

Colin Newell
Ballyboyland Biomass
5 The Meadows
Ballymoney
BT53 6AX

By post and email: ballyboylandbiomass@gmail.com

5 February 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, and other information about the RHI Inquiry, are also available on the Inquiry's website at: www.rhiinquiry.org.

You may be aware from media reports that the RHI Inquiry is 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; and the process of requiring persons 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.

The aim of the enclosed Notice is to require you to provide all relevant evidence within your knowledge 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, please state this in your response. Where you can provide evidence, then 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, either by way of further statutory notice or by requiring you to attend to give oral evidence; although in some instances this will remain necessary or appropriate.

If it would assist you, I am happy to meet with you (or your legal representative) to discuss what evidence you may be able to provide and whether it is covered by the Inquiry's request.

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.

Please do not hesitate to contact me to discuss any matter arising.

Yours faithfully



Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE**[No 7 of 2018]**

1. Explain your occupation or employment and why you were interested in the Non Domestic Renewable Heat Incentive Scheme in Northern Ireland ('the RHI Scheme'). In particular, please explain the business of Ballyboyland Biomass including details of when it was established, the main purpose of the business and your prior experience, if any, with businesses of this nature. (For the avoidance of doubt, in the following paragraphs of this Schedule, references to 'you' should be taken to include references to the above-mentioned company with which you were associated, as appropriate).

2. Please explain the direct or indirect involvement that you had with, or in relation to, the RHI Scheme or any aspect of it prior to its suspension in February 2016. In particular, please provide full details of the following:
 - a. Why you decided to apply to the Scheme;
 - b. The dates your boilers were installed;
 - c. The dates you made applications to the Scheme;
 - d. The dates your installations were accredited;
 - e. The dates upon which you received your first RHI payment;
 - f. The company you employed to provide and install your biomass boiler;
 - g. The company, if any, you engaged to assist with your application to the Scheme; and
 - h. The purpose for which the boilers were required.

3. Explain if, when and why you started work in the renewable energy sector. In particular, explain whether this was related in any way to the availability of subsidies under the RHI Scheme.

4. The Inquiry is aware, from documentation provided to it, that you were in communication with officials from the Department for Enterprise, Trade and Industry [DETI] on or around 17 April 2015 [see the documents bearing Inquiry

reference OFG-106912 to OFG-106913, copies of which are attached hereto for your information]. As to this:

- a. Why were you in contact with DETI and/or Seamus Hughes in April 2015? What information were you seeking and why?
 - b. Why did Seamus Hughes send you an email entitled "RHI Statistics" on 17 April 2015?
 - c. Please explain the nature of the telephone call (referred to in the email) and any other prior communications between you and DETI/Seamus Hughes.
 - d. Why were you interested in statistics relating to RHI?
 - e. In what way did you use the information contained within the email?
 - f. Did you forward the email to anyone else or share the information in the email with anyone else? Please give relevant details including who you shared it with, when, how and why.
 - g. To your knowledge, did anyone else forward the email to any further person or share the information in the email with any further person? Please give relevant details including who it was shared with, by whom, when, how and why.
 - h. Did you take any other action on foot of the email (such as making any further enquiries about the RHI Scheme or possible application under the Scheme)? In particular, did the information contained within the email have any impact on your decision to apply for six additional biomass boilers in September 2015? Please include details of any such further action.
 - i. Did you speak to or communicate with Seamus Hughes/DETI about the email, or the information contained within it, after receiving the email? If so, please provide the details of that conversation or communication.
5. It appears to the RHI Inquiry from information provided to it that you applied for the accreditation of installations under the Scheme during the period known as the autumn 2015 'spike' (that is to say, between 24 August 2015 and 18 November 2015). As to that (and in respect of each such application), please address the following matters:

- a. Why did you make applications to the Scheme at that time?
 - b. Did anyone encourage you to make an application to the Scheme at that particular time? If so, please identify who did so, when, and what reason was given for the encouragement.
 - c. Were you warned in any respect about the forthcoming introduction of cost controls, or tiered or amended tariffs, into the Scheme? If so, in respect of each such warning, beginning with the earliest, please identify who provided this warning, when, how and (insofar as you can) in what terms.
 - d. Without prejudice to the generality of sub-paragraph c. above, were you in contact with any Minister, Special Adviser or Civil Servant in respect of proposed changes to the Scheme? If so, please provide full details including, in respect of each such contact, who it was with, when it occurred, how it occurred and (insofar as you can) the substance of what was said, discussed or communicated.
 - e. Please explain, in respect of your installation(s) for which application for accreditation to the Scheme was made within the above period, how long it took from ordering the relevant plant to it being installed and commissioned.
 - f. Please explain any steps taken by you to expedite your application to the Scheme, including steps taken in order to ensure that your application was submitted in advance of 18 November 2015.
6. Specify whether you were encouraged by any party to seek accreditation under the Scheme, were assisted in doing so, or were provided with information which encouraged you to apply or to consider applying. Please provide full details, including the identity of the person or persons concerned and the relevant dates.

