



RENEWABLE HEAT
INCENTIVE INQUIRY

WIT - 263801

RHI Inquiry

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Janet McCollum

Moy Park Limited

The Food Park

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By post and email:

Personal information redacted by the RHI Inquiry

2 June 2017

Dear Madam

Re: The Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme

Provision of a Section 21 Notice requiring the provision of evidence in the form of a written statement

I am writing to you in my capacity as Solicitor to the Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme (known as 'the RHI Inquiry') which has been set up under the Inquiries Act 2005 ('the Act').

I enclose a copy of the RHI Inquiry's Terms of Reference for your information.

You will no doubt be aware that the RHI Inquiry is conducting its investigations into the matters set out in its Terms of Reference. The Inquiry is continuing with the process of gathering all of the relevant documentation from relevant departments, organisations and individuals. In addition, the Inquiry has also now begun the process of requiring individuals who have been, or who may have been, involved in the range of matters which come within the Inquiry's Terms of Reference to provide written evidence to the Inquiry Panel.

Chairman: Rt Hon Sir Patrick Coghlin | Secretary: Andrew Browne | Solicitor: Patrick Butler

In this context, it would be of assistance to the Inquiry to have a statement on behalf of the Moy Park Limited ('Moy Park') setting out its 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 Notice is provided to you because, as Chief Executive and Director of Moy Park, you are considered to be the appropriate person to receive it. The Inquiry may also seek evidence from other servants or agents (or former servants or agents) of Moy Park in relation to their personal involvement in, and knowledge of, the Scheme.

For the avoidance of doubt, the statement which is required of you by virtue of the enclosed Notice is a statement setting out the position of Moy Park in relation to the Scheme, rather than your own personal involvement (though no doubt any personal involvement you have had will inform the content of the statement). The Inquiry understands that you will have access to all of the relevant information in order to provide the witness statement required. Should you consider that not to be the case, please advise the Inquiry of that as soon as possible.

Please bear in mind that, although the RHI Inquiry now has a good working knowledge of the RHI Scheme, the witness statement required by the enclosed Notice is likely (in common with others) to be published by the RHI Inquiry in due course. It should therefore ideally be written in a way which is as accessible as possible in terms of public understanding.

The aim of the enclosed Notice is to require you to provide all relevant evidence you have within your knowledge, information or belief which is pertinent to the Inquiry's Terms of Reference. The Schedule to the enclosed Section 21 Notice provides further detail as to the matters which should be covered in the written evidence which is required from you. In the event that there is a category of information in respect of which you have no evidence which you can provide, please state this in your response. Where you can provide evidence, the more comprehensive your statement is, the less likely it is that the Inquiry will have to revert to you at a later stage for clarification, although in many cases this is likely to be necessary to some degree.

Receipt of this correspondence and its enclosures places you under a duty of confidentiality to the RHI Inquiry in respect of them. You may share the correspondence and the enclosed Notice with your legal representative(s) and any relevant servants or agents of Moy Park 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

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE

[No 266 of 2017]

Background

1. Set out:
 - a. details of those persons (if any) within Moy Park who have had, during the period from 2010 onwards, any responsibility for, or role in respect of, renewable energy issues and, in particular, the Northern Ireland Non Domestic Renewable Heat Incentive Scheme ('the RHI Scheme');
 - b. a summary of every renewable energy scheme or project, other than the RHI Scheme (for example, the Great Britain RHI Scheme), in which Moy Park, its servants or agents, have been directly or indirectly involved (including the name of each such scheme, the date of Moy Park's first involvement in it, the nature and duration of Moy Park's involvement in it, and any key similarities and differences between such scheme and the RHI Scheme);
 - c. a summary of the knowledge, experience, expertise, skills, or other attributes (if any) which Moy Park has, or has held itself out as possessing, in respect of such schemes or projects.
2. Summarise the connection(s), if any, between Moy Park and each of the following persons:
 - a. Tom Forgrave;
 - b. Chris Osborne;
 - c. Joy Rollston;
 - d. the Ulster Farmers' Union ('the UFU');

- e. Action Renewables;
- f. the Renewable Heat Association for Northern Ireland;
- g. representative and/or trade bodies in the energy sector (such as Biomass Energy Northern Ireland Limited);
- h. any manufacturers and/or suppliers of biomass fuel;
- i. any manufacturers, suppliers and/or installers of biomass heating plant;
- j. any Northern Ireland political parties;
- k. Invest NI;
- l. the Department for Enterprise, Trade and Investment ('DETI'), now the Department for the Economy ('DfE').

Involvement with the RHI Scheme

- 3. Explain in detail (identifying any relevant documents and any relevant Moy Park servants or agents) any direct or indirect involvement of Moy Park, its servants or agents, in the RHI Scheme or any aspect of it prior to its suspension in February 2016, including, in particular:
 - a. any involvement in the process leading to the creation of the RHI Scheme;
 - b. any involvement in the 2011 public consultation exercise concerning the proposed RHI Scheme;
 - c. any involvement with the consultants engaged by or on behalf of DETI in work relating to the proposed RHI Scheme;

