

Paul Givan MLA
The Old Town Hall
Lisburn
BT27 4DH

By post and email: paul.givan@mla.niassembly.gov.uk

24 April 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 you will already be familiar with the work of the Inquiry and its Terms of Reference from my previous correspondence with you.

The Inquiry is grateful for the material you provided to it pursuant to Section 21 Notices Nos 345 and 346 of 2017. The Inquiry has considered that material and there are a number of matters arising therefrom which the Inquiry would like you to address by way of further witness statement.

Therefore, please find enclosed with this letter a further Section 21 Notice requiring 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.

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 also refer you to Restriction Order No 2 made by the Chairman of the RHI Inquiry on 22 June 2017, a copy of which is enclosed for your convenience. 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 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.

I should also indicate that merely because the Inquiry has asked you to provide a witness statement it does not follow that the Inquiry will also ask or require you to attend to give oral evidence. Should the Inquiry wish to hear further from you it will be in further contact in due course. Clearly, however, the more full the evidence you provide at this stage, the less likely it may be that the Inquiry will have to revert to you for further clarification, whether by way of further written statement or by means of the giving of oral evidence.

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

SCHEDULE**[No 30 of 2018]***WIT-152742*

On 17 July 2017 you disclosed to the Inquiry a document (now bearing Inquiry reference WIT-152742) with both typed writing and hand writing. It appears to the Inquiry that this may reflect a text message sent or received by you. As to this communication:

1. Please confirm what the document at WIT-152742 is, when it was created, and by whom.
2. If the content of WIT-152742 is a transcript of a text message (or other communication) then please address the following matters:
 - a. Who was the text message from?
 - b. Who was it sent to?
 - c. When was it sent or received?
 - d. Is it still available in electronic form?
 - e. If it is no longer so available, then please explain why that is so.
 - f. If it is so available, please provide the Inquiry with a screenshot of the message.
 - g. If it was a received message what reply (if any) was sent to it; and what (if any) message prompted it?
3. As to the individuals who appear to be referred to in WIT-152742 please state:

- a. Who you understand the "*ginger deputy to the chief*" to be, and the basis for so saying;
 - b. Who you understand "*Andrew C*" is, and the basis for so saying;
 - c. Who you understand "*TJ*" is, and the basis for so saying; and
 - d. Who you understand "*JB*" is, and the basis for so saying.
4. As to the first line of text in WIT-152742 please explain, to the best of your understanding:
- a. What the "*issue*" was being referred to in the first line of text;
 - b. What the "*lies*" were that were said to have been told about the "*issue*";
 - c. How the "*lies*" were known, or came to be known, to be lies;
 - d. Who the "*lies*" were told to;
 - e. When the "*lies*" were told;
 - f. Who was in a position to "*expose the lies of a ginger deputy to the chief*"; and
 - g. How the person or persons in a position to expose the lies "*could expose the lies*".
5. As to the second line of text in WIT-152742 please explain, to the best of your understanding:
- a. What the "*truth about TJ*" was;

- b. How *"telling truth about TJ"* would *"damage Andrew C"*;
 - c. Who *"Doesn't want to damage Andrew C"*;
6. As to the third line of text in WIT-152742 please explain, to the best of your understanding:
- a. Who was *"Going to expose JB"*;
 - b. In what way was the individual *"Going to expose JB"*;
 - c. How was the individual in a position to *"expose JB"*;
7. If you had any conversations or discussions about the information reflected in WIT-152742, whether with the sender, recipient or others, then please give a full account of those conversations and discussions, including: when they occurred, with whom, where, who was present, and what the content of the conversations or discussions were.

WIT-152743 (and WIT-154094)

8. You have also disclosed to the Inquiry what appears to be a transcript of a text message exchange of the 15 December 2016. As to this:
- a. Is the content of WIT-152743 a text message exchange (or some other form of electronic communication)?
 - b. If it is a text message exchange, then who is it between?
 - c. Please state whether this is still available in electronic form.
 - d. If it is no longer so available, then please explain why that is so.
 - e. If it is so available, please provide the Inquiry with a screenshot of the

message.

- f. If it was a received message what reply (if any) was sent to it; and what (if any) messaged prompted it?
9. Please consider WIT-154094. Is this the same text exchange, but in screenshot format?
10. Please give an account, to the best of your understanding, as to the message being communicated in the identified communication.
11. If you had any conversations or discussions about the information reflected in WIT-154094, whether with the sender, recipient or others, then please give a full account of those conversations and discussions, including: when they occurred, with whom, where, who was present, and what the content of the conversations or discussions were.

Generally

12. Considering the Inquiry's Terms of Reference please set out any further information which you have that you consider the Inquiry should be aware of.

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.

s: 26 May 2017 00:35

Could expose the lies of a ginger deputy to the chief. He has told lies on the issue.

Doesn't want to damage Andrew C but can't see how to avoid that in telling truth about TJ.

Going to expose JB.

