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Convenor
Public Audit Committee
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The Scottish Parliament
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Dear Convener

Strategic Commercial Assets Transparency Review

The Director General Economy, Gregor Irwin, wrote to you on 10 July with an update regarding the implementation of the recommendations of the Transparency Review of the Strategic Commercial Assets Division (SCAD).

The further progress made since July is summarised in the annex to this letter.

In February, we provided your Committee with an information pack of commercial advice relating to Ferguson Marine. Redactions were applied to some of the contents of the pack to protect sensitive commercial information. We have now established a Transparency Assurance Panel, chaired by a senior civil servant who was not involved in the original decision-making, and the panel will review the information pack at their next meeting scheduled for 30 October.

The panel will assess whether the balance between transparency and protecting commercially sensitive material and legal rights was achieved effectively.

In addition to the work of the panel, SCAD will continue implementation of its pro-active approach to publications on the gov.scot website. A series of new web pages dedicated to the work of the Strategic Commercial Division were published on 30 September and can be accessed from the following link: <https://www.gov.scot/publications/strategic-commercial-assets/>.

We are committed to implement fully the recommendations of the Transparency Review and aim for continuous improvement of our approach to transparency regarding the Government's strategic commercial assets.

Your sincerely

Dermot Rhatigan

ANNEX – UPDATE ON THE IMPLEMENTATION OF THE TRANSPARENCY REVIEW

- 1) *Create a webpage with up-to-date information on the government's Strategic Commercial Assets Division and its work.*

Details of the work of the Strategic Commercial Assets Division (SCAD) were published on the gov.scot website on 30 September (<https://www.gov.scot/publications/strategic-commercial-assets/>).

The webpages have seven sections with a range of content including:

- The [Interventions Assurance Playbook](#), which presents the main methods of operation by SCAD in its management of interventions.
- A directory of FOISA cases handled by SCAD.
- A list of recent approvals by Scottish Ministers acting in their capacity as shareholders of Ferguson Marine (Port Glasgow) Ltd and Glasgow Prestwick Airport Ltd.
- The total number of non-disclosure agreements used in SCAD.

- 2) *Establish a transparency assurance panel to review the sensitivity status of material recorded in SCAD's register of commercial advice on a six-monthly cycle.*

The Transparency Assurance Panel has been formed and has held an initial meeting to agree its terms of reference. Notes of all meetings of the panel will be published on gov.scot.

The panel comprises members from outwith the Strategic Commercial Assets Division. The Chair, who is a senior civil servant, was selected on the basis of experience in commercial interventions and the Co-Chair is an expert in open government policy. Other members of the panel bring legal, procurement and FOISA expertise.

The next meeting of the panel is scheduled for 30 October to review the FMPG Information Pack provided to the PAC Committee on 7 February.

- 3) *Identify commercially sensitive information at the outset of contractual relationships as part of the procurement process.*

The Scottish Government's contract management procedures relating to commercial advice have been updated as part of a revised procurement framework agreement for commercial advice. This new framework is expected to come into effect from 30 October 2025.

- 4) *Incorporate terms and conditions in the commissioning of external commercial advice to promote access to information once the assignment is complete.*

The revised procurement framework agreement for commercial advice mentioned above contains a provision which confers a contractual obligation to publish information in relation to the framework and record contractor sensitive information including the reason and duration of the sensitivity.

5) *A regular report of FOISA cases will be published on the SCAD webpage.*

A directory of published FOISA cases managed by SCAD is now available on <https://www.gov.scot/publications/strategic-commercial-assets-division-foi-responses/> and will be updated twice a year.

6) *Develop and publish a policy for the appropriate use of NDAs relating to strategic commercial assets.*

The SCAD policy for use of non-disclosure agreements now forms part of the updated SCAD website content and has been operationalised through revised internal procedures.

7) *Publish the number of NDAs signed by SCAD bi-annually.*

The total number of NDAs signed by SCAD forms part of the SCAD web content (<https://www.gov.scot/publications/strategic-commercial-assets/pages/non-disclosure-agreements/>) and will be updated twice a year.

8) *Publish a summary all shareholder approval requests from the businesses sponsored by the division annually.*

A register is available on <https://www.gov.scot/publications/strategic-commercial-assets/pages/shareholder-interventions/> and it will be updated twice a year.

9) *Update the Business Investment Framework section of the SPFM to be clear when Parliament should be notified of Ministerial directions to commercially focused public bodies.*

An update to the Scottish Public Finance Manual has been completed and awaiting upload to [Annex B: Investment in businesses by Scottish Ministers: Disclosure of information - Scottish Public Finance Manual - gov.scot](#) with confirmation that Parliament should be notified of Ministerial directions to commercially focused public bodies.