- d. any involvement in the 2013 public consultation exercise concerning the RHI Scheme;
- e. any interactions with Civil Servants, Ministers, Special Advisers, MLAs, politicians, political parties, their respective servants or agents (including, in particular, DETI, the [then] Department of Finance and Personnel ['DFP'], Ofgem, Invest NI, and/or their respective servants and agents) regarding the RHI Scheme which are relevant to the matters which the RHI Inquiry is investigating as set out in the Inquiry's Terms of Reference, including, without prejudice to the generality of the foregoing:
 - i. any communications with, or instances of lobbying or encouragement of, any of the above classes of person in relation to the terms of the RHI Scheme and/or the introduction, non-introduction, variation, or delay of the introduction of cost controls into the Scheme (including, but not limited to, the amendment of tariffs, tiering, degression and Scheme suspension or closure);
 - ii. any communications between Moy Park or any person on its behalf (including, in particular, David Mark) and any of the above classes of person (including, in particular, Seamus Hughes and/or Stuart Wightman in DETI) in which Moy Park sought and/or was provided with information concerning the likelihood of costs controls being introduced in the RHI Scheme and/or the nature, extent, and effective date of such controls (providing in respect of each such communication the name of the relevant servant of agent of Moy Park, the name of the relevant Civil Servant, politician, etc., the date of each communication, the mode of each communication, the place at which each communication occurred, if applicable, and the authorisation [if any] that each of the servant or agent of Moy Park and, if

known, the other person had to engage in such communications);

- iii. any other instances of information passing between Moy Park, its servants or agents, and any of the above classes of person regarding, or of relevance to, the RHI Scheme, including, but not limited to, any instances of Moy Park providing reports, studies, analyses, briefing papers, or submissions concerning the Scheme to such persons.

Promotion of the RHI Scheme

4. Explain in detail (identifying any relevant documents and any relevant Moy Park servants or agents) Moy Park's involvement in the promotion of the RHI Scheme including, without prejudice to the generality of the foregoing, the following:
 - a. its involvement in promoting the Scheme by way of advertisements;
 - b. its involvement in promoting the Scheme by way of publications;
 - c. its involvement in promoting the Scheme generally at seminars, road-shows, workshops, trade fairs, industry events, public events, or other such events or occasions; and
 - d. its involvement in promoting the Scheme to particular persons (e.g. to individual poultry producers who supplied, or were interested in supplying, Moy Park).
5. Set out Moy Park's knowledge of the involvement of *persons other than Moy Park* (for example, the UFU or other persons involved in the agri-food industry in Northern Ireland) in the promotion of the RHI Scheme to persons connected with Moy Park (such as individual poultry producers who supplied, or were interested in supplying, Moy Park).

Information, Education or Advice re the RHI Scheme

6. Explain in detail (identifying any relevant documents and any relevant Moy Park servants or agents) Moy Park's involvement in providing information, education, and/or advice regarding the RHI Scheme including, without prejudice to the generality of the foregoing, the following:
 - a. its involvement in providing general information, education, and/or advice regarding the Scheme (e.g. by way of publications concerning the Scheme); and
 - b. its involvement in providing specific information, education, and/or advice regarding the Scheme (e.g. to a particular person to whom the Scheme may be of potential interest).

7. Set out Moy Park's knowledge of the involvement of *persons other than Moy Park* (for example, the UFU or other persons involved in the agri-food industry in Northern Ireland) in providing information, education, and/or advice regarding the RHI Scheme to persons connected with Moy Park (such as individual poultry producers who supplied, or were interested in supplying, Moy Park).

Assistance re the RHI Scheme and Related Commercial Issues

8. Explain in detail (identifying any relevant documents and any relevant Moy Park servants or agents) Moy Park's involvement in arranging, facilitating, securing or providing assistance (whether administrative, financial, or otherwise) for or to any person in relation to the RHI Scheme including, in particular:
 - a. details of any such assistance arranged, facilitated, secured or provided for / to any person who was involved in the renewable heat

industry such as, for example, a manufacturer, supplier, installer, or repairer of biomass heating plant or a supplier of biomass fuel;

- b. details of any such assistance arranged, facilitated, secured or provided for / to any person who did, or who intended to, apply for accreditation of one or more biomass heating installations under the RHI Scheme;
 - c. details of the terms upon which any such assistance was arranged, facilitated, secured or provided including details of the following:
 - i. the obligations (if any) imposed upon the assisted person in respect of Moy Park (such as the payment of money to Moy Park) both prior to, and following receipt of, any assistance;
 - ii. the rights (if any) conferred upon Moy Park in respect of the assisted person; and
 - iii. details of any information that passed between Moy Park and such assisted persons concerning the RHI Scheme that is relevant to the matters which the RHI Inquiry is investigating as set out in the Inquiry's Terms of Reference.
9. Set out Moy Park's knowledge of the involvement of *persons other than Moy Park* (for example, the UFU or other persons involved in the agri-food industry in Northern Ireland) in arranging, facilitating, securing or providing assistance (whether administrative, financial, or otherwise) in relation to the RHI Scheme for or to any persons connected with Moy Park (such as individual poultry producers who supplied, or were interested in supplying, Moy Park).
10. Provide details of the following:
- a. the nature and number of commercial transactions (if any) engaged in by or on behalf of Moy Park connected to the RHI Scheme (for

example, with individual poultry producers who supplied, or were interested in supplying, Moy Park);

- b. whether, and if so in what precise terms and for what precise reasons, Moy Park ever made accreditation under the RHI Scheme and/or the use of renewable energy technology a condition of any poultry producer doing business with Moy Park (or doing business with Moy Park on certain terms);
 - c. if Moy Park ever did make accreditation under the RHI Scheme and/or the use of renewable energy technology a condition of any poultry producer doing business with Moy Park, the direct or indirect financial return (if any) accruing, or intended to accrue, to Moy Park as a result of imposing such a condition.
11. Without prejudice to the foregoing request, clarify whether Moy Park, either directly or indirectly, ever earned any tariff income from the RHI Scheme and, if it did so, provide details of each sum earned by it as well as details of when, how, and the terms under which it earned same.

