step and the name of each relevant person).

8. Identify, in your view, any flaws or difficulties with the Scheme and/or its operation, explaining in each instance, so far as you can, how these difficulties or flaws came about and with whom (if anyone) responsibility or accountability for them lay.
9. Specify whether you promoted the 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

10. 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 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) at any stage but, in particular, at the creation of the Scheme and in the period from mid-2015 to early 2016.
11. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on you in relation to any aspect of the 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.
12. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on someone else in relation to the 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

13. Identify any instances, to your knowledge or belief, 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 (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.

14. Specify whether, to your knowledge, you have any connection to a person or body receiving payment under the 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 (not limited to a parent, child or sibling but extending also to aunts/uncles, nephews/nieces, cousins and relatives by marriage), friend, close acquaintance, business associate. In the case of politicians or special advisers, it also includes a donor to you or your political party or a supporter of you or your political party.

Whistle-blowing and raising of concerns

15. 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 Scheme, setting out details of when this occurred, to whom and by whom any relevant disclosure was made and how it was dealt with.
16. In particular, provide an account of how you dealt with any disclosures raising concerns about the Scheme made or communicated to you at any time. In relation to each such instance, identify precisely how the concerns were communicated to you.
17. Without prejudice to the generality of paragraph 16 above, provide a full account of the following matters in particular:
 - a. When you first became aware of communications from Janette O'Hagan to the Department of Enterprise, Trade and Investment (DETI), its Minister, and Departmental officials, commencing in 2013

and continuing until 2015, seeking to draw the Department's attention to alleged flaws in and/or abuses of the RHI Scheme;

- b. How you became aware of the said communications and/or the issues being raised by Ms O'Hagan;
 - c. Every action you took to ensure that the concerns raised by Ms O'Hagan were investigated and addressed;
 - d. How, if at all, her concerns were investigated and addressed; and
 - e. Any steps which you consider ought properly to have been taken in response to Ms O'Hagan's communications but which were not taken either in time or at all.
18. Specify when you first became aware that subsidies payable under the 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

19. 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.
20. 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.

21. 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.

GUIDANCE NOTES FOR THE SECTION 21 NOTICE

1. The Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme ('the RHI Inquiry') was set up under the Inquiries Act 2005 ('the Act').
2. These Guidance Notes are not part of the Chairman's Notice served under Section 21 of the Act, but are designed to assist those who receive such a Notice.
3. It is very important that a Notice served under Section 21 of the Act is complied with in full. Failure to comply has potentially very serious consequences. Failure to comply may result in you being prosecuted and convicted of a criminal offence that may result in you being fined and/or imprisoned; or being certified to the High Court where you may face contempt of court proceedings.
4. You should consult your solicitor, or your organisation's legal advisor, about the Notice as soon as possible. They will be able to assist you as to how to deal with it.
5. If you feel the content of the Notice is somehow unclear, and you wish something to be clarified, you may contact Patrick Butler, Solicitor to the RHI Inquiry, by email at Patrick.Butler@rhiinquiry.org, who will endeavour to assist with your query and will discuss it with the Chairman of the RHI Inquiry, as necessary.
6. Compliance with the Notice requires you, in the case of producing documents, to have the documents with the RHI Inquiry by the date and time set out in the Notice. Where the Notice requires you to produce a witness statement, the statement should be produced to the RHI Inquiry by the date and time set out in the Notice.
7. "Document" is defined in section 43 of the Act as information recorded in any form.

