



RENEWABLE HEAT  
INCENTIVE INQUIRY

**WIT-24351**

RHI Inquiry  
1st Floor, Waterfront Plaza  
8 Laganbank Road  
BELFAST BT1 3LY

T: 028 9040 8833

E: [general@rhiinquiry.org](mailto:general@rhiinquiry.org)

W: [www.rhiinquiry.org](http://www.rhiinquiry.org)

Iain McFarlane  
Departmental Accountant/Head of Finance  
Netherleigh  
Massey Avenue  
Belfast  
BT4 2JP

By post and email [iain.mcfarlane@economy-ni.gov.uk](mailto:iain.mcfarlane@economy-ni.gov.uk)

18 October 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').

The Inquiry is grateful for the witness statement you provided to it dated the 11 October 2017.

The statement has been considered by the Inquiry and there are a number of further matters the Inquiry wishes to ask you about.

Therefore, please find enclosed with this letter a further Section 21 Notice requiring 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.

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



**Patrick Butler**

Solicitor to the RHI Inquiry

02890408928

**SCHEDULE****[No 522 of 2017]***Paragraph 10 (WIT-24338)*

1. Did ACB provide the secretariat function for the March 2012 Non Domestic RHI scheme casework committee? Please explain the basis of your answer.

*Paragraph 45 (WIT-24348)*

2. You have explained to the Inquiry that you were involved with the RHI Steering Group between June 2016 and November 2016. In paragraph 45 of your statement of the 11 October 2017 you explain that you learnt about changes made to the 8 July 2015 submission to the DETI Minister. Please set out exactly what you learnt had happened through your membership of the RHI Steering Group and, for each piece of information, where the information came from.
3. For the assistance of the Inquiry (obtaining any necessary assistance from DfE colleagues) please chart (exhibiting each version) the development of the 8 July 2015 submission (including who sent each draft to whom, and when), both before and after the 8 July 2015.
4. Please set out the circumstances under which it would be acceptable to subsequently alter the content of a submission after it has been submitted to, and considered by, a Minister. Please explain the reasons for your answer.

**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.



funding et al. of the projects/schemes being brought to it for consideration. These responsibilities lie with the Division sponsoring the project/scheme. In the case of RHI, this was Energy Division.

#### *Contribution to Business Cases*

8. ACB is not involved in the preparation of business cases.
  
9. In relation to the RHI Scheme, ACB's main role was the management of the casework process and secretariat function to the casework committees. The branch acted as a conduit for submission of approved RHI casework papers to the Minister and/or DFP (now DoF) seeking approval. ACB also acted as the departmental finance contact point for all DFP Supply correspondence in relation to RHI casework queries and co-ordinated responses to DoF on behalf of Energy Division.

#### *Involvement with RHI Scheme*

10. As Head of ACB my involvement with RHI was as follows:

ACB sought DoF approval for the engagement of consultants to undertake the RHI Economic Appraisal on behalf of Energy Division (December 2010);

ACB sought approval for the establishment of the Third Party Organisation Relationship with OFGEM from the Accounting Officer on behalf of Energy Division (March 2012);

ACB sought DoF approval for the non-domestic RHI Scheme on behalf of Energy Division (March 2012);

ACB sought DoF approval for the engagement of consultants to undertake work on Phase 2 of the RHI Scheme on behalf of Energy Division (November 2012);

**INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME****RHI REF: Notice 522 of 2017****DATE: 1 November 2017**

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**Witness Statement of:**

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I, Iain McFarlane, will say as follows: -

*Paragraph 10 (WIT-24338)*

1. ACB did not provide the secretariat function for the March 2012 Non Domestic RHI scheme casework committee. At that time it was the responsibility of Divisions bringing forward a project/programme to minute and arrange their own casework meetings. ACB took over the secretariat role for Departmental cases in 2014.

*Paragraph 45 (WIT-24348)*

2. I learnt from general discussion at the two RHI Steering Group meetings in July and August 2016, in relation to options for changes to the Scheme going forward, that the date of implementation of the tariff changes had been changed from 1<sup>st</sup> October 2015 to 4<sup>th</sup> November 2015. I cannot recall who highlighted the change in date or at which meeting it was discussed. I recall that it was clear from statistical information available at the meetings that the change in closure date had impacted on the number of applicants in that period. I also became aware of the changes made to the submission to the Minister whilst co-ordinating the preparation of briefing for the Accounting Officer prior to his appearance at the PAC Hearings in September 2016.
3. I am unable to chart the development of the 8 July 2015 submission as I was not involved in its preparation. I was not copied in to the submission when it issued to

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the Minister or at any earlier stage. I was on annual leave from 29 June 2015 to 26 July 2015.

4. I am unaware of any defined circumstances/guidelines under which it would be acceptable to subsequently alter the content of a submission after it has been submitted to, and considered by, a Minister. However I understand it would be acceptable following identification of a factual error in the information provided. It would also be acceptable to alter the submission following the identification of a material change to the information originally presented that would need amended to ensure it is accurate and as up to date as possible. It would not be unusual to amend and resubmit a submission if the information previously submitted needed to be corrected/updated. I understand that the submission would then be resubmitted for the Minister's consideration, with changes highlighted, in both situations above.

Statement of Truth

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

Signed: 

Dated: 1 / 11 / 17