



The Scottish Parliament
Pàrlamaid na h-Alba

Derek Mackay

Public Audit Committee

Room T3.60

The Scottish Parliament

EDINBURGH

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By email only

Email:

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26 May 2022

Dear Mr Mackay,

New vessels for the Clyde and Hebrides: Arrangements to deliver vessels 801 and 802

The Public Audit Committee recently commenced its scrutiny of the Auditor General for Scotland's (AGS) report, [New vessels for the Clyde and Hebrides: Arrangements to deliver vessels 801 and 802](#). To date, this has involved taking oral evidence from the AGS at our meetings on 21 April and 28 April 2022 and then from officials at the Scottish Government and Transport Scotland at our meeting on 26 May 2022¹.

The Committee notes that having served as the former of Minister for Transport and Islands and the former Cabinet Secretary for Finance and the Constitution, you will hold extensive knowledge of the issues raised in the abovementioned report. This includes details of the decision taken by Scottish Ministers to award the ferry contracts to Ferguson Marine Engineering Limited (FMEL), despite significant risks and concerns raised by Caledonian Maritime Assets Limited (CMAL), as well as information pertaining to the provision of two Scottish Government loans to FMEL worth £45 million and the decision to bring the shipyard into public ownership.

On that basis, the Committee would be grateful if you could respond to a number of questions as outlined below.

¹ The Official Report for this meeting will be available on 31 May 2022. In the meantime, you can watch the Committee proceedings [here](#).

Initial arrangements to deliver the vessels

- At what stage in the procurement process did you first become aware that FMEL was unable to offer a full Builders Refund Guarantee (BRG)?
- At any point did you indicate to FMEL that a BRG was not required to secure the contracts, and if so, on what basis?
- Why the decision was made to announce FMEL as the preferred bidder on 31 August 2015 when contract negotiations on the BRG between CMAL and FMEL were still under way, and what impact you consider this may have had on CMAL's negotiating position?
- Upon receiving information detailing CMAL's significant concerns of awarding the contracts to FMEL, including its inability to provide a full BRG, what discussion, if any, did you have with the following stakeholders to inform your decision to approve the awarding of the contracts to FMEL—
 - The senior executives at CMAL and CMAL Board Members (*particularly given it appears different views on the risks involved in awarding the contract were held*)
 - Transport Scotland officials
 - Scottish Government officials
 - Other Scottish Ministers.
- What assessment of the risks did you undertake to satisfy yourself that you were content to recommend approval of the contracts to FMEL, despite significant risks and concerns raised by CMAL, and why this decision was made so quickly after receiving these concerns?
- To what extent you consider Transport Scotland made a clear and compelling case in its correspondence of 8 October 2015 to approve the decision to award the contract to FMEL?
- Whether any documentary evidence exists which explains why the decision was made to proceed with the contracts?

Response when the project encountered problems

- When did you first become aware of problems and delays in building the vessels and how were you informed?
- In May 2017, Scottish Ministers agreed to accelerate £14.55 million of payments to FMEL after a meeting with an FMEL director. Please provide details of any other direct engagement you, or any other Scottish Ministers had with FMEL during the time it was responsible for constructing the vessels, and what the nature of these discussions were.

- In noting the conflicting points of view raised by both CMAL and FMEL, the role you fulfilled in seeking to resolve this dispute, and the challenges you faced in doing so.
- Why Scottish Ministers did not force CMAL and FMEL to use the dispute resolution mechanisms contained within the contracts?

Scottish Government loans

- The Scottish Government provided FMEL with two loans in September 2017 and June 2018 worth a total of £45 million. In the interest of transparency, why was it considered necessary to only inform the Scottish Parliament of the second loan?
- Why did the Scottish Government allow FMEL to drawdown the full £30 million loan, provided in June 2018, despite clear evidence of vessel delays?
- In your role as former Cabinet Secretary for Finance and the Constitution, did you ever attempt to establish how FMEL used the loan funding provided to it?

Bringing the shipyard into public ownership

- Why a decision was taken by the Scottish Government to nationalise the shipyard without an apparent full understanding of the costs and challenges.

We appreciate that this letter seeks responses to a number of detailed questions. Should there be other points that you believe would be beneficial to the Committee's scrutiny of the report, however, please include this information in your response.

The Committee looks forward to receiving your response to this letter by **24 June 2022**. Should this date present any difficulties to you, please contact the clerks as soon as possible.

I would also add that following consideration of your response, it remains open to the Committee to invite you to provide oral evidence at a future meeting.

Yours sincerely



**Richard Leonard MSP,
Convener**