



OFFICIAL REPORT
AITHISG OIFIGEIL

Public Audit Committee

Friday 4 November 2022

Session 6



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PUBLIC AUDIT COMMITTEE

26th Meeting 2022, Session 6

CONVENER

*Richard Leonard (Central Scotland) (Lab)

DEPUTY CONVENER

*Sharon Dowey (South Scotland) (Con)

COMMITTEE MEMBERS

*Colin Beattie (Midlothian North and Musselburgh) (SNP)

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

*Craig Hoy (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Graham Simpson (Central Scotland) (Con)

Nicola Sturgeon (First Minister)

CLERK TO THE COMMITTEE

Lynn Russell

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament
Public Audit Committee

Friday 4 November 2022

[The Convener opened the meeting at 10:00]

**Decision on Taking Business in
Private**

The Convener (Richard Leonard): Good morning, and welcome, everyone, to the 26th meeting in 2022 of the Public Audit Committee. The first item on the agenda is a decision on whether to take agenda item 3 in private. Do members agree to take that item in private?

Members *indicated agreement.*

**Section 23 Report: “New vessels
for the Clyde and Hebrides:
Arrangements to deliver vessels
801 and 802”**

10:00

The Convener: The principal item on our agenda is consideration of the section 23 report prepared in March this year by the Auditor General for Scotland entitled “New vessels for the Clyde and Hebrides: Arrangements to deliver vessels 801 and 802”.

I welcome our witness, the Rt Hon Nicola Sturgeon, First Minister. We have a number of questions to put to her, but I ask her to start off by making a short opening statement.

The First Minister (Nicola Sturgeon): Thank you very much, convener. I will be brief in my opening statement because I am keen, as I am sure you are, to leave most of the time for questions. I thank the committee for the opportunity to be here and speak with you this morning.

Obviously, many of the matters that we will discuss have been covered in previous evidence sessions that the committee has undertaken. Information about some of them is already in the public domain. For example, there is the information that the Scottish Government has proactively published. I am happy to go over any of that, to confirm the evidence that you already have or to provide whatever further clarity on those matters the committee seeks.

It is important to say at the outset that I am acutely aware that the delay in relation to vessels 801 and 802 is having a very significant impact on island communities. That is a matter of considerable regret, and I absolutely recognise that the decisions on the procurement of those vessels, the progress—or lack of progress—since and the Scottish Government’s broader support for Ferguson’s shipyard are areas of significant interest and concern. The issues are obviously complex—I do not need to tell the committee that—and span a period of several years.

I record my thanks to Audit Scotland for the work that it did in preparing the report that has led to the committee’s inquiry. That has been an important part of the scrutiny process. To be clear, the Scottish Government accepts all the recommendations in the Audit Scotland report and, of course, we also accept unreservedly that the outcome in relation to the vessels is not what anyone, including the Scottish Government, would have expected at the point of contract award.

It is inevitable and understandable that decisions that were taken at different points—when the contract was awarded and thereafter—are now seen through the prism of what has developed since. I understand that. However, in seeking to make judgments or to set out the basis of decisions that were taken, it is important to consider what was before ministers at particular points. I will seek to provide as much insight into that as I can.

I am happy to address concerns around the announcement of Ferguson Marine Engineering Ltd as the preferred bidder, the subsequent award of the contracts, the builders refund guarantee, milestone payments and the dispute resolution process. I am also happy to address issues relating to the loan payments that were made by the Scottish Government and the progress of the vessels since the yard came into public ownership.

Obviously, the project is still live—regrettably so—and the Scottish Government remains absolutely committed to delivering both ferries and supporting our island communities that rely heavily on such vessels daily.

I will stop there, convener. As I say, I am happy to get into any of those issues or, indeed, any other issues that the committee wants to explore with me.

The Convener: Before I bring committee members in, I seek clarification on a couple of points. First, in your foreword to the Scottish ministerial code, you say:

“it is essential to set and maintain the highest standards of propriety and openness for Government Ministers.”

Do you think that Keith Brown’s response to the committee on 18 October meets those standards?

The First Minister: Yes. Sorry—are you talking about the letter?

The Convener: Yes—it is at annex D.

