

**Submission****From: CHRIS STEWART****Tel No: 028 905 29203****Date: 18 December 2016****cc Andrew McCormick****To: Simon Hamilton MLA****RENEWABLE HEAT INCENTIVE (RHI) –INTERVIEW WITH FORMER MINISTER BELL, 15 DECEMBER 2016**

1. You have asked for an explanation of the matter raised by former Minister Jonathan Bell during the interview with Stephen Nolan, as described in the excerpt from the transcript of the programme (attached at annex A).
2. The context was that there had been a series of discussions arising from the DETI submissions on the urgent suspension of the RHI. The Minister had initially cleared advice (submission of 19 January) which would have led to an orthodox process of consultation, an opportunity for the Assembly ETI Committee to consider the proposed changes, followed by an Assembly Debate to approve the necessary Regulations. That submission would have led to the suspension taking effect just before the dissolution of the Assembly in March 2016.
3. Following discussions involving the Minister of Finance and the First Minister, a further submission was provided on 29 January, setting out three options for the process – two of which involved omitting stages from the orthodox process to accelerate closure. Based on legal advice, the submission recommended the option which retained the orthodox procedure. Minister Bell cleared this at 16.21 on 29 January, agreeing the recommended option.
4. A further submission the same day provided a draft minute from Minister Bell to the Minister of Finance and Personnel, seeking the latter's views on a draft paper to seek the agreement of the First Minister and the deputy First Minister under the Urgent Procedure for decisions referred to the Executive. The letter to Minister Storey issued on 1 February.

5. The discussions at this stage were widened to include the dFM's team, for example one aspect of the proposal was discussed between Andrew McCormick and Aidan McAteer (as recorded in an email of 2 February).
6. On 3 February, DETI officials were told that the decision agreed by both sides in OFMDFM was the most urgent available option, which would leave out consultation on the proposals and also the conventional consideration of draft regulations by the Assembly Committee.
7. On 3 February 2016, I put a submission to Minister Bell, via his political advisor, Timothy Cairns. The subject matter of the submission was the seeking of Executive approval to the proposed closure of the RHI schemes, by means of the 'urgent procedure', ie to take forward formally the approach that we knew had been agreed.
8. Paragraph 1 of the submission notes that the Minister had previously agreed to close the schemes to new applicants, subject to the outcome of public consultation. The original draft goes on to say that: 'However, **further to discussion with DFP and OFMdFM** (emphasis added), you have decided to proceed...without public consultation.'
9. In the final version of the submission, as presented to Minister Bell, the corresponding sentence in paragraph 1 read: '**following further consideration** (emphasis added) you have decided to proceed...without public consultation.'
10. The revision of the draft was requested by Timothy Cairns. I challenged the request on the grounds that there had indeed been consultation with OFMdFM. However, Mr Cairns continued to press for the change to be made, and I agreed. I assumed that the request had been made at the behest of Minister Bell, or at least with his knowledge. The submission was finalised and issued on that basis and the Urgent Procedure paper issued to the FM and dFM on 5 February. Paragraph 16 of that paper confirms that the recommendation was to proceed without consultation or a Committee stage.
11. The submission as finalised was wholly factual: the omission of the reference to the engagement with OFMdFM in no way altered the actions to be taken. A copy of the version showing the changes suggested by Timothy Cairns is attached as Annex B, and the final version as Annex C.
12. Some days later (almost certainly 10 February), I attended a meeting with Minister Bell, initially only with Ian McCrea MLA (the Minister's Assembly Private Secretary) present. I did not seek a meeting with him as a whistleblower. The Minister asked why the submission of 4 February made no reference to discussion with OFMdFM. I explained that in finalising the submission, I had accepted some changes requested by Mr Cairns. The Minister indicated that he

had not had prior knowledge of this, and expressed concern that it had been done without his knowledge. I explained that I had assumed that he was aware of, or had requested the change.

13. Mr Cairns and the Permanent Secretary (Andrew McCormick) joined the meeting. Minister Bell asked Mr Cairns for an explanation of what had happened. After a brief exchange, Dr McCormick and I were asked to leave the meeting, to allow for a private discussion between the Minister and Mr Cairns.
14. Shortly thereafter, the Minister left to attend to another matter, and there was further discussion involving me, Dr McCormick and Mr Cairns. Mr Cairns expressed the view that I had misrepresented the position to the Minister. Through discussion (which was initially heated, but which ended amicably) agreement was reached that this was not the case. The Minister later returned and advised that he had dealt with the matter to his satisfaction elsewhere, and that it was closed.
15. To the best of my knowledge, no other document or email was amended by the Special Adviser without the then Minister's knowledge and agreement. Also, to be clear, the submission that was amended was a draft in preparation, and not something which had been finalised and approved by myself as the signatory. There is no evidence whatsoever of any document being amended after signature.
16. This note has been seen and agreed by Andrew McCormick as a true record of the events insofar as he was involved.

**CHRIS STEWART**

**Annex A****EXCERPT OF TRANSCRIPT OF THE BBC SPOTLIGHT PROGRAMME OF 15 DECEMBER****JONATHAN BELL**

Here is the fact that I do know which reveals it. The Deputy Permanent Secretary of my department, Chris Stewart, asked for something that was highly unusual and only done once in the five years that I sat in the Executive, he asked to meet the minister, as he is entitled to do, to whistle-blow on a one to one basis. One to one basis.

**STEPHEN NOLAN**

What did he say?

**JONATHAN BELL**

He said the purpose of me being here today and for you not having even your own Special Adviser with you is, minister we have to advise you that without your knowledge the Special Adviser in your department has been asked by the other Special Advisers to remove references to Arlene Foster, the First Minister, and to the Department of Finance and Personnel. I have spoken about this subsequently to the Permanent Secretary who has verified all of this and is prepared if asked to put it formally on the record in an inquiry. I have asked for the changes that were sought to be made, when I said to him how can I see the evidence of what your deputy Permanent Secretary was telling me, he said there is an email trail, I cannot show you the email trail because you are only entitled to see the final email but he said you will see the changes that there were to take out the references to the Office of First Minister the Department of Finance and Personnel. Fact.

**STEPHEN NOLAN**

Now why would they want to do that?

**JONATHAN BELL**

That is for them to answer.

STEPHEN NOLAN

Why do you think? You have told me you are going to tell me the truth from your heart today. Why?

JONATHAN BELL

I can tell you the truth from my heart.

STEPHEN NOLAN

Why would they want to do that?

JONATHAN BELL

I cannot tell you what their thinking or motivation was. Personally I was deeply; deeply hurt that as a minister, the supposed number one in that department, the person who the buck stops with that without my knowledge and without my consent this attempt was made. It took a whistle-blower, a person of considerable integrity to brief me as minister that this was happening.