



RENEWABLE HEAT
INCENTIVE INQUIRY

WIT-172501

RHI Inquiry

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Personal information redacted by the RHI Inquiry

16 August 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 from media reports 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.

From information received by the Inquiry, it appears that you may have had some involvement with the Non Domestic Renewable Heat Incentive Scheme in Northern Ireland ('the Scheme') or matters falling within the Inquiry's terms of reference.

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. This should allay any concerns you might otherwise have had in relation to confidentiality or data protection.

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.

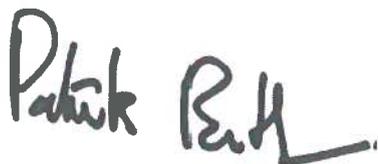
You will also find attached to the Section 21 Notice a Guidance Note explaining the nature of a Section 21 Notice and the procedures that the RHI Inquiry has adopted in relation to such a notice. In particular, you are asked to provide your evidence in the form of the template witness statement which 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 394 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, deggression 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 instances of involvement

9. It appears to the Inquiry from information received by it that, on 8 February 2016, you contacted the DETI Minister (Jonathan Bell) on behalf of a number of constituents in relation to the proposed closure of the RHI Scheme. (A copy of your email of that date, contained within the Inquiry evidence bundle at DFE-226393 is enclosed for your convenience). As to that, please address the following matters:
 - a. Please identify the constituents on whose behalf you were contacting the DETI Minister.

- b. Insofar as you can, please identify how and why these constituents contacted you in relation to the RHI Scheme; and what they hoped that you could achieve for them.
- c. Explain what you meant in your email about "*the insistence of Moy Park in relation to animal welfare and animal performance issues*".
- d. In particular, were you aware that Moy Park was insisting that its suppliers join the RHI Scheme? If so, please provide details of how you were aware of this insistence and what (to your knowledge) it entailed.
- e. Please explain precisely what you meant in your email in respect of the suggestion that "*there was some leeway for the last round of applications*" and how you came to this belief.
- f. Please also explain what is meant by the reference to the unit limit to be introduced by Moy Park, discussed in the final paragraph of your email; and how you came by knowledge of this proposal.

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 394 of 2017

DATE:

Witness Statement of: John McCallister

I, John McCallister, will say as follows: -

General involvement with the RHI Scheme

1. My involvement with the RHI scheme started in February 2016. I was contacted by constituents after the press release announcing the end of the scheme. This was entirely related to work as an MLA at that time. I was not involved prior to this and did not serve on the Assembly committee scrutinising the legislation nor do I recall speaking or voting on the legislation. My involvement started in February 2016
 - a. A constituent and neighbour (Gilbert Fletcher of Personal Information redacted by the RHI Inquiry) [REDACTED] contacted me the weekend that the Belfast Telegraph ran the story that Minister Bell was bringing the scheme to an end by the end of February 2016. He was in the process of applying and would not have completed the work in time for the new deadline. I met him at his home on Sunday 7th February 2016.
 - b. A company from Dundrum Co Down (I have forgotten the name) I met two directors in Newcastle to hear their concerns about the rapid closure of the scheme. This was probably in round the 12th of February 2016. The date would be in my Assembly email but this was closed in June 2016. I might have received an email from them earlier in the week but again it would have been to Assembly email which I don't have access to but probably only seeking the meeting which I have mentioned.



2. Email to Minister Bell that you have attached.
 - i. Speaking in Assembly debate on the 15th February 2016 and voting against the motion. I will attach copy of my remarks from Hansard for ease of reference.
 - ii. I spoke briefly to Minister Bell in a chance meeting in Stormont. No notes taken but from memory he said he did not have the money to keep the scheme going and had no choice but to close very quickly.
 - iii.

3.

4.

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Specific instances of involvement



9. *My involvement was solely as an elected representative at that time. I was reflecting concerns of my then constituents. In Mr Fletcher's case, as to whether an extension was going to be possible to allow him to proceed and complete the work on time. My understanding is he did not proceed with the RHI boiler. I have no family connection or financial or business links or interests in this business. Involvement as an MLA.*

10.