Costs Controls – Communication with Other Persons

12. Provide details (identifying any relevant documents and any relevant Moy Park servants or agents) of any communications between Moy Park or any person on its behalf (on the one side) and any of persons involved in the agri-food sector, persons involved in the renewable energy sector, actual RHI Scheme claimants, or potential RHI Scheme claimants (on the other side) in which Moy Park sought and/or was provided with and/or disseminated information concerning the likelihood of costs controls being introduced in the RHI Scheme and/or the nature, extent, and effective date of such controls (providing in respect of each such communication the name of the relevant servant of agent of Moy Park, the name of the relevant other person, the date of each communication, the mode of each communication, and the place at which each communication occurred, if applicable).

Rate of Return

13. Provide details of Moy Park's understanding of the level, or approximate level, of return (whether expressed as a percentage of capital investment in heating plant or otherwise):
- a. that the RHI Scheme ought properly to have delivered in order to provide an appropriate level of incentive, particularly in respect of biomass heating plant;
 - b. that the RHI Scheme was intended to deliver to accredited installations, particularly in respect of biomass heating plant; and
 - c. that the RHI Scheme did in fact deliver to accredited installations, particularly in respect of biomass heating plant.

If Moy Park's understanding has changed over time, please specify when, how, and for what reason(s) it has changed.

Timescales

14. Set out Moy Park's experience of the amount of time (in terms of days or weeks) that typically elapsed between:
- a. the date of biomass heating plant being ordered and its installation;
 - b. the date of biomass heating plant being ordered and its commissioning into service;
 - c. the date of biomass heating plant being ordered and its accreditation under the RHI Scheme;

(if, in Moy Park's experience, there was no typical time lapse in this regard, then please provide details of both the minimum and maximum

periods experienced by Moy Park in respect of each of the foregoing sub-paragraphs).

RHI Scheme Issues and Warnings

15. In respect of the period prior to suspension of the RHI Scheme in February 2016, please identify any potential risks, flaws, problems, anomalies, loopholes, or other issues regarding the proposed RHI Scheme, or the RHI Scheme as enacted, which came to the attention of Moy Park, or any person acting on its behalf, setting out details of when they first became aware of each such issue and the actions (if any) taken by them as a result.
16. Without prejudice to the generality of the preceding paragraph, please specify when Moy Park first became aware that some subsidies payable under the RHI Scheme exceeded the cost of biomass fuel used to produce heat and/or the cost of producing heat (so that there may have been an incentive in some cases to produce heat merely to make profit from the Scheme), how Moy Park became so aware, and the actions (if any) taken by Moy Park in respect of such knowledge (such as, for example, communicating with DETI or Ofgem or with persons in the renewable energy sector).
17. Clarify whether, in or about mid-2015 or at any material time, Moy Park was aware of the potential for an upward spike in the number of applications under the RHI Scheme to occur and, if it was so aware, specify:
 - a. the evidence or information which caused Moy Park to be so aware;
 - b. the step(s) (if any) taken by Moy Park in light of such awareness (such as, for example, communicating with DETI, Ofgem, the UFU, or some other person);
 - c. the date(s) upon which it took each such step.

Breach of Standards etc.

18. In respect of the period prior to the suspension of the Scheme in February 2016, and to the extent that it has not already been covered when addressing the issues raised in the preceding paragraphs of this Schedule, please provide details of all dealings that Moy Park, or other persons connected to it, had with:
- a. Ministers, Special Advisers, Civil Servants, politicians, political parties, or their respective servants or agents;
 - b. Ofgem, its servants or agents;
 - c. persons *other than* Ofgem, Ministers, Special Advisers, Civil Servants, politicians, political parties, or their respective servants or agents

which are relevant to the matters that the RHI Inquiry is investigating as set out in the Inquiry's Terms of Reference.

19. Identify any instances of which Moy Park is aware where a Minister, Special Adviser, Civil Servant or any other person involved in the RHI Scheme (including, if applicable, Moy Park or any of its servants or agents):
- 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; or
 - 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.

Whistle-blowing and raising of concerns

20. Identify any instances of which Moy Park is aware of whistle-blowing in relation to the RHI 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 any relevant person or body dealt with it.
21. In particular, provide an account of how Moy Park dealt with any disclosures raising concerns about the RHI Scheme made or communicated to it at any time. In relation to each such instance, identify precisely how the concerns were communicated to Moy Park.

General

22. Clarify whether Moy Park has caused or permitted any audit, survey, analysis or other similar exercise to be performed in respect of the RHI Scheme that would allow a conclusion to be formed regarding whether or not there has been abuse of the Scheme amongst those connected with poultry production.
23. If Moy Park has caused or permitted such an exercise to be performed, please provide full details of same including the precise nature of the exercise, the number of claimants audited, surveyed, analysed, etc., the number of installations inspected, the period between which the exercise was carried out, and the outcome of the exercise (identifying any relevant documents).
24. Provide any further evidence within your knowledge or belief that 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.

