

Sammy Wilson MP
34 Lancasterian Street
Carrickfergus
Co Antrim
BT38 7AG

By post and email (barroni@parliament.uk)

15 January 2018

Dear Sir

Re: The Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme
Provision of a Section 21 Notice requiring the provision of evidence in the form of a written statement

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

I know that you will be familiar, from my previous correspondence, with the RHI Inquiry's Terms of Reference, which remain available on the Inquiry's website. You will also be aware that the RHI Inquiry is conducting its investigations into the matters set out in its Terms of Reference. In addition to having commenced its oral hearings, the Inquiry is continuing with the process of gathering all of the relevant documentation from relevant departments, organisations and individuals; and 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.

I am writing further to receipt of the first substantive witness statement which you provided to the Inquiry, dated 2 June 2017, in response to Chairman's Notice No 162 of 2017. The Inquiry has had an opportunity to consider the content of that first statement and a range of other evidence touching upon your potential involvement with the RHI Scheme. There are a number of matters dealt with within your first substantive witness statement, or arising from it or from other evidence with which the RHI Inquiry has now been provided, which the Inquiry considers require to be clarified or dealt with in further detail. The Inquiry would therefore be grateful if you would provide a further substantive witness statement addressing the questions posed in the Schedule attached to the Section 21 Notice enclosed herewith.

As with previous Notices received by you from the Inquiry, 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 Notice. As the text of the Section 21 Notice explains, you are required by law to comply with it.

Again, 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 may be 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.

It is again 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.

As before, I appreciate that you may require or desire access to some documentation, to which you previously had access in your role as Minister but to which you no longer

have access, in order to assist you in preparing your statement. If so, I understand that the Department of Finance (DoF) has made arrangements to permit such access, at least in the first instance. You should contact Emer Morelli, Head of Supply, to organise this. She is contactable at Emer.Morelli@finance-ni.gov.uk. I have informed DoF that you may be making contact with them to arrange access to documentation; but there is, of course, no obligation upon you to do so.

As you will know, the Inquiry has also previously served a notice upon you requiring the provision to it of relevant documents under your possession or control. The Inquiry would expect you to revisit the response which you provided in relation to that notice in the event that the matters raised in the Schedule to the present notice disclose additional documentation which, in light of the matters now raised, you either discover or now consider ought to have been disclosed previously.

I remind you of the terms of Restriction Order No 2 made by the Chairman of the RHI Inquiry on 22 June 2017. 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.

A copy of this correspondence has also been provided to your legal representative, John McBurney of John McBurney Solicitors (by email only).

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 1 of 2018]***Sheridan & Hood letter of 27 November 2012*

In your statement of 2 June 2017 in response to the RHI Inquiry Chairman's Notice No 162 of 2017 ('your previous statement'), you indicated that you had "*no recollection of receiving*" correspondence from Sheridan & Hood dated 27 November 2012, into which you were purportedly copied (a further copy of which is provided for your convenience, bearing Inquiry reference WIT-30892 to WIT-30893) or of your "*attention being drawn to it any time before*" the service upon you of the notice from the Inquiry which gave rise to your statement.

Further evidence which has been made available to the Inquiry suggests that the letter was indeed drawn to your attention. In this respect, please see the documentation attached bearing Inquiry reference DOF-50381 to DOF-50396. Arising out of this:

1. Do you now accept that you were provided with, or that your attention was drawn to, a copy of the Sheridan & Hood letter of 27 November 2011?
2. Specify whether or not it is your handwriting on the copy of the letter included at DOF-50389.
3. Set out how the said letter came to your attention including, in particular, whether the letter was emailed to you and, if so, to which email address.
4. Does the attached documentation assist you in your recall of how you dealt with the contents of the Sheridan & Hood letter? If so, please provide full details of what you can now recall as to:
 - a. What you thought when you saw or read the letter, or when your attention was drawn to it?

- b. Any actions you took, or caused your officials to take, in response or in relation to it.

5. Specify whether you were aware of the Inter-Departmental Renewable Heat Strategy Group which had been formed in or around October 2011 and/or the participation of your Department in it.

6. Specify what consideration, if any, was given to referring each of:
 - a. the contents of the Sheridan & Hood letter of 27 November 2011; and
 - b. the issues of potential attempts "*to exploit possible loopholes*" in the Scheme and/or to "*circumvent the intent of the RHI*" which were raised in the Programme Director's response of 10 January 2013;

to each and any of the following bodies for their consideration:

 - i. the Inter-Departmental Renewable Heat Strategy Group; or
 - ii. the Department of Enterprise, Trade and Investment.