The First Minister: I understand that there is a typo in that letter relating to a particular date, on which the committee will be getting written clarification, but—subject to that—yes, I think that it meets those standards.

The Convener: Do you think that he answers the questions that the committee put to him?

The First Minister: Yes, I do.

The Convener: Okay. Well—

The First Minister: If there are any points beyond those answers that the committee wants to explore, that is obviously why I am here today.

The Convener: Okay. The three questions were responded to with answers that constituted 150 words. The last time that I wrote to Keith Brown, it

was on two subjects. When I wrote to him about the fatal accident inquiry relating to Allan Marshall, he responded in 1,000 words, and when I wrote to him about the Miners’ Strike (Pardons) (Scotland) Bill, he responded in 866 words.

Do you think that a reply that constitutes just 150 words is a satisfactory response to the serious inquiry that is being carried out by the Parliament?

The First Minister: First, I believe, and am of the view, that Keith Brown answered the questions that were put to him by the committee. Secondly—perhaps more substantively, for today’s purposes—I am the First Minister: I am here to answer any questions, and the committee has me for as long as it wants this morning. I am not sure that anybody is going to do a word count on either the questions or the answers, but I am here to answer, to the best of my ability, any questions that the committee has.

I do not know whether the committee has invited Mr Brown to give evidence in the way that I am doing today. The committee is perfectly free to do so, but I am here today, as the head of the Scottish Government, to answer any questions that you put to me.

The Convener: Okay. The committee will consider its next steps after today.

I will move on to something else. Another response that we received recently—in fact, just last week, so it therefore arrived a week late—was from Transport Scotland. In the covering letter, Michelle Quinn, the chief executive officer of Transport Scotland, said that the organisation has a “commitment to absolute transparency”.

However, the correspondence that Transport Scotland shared with us was an incomplete, censored version of Derek Mackay’s letter of 2 February 2015 to Stuart McMillan. It was not even redacted; it was cut. Was that done to mislead? I do not know. Do you think that that is an acceptable way for a Government organisation to act?

The First Minister: As it happens, I raised that particular issue last night, as I was reading documents in preparation for today. That was an error, but, as I think can be substantiated by looking at the committee’s website, the letter is published in full there. The letter that was sent by Transport Scotland omitted, in the way that it was formatted, a couple of paragraphs. I noticed that last night, so I am not surprised that the committee noticed it, too. I have the full letter in front of me, and the committee has the full letter, and I am happy to answer questions on the entirety of the letter.

I do not believe that there was any intention to mislead, not least because it would have been

very obvious to anybody who had any knowledge of the matter. Taking all that into account, I am satisfied that that was an inadvertent formatting error, and it does not change the fact that the full information is before the committee.

The Convener: It might have been an inadvertent formatting error, but it excluded the two most significant paragraphs in that letter.

Let me turn to another point—

The First Minister: I would thank the convener if I could complete my point. The fact that you know that underlines the point that I am making. The full letter is on your committee's website, and therefore the idea that, somehow, that would have pulled the wool over anybody's eyes stretches credibility.

The Convener: But we asked Transport Scotland to disclose that letter—that correspondence—and it gave us a version that was not even redacted, but severely edited.

The First Minister: As I said, I noticed that last night, and you have noticed it. I have asked Transport Scotland the question, "How did that happen?" and I believe that it was an error. The fact of the matter is that we all have the full letter. I think that, in many respects, the tone, tenor and content of that letter has—to be perfectly frank—been misrepresented, so I am very happy indeed to go into as much detail as you want about every single paragraph of it.

The Convener: Okay. However, we got that letter only because it was provided to us by Stuart McMillan.

I will ask another question on the issue of transparency. When we took evidence from Audit Scotland back in April, Gill Miller said:

"We asked Transport Scotland and the Scottish Government for all documentation relating to the minister's decision, but we did not receive any."—[*Official Report, Public Audit Committee*, 21 April 2022; c 28.]

Is that in keeping with the standard that you set out in the foreword to the ministerial code?

The First Minister: I will not quote directly from the Audit Scotland report. I have it here, but I do not have it open in front of me. However, I have certainly read comments made by Audit Scotland—if not in the report then around the report when appearing before your committee—that it felt that it had full co-operation from the Scottish Government and had not been obstructed or had any relevant information withheld. Obviously, I am paraphrasing and not quoting directly.