THE INDEPENDENT PUBLIC INQUIRY INTO THE NON-DOMESTIC RENEWABLE HEAT INCENTIVE (RHI) SCHEME

RHI REF: Notice 266 of 2017

DATE: 03 August 2017

Witness Statement of: Janet McCollum, CEO Moy Park Limited

I, Janet McCollum, will say as follows:

Introduction

- The Inquiry has deemed me to be the appropriate person to provide evidence on behalf of Moy Park Limited (Moy Park) in the form of a written statement as I am the Company's Chief Executive and Director. I have noted from the Section 21 Notice that I am to provide a statement setting out the position of Moy Park rather than any personal involvement of mine. As Moy Park's Chief Executive Officer, I make this statement on behalf of the Company and to the best of my knowledge, information and belief.
- The Inquiry understands that I will have access to all of Moy Park's relevant information in order to provide the required witness statement. I have relied accordingly on the following:
 - information and assistance provided to me by other key persons within Moy Park who have had involvement with the RHI Scheme;
 - an IT data capturing exercise carried out by a specialist IT company;
 - a document review exercise, carried out by Moy Park's legal advisers (external); and
 - the Exhibits to this statement, which have been prepared for me by Moy Park's in-house and external lawyers working in conjunction with Moy Park's key persons.
- The Inquiry has set out in the Schedule to its Section 21 Notice those matters that it requires me to address and I do so below adopting the same paragraph numbering as in the Section 21 Notice.

Background

1.

- a. The table at **Exhibit 1** lists the relevant persons (by function) within Moy Park who have had, during the period from 2010 onwards, any responsibility for, or role in respect of, renewable energy issues. The Sustainability Team within Moy Park supports and guides the business generally on all renewable energy matters within Moy Park, and as Exhibit 1 shows, energy projects are typically cross functional, but operationally hot water heating resides with the Agriculture Team.
- b. The table at **Exhibit 2** summarises the various Moy Park renewable energy schemes and projects. The list in Exhibit 2 does not capture any NI RHI Schemes operated by the independent contract farmers (as to which the Moy Park business model referred to in paragraph 4 below (and the accompanying Exhibit 8) sets more detailed explanation).
- c. The table at **Exhibit 3** summarises renewable energy schemes and projects experience within Moy Park. There is a multi-disciplinary approach to such schemes and projects, utilising the accretion of knowledge, skills, and relevant experience from within the multiple in-house functions and disciplines, and where appropriate, external providers or experts.

2. In relation to third party connections, I make the following response:

- a. **Tom Forgrave:** is an independent contract farmer for Moy Park having previously been a contract grower for Farm Fed (a subsidiary of O'Kane Poultry), then for O'Kane Poultry Limited itself which Moy Park acquired in 2010. He is also joint chair of the Moy Park Contract Growers Committee. The Moy Park Contract Growers Committee represents the interests of the independent contract farmers who supply Moy Park. The committee is elected by the members. Mr. Forgrave also acted as the Chairman of the Ulster Farmers Union Poultry Committee. This appointment is made by UFU members. We understand however that Mr. Forgrave recently resigned this position.
- b. **Chris Osborne:** Chris Osborne is a Senior Policy Officer in the Ulster Farmers Union. Moy Park would have regular communications with Mr. Osborne and his other colleagues on areas of interest to the poultry industry.
- c. **Joy Rollston:** Joy Rollston is UFU's Rural Affairs Committee Chair. We are not aware of any connection between Moy Park and Joy Rollston.
- d. **UFU:** This is a representative body for the farming sector within Northern Ireland. Many of Moy Park's independent contract farmers are members of the UFU and Moy Park has regular communications with the UFU on areas of interest to the poultry sector. In February 2016 when DETI announced the closure of the RHI Scheme Moy Park was in communication with the UFU as well as the CBI over its closure. Each of Moy Park, the CBI and the UFU were in contact with agri-representatives from a range of political parties in response to the announcement.
- e. **Action Renewables:** Moy Park has no direct commercial relationship with Action Renewables. However, David Mark was contacted by Mark Corrigan of Action Renewables by email on 29 January 2016 to offer assistance should it be required in response to the proposed consultation by DETI regarding the closure of the RHI scheme. We are aware that Action Renewables processed RHI applications on behalf of Scheme Applicants and we are aware that suppliers of biomass boilers often sub-contracted the RHI application process to Action Renewables.
- f. **The Renewable Heat Association for Northern Ireland:** Moy Park is not a member of the Renewable Heat Association for NI. At the time the formation of the body was being considered, David Mark was invited and attended a discussion group but indicated that Moy Park would not be joining. This was because Moy Park operated only four biomass boilers under the tiered RHI Scheme and did not consider that it had a sufficient interest in becoming a member of The Renewable Heat Association for NI.
- g. **Representative/Trade bodies in the energy sector (such as Biomass Energy Northern Ireland Limited):** Moy Park does not have any direct commercial relationship with any such bodies.
- h. **Manufacturers/suppliers of biomass fuel:** Moy Park has a commercial purchasing arrangement with Forest Fuels Limited for wood pellets in relation to a number of owned and some contracted biomass boilers in Great Britain as referenced in **Exhibit 2**. Moy Park also purchases wood pellets from Balcas in Northern Ireland for Moy Park's four tiered RHI Scheme biomass boilers. Over a 12-month period 17,375 tonnes were purchased from Forest Fuels and 351 tonnes were purchased from Balcas.

In relation to the independent contract farmers biomass boilers, Moy Park's Procurement Team commenced a competitive eTender process in August 2015 (by eAuction) on behalf of the independent contract farmers (with suppliers as referenced in **Exhibit 4**), but this did not proceed to contract. The independent contract farmers instead opted to purchase directly from their own chosen suppliers. Details of why and how this tender came about are summarised in **Exhibit 8**, which should be considered in conjunction with paragraph **4** below.

i. **Any manufacturers, suppliers and/or installers of biomass heating plant:**

In December 2014, the Company entered into an Energy Services Company (ESCo) solution in GB. Following on from this during the period April - May 2015, Moy Park considered an ESCo for its operation at Nutts Corner as to which the Procurement Team issued a Request for Proposal to certain suppliers (as referenced in **Exhibit 5**), but this project did not proceed.

