



The Scottish Parliament Pàrlamaid na h-Alba

Neil Gray MSP
Cabinet Secretary for Wellbeing
Economy, Fair Work
and Energy

Public Audit Committee
Room T3.60
The Scottish Parliament
EDINBURGH
EH99 1SP

By email only

publicaudit.committee@parliament.scot

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Dear Cabinet Secretary,

Thank you for your helpful response to the Public Audit Committee's recent correspondence, which sought clarity on several matters relating to its continued scrutiny of new vessels for the Clyde and Hebrides. We considered your response on 14 December and agreed to seek further information in the terms set out below.

Use of Non-Disclosure Agreements

The Committee notes that the Scottish Government has entered into ten non-disclosure agreements (NDAs) with external private companies in relation to Ferguson Marine Port Glasgow. **The Committee asks for further general information about each of these NDAs, including the reason for the NDA being required, the private company that was involved and the date on which the NDA was entered into.**

Shareholder Authorisation

As the Committee set out in its letter to the Minister for Transport on 2 November, it considers there to be equivalent public interest in relation to occasions of Written Authority. The Committee therefore concluded in its report, "New vessels for the

Clyde and Hebrides: Arrangements to deliver vessels 801 and 802”, that where the board of a company wholly owned by Scottish Ministers consider it necessary to seek and receive shareholder authorisation, such occasions should be a matter of public record.

In your most recent correspondence to the Committee, you stated that the Scottish Government will “consider further whether or not the broad principle of publishing these can be accepted” while also stating that “issues of commercial confidentiality will need to be considered.”

The Committee notes that there is no such caveat regarding commercial confidentiality in the Scottish Public Finance Manual for the publication of Written Authority. It therefore seeks to establish why the Scottish Government considers there to be issues of commercial confidentiality when it comes to publishing occurrences of Shareholder Authorisation for companies wholly owned by Scottish Ministers.

Forensic analysis of FMEL’s financial records

On 11 September 2023, the Committee wrote urging you to consider making a competent order to specify the former company Ferguson Marine Engineering Limited as a body subject to powers under section 23 of the Public Finance and Accountability (Scotland) Act 2000. This would enable the Auditor General for Scotland to establish how £128.25 million of public money had been spent by FMEL.

Your response of 4 October confirmed that Scottish Government officials had been asked to consider and advise on the Committee’s request and that a further response would follow as soon as a decision has been made. In your most recent correspondence of 30 October, in response to the Committee’s request for an update on the timescales the Scottish Government was working to, you stated that “officials have commissioned further legal advice on this matter, and I will update the Committee on a timescale once this is received”.

While we recognise the importance of seeking robust legal advice, it has now been over three months since our initial correspondence to you on this matter. The Committee is keen to establish the reasons for the delay, and to encourage a positive resolution to this matter as quickly as possible.

The Committee would be grateful for a response by **26 January 2024**.

Yours sincerely,

Richard Leonard MSP,
Convener