



Mr Robert Livingstone
Share Discovery Village
Smith's Strand
Lisnaskea
Enniskillen
Co Fermanagh
BT92 0EQ

By post and email (robert@sharevillage.org)

12 June 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.

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. 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 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, although in many cases this is likely to be necessary to some degree.

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.

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 a legal representative or

representatives, 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 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 124 of 2018]**

1. Provide details of your occupation(s) and/or employment during the period November 2012 to the date of answering this Notice.
2. Explain, in respect of any sector in which you did business in the said period, whether your decision to enter this sector and/or the timing of such entry was related in any way to the availability of subsidies under Non Domestic Renewable Heat Incentive Scheme in Northern Ireland ('the RHI Scheme').
3. Explain why you / your business first became interested in the RHI Scheme.
4. 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 date each of your biomass boilers was installed;
 - c. The date you made each application to the Scheme;
 - d. The date each of your biomass installations was accredited;
 - e. The installed capacity (in kW) and efficiency of each of your biomass boilers;
 - f. The date upon which you received your first RHI payment;
 - g. The person or company you employed to provide and install each of your biomass boilers; and
 - h. The person or company, if any, you engaged to assist with each of your applications to the Scheme.
5. It appears to the RHI Inquiry from information provided to it that you applied for accreditation of an installation or installations under the RHI Scheme between August 2015 and 18 November 2015 when there was a marked 'spike' in the number of such applications generally. As to that (and in respect of each such

application), please address the following matters:

- a. Why did you make an application to the Scheme at that time?
 - b. Did anyone encourage you to make an application to the Scheme at or around 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 possible introduction of cost controls, tiered or amended tariffs, or an annual eligible heat cap into the Scheme? If so, in respect of each such warning, beginning with the earliest, please identify who provided this warning, when they did so, how it was communicated 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 ('SpAd') 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 person to seek accreditation under the RHI Scheme, were assisted in doing so, or were provided with information which encouraged you to apply or to consider applying or which influenced the timing of any such application. 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 RHI 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 anyone 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, as far as you can.
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. The Inquiry has been made aware, from information provided to it, that the Share Discovery Village was the recipient of at least three Invest NI-funded technical reports provided by various technical consultants between 2013 and 2015:
 - *'Renewable Energy Technology Review for Share Centre' prepared by Action Renewables and dated April 2013 is at Inquiry reference WIT-144670 to 144700;*
 - *'Energy Management & Efficiency – Share Village (Discovery 80),*

Lisnaskea prepared by *Beers Engineering Consultancy Ltd* for yourself as Director of the Share Village and dated 09 September 2013 is at Inquiry Reference WIT-145785 to 145821;

- *'Biomass for Share Centre* prepared by *Element Consultants*, dated 15 January 2015, with the recipient email address noted as david@sharevillage.org is at Inquiry reference WIT-149241 to 149267;

In relation to this, please address the following:

- a. Explain how you came to receive these Invest NI funded reports for the business, including details of who advised you to pursue them and who initiated the process on each occasion;
- b. For each report, clarify who appointed the consultant to conduct the report and indicate who the Invest NI Technical Advisor responsible for each report was;
- c. Specify who your contact(s) were in Invest NI throughout this period;
- d. For each report, clarify the level of engagement you had with both the consultants who were conducting the report and Invest NI in relation to the report, including but not limited to, discussions on the remit of the report, any drafts of the report, the content and conclusions of the report and any discussions related to renewable heat and the RHI Scheme relevant to the report. For each report, provide details of the name of the person(s) in each consultancy firm and Invest NI that you engaged with, the dates of all communications, the content of the discussions/communications and identify all documentation you have relevant to these communications;
- e. Clarify the reasons why three different reports were conducted for your business during this period, providing details of who requested or advised the production of the additional reports and what, if any, directions or indications were given to the consultants as to the focus of

the reports. Provide details of the content of all discussions/communications you are aware of in relation to this and identify all documentation you have relevant to such communications;

