



A

C/o Emma McCann LL.B.

Jack McCann & Son Solicitors

20 Ballymoney Road

Ballymena

Co. Antrim

BT43 5BY

By email to: Emma.mccann@jackmccann.com

3 December 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').

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

As you may be aware, the Inquiry is continuing to gather evidence as part of its investigation of the issues identified in its Terms of Reference. In particular, the Inquiry has been seeking some further written evidence from witnesses where issues

have arisen in evidence recently provided to it. The Inquiry Chairman also retains the right to require witnesses to attend to provide (further) oral evidence, and consideration will be given to whether that is necessary in light of additional written evidence which is received.

In the circumstances, please find enclosed with this letter a 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.

In the event that you require or desire access to some documentation, not already in your possession, in order to assist you in preparing your statement, please revert to me.

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.

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 style with a long horizontal stroke at the end.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

[No 244 of 2018]

The evidence of Máirtín Ó'Muilleoir MLA

1. On 23 October 2018, during the course of his oral evidence to the Inquiry, Mr Ó'Muilleoir was asked a number of questions about the process in which he engaged during 2016 regarding the selection and appointment of a Special Adviser ('SpAd') to assist him in his position as Finance Minister (see, in this regard, the following portion of that day's transcript – **TRA-16239 to TRA-16247¹**). His evidence on this issue included the following:
 - That his pool of potential candidates for the role of SpAd included two people from the private sector (**TRA-16240, lines 18 to 20**);
 - That he spoke to one of those persons (**TRA-16240, lines 20 to 21**) on the telephone (**TRA-16242, lines 16 to 18**) and that he especially remembered this (**TRA-16244, lines 8 to 16**);
 - That performing the role of SpAd was not going to be viable for that person because her (private sector) wage could not be matched and because of the '24/7' nature of the SpAd role (**TRA-16240, lines 21 to 25 and TRA-16241, line 1**); and
 - That he could provide the names of the aforementioned people from the private sector to the Inquiry (**TRA-16244, lines 14 to 16**).

By Section 21 Notice dated 12 November 2018 (**WIT-162043 to 162047**), Mr Ó'Muilleoir was asked to provide the name (as well as some other details) of each of the private sector persons he considered for the role of SpAd and to clarify to which of the said persons he had spoken regarding the possibility of appointment to that role.

¹ The full transcript for Day 108 of the Inquiry's public hearings is available at <https://www.rhiinquiry.org/septemberoctober-2018>.

Through his witness statement dated 23 November 2018 (WIT-162048 to 162050), Mr Ó'Muilleoir identified you as the private sector person whom he had considered for the role of SpAd and with whom he had spoken about it. In particular, he stated as follows at WIT-162048-162049:

A had **Personal information redacted by the RHI Inquiry**
Personal information redacted by the RHI Inquiry
Personal information redacted by the RHI Inquiry discussed this possibility in a phone call with **A** but it quickly became clear that there were three insurmountable obstacles to such an appointment; the high profile political nature of the post; the inability to match her current salary and the punishing 24-7 schedule entailed with the post.

He also went on to identify your 'current bio' as:

Personal information redacted by the RHI Inquiry

Personal information redacted by the RHI Inquiry

Arising out of the evidence of Mr Ó'Muilleoir, as summarised above, you are asked to address the following issues:

- a. Confirm whether Máirtín Ó'Muilleoir ever spoke to you to explore your interest in taking up the role of Special Adviser to him in his capacity as Finance Minister including, if he did do so, the following details:
 - i. When he spoke to you;
 - ii. The terms of any proposal he made to you;
 - iii. Your response to any such proposal (if applicable); and
 - iv. Whether any or all of the three 'obstacles' identified by Mr Ó'Muilleoir in his evidence represented the reason(s) why you were unable to take up the post of SpAd;
- b. Without prejudice to the foregoing request, clarify whether you have at any time had any communications with Mr Ó'Muilleoir regarding the issues arising in the evidence summarised above (including, in

particular, the issue of whether he in fact had the conversation or any similar conversation with you regarding the role of SpAd which he alluded to in his evidence to the Inquiry) and, if you have had any such communications, please provide the following details in respect of each such communication:

- i. Specify when, where, and through what medium (e.g. emails, SMS messages, or otherwise) it occurred;
 - ii. Set out, to the best of your recollection, what was said by each of you;
 - iii. Identify by name any other persons who were witness to it;
 - iv. Identify (and provide copies of) any documents (such as, for examples, emails or SMS messages) in which the communication is recorded or referenced;
- c. Provide any other evidence which you consider to be of potential relevance to the evidence given by Mr Ó'Muilleoir on this issue.