There is the particular issue of the response of the minister at the time, Derek Mackay, to the submission of 8 October 2015, which led to the

final award of the contract. Audit Scotland understandably raised concerns about the fact that it had not seen it. In fact, for a period, we thought that it did not exist, but it was then uncovered, and it has now been published. If it is not on the committee's website, it is certainly on the Scottish Government's website. If that is what the convener is referring to, much has been said about that, and understandably so.

As the committee would expect, I have reviewed all the information that the Scottish Government has published. Indeed, I have now done so on more than one occasion. The Scottish Government has provided a wealth of material and documents in relation to its decision making and the wider issues around that.

If anybody, particularly members of the committee, believes that there is information that has not been published and should be published, and if that is put to me today or subsequent to this meeting, I will certainly give best endeavours to ensuring that anything further that we can helpfully provide is provided. I absolutely give that assurance. I am here today to answer any and all questions that are put to me. If there are any that I cannot answer today, I assure the committee that I will come back to you on them.

There is an absolute determination and commitment on the part of me and my Government to be open and transparent to ensure that the issues are fully open to scrutiny and that we demonstrate the lessons that are being learned from all the experiences over the past few years.

The Convener: I appreciate your undertaking to listen to any requests that we have for further information to be put in the public domain.

You mentioned the missing documents and so on. However, the position of Audit Scotland remains clear. It says that the email that was unearthed that covers the exchanges on 8 and 9 October 2015 confirms that ministers approved the award of the FMEL contract. Audit Scotland's position is that

"there remains insufficient documentary evidence to explain why the decision was made to proceed with the contract, given the significant risks and concerns raised by CMAL.

The First Minister: I obviously respect that that is Audit Scotland's view. Further, I understand why Audit Scotland has that view. Respectfully, though, as a minister of many years and now as a First Minister who regularly takes and communicates decisions and has those decisions recorded, I take a different view of that.

I was not party to the material of 8 October 2015 at the time. I do not take every decision in the Scottish Government, although I am ultimately accountable for every decision that the Scottish Government takes. As I said, I have now reviewed

all of that on several occasions in recent times and have asked myself whether the decision was a reasonable one at the time, based on what ministers knew at the time. If you look through the prism of what we know now, everybody would, of course, take a different view. However, based on what ministers knew at the time, I have assessed whether, in my own mind, the decision and the recording of that decision were reasonable.

Very often, when ministers are presented with a submission that seeks a decision from them that lays out all of the basis on which that decision would be taken, the minister will simply approve on the basis of what is in the submission; they will not necessarily repeat all the reasons and the basis for that decision. Often, a minister will give the lengthiest response to a submission when they do not agree with what they are being asked to do and they are taking a different decision. They will therefore record the reasons for that or say why they have taken a decision on a different basis to what is set out.

10:15

The 8 October submission sets out very clearly the risks of the decision and the basis of the CMAL concerns. Attached to it is a note from the CMAL chief executive and an earlier email from the chair, at the time, of CMAL. It also sets out very clearly the mitigations that had been negotiated with FMEL, around the builders refund guarantee, in particular, and it sets out—and, indeed, this was attached to the submission—the drafts of the voted loan letter and a separate letter from the Government to CMAL with assurances for CMAL. It sets out clearly the basis on which that decision could be taken, and it also has within it references to the fact that this was—in CMAL’s opinion, notwithstanding its concern—the best deal that could have been negotiated with FMEL. It has opinions from CMAL executives that say they may have encountered some of the issues with any bidder.

Taking all of that into account, there is a basis for that decision, and, in approving it, the minister was effectively saying that they were taking that decision on the basis of all the material that had been set out.

The Convener: Well, the view of Audit Scotland is that there is “insufficient documentary evidence”, and paragraph 5.1.9 of the Scottish public finance manual spells out the kind of recording of those decisions that there needs to be.

I have a final question for you, before I hand over to the deputy convener. You mentioned that you had no involvement in the decisions around 8 and 9 October 2015, but your senior special

adviser, Alexander Anderson, was copied into all of those emails.

