



Sammy Wilson MP  
34 Lancasterian Street  
Carrickfergus  
BT38 7AG

By post and email: [barronj@parliament.uk](mailto:barronj@parliament.uk)

15 May 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').

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.

In this context, it would be of assistance to the Inquiry to have a statement from you, in light of your former role as Minister for Finance and Personnel, 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.

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.

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 of Finance (DoF) is making arrangements to permit such access, at least in the first instance. You should contact Emer Morelli at DoF, who is the Department's RHI Task Force Information Manager, to organise this. Emer Morelli is contactable at [emer.morelli@finance-ni.gov.uk](mailto:emer.morelli@finance-ni.gov.uk). I have informed Emer that you may be making contact with her to arrange access to documentation; but there is, of course, no obligation upon you to do so.

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), 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](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, appearing to read 'Patrick Butler', with a long horizontal flourish extending to the right.

**Patrick Butler**

Solicitor to the RHI Inquiry

02890408928

**SCHEDULE**  
**[No 162 of 2017]**

1. Confirm the precise dates between which you occupied the position of Minister for Finance and Personnel.
  
2. Explain the involvement that you, whilst Minister for Finance and Personnel, had in the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland ('the Scheme') or any aspect of it. In particular, but without prejudice to the generality of the foregoing request:
  - a. please explain the knowledge that you had of the Scheme, both during the period of its creation prior to November 2012 and during the period of its operation thereafter;
  
  - b. please explain the knowledge that you had of the role played by the Department of Finance and Personnel ('DFP') in the creation and operation of the Scheme;
  
  - c. please explain the knowledge that you had of the nature of the funding for the Scheme.
  
3. In respect of the Scheme generally, and addressing the period prior to the suspension of the Scheme in February 2016:
  - a. please identify any risks, flaws, problems, anomalies, loopholes, or other issues regarding the Scheme which came to your attention, setting out details of when this occurred, how it occurred, by whom any relevant communication was made, and how you dealt with such knowledge and/or communications (including, in particular, the steps [if any] taken by you to alert other persons or bodies such as the Department for Enterprise, Trade and Investment ['DETI'] and/or

Ofgem to the said risks, flaws, problems, anomalies, loopholes, or other issues with the Scheme);

- b. please identify any instances of whistle-blowing to you in relation to the Scheme, or any disclosures made to you raising concerns about the Scheme, setting out details of when such communications occurred, by whom each such communication was made, and how you dealt with each such communication.
4. In respect of the attached letter dated 27 November 2012 to the Minister for Justice from Sheridan & Hood Limited, copied to you and other persons, and which related to the process of tendering for the construction of a Northern Ireland Community Safety College, please address the following particular points: -
- a. explain the steps (if any) taken by you to verify or test the accuracy of the description of the RHI Scheme and its operation offered in the aforementioned letter and, in particular, the suggestion that a participant in the Scheme could derive a profit from it;
  - b. identify all documents created, procured, received, and/or considered by you when addressing the claims made about the RHI Scheme in the aforementioned letter (including details of the author of each such document, the date of its creation, the person or body from whom it was received, and any person or body to whom it was sent);
  - c. explain the steps (if any) taken by you to communicate with DETI, DFP officials, any other part of the Government of Northern Ireland, and/or Ofgem concerning the issues raised in the aforementioned letter and, in particular, (i) in order to check the income and expenditure calculations set out in the letter, (ii) in order to confirm whether any of the aforementioned bodies were aware of the alleged ability of claimants to make a profit under the Scheme, and/or (iii) in order to determine whether the proposal set out in the letter (involving multiple

99kW boilers being installed by one claimant on a single site) was permissible under the Scheme (including, if applicable, the date of each such communication, the persons making and receiving each such communication, the content of each such communication, the response [if any] to each such communication, and the resulting action [if any] taken by you);

- d. explain the steps (if any) taken by you to communicate with DUP politicians, officials, members, SPADs, servants or agents, concerning the issues raised in the aforementioned letter and, in particular, (i) in order to check the income and expenditure calculations set out in the letter, (ii) in order to confirm whether any of the aforementioned bodies were aware of the alleged ability of claimants to make a profit under the Scheme, and/or (iii) in order to determine whether the proposal set out in the letter (involving multiple 99kW boilers being installed by one claimant on a single site) was permissible under the Scheme (including, if applicable, the date of each such communication, the persons making and receiving each such communication, the content of each such communication, the response [if any] to each such communication, and the resulting action [if any] taken by you);
- e. explain the steps (if any) taken by you to communicate with politicians, officials, members, SPADs, servants or agents of political parties other than the DUP concerning the issues raised in the aforementioned letter and, in particular, (i) in order to check the income and expenditure calculations set out in the letter, (ii) in order to confirm whether any of the aforementioned bodies were aware of the alleged ability of claimants to make a profit under the Scheme, and/or (iii) in order to determine whether the proposal set out in the letter (involving multiple 99kW boilers being installed by one claimant on a single site) was permissible under the Scheme (including, if applicable, the date of each such communication, the persons making and receiving each such communication, the content of each such communication, the

response [if any] to each such communication, and the resulting action [if any] taken by you);

