



Stephen Moutray MLA
31 High Street
Lurgan
BT66 8AH

By post and email: stephenmoutray@stephenmoutray.com

Personal information redacted by the RHI Inquiry

30 June 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 enclose a copy of the RHI Inquiry's Terms of Reference for your information.

You will no doubt 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 this context, it would be of assistance to the Inquiry to have a statement from you, in light of your former role as Minister for Finance and Personnel, setting out your

involvement with the Non Domestic Renewable Heat Incentive Scheme in Northern Ireland ('the Scheme').

In keeping with the approach we are taking with others, 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 is 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.

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, or 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. In addition, a similar restriction is contained in Restriction Order No 2 of 2017 made by the Inquiry Chairman and available on the RHI Inquiry website.

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.

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, slightly slanted style.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE
[No 339 of 2017]

General involvement with the RHI Scheme

1. Explain in detail (identifying any relevant documents) any direct or indirect involvement you had in the RHI Scheme or any aspect of it prior to its suspension in February 2016, including, in particular:
 - a. any interactions or communications with constituents or members of the public;
 - b. any interactions or communications with Scheme applicants, or potential applicants, or companies or organisations in the renewable heating or biomass industries or supply chains; and
 - c. any interactions or communications with civil servants, Ministers, special advisers, other MLAs or politicians, or public bodies (including in particular, but not limited to, DETI, DFP and/or Ofgem);

regarding, relating to or touching upon the RHI Scheme.

2. Without prejudice to the generality of paragraph 1 above, please provide full details of:
 - i. any communications with, or instances of lobbying or encouragement of, any of the above classes of person in relation to the terms of the RHI 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);
 - ii. any communications between you and any of the above classes of person in which you sought and/or were provided with information

concerning the likelihood of costs controls being introduced in the RHI Scheme and/or the nature, extent, and effective date of such controls (providing in respect of each such communication the name of the relevant civil servant, politician, special adviser, etc., the date of each communication, the mode of each communication, the place at which each communication occurred, if applicable, and the authorisation [if any] you and, if known, the other person had to engage in such communications);

- iii. any other instances of information passing between you and any of the above classes of person regarding, or of relevance to, the RHI Scheme.
3. Please identify any risks, flaws, problems, anomalies, loopholes, or other issues regarding the Scheme which came to your attention, setting out details of when this occurred, how it occurred, by whom any relevant communication was made, and how you dealt with such knowledge and/or communications (including, in particular, the steps [if any] taken by you to alert other persons or bodies such as the Department for Enterprise, Trade and Investment ['DETI'] and/or Ofgem to the said risks, flaws, problems, anomalies, loopholes, or other issues with the Scheme).
 4. Please identify any instances of whistle-blowing to you in relation to the Scheme, or any disclosures made to you raising concerns about the Scheme, setting out details of when such communications occurred, by whom each such communication was made, and how you dealt with each such communication.
 5. 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 to the end that they might 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.

6. 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.
7. Please specify when you first became aware that there may have been an incentive in some cases to produce heat merely to make profit from the Scheme; how you became so aware, and the actions (if any) you took in respect of such knowledge (such as, for example, communicating with DETI, DFP or Ofgem, or with persons in the renewable energy sector, or others).
8. 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, friend, close acquaintance, business associate or (in the case of politicians or special advisers) donor or supporter (either to or of you or your political party).

Specific instance of involvement

9. It appears to the Inquiry from information received by it that, on 10 February 2016, you, together with a number of your colleagues, were sent a private Facebook message by Harry Baxter (a copy of which is enclosed for your assistance), which discussed the closure of the RHI Scheme. As to that, please address the following matters:
 - a. Your connection to Harry Baxter;
 - b. Had you any previous dealings or discussions with Harry Baxter in relation to the RHI Scheme?