- f. Without prejudice to the generality of paragraph 11(e), clarify for each report, whether you or anyone in Invest NI directed or otherwise encouraged the consultant to consider the use of biomass and/or the financial returns potentially available under the RHI Scheme for the business. In relation to this, and for each such instance, provide the name(s) of the person(s) involved, the date(s) of the discussion(s) and identify all relevant documentation relating to such communications;
 - g. The report of January 2015 conducted by Element Consultants is specifically entitled 'Biomass for Share Centre'. Outline the reasons for a report specifically considering the use of biomass for the Centre and clarify at whose request or under whose advice the report was conducted with this focus, providing the name(s) of the person(s) involved, the date(s) of the discussion(s) and identifying all relevant documentation relating to such communications; ;
 - h. Clarify, for each report, whether you were presented with, or are aware of, there having been previous versions of your final technical report. If yes, indicate whether any material changes were made to the report and if so, clarify the content of those amendments and the identity of the person who requested them, providing full detail of any discussions in which you were involved in in relation to the amendments and identify any correspondence relevant to same;
 - i. Clarify, for each report, whether the information contained therein encouraged you to make an application to the RHI Scheme.
12. Specify when you first became aware that tariffs payable under the RHI Scheme exceeded the cost of biomass fuel used to produce heat and/or the cost of producing a unit of 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. Without prejudice to the foregoing, please also provide details of the following:

- a. The type of biomass fuel burned by each of your / your business' biomass boilers (for example, wood pellets or wood chips) and, in the case of wood chip (if applicable), the moisture content of same;
 - b. Whether you / your business were able to obtain a discount on fuel prices by, for example, bulk buying, group buying, and/or entering into a long-term supply contract and, if you were so able, please provide details of this;
 - c. The prices paid by you / your business for each fuel type (in £/tonne and/or p/kWh) including details of how these prices changed over time (if applicable);
 - d. Any other operating costs you / your business incurred (e.g. electricity) when producing heat with biomass fuel;
 - e. The steps (if any) taken by you to alert other persons (including, for example, DETI or Ofgem officials, politicians, their advisers, and/or other persons in the commercial world) to the fact that the relevant RHI tariff exceeded the cost of biomass fuel and/or the cost of producing a unit of heat with biomass fuel.
13. The Enhanced Capital Allowances Scheme (ECA) was available for certain renewable energy technologies, including some of those falling within the RHI Scheme. This enabled businesses to claim 100% tax relief on the purchase of eligible equipment in the year of purchase. In relation to this, please explain:
- a. Whether you availed of such relief in respect of any of your biomass installations;
 - b. If so, please explain:

- i. At what stage you became aware of the ECA scheme and how you became so aware;
 - ii. Whether you were encouraged to avail of the said tax relief, providing all relevant details of who encouraged you, and when and how they did so;
 - iii. Whether the prospect of benefitting from this tax relief enhanced your interest in the RHI Scheme;
 - iv. Whether you were aware at any time of any changes that occurred in respect of the ECA system (such as, for example, the removal of any renewable heat technology from the list of technologies eligible for 100% write-off in a single year), including, in particular, how you became so aware;
- c. The date(s) on which you purchased your biomass boiler(s);
- d. The date(s) on which you registered with the ECA scheme;
- e. The amount of tax relief you benefitted from for each biomass installation under the ECA scheme, providing all documentation in relation to this;
- f. Whether you applied for, received or in any way benefitted from any further form of financial assistance in order to purchase and/or install any biomass boiler(s) and related heating systems which are accredited under the RHI Scheme, (including but not limited to, grant aid, interest-free loan, tax relief or any other form of financial incentive).

14. Except to the extent that it has already been comprehensively addressed in your answers to the foregoing questions, provide details of your past and

current connections (if any) with the following, insofar as they are of potential relevance to the RHI Scheme and the Inquiry's Terms of Reference:

- a. The Democratic Unionist Party ('DUP');
- b. Action Renewables;
- c. The Renewable Heat Association of Northern Ireland ('RHANI').

15. Except to the extent that it has already been comprehensively addressed in your answers to the foregoing questions, please set out any potential risks, flaws, problems, anomalies, loopholes, or other issues regarding the RHI Scheme which came to your attention, setting out details of when you first became aware of each such issue and the actions (if any) taken by you as a result.
16. Except to the extent that it has already been comprehensively addressed in your answers to the foregoing questions, please 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.



RHI/201

RHI Inquiry

31 AUG 2018

INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME

RHI REF: Notice 124 of 2018

DATE:

Witness Statement of:

I, Robert Livingstone, will say as follows: -

1. C.E.O. Charity Share Discovery Village.
2. Share has been using Biomass for heating for 10+ Years. RHI offered subsidised fuel costs to help reduce our raising energy costs.
3. To help reduce our energy costs over a 20 year period.
4. 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. To reduce the cost of our fuel bills
 - b. 05/10/2015
 - c. 23/10/2015
 - d. 1 x 30/03/2016 & 3x 28/05/2016
 - e. 99kw 93.3%
 - f. 14/4/2016
 - g. John Smith, CHP Mechanical
 - h. Alternative Heat
5. It appears to the RHI Inquiry from information provided to it that you applied for accreditation of an installation or installations under the RHI Scheme between August 2015 and 18 November 2015 when there was a marked



