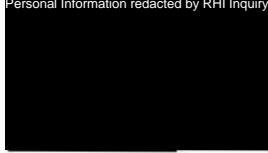


Ian McCrea

Personal Information redacted by RHI Inquiry



By email to: [ianmccrea@rhiinquiry.org](mailto:ianmccrea@rhiinquiry.org)

Personal information redacted by the RHI Inquiry

18 January 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 enclose a copy of the RHI Inquiry's Terms of Reference for your information. These are also available on the Inquiry's website at: [www.rhiinquiry.org](http://www.rhiinquiry.org).

As you may well be aware from media reports, the RHI Inquiry is in the process of conducting its investigations into the matters set out in its Terms of Reference. In addition to having commenced its oral hearings, the Inquiry is continuing with the process of gathering all of the relevant documentation from relevant departments, organisations and individuals; as well as 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, in particular in the context of your role as Assembly Private Secretary to the Minister for Enterprise, Trade and Investment (DETI), with the Non Domestic Renewable Heat Incentive Scheme in Northern Ireland ('the RHI Scheme').

In light of this, and 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 may be 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; and the less likely it is that you may be required to attend to provide oral evidence.

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 appreciate that you may require or desire access to some documentation in order to assist you in preparing your statement. In particular, you may wish to see

documentation to which you previously had access but now no longer have access in your current post. If that applies in your case, I understand that the Department for the Economy (DfE) is making arrangements to permit such access, at least in the first instance. You should contact Terence Coyne at DfE, who is the Department's RHI Task Force Information Manager, to organise this. He is contactable at [Terence.Coyne@economy-ni.gov.uk](mailto:Terence.Coyne@economy-ni.gov.uk). I have informed Mr Coyne that you may be making contact with him to arrange access to documentation; but there is, of course, no obligation upon you to do so.

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 four 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.

Finally, I would be grateful if you could acknowledge receipt of this correspondence and the enclosed notice by email to [Patrick.Butler@rhiinquiry.org](mailto: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 style with a long horizontal stroke at the end.

**Patrick Butler**

Solicitor to the RHI Inquiry

02890408928

**SCHEDULE**  
**[No 3 of 2018]**

*Background*

1. Set out a description of your occupational history, qualifications and experience.
2. Set out a summary of your role or roles within or relating to the Department of Enterprise, Trade and Investment ('DETI', now the Department for the Economy) ('the Department'). Please provide details of dates between which you held the role/s; when, how and why you were appointed to the role/s; and what the role/s entailed). In each instance, describe how this role related, if at all, to the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland ('the Scheme').
3. Explain, insofar as is relevant to any involvement you had with the RHI Scheme, to whom you were accountable and/or reported in the Department and who, if anyone, was accountable to and/or reported to you.

*Role of the Minister's Assembly Private Secretary*

4. Please explain the role, purpose and functions of the Minister's Assembly Private Secretary. If these changed during your time in your role relating to DETI then please set out when the changes occurred and what they were.
5. Please explain the structures that operated in Minister's Private Office and the general method of working within the office.
6. Describe the relationship between the Minister's Private Office and (a) the Minister and (b) the Minister's Special Adviser; and how your role,

as Assembly Private Secretary to the Minister, related to each of the above.

7. Describe the process adopted by the DETI Minister or Ministers during your time as Assembly Private Secretary in relation to (a) reading and considering submissions, (b) reading annexes to submissions, and (c) clearing submissions.