8. There is no restriction in the Act on the number of times a Section 21 Notice may be served upon a person or organisation. The RHI Inquiry reserves the right to issue further such notices in future to any recipient, as appropriate in the judgment of the Chairman.
9. The RHI Inquiry prefers that documents, including statements, are received by it in electronic form – preferably as a PDF document – and would be grateful if you could furnish, wherever possible, the documents required of you in that form. The documents should be sent to Patrick.Butler@rhiinquiry.org.
10. Where it is not possible for you to send documents in electronic form you should engage with the Solicitor to the RHI Inquiry to find a suitable solution for provision of the documents to the RHI Inquiry. The RHI Inquiry is keen to ensure that documents are received by it in a manner which is as conducive as possible to the effective and efficient conduct of the RHI Inquiry's work. Where documents can be provided in chronological order, this is particularly helpful.
11. Where it is necessary to send hard copy documents, these should be sent to the RHI Inquiry by post or courier to **RHI Inquiry, 1st Floor, Waterfront Plaza, 8 Laganbank Road, Belfast, BT1 3LR**. If there is a need to hand deliver the documents then contact should be made with the Solicitor to the RHI Inquiry to make suitable arrangements.
12. It may be that you consider that some of the documents you are providing to the RHI Inquiry should be redacted in some way for some reason, bearing mind that the RHI Inquiry may decide to publish the documents in due course. If you do feel documents you are providing should be redacted in some way, then you should provide the documents to the RHI Inquiry in provisionally redacted form (using a grey redaction if possible) so that the proposed redacted material can be read by the Inquiry team. You should also set out in writing the reasons why you consider the redactions should be made by the Inquiry. The RHI Inquiry will then deal with the material in accordance with its Procedural Protocol.
13. If, for some reason, you wish to make a claim to the Chairman of the RHI Inquiry, under Section 21(4) of the Act, to the effect that you are unable to

comply with the requirements of the Notice, or that it is not reasonable to require you to comply with the Notice, then that claim should be made in writing and addressed to the **Chairman of the RHI Inquiry, RHI Inquiry, 1st Floor, Waterfront Plaza, 8 Laganbank Road, Belfast, BT1 3LR.**

14. Any such claim should be made as soon as possible after receiving the Notice, and no later than the deadline for making a claim set out in the Notice.
15. The claim should set out the grounds on which it is made, and the reasons why it is said that you cannot, or it is not reasonable for you to, comply. The claim should be as comprehensive and detailed as possible.
16. If you are making a claim for a variation of the Notice in order to give you further time to comply, then you should set out why you need more time and indicate a date by which you say you will be able to comply, and why you say that date will be sufficient. If you can provide some of the information required within time but contend that you cannot provide all of the required information in time, this should be clearly stated and, again, detailed reasons for your contention should be put forward.
17. The Chairman will determine whether to revoke or vary any Notice. In considering your claim he will take into account, amongst other things, the public interest in the information in question being obtained by the RHI Inquiry, having regard to the likely importance of the information. His decision will be communicated to the person making the claim as soon as is reasonably practicable.
18. A Section 21 Notice, by reason of the matters set out in section 22 of the Act, cannot require you to give, produce, or provide any evidence or document to the RHI Inquiry if you could not be required to provide them in civil proceedings in Northern Ireland, or the requirement is incompatible with an EU obligation, or the documents are covered by public interest immunity. If you are withholding evidence or documents from the RHI Inquiry for one of these reasons then you should notify the Solicitor to the RHI Inquiry in writing, immediately the decision

to withhold is taken, of what the material is that you are withholding and why you are claiming that that material is not required to be provided by the Section 21 Notice.

19. Section 40 of the Act provides the Chairman with power to make awards for expenses, including for legal representation, incurred in complying with requirements imposed by the RHI Inquiry. In determining whether an award should be made, the Chairman will have regard to the financial resources of the applicant and whether making any award is in the public interest. The Chairman does not expect to receive requests for funding from Northern Ireland Government Departments or other public bodies. If you are affected by the issue you can discuss it with the Solicitor to the RHI Inquiry.

INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME

RHI REF: Notice 151 of 2017

DATE:

Witness Statement of: STEPHEN BRIMSTONE

I, Stephen Brimstone, will say as follows:

Background

- 1. Set out a description of your occupational history, qualifications and experience.**