The First Minister: All special advisers in the Scottish Government are designated as advisers to the First Minister but they report to individual ministers and individual portfolio areas. Every special adviser is described as an adviser to the First Minister, but that does not mean that every submission that is copied to an adviser to the First Minister comes to me. In all the submissions that have been published by the Scottish Government, you can see very clearly which ones have been copied to me and which ones have not, and the 8 October submission was not copied to me.

Let me just say that, in order to answer the questions as fully as possible, at times I will say that I was not party to a decision or that I was involved in or notified of another decision. None of that is me trying to step away from my responsibility as First Minister. I think that it should be pretty obvious to everybody that I could never personally take every decision that the Scottish Government reaches, but that does not change the fact that, as First Minister, I am ultimately accountable for every decision that the Scottish Government takes.

The Convener: Are you saying that your senior special adviser did not report back to you about those conversations?

The First Minister: That is exactly what I am saying.

The Convener: So, on the record, you are saying that.

The First Minister: That is what I am saying: I was not involved personally in that decision.

The Convener: Were you advised about the 20 August email to Keith Brown about the award of the contract?

The First Minister: I was not advised on 20 August. As, I am sure, we will come on to discuss, 20 August was when the decision on FMEL being the preferred bidder was taken. That decision was taken by Keith Brown because Derek Mackay was on holiday at the time. I know that you have gone through all of that with Derek Mackay. I was not party to that decision, but I was, of course, briefed some days later, in the run-up ahead of the announcement of the preferred bidder.

The Convener: Well, we were told that it was one day later.

I will bring in Sharon Dowey, who has some questions on that announcement.

Sharon Dowey (South Scotland) (Con): Good morning, First Minister. I want to go back to the announcement of the preferred bidder. Can you tell us why you personally announced FMEL as

the preferred bidder for the contract and whether that is something that you would normally do?

The First Minister: Let me break that question down into whether it is normal for decisions on preferred bidders on contracts to be publicly announced, why it was me and whether it is something that I would normally do.

On whether it is normal to announce a preferred bidder, it is certainly not abnormal. Often, at the point at which a preferred bidder is being announced, if you think about it, the successful bidder—the preferred bidder—is being notified and the unsuccessful bidders are being notified. At that point, there is always a possibility that things will leak into the public domain anyway; so, often, a decision is taken to announce a preferred bidder. I could find you examples of other Governments doing exactly the same thing, such as the United Kingdom Government on a train contract and the Welsh Government a couple of years ago on a major roads contract.

As it happens, a few months after this announcement—this addresses your question on whether it is something that I would normally do—I announced, in May 2016 if memory serves me correctly, that CalMac was the preferred bidder for the Clyde and Hebrides ferry services contract. It was nothing to do with Ferguson’s in the broader ferry space; it was about the contract for the operator of the ferry service. I announced the preferred bidder for that, which would suggest to you that it is not completely unknown for preferred bidders to be announced or, indeed, for me to do it.

Finally, on why I, as opposed to a minister, did it, in any Government decision that leads to an announcement, there will be consideration within Government involving special advisers and communications officials asking, “Should this be something that the First Minister does?” That is how the media diary of the First Minister is determined. I will often get suggestions that an announcement is coming up and it is proposed that I do it, and that is what would have happened here.

Sharon Dowey: Who took the decision to make the announcement in August?

The First Minister: If you read, as I have now done, the submission of 20 August to Keith Brown, seeking approval for the preferred bidder—and if memory serves me correctly—you will see that it was always intended that it would be publicly announced. The suggestion in that submission is that it would be the transport minister who did it. At some point after that, in the course of the process—which goes on literally every day in Government—of looking at the announcements that were coming up, judgments would have been

made about whether the profile, subject matter and importance of the announcement meant that it should be a minister making the announcement or that it should be a First Ministerial announcement. That would have emerged as a result of the consideration that is what special advisers and communications officials do. They would have come to me to say, “There is a proposal that you should make this announcement,” and I would have said, “Yes, I will do that.”

Sharon Dowey: So, it was you who took the decision.

The First Minister: I assume so. Ultimately, I do not end up at places, making announcements, unless I have agreed to do so. If it was in the way that these things happen, it would have come to me as a proposal that, because of the nature of the announcement, it was appropriate for me to do it, and I would have agreed. Obviously, it is common sense to say that I must have agreed to that, because otherwise I would not have been there, making the announcement.