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 244 of 2018

DATE:

Witness Statement of:

A

I, A will say as follows:-

The evidence of Máirtín Ó'Muilleoir MLA

1. On 23 October 2018, during the course of his oral evidence to the Inquiry, Mr Ó'Muilleoir was asked a number of questions about the process in which he engaged during 2016 regarding the selection and appointment of a Special Adviser ('SpAd') to assist him in his position as Finance Minister (see, in this regard, the following portion of that day's transcript – **TRA-16239 to TRA-16247**¹). His evidence on this issue included the following:
 - a. That his pool of potential candidates for the role of SpAd included two people from the private sector (**TRA-16240, lines 18 to 20**);
 - b. That he spoke to one of those persons (**TRA-16240, lines 20 to 21**) on the telephone (**TRA-16242, lines 16 to 18**) and that he especially remembered this (**TRA-16244, lines 8 to 16**);
 - c. That performing the role of SpAd was not going to be viable for that person because her (private sector) wage could not be matched and because of the '24/7' nature of the SpAd role (**TRA-16240, lines 21 to 25 and TRA-16241, line 1**); and

¹ The full transcript for Day 108 of the Inquiry's public hearings is available at <https://www.rhiinquiry.org/septemberoctober-2018>.



- d. That he could provide the names of the aforementioned people from the private sector to the Inquiry (**TRA-16244, lines 14 to 16**).

By Section 21 Notice dated 12 November 2018 (**WIT-162043 to 162047**), Mr Ó'Muilleoir was asked to provide the name (as well as some other details) of each of the private sector persons he considered for the role of SpAd and to clarify to which of the said persons he had spoken regarding the possibility of appointment to that role.

Through his witness statement dated 23 November 2018 (**WIT-162048 to 162050**), Mr Ó'Muilleoir identified you as the private sector person whom he had considered for the role of SpAd and with whom he had spoken about it. In particular, he stated as follows at **WIT-162048-162049**:

A had **Personal information redacted by the RHI Inquiry**
Personal information redacted by the RHI Inquiry
Personal information redacted by the RHI Inquiry I discussed this possibility in a
A but it quickly became clear that there were
three insurmountable obstacles to such an appointment; the high profile political nature of the post; the inability to match her current salary and the punishing 24-7 schedule entailed with the post.

He also went on to identify your 'current bio' as: **Personal information redacted by the RHI Inquiry**
Personal information redacted by the RHI Inquiry

Arising out of the evidence of Mr Ó'Muilleoir, as summarised above, you are asked to address the following issues:

- a. Confirm whether Máirtín Ó'Muilleoir ever spoke to you to explore your interest in taking up the role of Special Adviser to him in his capacity as Finance Minister including, if he did do so, the following details:
- i. When he spoke to you;

RENEWABLE HEAT
INCENTIVE INQUIRY

I have never had a conversation with Mr Ó Muilleoir in which he explored my interest in becoming a SpAd.

- ii. The terms of any proposal he made to you;

N/A

- iii. Your response to any such proposal (if applicable); and

N/A

- iv. Whether any or all of the three 'obstacles' identified by Mr Ó'Muilleoir in his evidence represented the reason(s) why you were unable to take up the post of SpAd;

N/A

- b. Without prejudice to the foregoing request, clarify whether you have *at any time* had any communications with Mr Ó'Muilleoir regarding the issues arising in the evidence summarised above (including, in particular, the issue of whether he in fact had the conversation or any similar conversation with you regarding the role of SpAd which he alluded to in his evidence to the Inquiry) and, if you have had any such communications, please provide the following details in respect of each such communication:

- i. Specify when, where, and through what medium (e.g. emails, SMS messages, or otherwise) it occurred;

I received a phone call from Mr O Muilleoir on the 12th November 2018. He asked if he could call to my home that evening for a chat. I told him I was busy and that perhaps I could meet him at another time. He then asked me if I had seen any footage of the evidence he had given to the RHI Inquiry. I replied that I had not. He then explained that he had been asked about how he recruited his SpAd and that he had stated that he had considered a number of candidates for the role. He then asked me if we had ever previously had a conversation about me potentially becoming his SpAd. I said that we had not and he asked if we had 'ever had such a conversation even in jest'. He explained that he had been asked to submit the names of the



people he had considered to the Inquiry in a statement. He also mentioned that that he had considered [REDACTED] B (who is [REDACTED] irrelevant information redacted) as a potential candidate. Mr O Muilleoir then told me that he was going to Boston and would be back on Saturday 17th and perhaps we could have a coffee on his return. On Saturday 17th I received a text from Mr O Muilleoir to which I replied. He sent a further text to which I also replied. (See screenshots of these texts at b.iv)

I did not phone Mr O Muilleoir on Sunday 18th.