7. Specify whether you used any information which had been shared with you to 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 information you shared, the third party concerned and the date of any steps taken by you in that regard.
8. Specify whether you are aware of any parties sharing information in relation to the RHI Scheme (in particular, but not limited to, information about the amendment of the Scheme or the introduction of costs controls into the Scheme) with any other persons, giving details of the identity of such other persons and what information was shared in relation to the RHI Scheme.
9. Please provide details of each and every communication, either direct or indirect, between you and any other person in relation to the RHI Scheme (providing the nature, date, and place of each communication as well as details of the persons between whom each such communication occurred).
10. Specify any email addresses used by you and any telephone numbers used by you in relation to any communication about the RHI Scheme.
11. 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.
12. Please explain why you applied to the Scheme for multiple 99kW boilers instead of a smaller number of larger boilers.
13. Please explain whether, during the application and accreditation process, Ofgem at any time queried your repeated applications for multiple 99kW boilers?

14. The Inquiry is aware, from documentation provided to it, that certain of your installations were the subject of an audit initiated by Ofgem in summer 2016. As to that:
- a. When did the audit of your installations take place?
 - b. Was the audit pre-notified or unannounced?
 - c. Who conducted the audit? Please provide the name of the organisation and the name of the individual(s).
 - d. Did you co-operate with the audit?
 - e. What access did the auditors have to your installations?
 - f. What investigations did the auditors undertake?
 - g. What information were you asked to provide in relation to the audit?
 - h. Were you able to provide such information? If not, why not? If so, what information did you provide and when was it given to Ofgem and/or the auditors.
 - i. Were your payments from the Scheme suspended or terminated at any time during the audit process? If so, please provide details.
 - j. What was the outcome of the audit?
15. Describe your links (whether professional or personal), if any, to any political parties, their representatives or officials.
16. Provide any further evidence within your knowledge or belief which is relevant to the matters that 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.

From: Edmund Ward

Sent: 18 November 2015 13:59

To: Dorothy Oti-Amankwah; Ali Iqbal; Calum Hutchison

Cc: Jane Pierce; Katy Read; Christopher Mack; Gareth John; Sarah Russell; Cheryl Fox; Teri Clifton; Steve Blackie

Subject: NDRHI Tariffs and Technologies CR - next steps

Hi Dorothy, All

To confirm following recent developments, and as very briefly discussed with Ali:

- We'd like to **proceed** on our "NDRHI Tariffs and Technologies" change request
- This delivers the functionality which in much of the previous scoping work/reporting has been shortened to our **Northern Ireland/NI CR** – but as this includes base functionality that may have application for both GB and NI schemes, it would be great if references to this project in the monthly IT cost report (Greensheet) and associated reporting could be updated to reflect this going forward
- We'd like to proceed with the **Original Estimate** as per Ali's email attached:
- Just to confirm in terms of scope, this means:
 - with the scope to **include** the New Technologies and HE100 Dependency
 - **not** splitting into two separate releases
- Northern Ireland regulation changes came into force today 18 November, and this gives a required release date in advance of **16 February 2016**
- To progress the planning and execution on this, next steps are:
 - An **updated project plan** with timings and resource allocation to be created – could you complete a **first draft by COP Friday** so we can review alongside resource allocations and current application support priorities
 - Work could begin, in parallel, on the detailed requirements phase
 - i.e. **PM/BA/TA** allocation could, from a business perspective be progressed as of today – subject of course to availability/allocation
 - **No development work to be undertaken** on this project until this can be prioritized versus existing bugs and CRs
 - As a starting point for planning, I'd suggest **Developer allocation to be from beginning of January 2016** – but **happy to discuss** if this presents challenges to delivery

For the purposes of planning and forward forecast, please could you update your proposed allocations for November – March to incorporate this project, as well as taking account of the other allocation changes as per my separate note on ongoing IT support. Suggest we then meet to discuss to confirm allocations, budgets and priorities.