7. If any of the matters in the preceding enquiry were referred to any of the above bodies, please give full details.

6 December 2011 email from Wayne Cullen of BS Holdings Ltd

Information which has been provided to the Inquiry suggests that Mr Wayne Cullen of BS Holdings Ltd (BSH) (a company related to Sheridan & Hood Ltd) emailed you on 6 December 2012 (see the enclosed email, provided for your convenience, bearing Inquiry reference WIT-197398 to WIT-197399) to draw to your attention, and to invite you to discuss with them, the potential for government buildings to "*have zero fuel heating overhead costs*" through use of the RHI Scheme. The email contained a number of attachments (which are also provided herewith for your convenience) namely (a) a 'Bio Fuel Heating Systems' presentation [WIT-197400]; (b) a BSH

savings leaflet [WIT-197479 to WIT-197480]; and (c) a draft agenda for a proposed meeting [WIT-197481]. Arising out of this:

8. Please address the following matters:
 - a. Did you receive the email of 6 December 2012?
 - b. Was the email received and/or considered by any staff acting on your behalf?
 - c. If the answer to either of the questions above is 'yes', provide full details of what (if anything) was done in response to, or in relation to, the email.
 - d. Please also describe the arrangements you had in place at that time for considering and dealing with emails sent to your Northern Ireland Assembly email address.
9. Specify (addressing each issue specifically) whether you accept that the email and attachments indicate (a) that a profit can be made from the RHI Scheme; and (b) that the cost of the fuel to produce heat is less than the subsidy payable for the production of that heat in certain circumstances.
10. Set out what, if anything, you (or your staff) did in order to explore or further understand the significant cost benefits available to the public sector which the email of 6 December 2012 and its attachments were purporting to explain.
11. Specify what consideration, if any, was given to referring each of:
 - a. the contents of the email of 6 December 2012 and/or its attachments;
 - b. the issue of the purported income which could be achieved under the RHI Scheme, as set out in those documents; and

- c. the purported cost benefits available to the public sector which those documents set out to explain;

to each and any of the following bodies for their consideration:

- i. the Inter-Departmental Renewable Heat Strategy Group;
- ii. the Department of Enterprise, Trade and Investment; or
- iii. the Department of Finance and Personnel or any of its agencies (including the Central Procurement Directorate).

- 12. If any of the matters in the preceding enquiry were referred to any of the above bodies, please give full details.

10 December 2011 email from Wayne Cullen of BS Holdings Ltd

Information which has been provided to the Inquiry suggests that Mr Cullen emailed you again on 10 December 2012 (see the enclosed email, provided for your convenience, bearing Inquiry reference WIT-197396 to WIT-197397), drawing your attention to an answer provided by the Minister for Justice to a written Assembly Question about the potential use of biofuel at the Northern Ireland Community Safety College at Desertcreat; and sending you a further copy of (a) the email (with attachments) which had been sent to you on 6 December 2011; and (b) the Sheridan & Hood letter of 27 November 2011. Arising out of this:

- 13. Please address the following matters:
 - a. Did you receive the email of 10 December 2012?
 - b. Was the email received and/or considered by any staff acting on your behalf?

- c. If the answer to either of the questions above is 'yes', provide full details of what (if anything) was done in response to, or in relation to, the email.
14. Set out what, if anything, you (or your staff) did in order to explore or further understand the significant cost benefits available to the public sector which the email of 10 December 2012 and its attachments were purporting to explain.
15. Specify what consideration, if any, was given to referring each of:
 - a. the contents of the email of 10 December 2012 and/or its attachments;
 - b. the issue of the purported income which could be achieved under the RHI Scheme, as set out in those documents; and
 - c. the purported cost benefits available to the public sector which those documents set out to explain;

to each and any of the following bodies for their consideration:

- j. the Inter-Departmental Renewable Heat Strategy Group;
 - ii. the Department of Enterprise, Trade and Investment; or
 - iii. the Department of Finance and Personnel or any of its agencies (including the Central Procurement Directorate).
16. If any of the matters in the preceding enquiry were referred to any of the above bodies, please give full details.

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 1 of 2018

DATE: 29 January 2018

Witness Statement of: SAMMY WILSON MP

I, Sammy Wilson, will say as follows: -

Sheridan & Hood letter of 27 November 2012

In your statement of 2 June 2017 in response to the RHI Inquiry Chairman's Notice No 162 of 2017 ('your previous statement'), you indicated that you had "*no recollection of receiving*" correspondence from Sheridan & Hood dated 27 November 2012, into which you were purportedly copied (a further copy of which is provided for your convenience, bearing Inquiry reference WIT-30892 to WIT-30893) or of your "*attention being drawn to it any time before*" the service upon you of the notice from the Inquiry which gave rise to your statement.

