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Richard Leonard MSP  
Convener  
Public Audit Committee  
Scottish Parliament  
Edinburgh  
EH99 1SP

22 April 2024

Dear Mr Leonard,

Thank you for your letter of 14 March 2024. I am pleased to share with you the following information as requested. I hope this update is helpful which has been collated from across different teams in the Scottish Government.

### **Post Office Horizon IT Scandal**

**The Committee have asked for information on the potential impacts of legislation on wrongly convicted sub-postmasters across the UK and sought clarification on Scotland's compensation scheme for sub-postmasters.**

The Post Office (Horizon System) Offences Bill was introduced at Westminster on 13 March 2024 and did not extend to Scotland. Scottish Ministers have indicated in letters to the UK Government - [Post Office Horizon cases: letters to UK Government](#) – their preference that the legislation should extend to Scotland, culminating in a letter from the Cabinet Secretary for Justice and Home Affairs dated 18 April enclosing draft amendments to extend the Bill to Scotland and asking the UK Government to table them. The Cabinet Secretary for Justice and Home Affairs also wrote to the Scottish Parliament Criminal Justice Committee on 7 March - [Convictions of wrongly convicted sub-postmasters update 7 March 2024](#) - confirming that, if the UK Government does not agree to extend their Bill to Scotland, alternative arrangements will be progressed in Scotland to ensure that Scottish postmasters who were wrongfully convicted are not ultimately disadvantaged relative to their counterparts in England and Wales. This includes with reference to access to UK Government compensation.

The Scottish Government has no locus in the administration of the compensation schemes available, and no costs currently fall on the Scottish Government in relation to the provision of compensation to Scottish postmasters. Anyone convicted or wrongfully prosecuted because of the failings of the Horizon IT system can apply for

compensation via the scheme set up by the UK Government. At present, there are a total of three different UK Government compensation schemes in operation, access to which is dependent on an individual's circumstances, such as whether or not they were prosecuted, and whether or not they were a claimant in the group litigation.

Details of these schemes can be accessed on the Post Office website:

[corporate.postoffice.co.uk/en/horizon-scandal-pages/compensation-schemes-explained/](https://corporate.postoffice.co.uk/en/horizon-scandal-pages/compensation-schemes-explained/)

Access to the scheme for wrongfully convicted postmasters is currently limited to cases where a conviction has been overturned on appeal. The UK Government have however indicated that they intend to amend this scheme so that those who have their convictions reversed by legislation will also be eligible for compensation. The UK Government has also confirmed it will bring forward enhanced financial redress for postmasters who were not convicted or part of previous legal action against the Post Office.

### **Ferguson Marine Port Glasgow (FMPG)**

**The Committee would be grateful for an update on the status of the framework agreement, including a copy of this document, should it now be available.**

The framework agreement between the Scottish Government and Ferguson Marine Port Glasgow (FMPG) was agreed by the Board and Ministers in March 2022. This remains in place subject to periodic review to take account of issues that arise in the operation of the business.

The Directors of FMPG have raised concerns about their ability to operate in a fully commercial manner, taking account of their responsibilities and liabilities as Directors under the Companies Act, alongside constraints on their commercial decisions by virtue of compliance with Scottish Government guidance such as the Scottish Public Finance Manual (SPFM). Considering this, the Board of FMPG reviewed an updated version of the framework agreement on 28 March 2024 and advice will be sent to Ministers shortly on the outcomes of that discussion. Once discussions conclude we will forward a copy of any updated framework agreement to the Committee.

### **Costs for Vessel 802**

**The Committee maintains the view that a balance can be struck between recognising issues of commercial confidentiality and the ability of Parliament to hold the Scottish Government to account regarding the information used to make critical decisions about the yard and the vessels.**

We value the scrutiny of your committee, alongside the NZET Committee, and have shown our commitment to openness around the forecast costs for vessel 802, and the related value for money assessment. All forecasts of vessel costs and delivery dates prepared by Ferguson Marine are shared promptly with Parliament. We have published the correspondence on the written authority, and Mr Gray in his former role as Cabinet Secretary for Wellbeing Economy, Fair Work and Energy made a statement to Parliament on 16 May last year.

We have also shared all the materials underpinning the written authority with the Auditor General and his team to aid accountability. This was recognised in Audit Scotland's November 2023 report on the consolidated accounts: *"Full access to officials and the documentation that supported the Accountable Officer's decision to request a written authority was provided. I can confirm, from the evidence available, that the process followed was in accordance with the requirements set out in the SPFM."*

The Accountable Officer's request for written authority signalled clearly that the value for money case was not met. While outlining his decision to proceed with completion of vessel 802 at Ferguson Marine, to avoid further delays and deliver Ministers' wider economic objectives, the former Cabinet Secretary Mr Gray highlighted the commercial sensitivity of the underpinning due diligence reports. As referenced above, the Directors of Ferguson Marine must operate in a highly competitive commercial environment and, in striking the appropriate balance between the factors described by the Committee, we wish to ensure that the yard has the best possible opportunity to bid for new work.

We are mindful of striking the right balance in our handling of commercially sensitive material while promoting transparency and supporting accountability processes. In 2023, we established one division, the Strategic Commercial Assets Division (SCAD), to consolidate our approach to commercial assets and ensure that high standards of professionalism, consistency and transparency are maintained. The work of SCAD is overseen by a Strategic Assets Review Group, chaired by the Director General for the Economy, and supported by me, the Chief Financial Officer and non-executive directors with substantial commercial experience.

We can further utilise SCAD supported by the Strategic Assets Review Group (SARG) to maximise transparency. Furthermore, work is underway in DG Economy to develop a review of proactive publications across our portfolio of commercial assets. As you will be aware the Scottish Government already routinely publishes a range of information including:

- Publication schemes for Ferguson Marine and Glasgow Prestwick Airport that follow the Model Publication Scheme produced by the Scottish Information Commissioner (see [fmpg-publication-scheme.pdf \(fergusonmarine.com\)](#) and [Publication Scheme & Freedom of Information - Glasgow Prestwick Airport Glasgow Prestwick Airport](#)).
- The Ferguson Marine Documents webpage which presents a wealth of material including monthly and weekly meetings, vessel progress reports, risk registers, Ministerial updates (see [Ferguson Marine: documents - gov.scot \(www.gov.scot\)](#)) plus material on the written authority.

We would of course share the findings of the review with your Committee once the review has concluded.

I thank you again for your correspondence and I hope you find this response is beneficial.

Best wishes,

**JP Marks**

**Permanent Secretary to the Scottish Government**