Professional Experience

Dates	Job Title	Employer
Dec 2015 - Present	IT Consultant	Self Employed
Sept 2015 – Dec 2016	Special Adviser to the First Minister of Northern Ireland (Rt. Hon. Peter Robinson MLA, Rt. Hon. Arlene Foster MLA)	Northern Ireland Executive
May 2015 – Sept 2015	Special Adviser to Junior Minister – Michelle McIlveen MLA	Northern Ireland Executive
May 2011 - May 2015	Special Adviser to the Minister for Social Development (Nelson McCausland MLA, Mervyn Storey MLA)	Northern Ireland Executive
June 2008 – May 2011	Special Adviser to the Minister for Culture, Arts and Leisure (Gregory Campbell MP, MLA, Nelson McCausland MLA)	Northern Ireland Executive
Oct 2005 – June 2008	Information Management & Technology Manager	Northern Ireland Blood Transfusion Service
Feb 2004 – Oct 2005	Senior Information Technology Officer	Northern Ireland Blood Transfusion Service
Jul 2000 – Feb 2004	Software Development Consultant	Interval Software Services (Europe) Ltd., Belfast
Jul 1998 – Sept 1999	University Placement Year	Interval Software Services (Europe) Ltd., Belfast

Professional Qualifications

PRINCE2 Registered Practitioner	May 2006
Member British Computer Society	Nov 2005
ITIL Service Management	Sept 2005
Cisco Certified Network Associate	Summer 2005

Qualifications

BTEC Higher National Diploma (Computer Science) – University of Ulster (Jordanstown) June 2000

BTEC National Diploma (Computer Science) – Fermanagh College – June 1997

2. **Set out a summary of your role as a Special Adviser in any such posts you have held from 2011 to date (this includes the dates between which you held the role/s, what the role/s entailed, to whom you reported, etc.). In each instance, describe how this role related, if at all, to the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland ('the Scheme').**

Jan 2011 – May 2011

Special Adviser to Minister for Culture, Arts & Leisure, Nelson McCausland MLA.

Reported to the Minister in the Department for Culture, Arts and Leisure. Advised the Minister in regard to all aspects of his role as Minister within the Department.

My role did not relate to the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland.

May 2011 – September 2014

Special Adviser to Minister for Social Development, Nelson McCausland MLA.

Reported to the Minister in the Department of Social Development. Advised the Minister in regard to all aspects of his role as Minister within the Department.

As indicated below my role did not have any link to the Scheme except I can recall having conversations with the Housing Executive and potentially Housing Associations as to the viability of exploring how the Scheme could be used to develop community heating systems for those tenants worst affected by fuel poverty.

September 2014 – May 2015

Special Adviser to Minister for Social Development Mervyn Storey MLA.

Reported to the Minister in the Department of Social Development. Advised the Minister in regard to all aspects of his role as Minister within the Department.

My role did not relate to the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland.

May 2015 – September 2015

Special Adviser to Junior Minister Michelle McIlveen MLA.

Reported to the Junior Minister in the Office of the First and Deputy First Minister. Advised the Minister in regard to all aspects of her role as Junior Minister within the Department.

My role did not relate to the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland.

September 2015 – January 2016

Special Adviser to First Minister Rt. Hon. Peter Robinson MLA.

Reported to the First Minister in the Office of the First and deputy First Minister. Advised the First Minister in regard to all aspects of his role as First Minister.

My role did not relate to the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland.

January 2016 – December 2016

Special Adviser to First Minister Rt. Hon. Arlene Foster MLA.

Reported to the First Minister in the Office of the First and deputy First Minister. Advised the First Minister in regard to all aspects of her role as First Minister.

Whilst having no specific role in relation to The Scheme, I would have had an awareness of the issues emerging regarding the scheme at this time.

Role of Special Advisers

- 3. Describe the role of Special Adviser, including:**
 - a. the rules which governed your position;**

The rules governing my position as Special Adviser were laid out in my contract. These same rules applied to all Special Advisers.

b. who would give you instructions, and who was entitled to do so;

The Minister who appointed me was the only person entitled to give me any instructions. Any instructions/requests from elsewhere could only be enacted upon when cleared by the Minister.

c. how you interacted with other Special Advisers, and whether there was an understood or accepted hierarchy within your or any team of Special Advisers;

There was significant interaction between Special Advisers across all departments. There was obviously greater interaction between advisers of Ministers from the same Political Party. Within the group from the DUP we would have discussed issues pertaining to our departments and ensured where possible those departments under DUP Ministerial leadership had a 'joined up' approach to each other. I am not aware of any hierarchy within the team.

