



Stuart Wightman
C/O Caroline Martin LL.B.
Departmental Solicitors Office
2nd Floor,
Centre House
79 Chichester Street
BELFAST
BT1 4JE

By post and email Caroline.Martin@finance-ni.gov.uk

2 May 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, 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. In addition to having commenced its oral hearings, the Inquiry is continuing with the process of gathering all of the relevant

documentation from relevant departments, organisations and individuals; and 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.

I am writing further to receipt of the oral evidence you gave to the Inquiry on the 21 March 2018, and in relation to issues arising about a particular document. Arising therefrom the Inquiry would be grateful if you would provide a further substantive witness statement addressing the questions posed in the Schedule attached to the Section 21 Notice enclosed herewith.

As with previous Notices received by you from the Inquiry, 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 Notice. As the text of the Section 21 Notice explains, you are required by law to comply with it.

Again, 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 again vital that the witness statement you provide to the Inquiry is your own evidence, absent the influence of others; that it is comprehensive; and that it fully explains your involvement in the matters about which you have been asked.

As before, 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 document to which you previously had access but now no longer have access in your current post. If so, I understand that the Department for the Economy (DfE) has made arrangements to permit such access, at least in the first instance. You should contact Terence Coyne at DfE, who is the Department's RHI Task Force Information Manager, to organise this. He is contactable at Terence.Coyne@economy-ni.gov.uk. I have informed Mr Coyne that you may be making contact with him to arrange access to documentation; but there is, of course, no obligation upon you to do so.

I remind you of the terms of Restriction Order No 2 made by the Chairman of the RHI Inquiry on 22 June 2017. This restriction order prohibits you from publishing any documentation received from the RHI Inquiry (save that you may show it to your legal representative) unless you first obtain the consent in writing of the Inquiry Chairman.

In addition to the four restriction orders made by the Chairman of the RHI Inquiry (which you will find published on the Inquiry website) receipt of this correspondence and its enclosures also places you under a duty of confidentiality to the RHI Inquiry in respect of them. You may share the correspondence and the enclosed Notice and documents with your legal representative(s), but neither you nor they may show, communicate the contents of, nor provide this correspondence or the Notice or documents to any other person or organisation without the express permission of the RHI Inquiry. Any breach of this duty of confidentiality is actionable at the suit of the Inquiry Chairman.

You will also find attached to the Section 21 Notice a Guidance Note explaining the nature of a Section 21 Notice and the procedures that the RHI Inquiry has adopted in relation to such a notice. In particular, you are asked to provide your evidence in the form of the template witness statement which is also enclosed with this correspondence.

Given the tight time-frame within which the RHI Inquiry must operate, the Chairman of the Inquiry would be grateful if you would comply with the requirements of the Section 21 Notice as soon as possible and, in any event, by the date set out for compliance in the Notice itself.

A copy of this correspondence has also been provided to your legal representative (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

A handwritten signature in black ink that reads "Patrick Butler". The signature is written in a cursive style with a long horizontal stroke at the end of the name.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE**[No 46 of 2018]****Hardcopy Handover Document of May 2014 found in DETI in and around September 2016**

The questions below arise out of the witness statements you have provided to the Inquiry, and the oral evidence given by you to the Inquiry on the 21st March 2018. A transcript of the oral evidence can be found at TRA 6886-6897 and TRA 6982-6985.

In your oral evidence you explained to the Inquiry that you came across a hardcopy of the full 14 page Handover Document in or around September 2016, during the Department for Enterprise Trade and Investment's (DETI's) preparation for hearings before the Northern Ireland Assembly Public Accounts Committee (PAC) (the "version of the Handover Document that you found in DETI in 2016").

As the Inquiry understands it, it was the version of the Handover Document that you found in DETI in 2016 that you had in your possession when you wrote to the Inquiry on the 27 March 2017 (IND 03801 to IND 03803), and which you referred to in paragraph 1 of that letter as "Handover note from May 2014." You indicated in that letter that you did not intend to produce the documents referred to in paragraph 1 of the letter (including the version of the Handover Document that you found in DETI in 2016 and which you referred to in paragraph 1 of that letter as "Handover note from May 2014") because they were said to be "duplicates of documents the Department already holds".

As the Inquiry understands it, you attached, to your first witness statement to the Inquiry of the 20 June 2017, the first 3 pages of the version of the Handover Document found by you in DETI in 2016 (WIT 17227 to 17229).