Further evidence which has been made available to the Inquiry suggests that the letter was indeed drawn to your attention. In this respect, please see the documentation attached bearing Inquiry reference DOF-50381 to DOF-50396. Arising out of this:

- 1. Do you now accept that you were provided with, or that your attention was drawn to, a copy of the Sheridan & Hood letter of 27 November 2012?**

Yes, I do accept I was provided with a copy of this letter.

I have no recollection of ever having been provided with, or having my attention drawn to, the other letters, emails, and attachments now provided by the Inquiry i.e. the Programme Director's response dated 10 January 2013, or the emails dated 6 and



10 December 2012 and their associated attachments, from Wayne Cullen of BS Holdings Ltd.

- 2. Specify whether or not it is your handwriting on the copy of the letter included at DOF-50389.**

I can confirm it is my handwriting in the note dated 4 December 2012 and which contains the wording quoted in Brian Gepp's email of 5 December 2012.

- 3. Set out how the said letter came to your attention including, in particular, whether the letter was emailed to you and, if so, to which email address.**

I have no recollection of precisely how the letter came to my attention but given that I have made a note on the document it is likely that my Private Secretary provided it to me in hard copy.

I am unaware of whether, and to whom, it was emailed initially. It appears from the documents provided to me by the Inquiry that the letter was subsequently sent to the email address sammy.wilson@mla.niassembly.gov.uk. I did not use or access this email address while an MLA, and, have had no access to it since ceasing to be an MLA.

- 4. Does the attached documentation assist you in your recall of how you dealt with the contents of the Sheridan & Hood letter? If so, please provide full details of what you can recall as to:**

- a. What you thought when you saw or read the letter, or when your attention was drawn to it?**

I have no specific recollection of my thoughts about the content of the letter except those recorded in my note dated 4 December 2012, the first part of which is self-explanatory. My comment about the Department of Justice was made in the context that at that time there were ongoing discussions between DOJ and my Department,



DFP, about the procurement of Police Land Rovers, hence my query as to whether DOJ had checked it out. In relation to when I received the note, I can only assume this was between the date of the letter, 27 November 2012, and the date of the note, 4 December 2012.

- b. Any actions you took, or caused your officials to take, in response or in relation to it.**

As is apparent from the note I made, I queried whether DOJ had checked out the content.

- 5. Specify whether you were aware of the Inter-Departmental Renewable Heat Strategy Group which had been formed in or around October 2011 and/or the participation of your Department in it.**

I have no recollection of this group and do not believe I ever attended a meeting of it.

- 6. Specify what consideration, if any, was given to referring each of:**
 - a. the contents of the Sheridan & Hood letter of 27 November 2012; and**
 - b. the issues of potential attempts "*to exploit possible loopholes*" in the Scheme and/or to "*circumvent the intent of the RHI*" which were raised in the Programme Director's response of 10 January 2013;**

to each and any of the following bodies for their consideration:

- i. the Inter-Departmental Renewable Heat Strategy Group; or**
- ii. the Department of Enterprise, Trade and Investment.**



- a. I referred the content of the letter generally to DOJ, per my note. I did not consider referring it to either the Inter-Departmental Renewable Heat Strategy Group, or DETI.

- b. While I note that there is an email within the documents provided by the Inquiry from Brian Gepp to Jeff Rea on 28 January 2013 stating: “[t]he Minister has noted this”, I am certain that the letter dated 10 January 2013 was not provided to me. Had I been provided with the letter, upon reading it I would have noticed the references to exploitation and circumventing the intent of the RHI, which are stark, and taken action. Similarly, if these issues had been brought to me in a submission (as would have been usual), or discussed with me by Brian Gepp or any other official, I would have sought action to be taken. However, as I was not made aware of the content of the letter, I was not in a position to refer the issues arising to any other body.

7. If any of the matters in the preceding enquiry were referred to any of the above bodies, please give full details.

Not applicable, see reply to 6.

6 December 2012 email from Wayne Cullen of BS Holdings Ltd

Information which has been provided to the Inquiry suggests that Mr Wayne Cullen of BS Holdings Ltd (BSH) (a company related to Sheridan & Hood Ltd) emailed you on 6 December 2012 (see the enclosed email, provided for your convenience, bearing Inquiry reference WIT-197398 to WIT-197399) to draw to your attention, and to invite you to discuss with them, the potential for government buildings to *“have zero fuel heating overhead costs”* through use of the RHI Scheme. The email contained a number of attachments (which are also provided herewith for your convenience) namely (a) a 'Bio Fuel Heating Systems' presentation [WIT-



197400]; (b) a BSH savings leaflet [WIT-197479 to WIT-197480]; and (c) a draft agenda for a proposed meeting [WIT-197481]. Arising out of this:

8. Please address the following matters:

a. Did you receive the email of 6 December 2012?