Kind regards,

Edmund

Internal Only

To: Katy Read[Katy.Read@ofgem.gov.uk]; Edmund Ward[Edmund.Ward@ofgem.gov.uk]; Dorothy Oti-Amankwah[Dorothy.Oti-Amankwah@ofgem.gov.uk]; Calum Hutchison[Calum.Hutchison@ofgem.gov.uk]
Cc: Jane Pierce[Jane.Pierce@ofgem.gov.uk]; Christopher Mack[Christopher.Mack@ofgem.gov.uk]; Gareth John[Gareth.John@ofgem.gov.uk]; Sarah Russell[Sarah.Russell@ofgem.gov.uk]; Cheryl Fox[Cheryl.Fox@ofgem.gov.uk]; Teri Clifton[teri.clifton@ofgem.gov.uk]; Steve Blackie[Steve.Blackie@ofgem.gov.uk]
From: Ali Iqbal
Sent: 2015-11-23T12:13:08Z
Importance: Normal
Subject: RE: NDRHI Tariffs and Technologies CR - next steps[OFFICIAL Internal Only]
Received: 2015-11-23T12:13:09Z

Hi Katy
Jane and James have been added to view the project.
Thanks
Ali

Ali Iqbal
Senior IT Project Manager
Information Management and Technology
9 Milbank
London
SW1P 3GE
Tel: 020 3263 9892
Mobile: Personal information redacted by the RHI Inquiry
www.ofgem.gov.uk



From: Katy Read
Sent: 23 November 2015 11:03
To: Ali Iqbal; Edmund Ward; Dorothy Oti-Amankwah; Calum Hutchison
Cc: Jane Pierce; Christopher Mack; Gareth John; Sarah Russell; Cheryl Fox; Teri Clifton; Steve Blackie
Subject: RE: NDRHI Tariffs and Technologies CR - next steps[OFFICIAL Internal Only]

Hi Ali,
Can you give Jane Pierce and James Woods-Segura access as well please?
Thanks
Katy

From: Ali Iqbal
Sent: 20 November 2015 16:35
To: Edmund Ward; Dorothy Oti-Amankwah; Calum Hutchison
Cc: Jane Pierce; Katy Read; Christopher Mack; Gareth John; Sarah Russell; Cheryl Fox; Teri Clifton; Steve Blackie
Subject: RE: NDRHI Tariffs and Technologies CR - next steps[OFFICIAL Internal Only]

Hi Edmund
I have created a provisional plan in Workfront, yourself Katy, Chris, Cheryl and Sarah have access, please let me know who else needs access. The plan starts development on the 14th of December, for this UAT and QA are in parallel and this takes us to 10th of February, I will be further refining next week.
Thanks
Ali

Ali Iqbal
Senior IT Project Manager
Information Management and Technology
9 Milbank
London
SW1P 3GE
Tel: 020 3263 9892
Mobile: Personal information redacted by the RHI Inquiry
www.ofgem.gov.uk



Received from OFGEM on 07.06.2017
Annotated by RHI Inquiry



BALLYBOYLAND BIOMASS

Personal information redacted

RHI Inquiry Statement
[No 7 of 2018]

5th April 2018

1. In 2013 I was a Flooring Contractor completing work throughout Ireland and Mainland UK, with a personal interest in Farming and the Renewable Energy Sector. Which brought me to attend an Energy Event held at Greenmount Campus, where it was explained to me that there was a commercial Renewable Heat Incentive on Biomass Fuels, guaranteed incentives for 20 years, which I was reassured they were protected under Grandfathered Rights.

On my return home that evening and the following months to come I developed a business idea to manufacture Biomass Fuel for the participants in the scheme, as there was only one other main supplier at the time. March 2014, at this point I set up a business called Ballyboyland Biomass and ran it alongside my Flooring Business. In the months to come I made a large decision to give up my Flooring Business which I had been running for over 15 years to concentrate on Ballyboyland Biomass. I invested upwards in £1,000,000 in the following two years, and then be told that my guaranteed income was being changed. Also the CHP Tariff which was promoted to us by government officials of which was a lie because two years later we were informed by the same department that the scheme was never legitimate. At this stage we had spent over £550,000 on project development and had funding in place for £25m, this would have been a much needed project for the North Antrim area as we have seen job losses from The Gallagher/Michelin Plant and now Wright Buses reducing their work force also.

2a. I applied to the scheme as I was informed it was a guaranteed scheme for 20 years.