Name Unknown 4997

Phone Unknown 4997

Text Biggest gaff in the history of NI

Date 2016-12-15 13.35

Service iMessage

Type Received

Name Unknown 4997

Phone Unknown 4997

Text If I hadn't blocked J Bells plans then we wouldn't be talking about the 400 odd million over 20 years it would have been 1.1 billion over the 20 years with the two schemes.

Date 2016-12-15

Service iMessage

Type Received

WIT-155010
WIT-154094

02-UK 4G

12:13 pm

100%



PG



Thu 15 Dec, 1:14 pm 2016.

Now you see the value of my work last year on the ETI Committee and the importance of the party not bringing in a NI ROC scheme that would have cost Bill Payers even more than RHI has cost the tax payer.

Was that the Roc Scheme on wind energy?

It was ! Same logic to RHI , only one is paid by Bill Payers the other by tax payers . If you change the rules and depart from Westminster expect your own people to pay through the nose !

If I hadn't a blocked J Bells plans then we wouldn't be talking about the 400 odd million over 20 years it would have been 1.1 billion over the 20 years with the two schemes

And your reward for this was removal from the Committee!



Text Message





INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME

RHI REF: Notice 30 of 2018

DATE:

Witness Statement of: Paul Givan

I, Paul Givan, will say as follows: -

WIT-152742

On 17 July 2017 you disclosed to the Inquiry a document (now bearing Inquiry reference WIT-152742) with both typed writing and hand writing. It appears to the Inquiry that this may reflect a text message sent or received by you. As to this communication:

1. This is not a text message but rather an electronic note of my recollection of a brief conversation I had with Timothy Cairns earlier in the evening at the South Belfast DUP Business Dinner on 25th May 2017 in the Park Avenue Hotel, Belfast during the Westminster Election Campaign. I created the note on my Apple Iphone at 12.35am, 26th May 2017, after returning home from the event.
2. It is not a transcript of a text message. See response to 1.
3. As to the individuals who appear to be referred to in WIT-152742 please state:
 - a. I didn't ask who this was. I assumed it was either John Robinson or Simon Hamilton for no other reason than their hair colour.
 - b. Andrew Crawford. Timothy Cairns used his name specifically.



- c. Timothy Johnston. Timothy Cairns used his name specifically.
 - d. Jonathan Bell. Timothy Cairns used his name specifically.
4. As to the first line of text in WIT-152742 please explain, to the best of your understanding:
- a. The Northern Ireland Renewable Heat Incentive Scheme.
 - b. Timothy Cairns did not elaborate on this and I did not ask.
 - c. Timothy Cairns did not elaborate on this and I did not ask.
 - d. Timothy Cairns did not elaborate on this and I did not ask.
 - e. Timothy Cairns did not elaborate on this and I did not ask.
 - f. Timothy Cairns.
 - g. By providing evidence to the RH Inquiry.
5. As to the second line of text in WIT-152742 please explain, to the best of your understanding:
- a. Timothy Cairns did not elaborate on this and I did not ask.
 - b. Timothy Cairns did not elaborate on this and I did not ask.
 - c. Timothy Cairns.
6. As to the third line of text in WIT-152742 please explain, to the best of your understanding:



- a. Timothy Cairns.
 - b. By giving evidence to the RHI Inquiry.
 - c. I believe through his knowledge as Special Adviser to Jonathan Bell.
7. I had no conversations or discussions with other people about this information. On the evening in question I briefly engaged in conversation with Timothy Cairns and asked how he was keeping. He indicated the pressures he was under due to the work of the RHI Inquiry and the strain this was putting on him. I noted the points recorded in this evidence for my own personal memory. Given the work of the Inquiry that had been set up to investigate the RHI Scheme, I did not want to engage in any detailed conversation about the points he raised and as Timothy Cairns did not expand any further, I believe neither did he.

WIT-152743 (and WIT-154094)

8. You have also disclosed to the Inquiry what appears to be a transcript of a text message exchange of the 15 December 2016. As to this:
- a. Yes, this is a text message exchange.
 - b. The text message exchange is between Paul Frew and me.
 - c. No, this is no longer available in electronic form.
 - d. Until receiving the first Notice from the Inquiry, I routinely deleted all my text messages on my mobile device. I was able to retrieve this message and others provided to the Inquiry using software I purchased for the purpose of complying with my obligations to the Inquiry.
 - e. See response to 8d.



- f. I have no record of either replying or initiating this message for the reasons identified in 8d. I believe media coverage of the BBC Spotlight programme prompted this message exchange.
9. Yes.
10. The Department of Enterprise Trade and Investment, when Jonathan Bell MLA was the Minister, was considering the introduction of a Northern Ireland ROC (Renewable Obligation Certificate) Scheme for wind energy. Paul Frew MLA was a member of the ETI Committee for a period of time when this issue was being scrutinised. He was opposed to the scheme because of the associated costs passed on to bill payers', particularly large commercial organisations with high-energy bills and the negative impact this could have on businesses with the potential of job losses and/or closures.
11. I had no conversations or discussions with other people about this information.

Generally

12. I have no further information that I consider the inquiry should be aware of.

Statement of Truth

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

Signed:  _____

Dated: _____ 7 May 2018 _____