The first 3 pages of the version of the Handover Document found by you in DETI in 2016, and attached to your first witness statement of the 20 June 2017, contained red typed annotations that Davina McCay has said to the Inquiry that she added

electronically to the Handover Document.

In your second witness statement to the Inquiry of the 23 February 2018 you disclosed a copy of the Handover Document (which you re-discovered in February 2018) that you had forwarded to your personal email address from your then DRD email address on the 26 June 2014 (WIT 17678 to 17692). This copy of the Handover Document, attached to your 26 June 2014 email, also contained red typed annotations that Davina McCay has said to the Inquiry that she added electronically to the Handover Document.

The Inquiry has not in fact received a version of the Handover Document with the red typed annotations from any other source. The Department for the Economy has indicated to the Inquiry that it does not appear to have the version of the Handover Document with the red typed annotations within its systems.

1. In relation to the version of the Handover Document found by you in DETI in September 2016 please explain:
 - a. Where exactly you found the document;
 - b. The precise circumstances surrounding you finding it;
 - c. Who you told that you had found the document;
 - d. What checks, if any, you made at that time (September 2016) to establish whether the version of the Handover Document you had found was the same, or different, from any other version of the Handover Document held by the Department for the Economy, and whether a copy of that version was to be found within DFE's electronic system;
 - e. If you did not make any checks please explain why this was so;
 - f. How you came to be in physical possession of the document when you were writing to the Inquiry on the 27 March 2017, and providing your first

substantive witness statement to the Inquiry of the 20 June 2017;

- g. If you removed the document from the Department for the Economy at some point, when, and why you did so;
 - h. What checks, if any, you made at the time you were removing the document from the Department for the Economy to establish whether the version of the Handover Document you had found was the same, or different, from any other version of the Handover Document held by the Department for the Economy, and whether a copy of that version was to be found within DFE's electronic system.
 - i. If you did not make any checks please explain why this was so.
2. Given that you found the full copy of the red annotated version of the Handover Document in DFE in September 2016, what you say to the Inquiry as to whether you did in fact have, and have available to you during your time in DETI, the full copy of the Handover Document.
3. Anything else you want to say to the Inquiry about the issues surrounding the Handover Document.

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 46 of 2018

DATE: 8 MAY 2018

Witness Statement of: **Stuart Wightman**

I, Stuart Wightman, will say as follows: -

Hardcopy Handover Document of May 2014 found in DETI in and around September 2016

Q1. In relation to the version of the Handover Document found by you in DETI in September 2016 please explain:

a. Where exactly you found the document;

1. I do not now have a specific recollection of the detail of obtaining the document, but it must have been within the Energy Efficiency Branch of Energy Division. As I stated in my oral evidence to the Inquiry on the 21 March 2018 I cannot recall if I found the hard copy of the Handover Document in my office or whether someone provided it to me.

b. The precise circumstances surrounding you finding it;

2. As I explain above I do not now recall precisely how or where I obtained it, albeit I do recall the context. As Peter Hutchinson has identified in paragraph 8.25 of his Witness Statement of 28 June 2017 (WIT- 06146), he brought the Handover Document to Alison Clydesdale's attention who was working on preparation for the Public Accounts Committee (PAC) Hearings in the autumn of 2016. The Handover Document (along with the various contacts made by Ms O'Hagan) was then brought to Andrew McCormick's attention just prior to his appearance before the PAC on 28 September 2016. I cannot recall the exact date but it was around then that I went looking for a copy of the Handover Document to view its contents and I obtained the hard copy with the typed annotations I now have in my possession.

c. Who you told that you had found the document;

3. I cannot recall if I told anyone that I had obtained the document at the time (September 2016) as it was already common knowledge within the Department



at that stage that a handover document existed. A Fact Finding investigation was then initiated by Andrew McCormick which prevented me from discussing the document or its content with any of my colleagues – see attached letter of 6 October 2016.