For the purchase and commissioning of Moy Park's four RHI Scheme biomass boilers operated under the tiered RHI Scheme, the Company used two suppliers, Turco Boilers (for the two hatchery installations at Carn and Donaghmore) and Hegan Biomass (for the two poultry house installations at Nutts Corner).

As regards the independent contract farmers, Moy Park had developed a "considered list" of biomass suppliers and installers and also for hot water heating suppliers and installers, details of which are documented in the various exhibits supplementing paragraph 4 below.

- j. **Any NI political parties:** As one of Northern Ireland's leading businesses, Moy Park has occasion to meet with NI politicians in relation to its business activities.
- k. **Invest NI:** Moy Park is an Invest NI client company and we have regular and routine dealings with this organisation.
- l. **DETI/The Department for the Economy (DfE):** DfE is in contact with Moy Park as it is the parent body of Invest NI. DfE is responsible for employment and skills programmes, energy, economic policy and employment rights. Therefore Moy Park is in regular contact with the department at an operational level on these topics.

Involvement with the RHI Scheme

3.

- a. Moy Park had no direct or indirect involvement in the process leading to the creation of the RHI Scheme, other than by providing a response to the public consultation in October 2011. Refer to paragraph b. below.
- b. In September 2011, DETI launched a consultation on the development of the NI Renewable Heat Incentive. In October 2011 John Kennedy (Moy Park's then Energy Manager) submitted an on-line response to this consultation. The response is available from the Public Record Office of Northern Ireland and is attached as **Exhibit 6** for ease of reference. At that time, Moy Park was already familiar with the proposed GB RHI Scheme. In his response John observed that "to stimulate uptake of the Scheme the Tariffs should match those in GB".
- c. Moy Park has had no involvement with any consultants engaged by or on behalf of DETI in work relating to the proposed RHI Scheme.
- d. Moy Park was not involved in the 2013 public consultation exercise. This consultation related to the domestic scheme. However, John Kennedy was on the CBI's general circulation list and received electronically a draft letter from Nigel Smyth (Director, CBI Northern Ireland) to Peter Biggs at DETI. John advises that he forwarded some commentary in the draft letter and emailed the draft back to the CBI.
- e. The table (and documents) at **Exhibit 7** provides a history (with commentary) regarding interactions between Moy Park and the Public Body/Persons as referenced, for this sub-paragraph generally and also for each of sub-paragraphs (i) to (iii) below. Specifically:

- i. Refer to table in **Exhibit 7**;
- ii. Refer to table in **Exhibit 7**;
- iii. Refer to table in **Exhibit 7**.

Promotion of RHI Scheme

4.

In order to assist the Inquiry in providing a comprehensive answer to this question it is necessary to set out the background detail both in relation to Moy Park's strategies to grow its business and also in advocating the use of hot water heating with its farming partners across the UK, as set out in the paragraphs below.

Moy Park has a very specific relationship with its independent contract farmers which has been in place for over 40 years. Moy Park deliver to the contract farmer the chicks and the feed at an agreed price. The contract farmer then controls the key inputs and management of the growing cycle delivering finished birds to Moy Park to agreed specifications/standards on animal welfare, health and conformation under a culture of continuous improvement. The Moy Park interaction with the contract farmer is essentially to assure the welfare, health and performance of the birds.

Since 2010, Moy Park has been engaged in a growth strategy, throughout the United Kingdom to significantly grow its business from circa 4 million birds per week to 6 million birds per week by 2018. This strategy is underpinned by a variety of factors including; growing customer and consumer demand for locally produced high welfare chicken; increasing market share; UK poultry demand benefiting from food security and traceability concerns within the red meat sector and the increasing attractiveness of chicken as an affordable protein source.

The business strategy 'Focus to Win' involved extensive capital investment by Moy Park throughout its mills, hatcheries and processing facilities (circa £300 million) across Great Britain and Northern Ireland in order to allow increased production to be handled. In addition to that the Company worked closely with its farming partners to increase farming capacity with farming investment of circa £200m.

In parallel to the 'Focus to Win' strategy, a sub-set of this strategy (known as 'Plan to Grow') was launched in 2013 to grow the independent contract farming base in Northern Ireland. In Northern Ireland, the Company is supplied by production from smaller family farms and there is support from Moy Park for the construction and upgrading of poultry houses. Please refer to **Exhibit 8** and **Exhibit 9** which provides background and details for both its independent contract farmer business model and Moy Park's Plan to Grow strategy.

Market knowledge had shown the importance of securing high standards of animal health and welfare in producing high quality locally farmed product which consumers increasingly sought. This insight drove the business strategy to significantly upgrade poultry houses.

Historically poultry broiler houses were heated by the direct combustion of liquid petroleum gas [LPG], using gas brooders situated inside the poultry house. While an efficient heating method, the by-products of direct combustion required additional ventilation and increased the total atmospheric moisture content in the poultry house. This produced a humid heat which, in a climate such as that of Northern Ireland, was less than ideal and difficult to manage. A new approach, indirect heating using hot water, began to emerge in Northern Europe (particularly Scandinavia) in the 1990s. For further details see **Exhibit 8**.

The dry heat produced by hot water heating resulted in drier environmental conditions in the poultry houses. This also resulted in drier poultry litter and bedding, which produced better welfare for the birds.