- c. Did you read the message?
- d. What actions, if any, did you carry out in relation to the RHI Scheme on foot of having read the message?
- e. In particular, did you speak to or contact Jonathan Bell or his special adviser, as requested by Harry Baxter, to discuss the delaying of closure of the Scheme? If so, please provide details of any relevant communications.
- f. Were you aware that Harry Baxter had lobbied Paul Frew MLA and Jim Wells MLA to have the tariff band extended in November 2015? If so, please provide details.
- g. Did you have any discussions with Paul Frew MLA, Jim Wells MLA, or any other relevant party in relation to this matter?

Means of communication in relation to the RHI Scheme

- 10. Identify all email addresses used by you (or used by others on your behalf) to send or receive communications in relation to any matter relating to, or touching upon, the RHI Scheme.
- 11. Identify all telephone numbers used by you (or used by others on your behalf) to send or receive text communications in relation to any matter relating to, or touching upon, the RHI Scheme.
- 12. Identify all social media accounts or platforms (if any) used by you to send or receive communications in relation to any matter relating to, or touching upon, the RHI Scheme.
- 13. Specify whether you are aware of any communications relevant to the RHI Inquiry - such as emails or text messages - that may have been deleted or otherwise rendered potentially unavailable or irretrievable.
- 14. If you are aware of any communications relevant to the RHI Inquiry, such as emails or text messages, that may have been deleted or otherwise rendered

potentially unavailable or irretrievable, then please provide full details of any such communications.

15. Excluding Departments of Government (both at Westminster and devolved), civil servants employed within those Departments (although not including Special Advisers), GEMA/Ofgem and consultancy firms engaged by Departments of Government, please identify any individual or organisation that you consider may have, or may once have had, documentation or information relevant to the matters being investigated by the RHI Inquiry. In respect of any such individual or organisation please set out the basis for your belief.

General

16. 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.
17. 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.
18. 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.



INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME

RHI REF: Notice 339 of 2017

DATE: 19th July 2017

Witness Statement of: Stephen Moutray

I, Stephen Moutray, will say as follows: -

General involvement with the RHI Scheme

1.
 - a. I have had no interactions on this issue.
 - b. I have had no interactions of any sort.
 - c. I have had no communications.

2.
 - i. Nil
 - ii. Nil
 - iii. Nil



3. Nil

4. Nil

5. I have at no time promoted or encouraged anybody in any aspect in relation to this scheme.

6. I have no knowledge of any lobbying etc in relation to this scheme.

7. I was never aware that there may have been an incentive to produce heat merely for profit.



8. I do not believe I have any connection to anyone involved directly or indirectly in this scheme.

Specific instances of involvement

- 9.
- a. I have no connection to Harry Baxter but I believe I was introduced to him at charity function at Craigavon Borough Council a number of years ago when he was a bank manager in Portadown.
 - b. At no time had I any dealings or discussions with Mr Baxter in relation to this.
 - c. I have no recollection on reading the message but the position I always took was if I was not the constituency MLA that I did not become involved in a matter in another constituency.
 - d. I took no action.
 - e. I took no action.



- f. I was not aware.
- g. I had no discussions with anyone in relation to this matter.

Means of communication in relation to the RHI Scheme

10.

I did not send any communication in relation to RHI but my email address

[stephenmoutray](mailto:stephenmoutray@...) Personal information redacted by the RHI Inquiry

My assistant's email address is carlalockhart@... Personal information redacted by the RHI Inquiry

11. Again as above there was no communication but my mobile number is

Personal information redacted by the RHI Inquiry

My assistant at the time Carla Lockhart number is Personal information redacted by the RHI Inquiry

12. I never sent any communication on any platforms.



13. I am not aware of any.

14. I am not aware of any.



15. I am not aware of any.

General

16. I have received no representations in relation to this scheme.

17. I have no recollection of any discussions.

18. I have nothing to provide other than the fact that I have written to my former Employee Carla Lockhart MLA requesting that if she sent any letters, email etc on my behalf that I was not aware of that she sends me all copies which I will immediately forward to yourselves.

Statement of Truth

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

Signed: 

Dated: 19th July 2017