No, I did not receive the email of 6 December 2012.

b. Was the email received and/or considered by any staff acting on your behalf?

No, not to my knowledge.

c. If the answer to either of the questions above is 'yes', provide full details of what (if anything) was done in response to, or in relation to, the email.

See reply to a and b, above.

d. Please also describe the arrangements you had in place at that time for considering and dealing with emails sent to your Northern Ireland Assembly email address.

There were no arrangements at that time for considering and dealing with emails to this account; it was not used or accessed by me, or anyone on my behalf so far as I am aware.

9. Specify (addressing each issue specifically) whether you accept that the email and attachments indicate (a) that a profit can be made from the RHI Scheme; and (b) that the cost of the fuel to produce heat is less than the subsidy payable for the production of that heat in certain circumstances.



While not spelled out in those terms, upon reviewing the email and attachments in preparation for making this statement, it appears to me that it is possible to draw the conclusion in (b) that the cost of fuel is less than the subsidy payable in some circumstances. In relation to (a), that a profit can be made, I note that the leaflet from BS Holdings Ltd sets out that subsidy payments would exceed the spend on fuel but it does not set out the cost of purchasing, installing or maintaining a biomass boiler.

I reiterate that I have no recollection of ever seeing or discussing the content of the 6 December 2012 email and attachments at any time until being provided with them by the Inquiry.

- 10. Set out what, if anything, you (or your staff) did in order to explore or further understand the significant cost benefits available to the public sector which the email of 6 December 2012 and its attachments were purporting to explain.**

As I was not aware of the email and its attachments, I was not in a position to take any further action.

- 11. Specify what consideration, if any, was given to referring each of:**

- a. the contents of the email of 6 December 2012 and/or its attachments;**
- b. the issue of the purported income which could be achieved under the RHI Scheme, as set out in those documents; and**
- c. the purported cost benefits available to the public sector which those documents set out to explain;**

to each and any of the following bodies for their consideration:

- i. the Inter-Departmental Renewable Heat Strategy Group;**



- ii. **the Department of Enterprise, Trade and Investment; or**

- iii. **the Department of Finance and Personnel or any of its agencies (including the Central Procurement Directorate).**

As I was not aware of the email and its attachments, I was not in a position to give any consideration to referring the contents and issues raised therein to any other body.

- 12. If any of the matters in the preceding enquiry were referred to any of the above bodies, please give full details.**

See reply at 11, above.

10 December 2012 email from Wayne Cullen of BS Holdings Ltd

Information which has been provided to the Inquiry suggests that Mr Cullen emailed you again on 10 December 2012 (see the enclosed email, provided for your convenience, bearing Inquiry reference WIT-197396 to WIT-197397), drawing your attention to an answer provided by the Minister for Justice to a written Assembly Question about the potential use of biofuel at the Northern Ireland Community Safety College at Desertcreat; and sending you a further copy of (a) the email (with attachments) which had been sent to you on 6 December 2011; and (b) the Sheridan & Hood letter of 27 November 2011. Arising out of this:

- 13. Please address the following matters:**
- a. **Did you receive the email of 10 December 2012?**

No, I did not receive the email of 10 December 2012.

 - b. **Was the email received and/or considered by any staff acting on your behalf?**



No, not to my knowledge.

- c. **If the answer to either of the questions above is 'yes', provide full details of what (if anything) was done in response to, or in relation to, the email.**

See reply to a and b, above.

- 14. Set out what, if anything, you (or your staff) did in order to explore or further understand the significant cost benefits available to the public sector which the email of 10 December 2012 and its attachments were purporting to explain.**

As I was not aware of the email and its attachments, I was not in a position to take any further action.

- 15. Specify what consideration, if any, was given to referring each of:**

- a. **the contents of the email of 10 December 2012 and/or its attachments;**
- b. **the issue of the purported income which could be achieved under the RHI Scheme, as set out in those documents; and**
- c. **the purported cost benefits available to the public sector which those documents set out to explain;**

to each and any of the following bodies for their consideration:

- i. **the Inter-Departmental Renewable Heat Strategy Group;**
- ii. **the Department of Enterprise, Trade and Investment; or**



- iii. **the Department of Finance and Personnel or any of its agencies (including the Central Procurement Directorate).**

As I was not aware of the email and its attachments, I was not in a position to give any consideration to referring the contents and issues raised therein to any other body.

- 16. **If any of the matters in the preceding enquiry were referred to any of the above bodies, please give full details.**

See reply to 15, above.

Statement of Truth

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

Signed:

Dated: 29 January 2018