*Involvement with RHI Scheme*

8. Please summarise any involvement you had with the RHI Scheme, and during what period, setting out a chronological account of such involvement (to include, but not limited to, involvement consisting solely or mainly by means of advice or support provided to the DETI Minister).
9. Explain in detail any involvement you had in relation to, or touching upon, the Scheme including (but not limited to) any role or involvement you had in respect of the setting up, design, implementation, operation, promotion, oversight, governance, funding, amendment (including the introduction of cost controls), suspension and/or closure of the Scheme, from its inception up to the present day. Again, this should include involvement consisting solely or mainly by means of advice or support provided to the DETI Minister.
10. Without prejudice to the generality of the paragraph above, explain your involvement (if any) in:
  - a. the creation and development of the Scheme in, or before, 2012;
  - b. the administration/operation of the Scheme;
  - c. any problems or difficulties which emerged in respect of the Scheme (including, but not limited to, the causing or permitting, identification, consideration and/or remediation of any such problems);

- d. the amendment, suspension or closure of the Scheme;

in each instance providing:

- i. details of any relevant interactions with Civil Servants, Ministers, Special Advisers, MLAs, politicians, political parties and other potentially relevant persons (e.g. consultants, the renewable heating industry, actual or potential applicants for accreditation under the Scheme, journalists, etc.);
  - ii. where you made any decision, or gave any advice, in respect of any of the matters set out in the paragraph above, the reasons for that decision or that advice (as the case may be); and
  - iii. details of any documents which are of significance or particular relevance (which should be annexed to the witness statement if you have access to the documentation which permits you to do so; or, otherwise, which is identified as clearly as you can).
11. Please identify when you first became aware that there was a problem or problems with the RHI Scheme and explain what they were.
12. Explain your understanding of the funding arrangements for the Scheme, including how that understanding was gained; and how (if at all) it developed.

*Specific issues in relation to Ministerial involvement*

Without prejudice to the generality of the enquiries above, please also address the following specific matters (insofar as they have not already been addressed fully in response to questions above):

13. Provide details (insofar as you can) of any meeting, discussion or conversation you had with the DETI Minister, or which the Minister and/or her/his Special Adviser had with a third party but at which you were present, relating to or touching upon the RHI Scheme. Such details should include the date of the meeting or communication, the nature of the meeting or communication, who was present and (insofar as you can recall) what was said and discussed.
14. Provide the same details (insofar as you can) of any meeting, discussion or conversation you had with the Minister's Special Adviser in relation to or touching upon the RHI Scheme.
15. Without prejudice to the generality of the foregoing, provide full details of any discussions, communications or exchanges you had with the Minister and/or the Minister's Special Adviser:
  - a. In the period June to November 2015 in relation to the introduction of cost controls, tiering or amended tariffs in relation to the RHI Scheme and/or the timing of any such changes to the Scheme; and
  - b. In the period November 2015 to February 2016 in relation to the proposed suspension or closure of the RHI Scheme to new applicants and/or the timing of any such suspension or closure.
16. Provide a full account, to your knowledge or belief, in relation to the reason(s) for the delay between the submission of 8 July 2015 to the Minister (a copy of which, bearing Inquiry reference WIT-02751 to WIT-02755, is attached hereto for your convenience) and (a) a decision being taken in relation to that submission on 24 August 2015; and (b) the introduction of the cost controls proposed by that submission.
17. Specify whether you were present at the 'Issues meeting' of 24 August 2015 at which the decision in relation to the 8 July 2015 meeting was



taken. If so, please provide as full an account as you can of that meeting, including what decisions were reached and why; and, insofar as you can recall, the position adopted or advanced by each of those present at the meeting.

18. Please outline your understanding of the extent to which the Minister was obliged or required to (a) consult, (b) engage with, and/or (c) take direction from any Party colleagues in relation to decisions within his Ministerial portfolio (including in particular, but not limited to, dealing with the RHI Scheme).
19. Provide a full account, to your knowledge or belief, in relation to the decision to suspend or close the Scheme to new applicants and, in particular, the timing of that suspension/closure, including:
  - a. The circumstances surrounding the 'recall' of Minister Bell's approval, on 22 January 2016, of a submission of 19 January 2016 (a copy of which, bearing Inquiry reference WIT-02784 to WIT-02796, is attached) in relation to the proposed closure or suspension of the Scheme;
  - b. Any further relevant circumstances or exchanges relating to Minister Bell's subsequent decision to suspend the RHI Scheme; and
  - c. Any further relevant circumstances or exchanges relating to the timing of the suspension of the Scheme and, in particular, any decision or proposal to delay the suspension of the RHI Scheme.
20. Provide any information, to your knowledge or belief, as to the involvement or influence (if any) respectively of:
  - a. Minister Foster;
  - b. Andrew Crawford;