- f. explain the steps (if any) taken by you to communicate with any person or body other than those captured by the preceding 3 sub-paragraphs of this Notice concerning the issues raised in the aforementioned letter and, in particular, (i) in order to check the income and expenditure calculations set out in the letter, (ii) in order to confirm whether any of the aforementioned bodies were aware of the alleged ability of claimants to make a profit under the Scheme, and/or (iii) in order to determine whether the proposal set out in the letter (involving multiple 99kW boilers being installed by one claimant on a single site) was permissible under the Scheme (including, if applicable, the date of each such communication, the persons making and receiving each such communication, the content of each such communication, the response [if any] to each such communication, and the resulting action [if any] taken by you);
  - g. explain, if applicable in respect of any of the classes of person or body specified in the preceding 4 sub-paragraphs of this Notice, why you did not communicate with that class of person / body concerning the issues raised in the aforementioned letter and, in particular, why you did not communicate with DETI, DFP officials, and/or Ofgem.
5. Identify any instances of lobbying or encouragement of Ministers, Special Advisers, Civil Servants or other relevant persons in relation to the terms of the 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) of which you are aware at any stage prior to February 2016.
  6. Identify any instances, to your knowledge or belief, where a Minister, Special Adviser, Civil Servant or any other person involved in the RHI Scheme (including, if applicable, yourself):

- 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;
- 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.

7. Provide any further evidence within your knowledge or belief which 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.

**INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME**

**RHI REF: Notice 162 of 2017**

**DATE: 2<sup>nd</sup> June 2017**

**Witness Statement of: SAMMY WILSON**

**I, Sammy Wilson, will say as follows:**

- 1. Confirm the precise dates between which you occupied the position of Minister for Finance and Personnel.**

July 2009 to August 2013.

- 2. Explain the involvement that you, whilst Minister for Finance and Personnel, had in the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland ('the Scheme') or any aspect of it. In particular, but without prejudice to the generality of the foregoing request:**

- a. please explain the knowledge that you had of the Scheme, both during the period of its creation prior to November 2012 and during the period of its operation thereafter;**

None, except for the period when RHI issues came into the public domain.

- b. please explain the knowledge that you had of the role played by the Department of Finance and Personnel ('DFP') in the creation and operation of the Scheme;**

None until RHI issues came into the public domain as it would have been dealt with by DFP officials at the time in accordance with the principles set out in Managing Public Money (NI) (adopted 2008). The funding was dealt with under Annually Managed Expenditure and would not have formed part of the block grant or the budget presented to the Assembly.

- c. please explain the knowledge that you had of the nature of the funding for the Scheme.**

None.

- 3. In respect of the Scheme generally, and addressing the period prior to the suspension of the Scheme in February 2016:**

- a. please identify any risks, flaws, problems, anomalies, loopholes, or other issues regarding the Scheme which came to your attention, setting out details of when this occurred, how it occurred, by whom any relevant communication was made,**

**and how you dealt with such knowledge and/or communications (including, in particular, the steps [if any] taken by you to alert other persons or bodies such as the Department for Enterprise, Trade and Investment ['DETI'] and/or Ofgem to the said risks, flaws, problems, anomalies, loopholes, or other issues with the Scheme);**

No such matters were brought to my attention before issues were ventilated in the public domain.

- b. **please identify any instances of whistle-blowing to you in relation to the Scheme, or any disclosures made to you raising concerns about the Scheme, setting out details of when such communications occurred, by whom each such communication was made, and how you dealt with each such communication.**

None.