d. what duties you owed (or considered yourself to owe) to the political party to which you were affiliated and how, if at all, that affected your role or your performance of it;

My responsibility lay primarily with the Minister who had appointed me. I did have responsibility under the leadership of the Minister to ensure that the department where I was placed was following Party policies and ensuring targets were being met that had been identified in the Party manifestos and Policy papers.

e. how you interacted with civil servants, including the procedures which operated within a Department between civil servants, the Special Adviser/s and the Minister; and

I hope I had a good working relationship through my interaction with Civil Servants across each of the Departments I worked in. I would have engaged with Civil Servants across most grades in developing policies for the Minister. I could not 'direct' any Civil Servant to take an action. Such directions or instructions could only come from the Minister. I would have been tasked with probing and scrutinising policies being developed in the Department on the Minister's behalf.

f. the relationship between you and Ministers affiliated to the Democratic Unionist Party, including whether any Minister was expected or required (as a matter of political reality or on any

other basis) to accept advice or direction provided by you, on your behalf or through you on behalf of your Minister.

DUP Ministers and Ministers appointed by DUP Ministers across each of the departments held by DUP Ministers would have been expected to have operated as a team. At no time whilst appointed as Special Adviser was any Minister expected or required to accept advice or direction provided by me or on my behalf or through me on behalf of my Minister.

Involvement with RHI Scheme

- 4. Explain in detail any involvement you had in relation to, or touching upon, the Scheme including (but not limited to) any role or involvement you had, whether by way of giving advice or otherwise, in respect of the setting up, design, implementation, operation, promotion, oversight, governance, funding, amendment (including the introduction of cost controls), suspension and/or closure of the Scheme, from its inception up to the present day.**

During my time in the Department of Social Development I can recall querying with the Housing Executive (and possible Housing Association) officials how/why the Non-Domestic RHI Scheme could be used as a tool to tackle Fuel Poverty including the use of Community Heating Schemes.

I had no role or involvement whether by way of giving advice or otherwise, in respect of the setting up, design, implementation, operation, promotion, oversight, governance, funding, amendment, suspension and/or closure of the Scheme, from its inception up to the present day, with the one exception.

In the Summer of 2015 I happened to be sitting beside Timothy Cairns (Special Adviser to the DETI Minister Jonathan Bell) and Andrew Crawford (Special Adviser to the DFP Minister Arlene Foster) when Timothy Cairns mentioned getting a paper from officials regarding the RHI Scheme. He suggested sending the paper to myself and Andrew to seek our views. I read the paper and responded via email (already submitted). I cannot recall the detail of that conversation but my response to the email after I read the paper has already been submitted to the Inquiry.

- 5. Without prejudice to the generality of paragraph 4 above, explain your involvement (if any) in:**

a. the creation and development of the Scheme in, or before, 2012;

None

b. the administration/operation of the Scheme;

None, besides recalling some conversations with the Housing Executive (and potentially Housing Associations) around the viability of utilising the Non-Domestic RHI Scheme to help mitigate Fuel Poverty within their housing stock by way of Community Heating Schemes.

- c. **any problems or difficulties which emerged in respect of the Scheme (including, but not limited to, the causing or permitting, identification, consideration and/or remediation of any such problems);**

None

- d. **the amendment, suspension or closure of the Scheme;**

As stated above at 4, I was involved in a conversation in or around 16th July 2015 with Timothy Cairns and Andrew Crawford regarding a paper he had or was to receive from officials regarding the Non-Domestic RHI Scheme. I cannot recall any detail of that conversation. On 16th July Timothy Cairns forwarded on an email containing the paper to myself and Andrew Crawford. Email and Attached Paper was in regard to 'Urgent cost control and administrative changes to the NI Renewable heat Incentive (RHI) Schemes'. I responded to Timothy Cairns by email on 20 July 2015 with *"Hard to argue with in light of the suggested changes reflecting GB position"*.

in each instance providing:

- i. **details of any relevant interactions with Civil Servants, Ministers, Special Advisers, MLAs, politicians, political parties and other potentially relevant persons (e.g. consultants, the renewable heating industry, actual or potential applicants for accreditation under the Scheme, journalists, etc.);**
- ii. **where you made any decision, or gave any advice, in respect of any of the matters set out at paragraph 4 above, the reasons for that decision or that advice (as the case may be); and**
- iii. **details of any documents which are of significance or particular relevance (which should be annexed to the witness statement if you have access to the documentation which permits you to do so; or, otherwise, which is identified as clearly as you can).**

6. **Again without prejudice to the generality of paragraph 4 above (and the remainder of the issues addressed in this Schedule), please address the following matters:**

- a. **Provide a full explanation of your involvement in the decision-making processes as to (a) the introduction of costs controls into the Scheme, (b) the suspension of the Scheme to new applicants, (c) the timing of, and any delay in respect of, the above steps, and (d) any announcement or publication relating to those matters.**

None

- b. **Provide a full account and explanation of your contact between you and Timothy Cairns in relation to the Scheme, identifying all contact made between you and Timothy Cairns about the Scheme (including so far as possible the date and time of such communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.**

As stated above, I was involved in a conversation in or around 16th July 2015 with Timothy Cairns and Andrew Crawford regarding a paper he had or was to receive from officials regarding the Non-Domestic RHI Scheme. I cannot recall any detail of that conversation. On 16th July Timothy Cairns forwarded on email containing paper to myself and Andrew Crawford. Email and Attached Paper was in regard to 'Urgent cost control and administrative changes to the NI Renewable heat Incentive (RHI) Schemes'. I responded to Timothy Cairns by email on 20 July 2015 with *"Hard to argue with in light of the suggested changes reflecting GB position"*.

- c. **In respect of any contact covered by sub-paragraph b. above, indicate whether that contact, or series of contact, was initiated by Timothy Cairns or by you.**

The above was initiated by Timothy Cairns.

- d. **Specify whether in 2015, you influenced or encouraged Timothy Cairns, as Special Adviser to the DETI Minister, to seek to delay or in any way soften or reduce the costs controls being introduced into the Scheme at that time.**

No, I did not.

- e. **Specify whether you influenced or encouraged any person, or made representations to any person, at any time, to the end of delaying, softening or reducing the introduction of costs controls into the Scheme or to the end of increasing or maintaining the opportunity for applicants to the Scheme to achieve more favourable subsidies. In respect of each such instance, provide**

full details including who you contacted, when, by what means, for what particular purpose and with what result.

No, I did not.

- f. **In respect of any matters covered by sub-paragraphs d. or e., if there was any such influence, encouragement and/or representations, specify whether these steps were taken on your own behalf or on behalf of, or at the instigation of, any other person; and, if so, who that other person was in each instance.**

None

- g. **In respect of any matters covered by sub-paragraphs d. or e., if there was any such influence, encouragement and/or representations, specify who else (to your knowledge) was aware of any such influence, encouragement and/or representations.**

None

- h. **Provide full details of any discussion(s) or communications you had with other DUP Special Advisers in relation to the Scheme (including so far as possible the date, time and place of such discussion or communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.**

I was forwarded an email by Timothy Johnston on 8 Feb 2016 'FW: RHI Closure' – This has already been provided to the Inquiry. I can only assume the purpose of the communication was for information purposes. I was also forwarded an email by Timothy Johnston on 11 Feb 2016 'Fwd: RHI release'. This email also has already been provided to the Inquiry. I can only assume the purpose of the communication was for information purposes.

- i. **Provide full details of any discussion(s) or communications you had with Minister Foster about the Scheme at any time (including so far as possible the date, time and place of such discussion or communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.**

I made First Minister Arlene Foster aware (verbal conversation) that I had installed a biomass boiler and had applied to the Scheme – I believe this would have been in or around Jan 2016. As an adviser to the First Minister I felt I should make her aware that I had applied to the Scheme in August 2015. This was only for information purposes.