In line with this new approach by 2013 Moy Park had determined that the specification for all the new poultry houses would require an indirect hot water heating system. The strategy was agreed internally in the middle of 2013 and formally launched soon after in Northern Ireland in accordance with Moy Park's long-established independent contract farmer business model.

The RHI Scheme was introduced in Great Britain in November 2011. In November 2012, the RHI Scheme was introduced into Northern Ireland. The uptake in the poultry industry in Northern Ireland was initially quite slow and it did not really pick up until the winter of 2014.

Moy Park's model required its independent contract farmers to utilise indirect hot water heating for new build indoor broiler houses. The farmer had the option to decide on the type of fuel source, be it gas, oil, or biomass.

As illustrated in **Exhibit 2**, Moy Park has been involved in many renewable energy schemes and projects in line with its declared sustainability objectives. We were and we continue to be an advocate of hot water heating for the production of high welfare poultry.

By way of specific response, therefore:

- (a) Moy Park was not involved in promoting or advertising the NI RHI Scheme, save as explained in sub-paragraph c and d below.
- (b) Moy Park was not involved in promoting the NI RHI Scheme through publications, save as explained in sub-paragraph c and d below.
- (c) Moy Park referenced the NI RHI Scheme in the context of hot water heating as detailed in **Exhibit 9**. Moy Park's involvement coincided with its Plan to Grow Strategy and programme of continuous improvement. Through this programme there have been clear measurable improvements in bird welfare, health and performance, specifically with indoor broilers. Other key factors in delivering these improvements include genetics, chick quality from hatcheries, feed quality, chick start conditions, water quality initiatives, biosecurity and so on.
- (d) The independent contract farmers had an awareness of the NI RHI Scheme through various channels as referred to in paragraph 5 below. Moy Park referenced the NI RHI Scheme in the context of hot water heating as detailed in **Exhibit 9**. In relation to new poultry houses, the requirement was for hot water heating, not biomass boilers to provide the heat source.

5. Moy Park was aware generally of:

- a. the UFU's bringing the RHI Scheme to the attention of its member farmers generally,
- b. of third party lenders providing funding to the independent Contract Farmers (as to which see paragraph 7 below),
- c. of the activities of publicising the RHI Scheme by some of those parties listed in paragraph 2 above;
- d. by the College of Agriculture, Food and Rural Enterprise (CAFRE) in its workshops; and
- e. the Rural Development Program (RDP) Business Development Groups which are led by the Department of Agriculture, Environment, and Rural Affairs (DAERA formerly DARD).

Information, Education or Advice re the RHI Scheme

6. (a) Refer to **Exhibit 9**.
- (b) Refer to **Exhibit 9**.

7. Refer to paragraph 5 above.

Assistance re RHI Scheme and Related Commercial Issues

8. For the purposes of this paragraph, please refer to **Exhibit 10**. Reference is also made to Moy Park's development support made through AHP in **Exhibit 8**.
- (a) No such assistance was arranged, facilitated, secured or provided for or to any such person involved in the renewable heat industry.
 - (b) Other than as between Moy Park and its independent contract farmers, and contractors, as set out in **Exhibits 8, 10 and 11**, no assistance was arranged, facilitated, secured or provided in relation to the RHI Scheme or accreditation thereunder.
 - (c) Other than as between Moy Park and its independent contract farmers, and as set out in **Exhibits 8, 10 and 11**, there were no such arrangements.
9. Other than as already stated, Moy Park has no such particular knowledge.
- 10.
- a. Moy Park is a direct participant in the tiered RHI Scheme, with four 199 kw biomass boilers, which were installed as part of the RHI Scheme's phase 2 tiering, details of which are contained in the table at **Exhibit 13**.

Moy Park's information regarding its independent contract farmers participation in the RHI Scheme is limited to the information that is summarised and set out in **Exhibit 13**.
 - b. At no point has Moy Park ever made RHI Scheme accreditation a condition of any poultry producer doing business with the Company. In relation to renewable energy technology the important factor for Moy Park was the adoption by the independent contract farmers of an indirect hot water heating system. The heat source utilised was not significant for Moy Park. This remains the position of the Company.
 - c. There was no such condition as to accreditation.
11. Actual direct tariff income from Moy Park's four biomass boilers operated under the tiered RHI Scheme is contained in the table at **Exhibit 14**. Moy Park has not indirectly earned any RHI Scheme tariff income.

Cost Controls – Communication with Other Persons

12. Upon learning of the planned introduction of tiering to the RHI Scheme, Moy Park communicated generally with various stakeholders about these planned changes. See **Exhibit 7**. Please also refer to the documents disclosed in response to separate Section 21 Notice [No. 265 of 2017].

Rate of Return

13. a. What the RHI Scheme ought properly to have delivered by way of return is a matter primarily for the architects of the RHI Scheme. It might be considered, however, that the returns delivered by the successful GB RHI Scheme are an appropriate starting point for assessing an appropriate rate of return. For early applicants, the comparative GB RHI Scheme ought to have delivered a rate of return of approximately 30-35%.

b.

Based on DETI's stated tariffs over time, rate of return scenarios as modelled by Moy Park in **Exhibit 15** (which are assumptions based on available market information - actual heat demand, efficiency of combustion, wood pellet cost vis a vis LPG costs, the capital cost of the biomass boilers and inflation) show generally an intended rate of return on 20 – 25%.

The Plan to Grow program provided independent contract farmers with illustrations in hot water heating and RHI income tariffs. These were issued in the expectation that the independent Contract Farmers would develop them further with their own independent financial advisers and their funders. Moy Park's assumptions were based on the heat demand, efficiency of combustion, wood pellet cost, LPG comparative costs and the capital cost of the biomass boiler to be purchased and funded by the independent contract farmer. In its Plan to Grow presentations, the RHI Scheme illustrations showed a 20-25% rate of return. Similar illustrations were completed for independent contract farmers undertaking retrofitting and these illustrations showed a similar rate of return.

c.