- a. The meeting with the Dundrum Company was in a Newcastle coffee shop. They made representations to me about the investment they had made in delivering these boilers and the skilled workforce that may have to be laid off. They felt it was a bad way for the Northern Ireland Executive to do its business and bring this scheme to an end earlier than planned, leaving businesses uncertain about the future. I reflected these concerns in my remarks to the Assembly. I have no family, financial or business links or interests in this company. I acted as an MLA representing my constituents.
- b. Email to Minister Jonathan Bell that is attached stating my view that scheme should have had a limit and this may have allowed for more participants to avail of the scheme and keep costs under control.
- c. Brief meeting with Jonathan Bell. As described above. It was a chance meeting in a corridor probably under five minutes. Nothing unusual in this as members would often use sitting days to speak to Ministers on various issues and I would have spoken to many ministers like this over my nine years in the Assembly.
- d. Assembly debate and vote on the 15th February 2016. My remarks from Hansard are attached.
- e.
- f.



Means of communication in relation to the RHI Scheme

11. Assembly email account john.mccallister@mla.gov.co.uk
12. Mobile phone Personal information redacted by the RHI Inquiry
13. Face to face meetings that I have listed – constituents and Minister Bell.
- 14.
- 15.
- 16.

General

17. My involvement was at the end of the scheme and solely related to my then work as an MLA for the South Down constituency. I had and still do not have any business links with those I represented. I was not an applicant in the scheme and had no other involvement in it. My involvement would have ended with the scheme in early 2016.
- 18.
- 19.



Statement of Truth

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

Signed: John McCallister_____

Dated: 24th August 2017_____

In an intervention

Mr McCallister: I am grateful to the Member. Will he also agree that it puts smaller businesses, in particular, in a precarious place when it comes to managing and ordering in stock when they think that a scheme will last for a certain time? Even single traders and plumbers — it leaves all those businesses in a very difficult state in which to plan and budget for the future.

Mr McCallister: I represent one of the constituencies that will be very heavily affected by this. Part of the Minister's remit is to, very often, travel round the world and sell Northern Ireland as a place to invest and as a place where there is a skilled workforce and to talk about all the things that we can do. Here, we have a scheme that, as Mr Agnew said, was very successful in creating skilled employment and local jobs yet also in meeting an environmental obligation. We have all those. We have small companies, some of which are subcontractors; perhaps they are self-employed plumbers, working on other smaller businesses. Mr Allister talked about one in his constituency. I have one in south Down that has £1 million of equipment on order, knowing — in the sure and certain knowledge, they thought — that the Government had guaranteed the scheme until 31 March. Where does that business go? When does it start to lay people off? If it is as bad as many Members think, where are we going to stop with redundancies? Will it be at 1,000? Will it be at 1,500? Will it be at 2,000?

Mr Cochrane-Watson: I thank the Member for giving way. Does the Member agree with me that it is totally unacceptable that he is talking about job redundancies in businesses in south Down but that there will be no job redundancies in DETI? No one in DETI will be held to account through this investigation. The senior civil servants who have been mismanaged by the Minister will get off the hook.

Mr McCallister: Not only off the hook, I suspect; maybe out on the voluntary exit scheme. That is the problem that we face. Many colleagues here ran or were involved in small businesses in a previous life. How do you manage that? Very often, it is cash flow that takes businesses down. How do you order £1 million of equipment and then find out that it is not by 31 March but by 29 February that the work has to be done? It is impossible to manage and deal with the scheme that way.

The frustrating thing is related to the points that Mr Agnew made. We look across the water at the rest of the country and see that it is managing it and doing it properly. Where there is supply and demand, a balance has to be struck on where, perhaps, a limit has to be placed on what can be used. Most of us would probably say, "That seems reasonably sensible. That seems as if we could make and use this scheme and stretch it far beyond and get the maximum benefit out of it". We end up being the only part of the UK that has to call time on this — even earlier than we had hoped to. Of course, we end up with all the problems associated with that, such as the possibility of businesses running into financial hardship, or businesses not knowing whether they should have been putting workers on notice last Friday, this Friday or whatever Friday. It creates uncertainty for the subcontractors. It makes doing business on a government scheme very difficult. This is exactly the type of business that we want to support: home-grown business that is not going to move to a lower cost base at some point in the future, because it has to be here. The scheme is therefore something that we should have been supporting.