- d. What checks, if any, you made at that time (September 2016) to establish whether the version of the Handover Document you had found was the same, or different, from any other version of the Handover Document held by the Department for the Economy, and whether a copy of that version was to be found within DfE's electronic system;**
4. I did not carry out any checks at the time to establish whether the version of the Handover Document I had found was the same, or different, from any other version of the Handover Document held by the Department or by other officials. As part of the preparation of my evidence for the Inquiry I have searched the Department's TRIM system but could not locate a saved copy of the Handover Document. This could be because my permissions for viewing DfE documents are now restricted having left the Department in February 2017.
- e. If you did not make any checks please explain why this was so;**
5. I did not make any checks at the time as I was not aware there were different versions of the Handover Document in existence and had no reason to suspect that the hard copy that I had found was different from the copies held by others. In any case, the Fact Finding investigation which was initiated in early October 2016 prevented me from discussing the document or its contents with any of my colleagues.
- f. How you came to be in physical possession of the document when you were writing to the Inquiry on the 27 March 2017, and providing your first substantive witness statement to the inquiry of the 20 June 2017;**
6. As highlighted in my response to Q1b above, I obtained the hard copy of the Handover Document (with the typed annotations) I now have in my possession on or around the 28 September 2016 after Andrew McCormick's appearance before the PAC on that date. I kept the Handover Document along with other RHI papers I had sourced for the purposes of PAC briefing in a lever arch file. I was therefore in possession of the document, and I made it clear in my letter of 27 March 2017 to the Inquiry that I held a personal copy of the Handover note



and that I was happy to produce a copy to the Inquiry if the Inquiry wanted to see it. At the Inquiry's request I have provided copies of these documents to it.

g. If you removed the document from the Department for the Economy at some point, when, and why you did so;

7. On the 4th February 2017 I moved on loan from the Department for the Economy to the Department for Infrastructure. The reason I was loaned rather than transferred was because the Fact Finding Investigation (and the related work of the independent HR consultant) was suspended for the RHI Public Inquiry. Knowing that I would not only have to provide evidence to the RHI Public Inquiry but may also have to contribute to the Fact Finding Investigation if it was resumed I took the lever arch file containing the Handover Document and other RHI related papers with me.

h. What checks, if any, you made at the time you were removing the document from the Department for the Economy to establish whether the version of the Handover Document you had found was the same, or different, from any other version of the Handover Document held by the Department for the Economy, and whether a copy of that version was to be found within DFE's electronic system.

8. At the time I was leaving the Department in February 2017 and taking my hard copy of the Handover Document with me I did not carry out any checks to establish whether this was the same, or different, from any other version of the Handover Document held by the Department or by other officials.

i. If you did not make any checks please explain why this was so.

9. I had no reason to suspect that the hard copy I had in my possession was different from the copies held by others.

Q2. Given that you found the full copy of the red annotated version of the Handover Document in DFE in September 2016, what do you say to the Inquiry as to whether you did in fact have, and have available to you during your time in DETI, the full copy of the Handover Document.

10. Leaving aside the red annotations, it is certainly now clear that a full copy of the Handover Document was in the possession of Seamus Hughes and therefore would have been available to me during my time in DETI.



11. As to the red annotated version, I explained in my statement of 23 February 2018 that an electronic copy of the document was in a folder on my personal e-mail account from 26 June 2014. I do not prior to September 2016 have any recollection of being in possession of either that electronic copy, or any hard copy, of the red annotated version of the Handover document throughout my time in DETI. Given that I obtained a hard copy of the red annotated version of the Handover document in DETI in September 2016 it is likely that that document was available in DETI throughout the period.
12. The position remains, however, that I can only recall seeing the first three pages which included the staffing details and bulleted list of immediate actions.

Q3. *Anything else you want to say to the Inquiry about the issues surrounding the Handover Document.*

Adequacy of the Handover Document

13. In the light of the information that has come to light during the Inquiry it does seem clear the Handover Document did not adequately capture the issues that needed to be addressed in June 2014, or the potential consequences. I appreciate, however, that this will be a matter for the Inquiry to assess.

DP Handover Document not Appropriate Means of Capturing Critical Information

14. I recognise the importance that the Inquiry is attaching to the Handover Document. However, I do not accept that a Handover Document alone prepared at DP level is the appropriate vehicle for ensuring critical issues are escalated and taken forward. Handover Documents by their nature are temporary documents to help new staff get up to speed quickly in their new jobs. Important issues such as the scheme review, the urgent review of the biomass tariff, the need for cost control / suspension powers, the need for re-approval and the need to manage a finite annual budget of £12m in 2014/15 should have been made clear to senior management by being recorded in corporate documents such as the Energy Divisional Plan, the DETI Corporate Plan and associated risk registers and Assurance Statements.

Incorporation of points from Handover Document into action plan

15. It is now evident that I used the bulleted list of immediate actions in the Handover Document to populate the Energy Efficiency Branch Plan that I developed in July 2014. I cannot now recall which version of the Handover Document I used for that purpose. The Branch Plan then became my 'live' document or 'to do list' for the year ahead. Having captured the immediate



actions from the Handover Document it is unlikely that I would have occasion to consult the Handover Document, and I cannot now recall doing so again.