Moy Park's rate of return assumptions for its from its 4 biomass boilers which are registered under the tiered RHI Scheme was 28 %. the actual rates of return are set out in in **Exhibit 14**.

In order to assist the Inquiry, the Company carried out an analysis of the Rate of Return based on various scenarios be undertaken using data now available (including the OFGEM data made available in and around March 2017). With the benefit of this new, yet previously unavailable, information we believe the following significant factors will have impacted on the actual Rate of Return:

1. From the inception of the RHI Scheme the tariffs changed incrementally from 5.9p to 6.4p;
2. Fuel prices fell from c£200 per tonne to £145 per tonne;
3. With greater experience of the hot water heating systems over time it became apparent that there was an increase in the actual heat needed for indirect heating systems than previously assumed; and
4. The capital cost of the boilers fell.

In conclusion, our understanding of the level or approximate levels of return that the NI RHI Scheme may have delivered are as follows:

- i. For participants in the untiered 99KwH boiler NI RHI scheme from 2012-2015 the Rate of Return may have risen to 45-55%. In GB for later applicants (circa October 2015), the GB tiered and cost controlled scheme would have been approximately 23%.
- ii. The 199KwH boiler capped and tiered NI RHI Scheme would have delivered approximately a 27% Rate of Return.
- iii. The April 2017, one-year RHI Scheme return review, would have brought the Rate of Return back approximately to 22% for 99KwH RHI Scheme boilers.

Timescales

14.

Biomass boilers were ordered and installed by Contract Farmers as part of either a new build project or an enhanced retrofit. These projects would have involved the Contract Farmer obtaining relevant planning consents and also putting in place any necessary bank funding and associated security. Typically, therefore, a new build process could take 24 - 36 months (with actual build taking 12 -16 weeks, during which time a Contract Farmer would order and install their biomass boiler). A retrofit project could happen within a relatively short timeframe, typically 21 days, as the Contract Farmer would be seeking to take advantage of the

crucial window of opportunity during the 10 -14-day intercrop period, during which the poultry house would be empty, for completion of any internal work. With retrofit work, the Contract Farmer would most probably be planning some 1 – 3 months ahead.

Specifically:

- a. Moy Park's experience with its 4 (199 Kwh) biomass boilers in Northern Ireland is that the lead time between order and installation was 2 weeks albeit that this was on an expedited basis. Typically however for Contract Farmers, the lead time between order and installation would have been 1-4 months.
- b. For Moy Park's 4 biomass boilers, the installation and commissioning happened immediately, so the same time lapse from order to commissioning would have been the same as that for order to installation in sub-paragraph a. above. For new builds, Contract Farmers typically commissioned boilers upon placement of birds in poultry houses. Generally, this would be between 1-3 weeks after build completion. For retrofit installations, commissioning of boilers would have happened immediately.
- c. As with sub-paragraph b., Moy Park applied for accreditation immediately on commissioning. We believe the Contract Farmers would have similarly expedited the accreditation after commissioning.

RHI Scheme Issues and Warning

15. The absence of adequate cost controls and the subsequent omission of audit checks increased the risk of the over-generation of heat under the RHI Scheme. From 2014 onwards there was an emerging awareness of the possible over-generation of heat in certain business cases which appear to be disproportionately dependent upon utilisation of the RHI Scheme as opposed to having a genuine need for heat (referred to by the Comptroller and Auditor General in June 2017).

Chicken production always had and retains a legitimate requirement for the generation of heat. The Company was also aware that, after installing biomass boilers the independent contract farmers required the experience of producing several crops of birds in order to establish appropriate heat and fuel requirements, given that most of them were adjusting to a new form of heating poultry houses (hot water heating), whilst also adjusting to managing and controlling a new fuel source (biomass). In the course of these adjustments there was some fluctuation in the use of heat by independent contract farmers. This experience was not, in our view, unexpected in that there had, historically been a broad spread of heat generation amongst the independent contract farmers even when using LPG fuel. This could be attributed to local environmental factors such as the topography of the area in which the poultry houses were situated, the age of the poultry houses, the levels of insulation used and so on.

Over the course of the RHI Scheme Moy Park could not systematically monitor usage of the RHI Scheme by the independent contract farmers. This information was held by OFGEM. Under the Rules of the RHI Scheme OFGEM were entitled to require of each participant an annual declaration confirming that the participant was "not generating heat for the predominant purpose of increasing their periodic support payments". OFGEM had significant compliance and enforcement powers including the ability to undertake site inspections, take enforcement actions and suspend periodic support payments for alleged non-compliance.

Mention is also made of the communication exchange between David Mark and Stuart Wightman of DETI in March and July 2015, which is summarised and documented in **Exhibit 7** (Moy Park Public Body/Person Interactions) and the appended documents.

The communications with Stuart Wightman were not confidential. In fact, in February of that year, David had received an email from Paul Lyttle of Green Energy Engineering Limited which included an email exchange between Dan Sinton of DETI and Paul Lyttle dated 24 February wherein Mr Sinton had confirmed to Mr Lyttle that there were no planned cuts to the non-domestic RHI Scheme in April 2015.

16. The Company understands that the cost of biomass fuel may always have been less than the subsidies under the RHI Scheme. The differential increased as the cost of fuel fell and as the RHI Scheme tariffs increased during 2014 (see paragraph 13c above).