- c. Timothy Johnston;
- d. Stephen Brimstone;
- e. John Robinson;
- f. Any other DUP member, representative, officer or official; or
- g. Any other person (other than a civil servant acting in the course of their duties);

in relation to:

- i. the introduction of cost controls, tiering or amended tariffs in relation to the RHI Scheme and/or the timing of any such changes to the Scheme; and
  - ii. the proposed suspension or closure of the RHI Scheme to new applicants and/or the timing of any such suspension or closure.
21. Information provided to the Inquiry (see, for instance, the submission of 18 December 2016 from Chris Stewart to Minister Hamilton, bearing Inquiry reference WIT-12168 to WIT-12170, a copy of which is provided herewith) suggests that you were present at a meeting between Mr Stewart and Minister Bell in February 2016 during which there was discussion about the alteration of a submission to the Minister at the instigation of the Minister's Special Adviser (Mr Cairns). Please specify whether you were present that meeting. If so, please provide as full an account as you can of that meeting, including, insofar as you can recall, the position adopted or advanced by each of those present at the meeting and the outcome of the meeting.
22. Specify whether you were present at any meetings involving, or between, Minister Bell and Minister Foster in the period January-February 2016 which related to, or touched upon, the RHI Scheme. If so, please provide full details of the meeting (including when and where the meeting occurred, who was present and what was said).

23. Insofar as not addressed in answer to enquiries above, provide full details of any meetings at which you were present in relation to the RHI Scheme.
24. Provide details of the Minister's engagement (if any) with 'stakeholders' in relation to the RHI Scheme during your time as her or his Assembly Private Secretary.
25. Please give full details of any instance throughout the life of the RHI Scheme where, to your knowledge, concerns or difficulties with the RHI Scheme were escalated to, or brought to the attention of, the relevant DETI Minister.

*Promotion of the Scheme*

26. 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 knowing that they might apply, or consider applying, or that they might advise, encourage, assist, or cause other persons to 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.

*Lobbying and pressure*

27. 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.

28. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on you in relation to any aspect of the RHI Scheme. In respect of any such instance specify:
- a. who provided that influence or pressure;
  - b. when it occurred;
  - c. what it consisted of and how it was conveyed;
  - d. what you believed the motivation to have been (and what you now believe the motivation to have been, if different), and why you believe that; and
  - e. how you dealt with it.
29. Identify any instances, to your knowledge or belief, where influence or pressure was exerted on someone else in relation to the RHI Scheme. In respect of any such instance identify:
- a. who provided that influence or pressure;
  - b. who it was exerted on;
  - c. when it occurred;
  - d. what it consisted of and how it was conveyed;
  - e. what you believe the motivation to have been, and why you believe that;
  - f. how it was dealt with; and
  - g. how and when you came to be aware of the influence or pressure.

*Standards of conduct and conflict of interest*

30. 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 (including, but not limited to, by means of making premature or unauthorised disclosures);

- 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.

- 31. 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).

*Whistle-blowing and raising of concerns*

- 32. Identify any instances of which you are aware of whistle-blowing in relation to the Scheme, or disclosures made in the public interest raising concerns about the Scheme, setting out details of when this occurred, to whom and by whom any relevant disclosure was made and how it was dealt with.
- 33. In particular, provide an account of how you dealt with any disclosures raising concerns about the Scheme made or communicated to you at

any time. In relation to each such instance, identify precisely how the concerns were communicated to you.

34. Specify when you first became aware that subsidies payable under the Scheme exceeded the cost of biomass fuel used to produce heat (so that there was an incentive in some cases to produce heat merely to make profit from the Scheme) and how you so became aware.