- j. **Provide full details of all contact you had with applicants to the Scheme or potential applicants to the Scheme, which related to the Scheme (including so far as possible the date and time of such communication and the means of such communication) and specifying, in each instance, the nature and purpose of the contact.**

I installed a Biomass heating solution and successfully applied to the Scheme in August 2015.

I cannot recall any contact relating to the Scheme with other applicants or potential applicants to the Scheme beside viewing a number of different types of Boiler installations locally (existing applicants) when I was considering what type of boiler I was going to install myself. A few other neighbours were also at one of the existing installations to view the setup – I did not organise the visit. I don't believe any of those present with the exception of myself went on to apply to the scheme. I believe this was around Nov/Dec 2014.

- k. **Provide full details of any contact you had in relation to or touching upon the Scheme with any persons to whom you were connected, again providing so far as possible the date and time of such communication and the means of such communication and specifying, in each instance, the nature and purpose of the contact. For this purpose, a relevant connection is intended to be construed as defined at paragraph 14 below.**

My brother's business and my wife's parent's business, as indicated below, are recipients of the Scheme. My brother's business applied (I believe) in Jan 2016 into the tiered scheme and my wife's parent's business in Aug 2015. My wife's parent's business I understand went through a process which had been established by Moy Park which required signoff etc. by Moy Park. I was aware that each in their own right were installing a Biomass solution. I did not have any role in their applications.

- l. **Without prejudice to the generality of sub-paragraphs j. and k. above, specify whether you shared information touching or relating to the Scheme which was received in the course of your employment as a Special Adviser with third parties not employed by or acting in the course of a role within the Government of Northern Ireland.**

No, I don't believe I shared any information touching or related to the Scheme which was received in the course of my employment as a

Special Adviser with third parties not employed by or acting in the course of a role within the Government of Northern Ireland.

7. Explain your understanding of the funding arrangements for the Scheme, including:

a. how that understanding was gained;

Living in a rural agricultural community I was aware of the Scheme as some local farmers had started to avail of it. I started to read the publically available documentation relating to the scheme (available online from DETI). I was specifically interested initially in how the scheme could be utilised by Housing Providers following a visit to Stuttgart in Germany with the Minister where as part of that visit Communal Heating Schemes had been established using Biomass Boilers. From recollection, case studies started to emerge online as to installations benefiting from the Scheme locally in Northern Ireland. My understanding was that the Scheme was a UK wide scheme funded by the UK Government through DETI. I would likely have shared my understanding of the scheme including the funding of the scheme in the conversations with the Housing Executive (and potentially also Housing Associations) as indicated above.

b. how (if at all) that understanding developed;

During the relevant period any information about funding I obtained from the DETI website. It has subsequently become a matter of public record that the scheme is not being fully funded by the UK Government. I cannot recall precisely when I became aware of this.

c. what steps (if any) you took or directed to clarify the funding arrangements for the Scheme;

None.

d. whether, if you misunderstood the funding arrangements for the Scheme at any material time, you consequently communicated an inaccurate description of the Scheme's funding to other persons at any material time (identifying the approximate date and recipient of such communications); and

No, I did not.

e. if applicable, the steps you took to correct any misunderstanding on the part of other persons regarding the funding arrangements for the Scheme (identifying the approximate date of each such step and the name of each relevant person).

Not applicable.

8. **Identify, in your view, any flaws or difficulties with the Scheme and/or its operation, explaining in each instance, so far as you can, how these difficulties or flaws came about and with whom (if anyone) responsibility or accountability for them lay.**

Any view on the flaws or difficulties with the Scheme and its operation have only emerged as a result of the focus on the Scheme and the subsequent media coverage of the issue.

9. **Specify whether you promoted the 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.**

My brother, Aaron Brimstone (Lakeland Karting) would have been aware of my installation and that I had applied to the Scheme. I cannot specifically recall but if he had have asked about my installation and application process I would have pointed him to the DETI information available online. We would have discussed the reliability of the boiler I had just installed. He did not ultimately install the same make of boiler of use the same installer.