In December 2016, the BBC NI Spotlight programme exposed the extent of the flaws within the RHI Scheme. There followed widespread media coverage of the RHI Scheme. On 5 January 2017, Moy Park met, at the Department's request, with Andrew McCormick, Permanent Secretary of the Department for the Economy, Mike Mullan, David Gibson and David Mark being present on behalf of Moy Park. At that meeting Moy Park outlined its understanding of the problems with the RHI Scheme and suggested, based upon its knowledge of the poultry industry in Northern Ireland, that it would be appropriate for the Department to conduct an audit of the Scheme focusing on technical matters such as the proper operation of meters and the fuel purchase records and on the business case for the appropriate use of heat. The Moy Park representatives specifically drew attention to the existing conditions of the RHI Scheme and the annual declaration required of all participants to the effect that they are not "generating heat for the predominant purpose of increasing their periodic support payments". A copy of the presentation made to the Department for the Economy is included in the appendices to **Exhibit 7**. Subsequently this presentation was also given, at the Department's request, to the Department of Finance on 09 January 2017.

17. To an extent, an upward spike might have been expected once the open market became aware of the nature of the planned changes to the RHI Scheme. However, with reference to **Exhibit 8** (and the Appendices thereto), at that time Moy Park's new housebuilding and retrofit programmes were already well under way, regardless of any potential upward spike. Using the information released by OFGEM information in and around March 2017, Moy Park undertook an analysis (for the purpose of preparing this Statement) regarding the installation of hot water heating systems by independent contract farmers for the period July – October 2015. Of the 255 independent contract farmers identified, 195 installations were already planned and pre-notified to Moy Park before July 2015. Of the 195, 36 installations were for new poultry houses, with an approximate 24 to 36-month lead time. The remaining 159 installations were for retrofit hot water heating with a shorter lead time, typically approximately one to three months. The remaining balance of 60 could possibly be considered to be a response by independent contract farmers to the announcement of the RHI Scheme change. Specifically:

- a. In and around November 2016 Moy Park became aware of the existence of the Comptroller and Auditor General's report of June 2016 which raised the issue of an upward spike. Other than from independent contract farmer specific data on hot water heating installations, no other raw data was available to Moy Park because OFGEM had not made public any such data about a spike. Subsequently, in or around March 2017 OFGEM released limited company data, and full data (other than reserved data) was released by OFGEM in May 2017.
- b. In November 2016, Moy Park cross referenced its independent contract farmer hot water heating installation data against the Comptroller and Auditor General's total numbers, which indicated that the uplift in independent contract farmer RHI Scheme applications was substantially less than the increase in RHI Scheme applications in general.

The Company has now analysed the full data list that was released by OFGEM in May 2017, and this is summarised in the table at **Exhibit 16**.

- c. Please refer to the responses in the previous sub-paragraphs.

Breaches of Standards etc

18.

- a. Reference is made to **Exhibit 7**;

- b. Moy Park had no dealings with OFGEM other than normal administration matters regarding its 4 boilers registered under the 199KwH tiered RHI Scheme;
- c. Other than as referenced in this statement, there were none.

19.

- a. Moy Park is not aware of any such breaches or incompatible conduct;
- b. Moy Park is not aware of any real or perceived conflicts. It is however, noted, that Moy Park would have been aware of the family connection between Andrew Crawford and a Moy Park Contract Farmer, who was also an RHI Scheme participant. Throughout, Moy Park maintained separation of both relationships.

Whistle-blowing and raising of concerns

- 20. Moy Park became aware of whistle-blowing through news media reporting and the Comptroller and Auditor General's report, referred to above.
- 21. Please refer to the answer set out in 20 above.

General

- 22. No such survey, analysis or other similar exercise has been caused or permitted by Moy Park that would allow a conclusion to be formed in Moy Park regarding whether or not there has been abuse of the Scheme amongst those connected with the poultry industry. However, Moy Park has, as part of visits to the farms of the independent contract farmers during crop cycles, collected a basket of information as outlined in **Exhibit 8**. Without additional investigation and data, it would not be possible to use the information thereby collected to form a conclusion that "there has been abuse of the Scheme amongst those connected with poultry production".
- 23. See 22 above.
- 24.

The Renewable Heat Incentive Scheme should have been a good initiative for Northern Ireland. It was widely promoted by Government and, other agencies, as mentioned in paragraph 5 above. It should have encouraged participants to invest in sustainable technology which should have led to a reduction in carbon emissions, contributing to Northern Ireland's imminent carbon reduction targets and benefiting our local environment. It should also have benefited the Northern Ireland economy by ensuring energy cost equivalence with competitors in GB, and this is particularly important to the food sector. The Northern Ireland scheme was not modelled closely enough on the GB scheme and lacked critical cost controls

Following transmission of the BBC NI Spotlight programme in December 2016, Moy Park colleagues met with both Department of the Economy officials and Department of Finance officials on how the Company believed the scheme could operate within a sustainable budget. It was the view of Moy Park then (and it remains the Company's view) that this could be achieved through robust enforcement of the scheme utilising:

- 1. Technical Audits – to ensure the correct generation of heat recorded;
- 2. Business Case Audits – to justify the appropriate use of the heat for a recognised business case;
- 3. Enforcement action founded on the annual declaration signed by participants in the RHI Scheme to the effect that "they are not generating heat for the predominant purpose of increasing their periodic support payments"; and
- 4. Retrospective Tiering – to correct any unintended over compensation.

Statement of Truth

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

Signed J B McCollum

Dated 3rd August, 2017.