



Energy Co-ordination Branch  
Department for Economy  
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**RHI Inquiry**  
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By post and email: [Sandra.Thompson@economy-ni.gov.uk](mailto:Sandra.Thompson@economy-ni.gov.uk)

25 May 2018

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').

The Inquiry is grateful for the witness statements you have provided to it.

There are a number of further matters that the Inquiry would be grateful for your assistance with.

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

A handwritten signature in black ink that reads "Patrick Butler". The signature is written in a cursive, slightly slanted style.

**Patrick Butler**

Solicitor to the RHI Inquiry

02890408928

**SCHEDULE**  
**[No 100 of 2018]**

*DFE 278136/7*

On the 5 June 2015 you sent an email to colleagues in DETI wherein you explained, amongst other things, how you went about calculating an anticipated RHI monthly payment when scheme expenditure commenced in March 2013. It appears that you were saying that, from the outset (March 2013), a usage (or load factor) of 30% was used as part of the anticipated monthly spend calculation. As to this:

1. Was 30% of the hours in the month used as part of the anticipated monthly spend calculation for RHI from March 2013?
2. Please explain how this figure of 30% came to be used.
3. If the figure of 30% was arrived at using information from the first 9 applications to the RHI non domestic scheme (the details of which would appear to be available from the Ofgem weekly report of the 2 June 2013 provided herewith and found at OFG 00689 to 00692) who was involved in providing you with this information and informing you what should be done with it in order to develop an anticipated monthly spend calculation?
4. If you were told to use 30%, who told you so to do (and what explanation were you given for why this figure was to be used)?
5. Were officials from DETI Energy Division aware that this figure was being used (if so, which officials were so aware, and please provide an account of how they came to be so aware)?
6. Please explain whether at any point you were advised to use a different figure in the calculation from the 30% of the hours in the month. If so, please identify who so informed you to do so, when, and the reasons given to you for the change.
7. Please explain whether officials from Finance Division were ever appraised of the basis of the anticipated monthly spend calculation for RHI that you were using. If so, please identify who within Finance Division was so appraised, and when.

8. When were you first made aware that assumed usage (or load factor) used in the reference installation for RHI solid biomass installations in the 20-99kW band was approximately 17% (see, in this regard, internal pages 34 and 35 of the February 2012 CEPA addendum report at DFE 00609 to 00610)?

**NOTE:**

It is important for the efficiency of the RHI Inquiry that the issues identified above are addressed as fully as possible and by reference, where available, to the dates and locations of specific incidents to which reference is made. The statement should be broken down into paragraphs, which should be numbered sequentially from '1' to the end. The use of appropriate section headings or sub-headings is also encouraged. A template witness statement is provided with this Notice for your assistance and should be used as the format for your response.

**INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME****RHI REF: Notice 100 of 2018****DATE: 5 June 2018**

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**Witness Statement of: Sandra Thompson**

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I, Sandra Thompson, will say as follows: -

1. In the time available I have interrogated some of the records from 2013 to March 2015 in order to ascertain how the anticipated monthly spend calculation was reached. After an examination of some of these records, I think it would be more accurate to say that calculations in that period used an assumed load factor, rather than the average weekly hours of operation provided in the Ofgem weekly data. I understand that the initial year-end accrual of £20k for 2012/13 was calculated by Peter Hutchinson, which I believe was based on Ofgem data combined with his knowledge of the Scheme and that in GB. That calculation appears to be approximately consistent with an assumed load factor of 30%. I cannot recall, and have been unable to locate documentation which makes it clear exactly how the accrual was calculated. The spreadsheet which I created in May 2013 (with Peter Hutchinson's assistance) initially showed a load factor of 20%. However, following receipt of details of the first payments issued, Revision 13 of the spreadsheet dated 28 June 2013 shows that the load factors have been revised upwards to around 35%. This was done to bring estimates into line with these actual payments.

It is difficult to be absolutely clear about the basis of calculations, as they would have also included an amount for applications not yet notified to us. Accruals were calculated from the Accreditation date which, as this was dependent on the date of commissioning of an installation, could be retrospective. Input of further payment details in October 2013 showed

forecasts based on the 35% load factor to be too high, and it was then reduced to 25% on my spreadsheet. The 2013/14 accrual of £304,368, which combined with cash spend in the period gave an outturn figure of £650k for the year, is broadly consistent with an assumption of an average load factor of around 30%. The email of 5 June 2015 was for illustrative purposes to highlight the need to institute a more robust process, and one which would reflect the actual load factors. Calculations up to that point were, of necessity, reactionary and were subject to frequent change as payment detail became available and seasons changed.

2. To the best of my recollection Peter Hutchinson suggested the use of an assumed load factor in the calculations rather than the hours quoted on Scheme applications. I did not have any knowledge of the Scheme detail. As outlined above, the actual figure varied dependent on the latest data received.
3. I worked with Peter Hutchinson who provided me with the Ofgem data and explained how payments were calculated. Peter had his own separate spreadsheets. It is worth pointing out that my spreadsheet was not used as the basis of accruals until April 2015, when the method of calculation was totally revised.
4. As outlined above, there was never a specific prescriptive figure of 30%. The initial assumption of 20% was suggested by Peter Hutchinson. I believe this was based on a combination of applicant data and GB experience, but I do not recall understanding precisely why, and I did not consider that it was necessary for me, in my Co-ordination role, to fully understand the detail of what assumptions Peter Hutchinson had made and the basis for those assumptions.
5. Both Peter Hutchinson and I were officials from Energy Division. I do not know whether he advised others. I do not recall that I did.



6. The RHI spreadsheet, while used to help estimate end month accruals, did not determine the amounts to be accrued until April 2015 when the basis of its calculation was totally revised. As outlined above, and as indicated in my e-mail of 5 June 2015, we 'juggled' with the figure to input in respect of load factors, when we received the actual payment details and those payments showed that the load factor being used was inappropriate. I discussed the unpredictability of payments fairly regularly with Peter Hutchinson until he left in May 2014 and subsequently and more regularly with Stuart Wightman.
7. I do not recall ever discussing this level of detail with Finance officials.
8. I was never made aware that the assumed usage or load factor had been predicted in the CEPA addendum report and that it was set at 17%. After April 2015 estimated load factors were no longer being used, even as a guide. I did not appreciate the significance of the higher usage figures. I did not have responsibility in my role as part of the Co-ordination Branch for scheme implementation and I was working on the assumption that the scheme itself was soundly based.

Statement of Truth

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

Signed:

A handwritten signature in black ink, appearing to read 'Sandra Thompson', written over a horizontal line.

Dated: 5 June 2018