On Sunday 18th, I met [REDACTED] B. I told [REDACTED] B about the conversation that I had had with Mr Ó Muilleoir. I explained that he had mentioned [REDACTED] B's name during the course of our conversation on the 12th as someone he had thought about as a potential SpAd.

On Sunday 25th of November, [REDACTED] B phoned me and explained that [REDACTED] B had received a voicemail from Mr O Muilleoir the day before (24th) saying that he had submitted [REDACTED] B's name to the Inquiry as someone who he had considered for the role. [REDACTED] B told me that [REDACTED] B had phoned Mr O Muilleoir about this on the 25th November and that he told [REDACTED] B that he had also submitted my name to the Inquiry.

As a result of what [REDACTED] B told me, I sent an email to Mr O Muilleoir on Wednesday 28th November at 6.15pm (See b.iv).

On Wednesday 5th December, I received an email from Mr O Muilleoir. (See b.iv)

- ii. Set out, to the best of your recollection, what was said by each of you;
See above
- iii. Identify by name any other persons who were witness to it;
None
- iv. Identify (and provide copies of) any documents (such as, for examples, emails or SMS messages) in which the communication is recorded or referenced;



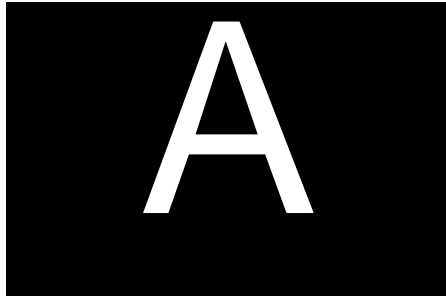
- (a) I attach two screenshots of the text messages sent between myself and Mr O Muilleoir on 17th November
- (b) I attach a copy of the email which I sent to Mr O Muilleoir on Wednesday 25th November
- (c) I attach a copy of the email I received from Mr O Muilleoir on Wednesday 5th December

c. Provide any other evidence which you consider to be of potential relevance to the evidence given by Mr Ó'Muilleoir on this issue.

N/A

Statement of Truth

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



Signed: _____

Dated: __05/12/2018_____



Mairtin >

tomorrow night. Back
Wednesday night but in
again Thursday! Hope the trip
went well. I hear [redacted] has
resigned from [redacted]

Personal information redacted by the RHI Inquiry

Personal information redacted by the RHI Inquiry

Personal information redacted by the RHI Inquiry

Ok. Call tomorrow. I have to
submit statement on Monday.
Yes re [redacted] Surprised? M

Personal information redacted by the RHI Inquiry

Ok I'll call you on way to
[redacted] M but There is no
my name can be submitted
sorry. Glad [redacted] managed to
find something else, he's
wanted out for years and his
heart was never in it.

Personal information redacted by the RHI Inquiry

Personal information redacted by the RHI Inquiry

*way

Delivered

Talk tomorrow. M



iMessage



Received from [redacted] A on 06/12/18





Mairtin >

A in Boston, heading home soon. What about coffee in [redacted] at 5pm Sunday? Máirtín

Can't M sorry, I'm away to [redacted] tomorrow for my [redacted] and then heading to [redacted] from there tomorrow night. Back Wednesday night but in [redacted] again Thursday! Hope the trip went well. I hear [redacted] has resigned from [redacted]

Ok. Call tomorrow. I have to submit statement on Monday. Yes re [redacted] Surprised? M

Ok I'll call you on way to [redacted] M but There is no my name can be submitted sorry. Glad [redacted] managed to find something else he's



iMessage



Received from A on 06/12/18



Emma McCann

From: [REDACTED] A
Sent: 05 December 2018 21:41
To: Emma McCann
Subject: Email to MOM

From: [REDACTED] A
Sent: 28 November 2018 18:15
To: 'Mairtin O'Muilleoir' <m.omuilleoir@belfastmediagroup.com>
Subject: RHI Inquiry

Dear Máirtín,

As you are aware, you phoned me on Monday 12th November and, in the course of that conversation asked me whether we had previously ever had any discussions about me potentially becoming your SPAD. You will recall that I told you that we had never had any such discussion and nor would I have ever expressed an interest in that role.

As you are aware, you sent me a text on Saturday 17th November asking to meet for a coffee on the 18th. In replying I reiterated to you that, as per our discussion on the 12th November, my name was under no circumstances to be submitted to the RHI Inquiry as someone who had been under consideration for the role of SPAD.

I have since learned from [REDACTED] B that, in spite of what I said on the 12th and 17th November, you may have gone ahead and submitted my name to the RHI Inquiry team.