16. It also worth highlighting that the Handover Document was prepared by Peter Hutchinson at DP level and only covered the Renewable Heat aspects of my work which was effectively only half of my remit with energy efficiency policy making up the other half. Seamus Hughes (who was effectively Peter Hutchinson's replacement) had been provided with a copy of the document. As I explain above the bulleted list of immediate actions in the Handover Document was used to populate the Branch Plan. Seamus was involved in the development and updating of the Branch Plan throughout the year.

Inquiry's concern that I did not provide a copy of the handover document to it

17. It was clear from the questions that were put to me on 21 March 2018 that the Inquiry was concerned that I had withheld the handover document from it. I understand that concern, but it appears to have been based on a misapprehension, and I am very grateful to Inquiry Counsel for rapidly clarifying the position during the hearing on 23 March 2018.
18. I never had any intention of withholding anything from the Inquiry. Before I made my statement I wrote a letter to the Inquiry on 27 March 2017 which identified the material that was in my possession. That letter made explicit reference to the handover note and I made it clear that I was happy to provide a copy to the Inquiry. I now appreciate that the version I had was different from the version held by DETI. However, I was not aware of that at the time.
19. At the time I made my statement I had no intention of conveying that I was not in possession of the handover note. I was in possession of it at that time, and I had made that clear in my letter of 27 March 2017. At paragraph 45 of my statement I was not addressing the question of what documents I had in my possession at the time of making my statement. Rather, I was seeking to explain my recollection of the induction process.
20. In February 2018 I found an e-copy of the handover note and I immediately drew this to the Inquiry's attention in my statement of 23 February 2018. In the light of the email that is referenced in that statement it is clear that, to that limited extent, I received an email relating to the RHI scheme on my personal email account, and I should therefore add that email address to the list of email addresses in my response to Inquiry Notice 25 of 2017. However, so far as I am aware I did not send any other communications in relation to, or touching upon, the RHI scheme to or from that email address.



Statement of Truth

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

S. Wightman

Signed: _____

Dated: 8 May 2018 _____



Strictly private and confidential

Stuart Wightman
Department for the Economy
Netherleigh House,
Belfast

6 October 2016

Dear Stuart

Northern Ireland Renewable Heat Incentive Scheme

You may be aware that investigators from PricewaterhouseCoopers LLP (“PwC”) have been appointed by the Department for the Economy (“the Department”) to conduct a fact finding investigation into the governance and management of the Northern Ireland Renewable Heat Incentive Scheme (“the Scheme”) by former and current Departmental officials during the period from 1 January 2011 to 30 April 2016.

As part of the scope of the investigation PwC has been asked by the Department to interview a number of key Departmental officials, of which you are one. The investigation will aim to establish the facts in relation to the role played by Departmental officials in the immediate business area and wider department. The investigation findings may be used in any consideration of any further action by the Department, in accordance with the NICS Staff Handbook.

As it is imperative that this interview takes place as soon as possible, can you please contact Clare Kennedy of PwC on 028 9041 5480 or 07841563537 by no later than 1pm on Friday to arrange the date and time of your interview which will take place this week or early next week, if possible.

The interview will take place at the offices of PwC at Waterfront Plaza, 8 Laganbank Road, Belfast, BT1 3LR. Should you require a car parking space one can be made available for you; please make PwC aware of this requirement. Upon arrival please report to reception on the sixth floor.

It is anticipated that the interview will last up to three hours, stopping every fifty minutes for a ten minute break. If you have any special needs or requirements please advise when you are arranging the interview so that any necessary arrangements can be made.

In the interests of moving this process forward quickly, we have asked PwC to record your interview on tape rather than take written minutes. This will provide the most reliable record of your interview and a copy of the transcript will be made available to you if you so wish.

Further, you may bring a friend or colleague who may be a Trade Union representative with you to the interview, if you so wish. This individual must not be connected with the management and governance of the Scheme, or be an existing or potential interviewee in the investigation. If you decide to have someone attend with you please advise PwC of this and the name of the individual prior to the day of the interview.

The investigation is confidential; however you should be aware that the information could be discoverable in the future. You should not discuss this matter with anyone other than the person who may accompany you to the interview.

Given the limited amount of time available to complete the investigation, it is not practicable to make any documentation available to you in advance of the interview. We have agreed with PwC that relevant documentation will be made available to you 30 minutes before the start of the interview.

Please do not hesitate to contact me should you require further information in relation to the interview process.

Finally you should inform your line manager that you will be attending an interview and will be absent from the office at the agreed time and date.