Sharon Dowey: Did you instigate that, or did somebody—a transport official, a minister or a cabinet secretary—come to you?

The First Minister: It was several years ago, so I will not say that I can tell you the exact sequence of events from memory, but, in the normal course of events—I have no reason to believe that it would have been different here—it is unlikely that I would have instigated it, because I would not necessarily have had knowledge that it was coming up on that date. It would have come to me as a proposal, and such proposals come to me regularly. The Government makes announcements—if not every day, then regularly, several times a week—and in all of those there will be a process of judgment about who is the right person to make the announcement. When the judgment is that it should be me, that will come to me as a proposal, and I am pretty certain that that is what would have happened here.

Sharon Dowey: I will keep this question short. Would an announcement such as that normally have come through the cabinet secretary, a minister or Transport Scotland? Who would normally give you the proposal? Would it be a special adviser?

The First Minister: For a public announcement that would be a media event, a communications special adviser’s proposal would come to me. Again, I am telling you things that most people already know. As every Government does—and I am pretty sure that it is exactly the same process with Prime Ministerial announcements—we look ahead to things that are coming up over the next few weeks, and the communications teams, with special adviser input, will decide whether an

announcement that is coming up might be one for the First Minister to make.

I do not recall whether that was the case with this particular announcement, but I often look ahead at suggestions of media announcements that I will make for the next two or three weeks, for example.

Sharon Dowey: Can you tell us why the decision was made? You say that you look ahead for things. Was there a reason why it was to be announced in August?

The First Minister: You will have read the 20 August 2015 submission. The timing of the announcement was to do with the tender timescale. In fact, the 20 August submission talks about—I am paraphrasing rather than quoting directly from it—getting close to the point where the tenders would expire. I think that there had already been a bit of an extension. The timing of the announcement was driven entirely by the timetable of the tender process.

Sharon Dowey: At the time, were you aware that negotiations were still going on with CMAL?

The First Minister: By definition, preferred bidder status—versus final contract award—means that the final contract award decision has not been taken and negotiations are still on-going. I would have known that in general terms, but I have reviewed the briefing that I got for that event and it rightly says—which I would have assumed anyway—that there were still significant negotiations to be concluded before the final contract award. Although it is not flagged up in that briefing as a particular issue of concern, there is a very clear reference to the on-going negotiations, including issues and complexities around the level of guarantee that FMEL would provide. So, yes, before I made the announcement of the preferred bidder on 31 August, of course I knew that it was not a concluded negotiation, because it was still at the preferred bidder stage of the process.

Sharon Dowey: So, before you made the announcement, you were aware that there were issues with the builders refund guarantee.

The First Minister: In the terms that I have told you, there was a reference—a couple of lines in the briefing—as part of telling me the self-evident point that negotiations were not concluded. There was a reference to the fact that the negotiations, which were still under way, included complexities around the level of guarantee. To be clear, though, it did not say, “And this is a matter of really big concern.” It just said that that was one of the things that was still being negotiated.

Sharon Dowey: When did you first become aware of the issues with the builders refund guarantee? Was it that week?

The First Minister: It would have been in what that briefing told me. I would have to go back and check, but I do not think that the term “builders refund guarantee” was used. It said that there was a preferred bidder but that, to be clear, negotiations were still on-going, which included complexities around the level of guarantee that FMEL would provide. It was very much couched as one of the things that we were talking about finalising, not as a big red flag that there was going to be a big problem.

Sharon Dowey: CMAL had strong objections to the high-profile announcement of the preferred bidder. Given that the contract negotiations were still under way, did you not think that it was inappropriate for you to make the announcement?

The First Minister: There are two questions in there, and I will separate them. I had no awareness or knowledge that CMAL had concerns about the announcement. Obviously, I have heard the concerns that it has expressed in evidence to this committee, for example. However, I have reviewed the briefing that I had that day and, far from having a knowledge that CMAL was concerned about that, my briefing included a set of questions and answers that had been prepared by CMAL, and the list of people who were due to attend included the then chief executive of CMAL, so nothing would have given me any sense that CMAL was unhappy with any of that.