*General*

35. 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.
36. 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.
37. 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 3 of 2018**

**DATE:**

---

**Witness Statement of: Ian McCrea**

---

I, Ian McCrea, will say as follows: -

*Background*

1. BTECH National Diploma in Business and Finance 1993-93  
Portadown Fireplaces – 1994-1996  
Unipork Cookstown – 1997-1998  
Down Security Alarms – 1998-2000  
Dr William McCrea MP MLA - 2000-2007  
Cookstown District Councillor - 2001 – 2013  
MLA for Mid Ulster - 2007-2016
2. I was appointed as Assembly Private Secretary (APS) to the DETI Minister Arlene Foster MLA by the then Party Leader and First Minister Peter Robinson MLA on 23 September 2014. I do not recall details of any meetings I attended about the RHI Scheme during this time.  
I remained in post when the Party leader appointed Jonathan Bell MLA as DETI Minister on 11 May 2015 until the Assembly was dissolved in 2016. During this time I believe I attended meetings alongside the Minister with officials on matters relating to the RHI Scheme but I took no notes and had no decision making role whatsoever.
3. Other than attending meeting as an APS, I had no active role with regard to the RHI Scheme.



*Role of the Minister's Assembly Private Secretary*

4. To my recollection, the purpose and function of an APS was to provide political support to a Minister by an elected backbencher from the same party, particularly when the minister is engaged directly in business within the Assembly Chamber.
5. The Structures were that of the Minister and Special Advisor the Ministers Private Secretary and the Private office and me as an APS and in my view it was a normal and professional working environment.
6. A-B - The relationship completely professional at all times.  
  
C – I believe my role was also carried out in a friendly and professional way at all times.
7. A – I only received submissions to me DETI Blackberry Mobile and whilst at times I got the gist of them, I did not see it as my role that involved the study and commenting upon any submissions in detail.  
  
B – I applied the same rule to annexes to submissions as in my answer to 7A.  
  
C – I had no role in clearing submissions. I was the responsibility of the Minister and his Special Advisor.

*Involvement with RHI Scheme*

8. Other than attending meetings, I do not recall giving advice to the DETI Minister.
9. See response to Q8 above.
10.
  - a. None.



- i. N/A
  - ii. N/A
  - iii. N/A
- b. None.
- i. N/A
  - ii. N/A
  - iii. N/A
- c. I attended meetings with the Minister but do not recall the detail.
- i. I recall receiving a few generic emails to all MLA's from within the renewable heat industry asking MLA's to oppose the ministers decision however I cannot provide any detail as I have no longer got access to my Assembly account.
  - ii.
- d. Other than attending meetings with the Minister and Attending Assembly debates/ministerial statements, I made no decisions in this regard.
- i. N/A
  - ii. N/A
  - iii. N/A
11. I do not recall when I exactly became aware that there was a problem with the RHI Scheme.
12. During meetings that I attended as an APS with the Minister I became aware that the Northern Ireland Scheme was similar to the Scheme in GB. As part of these meetings I became aware that there was a growing concern about the number of applications could take the costs beyond the figures in GB and that the Department would have to cover the difference.

*Specific issues in relation to Ministerial involvement*



13. I do not recall any meeting, discussion I had or attended and a third party relating to the RHI Scheme.
14. I do not recall having any meetings with the Special Advisor in relation to the RHI Scheme.
- 15.
- a. Other than attending meetings as part of my duties as an APS including joining the Minister in the Assembly chamber, I do not recall any specific details.
- b. Other than attending meetings as part of my duties as an APS including joining the Minister in the Assembly chamber, I do not recall any specific details.
16. I was aware of any delay in the submission of 8 July 2015. I only received submissions vi email and had no role in decisions or signing them off.
- As a rule, I took the summer of from APS Duties as the Assembly is in Summer Recess. I don't recall being in touch with the department throughout the summer until I came back from recess in September.
17. I have no recollection of being at a meeting on 24 August 2015.
18. A-C - None
- 19.
- a. I have no recollection of why this recall happened.
- b. I do not recall any.
- c. I do not recall any.