'spike' in the number of such applications generally. As to that (and in respect of each such application), please address the following matters:

- a. The share Trustees discussed applying for RHI for over a year before we made the application. It also took approx 9mth to organise a bank loan and for the Share's trustees to approve applying for a loan and applying for the RHI scheme.
 - b. No. We had recognised this as a good scheme as we were already using biomass boilers.
 - c. When we were installing our boilers there was general discussion about amended tariffs possibly in the future.
 - d. No.
 - e. 4 Weeks
 - f. None taken. Our submission was underway and in process. No additional steps were necessary.
6. We were not encouraged to apply. We discussed RHI at trustee level for over a year before we looked for different installers and suppliers. We checked our different installers for work standards and then settled on a supplier. We had used biomass at Share for many years and had our own acquired expertise. Invest N.I. report Biomass for Share Centre. 15th January 2015 recommended looking at the RHI scheme.
7. We did not share any information about RHI all reports were confidential.
8. It was common topic of discussion that cost controls would eventually be introduced.



RENEWABLE HEAT INCENTIVE INQUIRY

9. Admin@CHPmechanical.com for pellet boiler quotation
BrendanCrawley@alternativeheat.co.uk for RHI & Ofgem initial set up
Alinico Personal information redacted by the RHI Inquiry for Invest NI Report

10. Admin@CHPmechanical.com 02843750988
BrendanCrawley@alternativeheat.co.uk02843770700
Alinico Personal information redacted by the RHI Inquiry 01577830050

11. The Inquiry has been made aware, from information provided to it, that the Share Discovery Village was the recipient of at least three Invest NI-funded technical reports provided by various technical consultants between 2013 and 2015:

- *'Renewable Energy Technology Review for Share Centre' prepared by Action Renewables and dated April 2013 is at Inquiry reference WIT-144670 to 144700;*
- *'Energy Management & Efficiency – Share Village (Discovery 80), Lisnaskea' prepared by Beers Engineering Consultancy Ltd for yourself as*

Director of the Share Village and dated 09 September 2013 is at Inquiry Reference WIT-145785 to 145821;

- *'Biomass for Share Centre' prepared by Element Consultants, dated 15 January 2015, with the recipient email address noted as david@sharevillage.org is at Inquiry reference WIT-149241 to 149267;*

In relation to this, please address the following:

- a. We had a dedicated Invest NI rep
- b. 1) ? 2) ? 3) Jim Clarke appointed Ali Nicol



- c. ? ? 3) Jim Clarke
 - d. ? ? 3) Jim Clarke arranged for Ali to complete an assessment and write up a report. Mr Nicol would have asked for some information on energy consumption and geographical details of the site and our demands.
 - e. Share's main aim was to reduce costs by making energy savings and utilising renewable energy as this fits with our ethos. Our energy costs are one of our major outlays and any savings could prove significant.
 - f. Not aware of any such instances
 - g. Jim Clarke our Invest NI rep commissioned the report due to our existing use of Biomass and our environmental ethos.
 - h. Not aware of any previous drafts
 - i. 1)No 2)No 3)Yes ?????
12. Specify when you first became aware that tariffs payable under the RHI Scheme exceeded the cost of biomass fuel used to produce heat and/or the cost of producing a unit of 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. Without prejudice to the foregoing, please also provide details of the following: 2014
- a. Wood pellets
 - b. No
 - c. 10/2015 – euro 225, increase in 11/2015 to euro 220 reduced in 7/2016 to euro 205
 - d. Electricity, maintenance & service costs



e. None

13. The Enhanced Capital Allowances Scheme (ECA) was available for certain renewable energy technologies, including some of those falling within the RHI Scheme. This enabled businesses to claim 100% tax relief on the purchase of eligible equipment in the year of purchase. In relation to this, please explain:

a. No

b. If so, please explain:

i.

ii.

iii.

iv.

c.

d.

e.

14. Except to the extent that it has already been comprehensively addressed in your answers to the foregoing questions, provide details of your past and current connections (if any) with the following, insofar as they are of potential relevance to the RHI Scheme and the Inquiry's Terms of Reference:

a. No connections with the D.U.P.

b. As described in the previous sections.



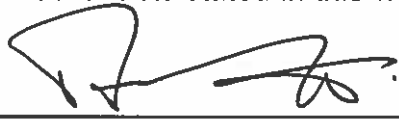
c. No connections.

15. None

16. None

Statement of Truth

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

Signed:  _____

Dated: 28th Aug 2018.