This is a matter of grave concern to me.

Please confirm immediately whether my name has been submitted to the Inquiry. If so, I should be obliged to have sight of all documentation submitted to the Inquiry in this regard.

Upon seeing that documentation, I will give consideration to what other steps I may be required to take.

Yours Faithfully,

[REDACTED] A

[REDACTED] A

Emma McCann

From: [REDACTED] A
Sent: 05 December 2018 21:41
To: Emma McCann
Subject: Email from MOM

From: Máirtín Ó Muilleoir <m.omuilleoir@belfastmediagroup.com> **On Behalf Of** Máirtín Ó Muilleoir
Sent: 05 December 2018 10:06
To: [REDACTED] A
Subject: Re: RHI Inquiry

Dear [REDACTED] A

I understand your position entirely and can assure you the last thing I wanted to do was to mention your name in evidence relating to the RHI issue. However, I am under oath and have submitted a statement to the RHI inquiry which truthfully states that I did consider you as someone who would make a great SpAD. In relation to my statement, it was in response to a request from the Inquiry which I am obliged under law to respond to. I can assure you that I have requested that the RHI Inquiry fully respect your anonymity. I am uncertain if I am at liberty to share my evidence to the RHI Inquiry with you but I am happy to make that request to the Inquiry if you wish.

Faithfully,

Máirtín Ó Muilleoir

From: [REDACTED] A
Date: Dé Céadaoin 28 Samhain 2018 18:14
To: Máirtín Ó Muilleoir
Subject: RHI Inquiry

Dear Máirtín,

As you are aware, you phoned me on Monday 12th November and, in the course of that conversation asked me whether we had previously ever had any discussions about me potentially becoming your SPAD. You will recall that I told you that we had never had any such discussion and nor would I have ever expressed an interest in that role.

As you are aware, you sent me a text on Saturday 17th November asking to meet for a coffee on the 18th. In replying I reiterated to you that, as per our discussion on the 12th November, my name was under no circumstances to be submitted to the RHI Inquiry as someone who had been under consideration for the role of SPAD.

I have since learned from [REDACTED] B that, in spite of what I said on the 12th and 17th November, you may have gone ahead and submitted my name to the RHI Inquiry team.

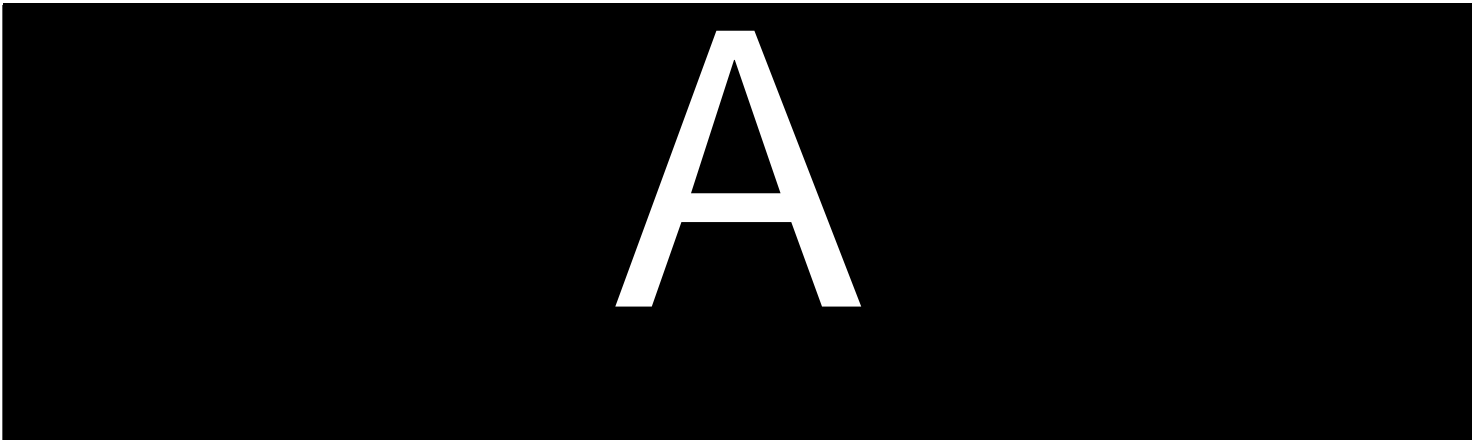
This is a matter of grave concern to me.

Please confirm immediately whether my name has been submitted to the Inquiry. If so, I should be obliged to have sight of all documentation submitted to the Inquiry in this regard.

Upon seeing that documentation, I will give consideration to what other steps I may be required to take.

Yours Faithfully,

A



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