



Danny Kinahan MP
38 Fountain Street
Antrim
BT41 4BB

10 May 2017

By post and email: [Danny](#) Personal information redacted by the RHI Inquiry

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 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.

Please bear in mind that, although the RHI Inquiry now has a good working knowledge of the RHI Scheme, the witness statement required by the enclosed Notice is likely (in common with others) to be published by the RHI Inquiry in due course. It should therefore ideally be written in a way which is as accessible as possible in terms of public understanding.

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.

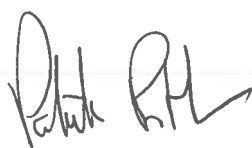
You will also find attached to the Section 21 Notice a Guidance Note explaining the nature of a Section 21 Notice and the procedures that the RHI Inquiry has adopted in relation to such a notice. In particular, you are asked to provide your evidence in the form of the template witness statement which 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, appearing to read 'Patrick Butler', is positioned above the typed name.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE**[No 155 of 2017]**

1. Explain your involvement (if any) in investigating, assessing, considering, or communicating with other persons or bodies (such as the former Department for Enterprise Trade and Investment ['DETI'], the former Department of Finance and Personnel ['DFP'], or Ofgem) regarding the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland ('the Scheme') or any aspect of it, between its introduction in November 2012 and its suspension in February 2016 (and provide copies of any relevant documents with your Witness Statement).

2. In particular, in respect of the same 2012-2016 period, but without prejudice to the generality of the foregoing request:
 - a. 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 (and provide copies of any relevant documents with your Witness Statement);

 - b. please identify any flaws, problems, anomalies, loopholes, or other issues regarding the Scheme which were brought to your attention, setting out details of when this occurred, by whom any relevant communication was made, and how you dealt with each such communication (including, in particular, the steps [if any] taken by you to alert DETI, DFP, and/or Ofgem to the said flaws, problems, anomalies, loopholes, or other issues with the Scheme) (and provide copies of any relevant documents with your Witness Statement).

3. In respect of a letter dated 27 November 2012 to the Minister for Justice from Sheridan & Hood Limited, copied to you and other persons, and which related

to the process of tendering for the construction of a Northern Ireland Community Safety College, please address the following particular points: -

- a. explain the steps (if any) taken by you to verify or test the accuracy of the description of the RHI Scheme and its operation offered in the aforementioned letter and, in particular, the suggestion that a participant in the Scheme could derive a profit from it (and provide copies of any relevant documents with your Witness Statement);
- b. identify all documents created, procured, received, and/or considered by you when addressing the claims made about the RHI Scheme in the aforementioned letter (including details of the author of each such document, the date of its creation, the person or body from whom it was received, and any person or body to whom it was sent) (and provide copies of each such document with your Witness Statement);
- c. explain the steps (if any) taken by you to communicate with DETI, DFP, any other part of the Government of Northern Ireland, and/or Ofgem concerning the issues raised in the aforementioned letter and, in particular, (i) in order to check the income and expenditure calculations set out in the letter, (ii) in order to confirm whether any of the aforementioned bodies were aware of the alleged ability of claimants to make a profit under the Scheme, and/or (iii) in order to determine whether the proposal set out in the letter (involving multiple 99kW boilers being installed by one claimant on a single site) was permissible under the Scheme (including, if applicable, the date of each such communication, the persons making and receiving each such communication, the content of each such communication, the response [if any] to each such communication, and the resulting action [if any] taken by you) (and provide copies of any relevant documents with your Witness Statement);

- d. explain, if it is the case that you did not communicate with any one of DETI, DFP, and/or Ofgem concerning the issues raised in the aforementioned letter, the reason(s) for not doing so in this regard.
4. Identify any instances 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 prior to February 2016 (and provide copies of any relevant documents with your Witness Statement).
5. 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;
 - 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 (and provide copies of any relevant documents with your Witness Statement).
6. 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 (as well as copies of any other relevant documents).

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 155 of 2017

DATE:

13 Dec 2017

Witness Statement of: DANNY KINAHAN (DANNY)I, DANNY KINAHAN, will say as follows: -

1. I have no recollection of any such involvement.

2.

a. I have no recollection of any such instances.

b. I have no recollection of any such issues.

3. I do not recall having received this letter.

a.

b.

c.

d.

} see response above

Statement of Truth

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

Signed: _____

Dated: 13/12/2017



RENEWABLE HEAT
INCENTIVE INQUIRY

4. I am aware of any such instances.

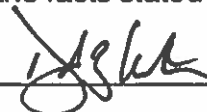
5. I am aware of any such instances

a. }
b. } see above

6. I am aware of any such evidence.

Statement of Truth

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

Signed: 

Dated: 13/12/2017