20.

a. Minister Foster;

i. None

ii. None

b. Andrew Crawford;

i. None

ii. None

c. Timothy Johnston;

i. None

ii. None

d. Stephen Brimstone;

i. None

ii. None

e. John Robinson;

i. None

ii. None

f. Any other DUP member, representative, officer or official; or

i. None

ii. None

g. Any other person (other than a civil servant acting in the course of their duties);

i. None

ii. None

21. I recall being at this meeting however, I did not recall any details until I read this submission (I believe I saw it first on twitter). Since reading it, I have a



vague recollection of the discussions between the Minister and his SPAD about why the minister hadn't been informed of changes to a submission as highlighted by Chris Stewart during the meeting. I cannot recall the specific detail other than voices were raised from both the Minister and the SPAD.

I believe that the Minister and I went to the Assembly Chamber and that Timothy Cairns remained to discuss this matter further with officials.

22. I do not recall attending any meetings between Minister Bell and Minister Foster during that time which related to, or touched upon the RHI Scheme.
23. To my recollection, I mainly only attended meetings on Mondays and Tuesdays as the Ministers APS. I do not have the details of any dates etc as I have no longer any access to my Assembly or DETI accounts.
24. I recall the Minister holding a meeting with the Chair and Vice Chair of the ETI Committee that I believe was about the RHI Scheme however I was not in attendance at this meeting. I do not recall any other meetings.
25. Please see Q12 above. I do not recall when.

#### *Promotion of the Scheme*

26. I do not recall promoting the Scheme or encouraging any one to apply to it.

#### *Lobbying and pressure*

27. I do not recall any.
28.
  - a. I believe I received emails from the Renewables industry and someone possibly from Newtownards.



- b. All MLA's.
  - c. I cannot access my Assembly Account to check.
  - d. Asking MLA's to oppose an early closure of the scheme.
  - e. I believe I emailed Timothy Cairns asking for a response.
29. I do not recall any.
- a. N/A
  - b. N/A
  - c. N/A
  - d. N/A
  - e. N/A
  - f. N/A
  - g. N/A

*Standards of conduct and conflict of interest*

- 30.
- a. None.
  - b. None.
31. I believe that Stephen Brimstone has a boiler installed however, I am not sure if I was aware of it prior to it becoming public knowledge. I have recently become aware of a local business QMAC Silos that has a boiler installed. I know the family who own the business.

*Whistle-blowing and raising of concerns*

32. None
33. As mentioned in a previous answer 28, I recall receiving a few generic emails to all MLA's from the renewables industry and I think from an individual possibly from Newtownards. As would be my normal practice, I emailed the Special Advisor Timothy Cairns to ensure there was a response for our parties MLA's. I don't believe I got I response however I cannot be sure.
34. I do not recall when I became aware.

*General*

35. I do not recall any apart from emails that I mentioned in my replies to questions 28 and 33.
36. I do not recall any apart from meetings I attended which I have outlined in my previous answers.
37. I saved a copy of the submission from Chris Stewart from Twitter I believe (copy enclosed IMC01) I also found a text message from Jim Wells MLA asking if anyone taped 'the infamous Spotlight programme' (copy enclosed IMC02). I do not have any other documentation.

Statement of Truth

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

Signed:

Dated: 5/2/18



**Submission**

**From: CHRIS STEWART**

**Tel No: 028 90529203**

**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. Ian McCrea MLA (the Minister's Assembly Private Secretary) was present for part of the meeting. I did not seek a meeting with the Minister 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.

CF Stewart

CHRIS STEWART



Jim Wells



He will likely not

Tuesday, 17 Jan 2017 • 9:05 am

Did anyone tape the infamous Spotlight programme on the RHI ? For some reason it has been deleted from the BBC i Player. JW