From the perspective of the agrifood sector, it could have a huge impact.

Mr McGlone: Will the Member give way?

Mr McCallister: Certainly.

Mr McGlone: I am glad that the Member has referred to the agrifood sector. I am sure that he is aware of the fact that the Ulster Farmers' Union has been in touch about the potential risk to upwards of 50 projects if the scheme is denied to them.

Will the Member also accept that, for many of those SMEs, what this does dissipates and crashes public confidence in the ability of the Department and Executive to do things effectively and efficiently and with some degree of dignity and honour? It just crashes it. I trust that the Member will take that point.

Mr McCallister: I am grateful. I do take that point, because why on earth would you, at a point in the future, enter into or believe in a Government commitment or project? You would have to have a fair degree of suspicion when you entered into such an agreement. It reminds me of the old saying, "I'm from the Government, and I'm here to help". That level of suspicion around what would happen would be created. Not only is this hugely damaging to DETI's reputation in Northern Ireland but it deals a huge blow to confidence.

The agrifood sector availed itself of the scheme, which was helping to deliver on some of its targets, and it could have been used and managed every bit as well as it is being done in England. If only the Minister could see whether there was any way of tapping into some more of that resource in the national target and build on the successes. To stop the scheme effectively a week from now is putting huge pressure on businesses in my constituency and across Northern Ireland, and that is huge source of regret.

The Assembly divided:

Ayes 60; *Noes* 34

AYES

Mr Anderson, Mr Bell, Mr Boylan, Ms P Bradley, Mr Buchanan, Mrs Cameron, Mr Campbell, Mr Clarke, Mr Craig, Mr Douglas, Mr Dunne, Ms Fearon, Mr Flanagan, Mrs Foster, Mr Frew, Mr Girvan, Mr Givan, Mr Hamilton, Mr Hazzard, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr G Kelly, Mr Lynch, Mr Lyons, Mr McAleer, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Ms McCorley, Mr I McCrea, Mr McElduff, Ms McGahan, Mr D McIlveen, Miss M McIlveen, Mr McKay, Ms Maeve McLaughlin, Mr McMullan, Mr McQuillan, Mr Maskey, Mr Middleton, Mr Milne, Lord Morrow, Mr Murphy, Mr Newton, Ms Ní Chuilín, Mr Ó hOisín, Mr Ó Muilleoir, Mr O'Dowd, Mrs O'Neill, Mrs Pengelly, Mr Poots, Mr G Robinson, Mr Ross, Ms Ruane, Mr Sheehan, Mr Storey, Mr Weir, Mr Wells

Tellers for the Ayes: Mr McQuillan, Mr G Robinson

NOES

Mr Agnew, Mr Allen, Mr Allister, Mr Attwood, Mrs Cochrane, Mr Cochrane-Watson, Mr Cree, Mr Dickson, Mr

Diver, Mrs Dobson, Mr Durkan, Mr Eastwood, Mr Gardiner, Ms Hanna, Mr Hussey, Mrs D Kelly, Mr Kennedy, Ms Lo, Mr Lunn, Mr Lyttle, Mr McCallister, Mr McCarthy, Mr B McCrea, Mr McCrossan, Mr McGimpsey, Mr McGlone, Mrs McKeivitt, Mr McKinney, Mr A Maginness, Mr Nesbitt, Mrs Overend, Mr Patterson, Mr Rogers, Mr Swann

Tellers for the Noes: Mr Cochrane-Watson, Mr McKinney

Question accordingly agreed to.

Resolved:

That the draft Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2016 be approved.



Gilbert



Text Message
9 Feb 2016, 13:17

Any further developments RHI scheme today ? Gilbert

iMessage
10 Feb 2016, 11:18

Gilbert. No response yet from Bell although I'm meeting him later. It's certainly a bigger issue and he's getting a fair kick back from members and business's affected.

Delivered

Thanks John keep me posted 🐔📞

Text Message
Thu 9 Mar. 19:52