Our church was at early stages in planning a new build hall (Dec 14/Jan 2015) and in the general conversation around the new hall, types of heating were discussed. I, along with others, was aware of other Churches (case studies online) who had installed biomass solutions under the Scheme. Had the Scheme remained open this may have been a consideration for the Church however the Church has not reached such a stage as yet.

I did not provide any assistance to anyone seeking accreditation.

Lobbying and pressure

10. **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 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) at any state but, in particular, at the creation of the Scheme and in the period from mid-2015 to early 2016.

None

- 11. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on you in relation to any aspect of the RHI Scheme. In respect of any such instance specify:**

None

- 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.**

Not applicable.

- 12. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on someone else in relation to the RHI Scheme. In respect of any such instance identify:**

None

- 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 that 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.**

Not applicable.

Standards of conduct and conflict of interest

13. Identify any instances, to your knowledge or belief, 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 (including, but not limited to, by means of making premature or unauthorised disclosures);

None

b. acted in circumstances relating to or touching upon the Scheme in any way where they had a real or perceived conflict of interest;

None but I have noted the position adopted by John Robinson in recent times as Special Adviser for Simon Hamilton and am aware of the position taken by Andrew Crawford at the time of his resignation as a Special Adviser.

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.

Not applicable.

14. Specify whether, to your knowledge, you have any connection to a person or body receiving payment under the 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 (not limited to a parent, child or sibling but extending also to aunts/uncles, nephews/nieces, cousins and relatives by marriage), friend, close acquaintance, business associate. In the case of politicians or special advisers, it also includes a donor to you or your political party or a supporter of you or your political party.

I have successfully been accredited to the Scheme for a Biomass installation.

My wife's parents (John & Lilian Anderson) have a Biomass installation for a Moy Park Poultry farm under the Scheme.

My brother, Aaron Brimstone (Lakeland Karting) has a Biomass installation at his business under the Scheme (Tiered).

Whistle-blowing and raising of concerns

- 15. 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 Scheme, setting out details of when this occurred, to whom and by whom any relevant disclosure was made and how it was dealt with.**

Besides the media coverage of whistle blowers, I was made aware (Sept/Oct 2016) that a whistle blower had reported my installation to the Department which had led to an OFGEM inspection I had earlier during the summer of 2016. This inspection resulted in a letter from OFGEM to myself confirming they were satisfied my installation was compliant. I was made aware of this Whistle Blower letter in a verbal conversation with John Robinson (then Special Adviser to Economy Minister, Simon Hamilton MLA). He informed me for information purposes. As OFGEM were satisfied with my installation nothing further was required.

- 16. In particular, provide an account of how you dealt with any disclosures raising concerns about the Scheme made or communicated to you at any time. In relation to each such instance, identify precisely how the concerns were communicated to you.**

None were made to me.

- 17. Without prejudice to the generality of paragraph 16 above, provide a full account of the following matters in particular:**

a. When you first became aware of communications from Janette O'Hagan to the Department of Enterprise, Trade and Investment (DETI), its Minister, and Departmental officials, commencing in 2013 and continuing until 2015, seeking to draw the Department's attention to alleged flaws in and/or abuses of the RHI Scheme;

Media coverage in or around Jan 2017

b. How you became aware of the said communications and/or the issues being raised by Ms O'Hagan;

Media coverage in or around Jan 2017

c. Every action you took to ensure that the concerns raised by Ms O'Hagan were investigated and addressed;

None

d. How, if at all, her concerns were investigated and addressed; and

I am not sufficiently aware of the relevant detail to answer this question.

e. Any steps which you consider ought properly to have been taken in response to Ms O'Hagan's communications but which were not taken either in time or at all.

I am not sufficiently aware of the relevant detail to answer this question.

18. **Specify when you first became aware that subsidies payable under the 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.**

Media coverage of the Scheme and allegations of misuse of the scheme in the Media would have increased my awareness of the potential misuse of the scheme.

General

19. **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.**

None.

20. **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.**

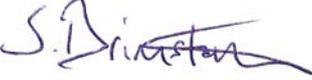
None.

21. **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.**

None.

Statement of Truth

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

Signed: 

Dated: 31 May 2017