4. **In respect of the attached letter dated 27 November 2012 to the Minister for Justice from Sheridan & Hood Limited, copied to you and other persons, and which related to the process of tendering for the construction of a Northern Ireland Community Safety College, please address the following particular points: -**

- a. **explain the steps (if any) taken by you to verify or test the accuracy of the description of the RHI Scheme and its operation offered in the aforementioned letter and, in particular, the suggestion that a participant in the Scheme could derive a profit from it;**
- b. **identify all documents created, procured, received, and/or considered by you when addressing the claims made about the RHI Scheme in the aforementioned letter (including details of the author of each such document, the date of its creation, the person or body from whom it was received, and any person or body to whom it was sent);**
- c. **explain the steps (if any) taken by you to communicate with DETI, DFP officials, any other part of the Government of Northern Ireland, and/or Ofgem concerning the issues raised in the aforementioned letter and, in particular, (i) in order to check the income and expenditure calculations set out in the letter, (ii) in order to confirm whether any of the aforementioned bodies were aware of the alleged ability of claimants to make a profit under the Scheme, and/or (iii) in order to determine whether the proposal set out in the letter (involving multiple 99kW boilers being installed by one claimant on a single site) was permissible under the Scheme (including, if applicable, the date of each such communication, the persons making and receiving each such communication, the content of each such communication, the response [if any] to each such communication, and the resulting action [if any] taken by you);**
- d. **explain the steps (if any) taken by you to communicate with DUP politicians, officials, members, SPADs, servants or agents, concerning the issues raised in the aforementioned letter and, in particular, (i) in order to check the income and expenditure calculations set out in the letter, (ii) in order to confirm whether any**

of the aforementioned bodies were aware of the alleged ability of claimants to make a profit under the Scheme, and/or (iii) in order to determine whether the proposal set out in the letter (involving multiple 99kW boilers being installed by one claimant on a single site) was permissible under the Scheme (including, if applicable, the date of each such communication, the persons making and receiving each such communication, the content of each such communication, the response [if any] to each such communication, and the resulting action [if any] taken by you);

- e. explain the steps (if any) taken by you to communicate with politicians, officials, members, SPADs, servants or agents of political parties other than the DUP concerning the issues raised in the aforementioned letter and, in particular, (i) in order to check the income and expenditure calculations set out in the letter, (ii) in order to confirm whether any of the aforementioned bodies were aware of the alleged ability of claimants to make a profit under the Scheme, and/or (iii) in order to determine whether the proposal set out in the letter (involving multiple 99kW boilers being installed by one claimant on a single site) was permissible under the Scheme (including, if applicable, the date of each such communication, the persons making and receiving each such communication, the content of each such communication, the response [if any] to each such communication, and the resulting action [if any] taken by you);
- f. explain the steps (if any) taken by you to communicate with any person or body other than those captured by the preceding 3 sub-paragraphs of this Notice concerning the issues raised in the aforementioned letter and, in particular, (i) in order to check the income and expenditure calculations set out in the letter, (ii) in order to confirm whether any of the aforementioned bodies were aware of the alleged ability of claimants to make a profit under the Scheme, and/or (iii) in order to determine whether the proposal set out in the letter (involving multiple 99kW boilers being installed by one claimant on a single site) was permissible under the Scheme (including, if applicable, the date of each such communication, the persons making and receiving each such communication, the content of each such communication, the response [if any] to each such communication, and the resulting action [if any] taken by you);
- g. explain, if applicable in respect of any of the classes of person or body specified in the preceding 4 sub-paragraphs of this Notice, why you did not communicate with that class of person / body concerning the issues raised in the aforementioned letter and, in particular, why you did not communicate with DETI, DFP officials, and/or Ofgem.

I have no recollection of receiving this correspondence or my attention being drawn to it at any time before now.

- 5. **Identify any instances of lobbying or encouragement of Ministers, Special Advisers, Civil Servants or other relevant persons in relation to the terms of the 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) of which you are aware at any stage prior to February 2016.**

None save references in the public domain of lobbying for the scheme to be kept open in early 2016 to facilitate constituents interested in participating in the scheme, including by Conor Murphy and Michelle O'Neill.

**6. Identify any instances, to your knowledge or belief, where a Minister, Special Adviser, Civil Servant or any other person involved in the RHI Scheme (including, if applicable, yourself):**

**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;**

None to my knowledge.

**b. acted in circumstances relating to or touching upon the Scheme in any way where they had a real or perceived conflict of interest;**

None to my knowledge.

**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.**

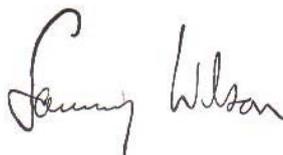
**7. Provide any further evidence within your knowledge or belief which is relevant to the matters which the RHI Inquiry is investigating as set out in the RHI Inquiry's Terms of Reference.**

None.

### **Statement of Truth**

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

**Signed:**



**Date: 2 June 2017**