2b. Installed - 2 x Boilers July 2014. 4 x December 2014. 6 x September 2015

2c. Applications to the scheme - 2 x Boilers 5th August 2014. 4 x February 2015. 6 x 5th October 2015

2d. Accredited - 2 x Boilers 29th August 2014. 4 x February/March 2015. 6 x 18th October 2015

2e. Date 1st Payment - 2 x Boilers 29th October 2014. 4 x 15th April 2015. 6 x 8th January 2016

2f. 2 x Boilers Winters Renewables. 4 x Green Energy Technology. 6 x Green Energy Technology

2g. 2 x Boilers Winters Renewables. 4 x Green Energy Technology. 6 x Green Energy Technology

2h. For the manufacturing of Wood Fuel.

3. March 2014 was when I started physically working in the Renewable Energy Sector. Completing the initial fit-out in July 2014 with two further phases of expansion over 2014/2015, due to the demand for Biomass Fuel.

Colin Newell, Ballyboyland Biomass

4a. Seamus Hughes was contacted in April 2015 as he had been over several months before and after this date, in relation to another project in which I was involved into the development of a (CHP) Plant for the manufacturing of Biomass Fuels.

4b. This was in relation to a study I was carrying out on fuel demands for Northern Ireland in relation to us securing £25m worth of funding.

4c. This was one of many conversations that I had with DETI/Seamus Hughes in regards to the development of the CHP Plant (McGuigian Milling).

4d. To prove to our funders that we had a demand for the fuel in which we were going to produce from the CHP Plant.

4e. To confirm my Projections

4f. The email was shared with everyone involved with the McGuigian Project, as this was a sizable project.

4g. To the best of my knowledge no one outside the Project Development team would have saw it.

4h. There was a further several hundred thousand pounds invested in a project to which we were receiving encouragement to progress with, as there was a need for a scheme like this in North Antrim to provide jobs for the local area. The 6 additional boilers installed at Ballyboyland Biomass was driven by market demand for the product we were producing, hence expansion.

4i. Yes, as before, myself and the CHP Development team were in regular contact with DETI/Seamus Hughes/Ministers in relation to the development of the CHP Plant.

5a. As this phase was costing several hundred thousand pounds; it had been in design and development stages from early 2015, long before the 'spike' period.

5b. No

5c. No

5d. We were in contact with Ministers (1st and Deputy) but this was in relation to the CHP Project.

5e. 6 months.

5f. None, as my phase was long under development before I was aware of a November date.

6. No

7. We took a lot of guidance from DETI/Seamus and Stuart on the CHP Application on a regular basis, being assured that we would be successful on following their guidance.

8. Cost controls, which were being introduced, we were informed it would not be impacting on the Non-Domestic RHI for CHP Plants.

9. We have several years of communications with DETI/Ministers/MLA's/Councillors, which count up to in the region of over 1400 emails.

10. As of above.

11. When I attended Public Seminars in Greenmount Campus promoting the Scheme, the slides showed cost of fuel alongside the Incentive.

12. I applied to the Scheme as advised by Invest NI.

13. No

Colin Newell, Ballyboyland Biomass

14a. June 2016.

14b. On this occasion it was a pre-notified Audit, we also had an unannounced Audit thereafter.

14c. The pre-notified Audit was conducted by Ricardo on the behalf of Ofgem. The unannounced Audit was carried out by 2 parties, DFE and an Ofgem representative.

14d. Yes

14e. Full site access was given.

14f. A full Ofgem Audit was carried out.

14g. Proof of Fuel Sales.

14h. Yes, several hundred invoices were made available for inspection.

14i. No

14j. Ofgem was satisfied that we were in Full Compliance with the RHI Scheme.

15. Yes, the CHP Development Team and I had ongoing dialogue with many of the Political Parties and their representatives/Officials in relation to the development of the CHP Project. These were all of a professional manner.

16. As the CHP Tariff, which was publicised and made available by DETI was part of the Non-Domestic Renewable Heat Incentive, I feel that it is well within the Inquiries terms of reference to investigate this misleading to the point we received a letter from the then Minister Mr Hamilton, which confirms that there is a CHP Tariff for Northern Ireland. This incompetence of senior figures has left a local business to the point in which a successful businessman is now in a position in which his family home (which includes 3 young children under the age of 8) along with his wife, may lose their family home.

Colin Newell, Ballyboyland Biomass

Received from Colin Newell on 05.04.18
Annotated by the RHI Inquiry