Thank you for your cooperation in this matter.

Yours sincerely

Brendan McCann

Corporate Governance, Business Planning

And Equality Directorate,

Netherleigh

Belfast

Telephone 028 90 529820

Email: Brendan. McCann @economy-ni.gov.uk

From: Martin, Caroline
Sent: 08 March 2018 16:42
To: Butler, Patrick (RHI)
Cc: DoF DSO Printing
Subject: Team 2 questions for Teri Clifton and Edmund Ward
Attachments: EC1 17 0138093 Letter to Edmund Ward Ofgem re NIRHI inspection and audi....pdf

Paddy,

Just for clarification I am instructed that the attached letter (previously forwarded with questions for Teri Clifton and Edmund Ward) has a typo and should read 19 October 2015 not 2014. Stuart Wightman has provided a screenshot below of the TRIM Document which confirms it was created on 19 October 2015.

Regards,
Caroline

HP Records Manager Desktop - Records - title:letter edmund ward re nirhi - 1 Record found

HOME SEARCH VIEW MANAGE

Format Columns View Pane Customize Pane Window

Shortcuts Search For Search By Matching criteria

Recent Records Title Word letter to edmund ward re nirhi

Records - title:letter edmund ward re nirhi

Record Type	Record Number	Title
DfE Document	EC1/17/0138093	Letter to Edmund Ward Ofgem re NIRHI inspection and audit visits. (OFFICIAL). 19 Oct 2015.

Assignee: In Container 'EC18/160/58/259/180/1/ (At Home: DfE RHI Team A)' since 17 May 2017 at 10:30

Date Created: 19 October 2015 at 11:20

Date Registered: 17 May 2017 at 10:30

Enclosed?: Yes

Author: Hughes, Seamus

Edit Status: Checked In

Revision Number: 1

Document Details: In HP Records Manager document store, Microsoft Word Document, 46.2 KB (47,340 bytes)

Container: EC18/160/58/259/180/1/: Energy DfE - Sustainable - RHI Taskforce - Public Inquiry Supply of Records 1 - 29 February 2016 Access - Ofgem

Title: Letter to Edmund Ward Ofgem re NIRHI

35

This communication (and any attachment) is covered by legal professional privilege. Its unauthorised use, disclosure, storage or copying is not permitted. If you are not the intended recipient please return or destroy and inform the sender accordingly. Internet e-mail is not a secure medium. Any reply to this message could be intercepted and read by someone else. Please bear that in mind when deciding whether to send material in response to this message by e-mail. This e-mail (whether you are the sender or the recipient) may be monitored, recorded and retained by the ITAssist. E-mail monitoring and blocking software may be used. You have a responsibility to ensure laws are not broken when composing or forwarding e-mails and their contents.



Netherleigh
Massey Avenue
Belfast BT4 2JP
Tel: 028 9052 9425
Textphone: 028 9052 9304
Fax: 028 9052 9549
Email: stuart.wightman@detini.gov.uk

19 October 2014

Edmund Ward
Head of Technical Development, Continuous Improvement RHI
The Office of the Gas and Electricity Markets
9 Millbank
London
SW1 3GE

Dear Edmund

RHI INSPECTION VISITS/AUDITS

In our last telecon meeting on 15th September we discussed the issue of inspection visits/audits and I know we have agreed to have the item on the agenda for our next meeting tomorrow morning.

I thought it might be useful to record something formally in the system in advance of that meeting to highlight the issue, (I know Seamus sent you an email after our last meeting about the matter).

DETI was wrongly of the impression that more site visits were being undertaken, probably in the order of 1 in 10 for new installations, with additional regular checks on meter readings.

As discussed we hear through anecdotal evidence of “gaming” of the system and we would want to ensure that appropriate controls are in place to circumvent this as far as is practical and possible.

We can discuss further in our meeting but our thinking would be that 1 in 10 inspections, perhaps targeted at installations recording more than 400,000kWh annual hours might be a workable framework. In addition, (and your procedures may already cover this), regular submission of photographs of meter readings could be a useful additional control.

I appreciate that this is likely to attract additional costs etc and it would be useful if you had some ball park figures around this that we could feed into our discussions. One other option we could consider would be for DETI to audit a number of installations either directly or through a procured third party. I know that you plan to have one of your audit colleagues' join our meeting and it would indeed be very useful to have that perspective feeding in to the discussion.

S. Wightman

Yours sincerely

STUART WIGHTMAN

Head of Energy Efficiency Branch