10:30

On whether that was an appropriate thing to do, I have probably covered that already. On Government announcements of preferred bidders and contracts, I am not sitting here saying that that happens with every single contract, but nor would it be correct that the announcement on this contract was somehow abnormal or unusual. I have referred to how, a few months later—it was me who did this—CalMac was announced as the preferred bidder for the ferry services contract. As I said, you can very easily find examples of other Governments on these islands doing similar things. It was not in any sense abnormal to announce a preferred bidder contract.

Sharon Dowey: Were you aware that the CMAL board wanted to stop the procurement process?

The First Minister: Not at that point, no. You are obviously moving on—maybe you can tell me what you are referring to.

Sharon Dowey: Were you aware at any point that the board wanted to stop the process?

The First Minister: At that stage, no.

You are obviously talking about what came to the transport minister in the context of the 8

October decision about the final contract award, which is distinct from preferred bidder. As I said, I was not aware of that at that time. I am obviously now very aware of that and, as I said in my response to the convener's questions earlier, have fully reviewed all the paperwork that was before Derek Mackay at that point.

Sharon Dowey: Morag McNeill from CMAL said that it became aware on 21 August 2015 that FMEL could not provide a guarantee and that the preferred option was to go back to the tendering process. She said that, at the CMAL board meeting on 25 August,

"Transport Scotland was clear that the announcement was going ahead."

When asked whether CMAL was happy to go forward, she said:

"Our preference was to retender. We were authorised by our shareholder to proceed. That was an instruction to proceed."—[*Official Report, Public Audit Committee*, 30 June 2022; c 13, 5.]

Was there an interest from the Scottish Government to award the contract to FMEL? Was it a kind of jobs for the boys situation? There has been talk of the relationship between the Scottish Government and Jim McColl. Was there an interest from the Scottish Government to award the contract?

The First Minister: Was there an interest? You have used a rather pejorative term, which, for the avoidance of doubt and for the record, I completely and utterly refute.

Is there an interest on the part of any Government? I am talking in general terms and will come to the specifics in a second. I imagine that what I am about to say is shared by every politician round this table. Ministers and politicians in general are often challenged on these points by opposition politicians. Assuming that it is all done by the book, you are quite happy to see contracts go to Scottish companies and therefore to support Scottish jobs. I am pretty sure that every politician round this table would say that that is ideally what we want to see, providing that it is all done appropriately.

From your later comments, that is obviously not what you mean by "interest". If you are asking whether there was anything untoward in the procurement process in order to somehow inappropriately steer the contract towards FMEL, there absolutely, categorically was not.

In fact, you do not have to take just my word for that. Kevin Hobbs, the now chief executive of CMAL, not in evidence to this committee but in evidence to the previous Rural Economy and Connectivity Committee inquiry—I think that this is the term that was used in that committee's

report—categorically denied that any pressure had been put on CMAL by the Scottish Government around the award of the contract. The contract was awarded purely on the assessment that CMAL did of the tender that FMEL had submitted.

So, the answer to your question, in the way that I think your question is intended, is absolutely, categorically no.

Sharon Dowey: There were so many red flags in advance of the announcement being made and the contract being issued, and they all seem to have been ignored. I have not seen your briefings, so I do not know whether you have not been briefed enough but, when Derek Mackay was asked whether he was concerned about the lack of a full builders refund guarantee, he said:

"Of course I was concerned, because the paper gave reason to be concerned".—[*Official Report, Public Audit Committee*, 8 September 2022; c 25.]

On 26 September 2015, Erik Østergaard said:

"a newly established shipyard with no track record at all of building ferries of this size, is an unsecured risk".

The CMAL board said in a letter:

"The Board feel it is their absolute duty to point out the risks to their shareholder and in that respect would expect approval, should SG wish this project to proceed, and to receive direction to that effect."

There were lots of red flags, but it seems that the contract still went through.

The First Minister: What point are you asking me about in terms of my involvement? I want to be clear about that so that I answer your question specifically.

Sharon Dowey: How much knowledge did you have before you made the announcement? Did that announcement make it harder for you to go in and stop the contract? It would seem that it was CMAL's preference to stop the tendering process, but you still went ahead with the contract.

The First Minister: Let me unpack all of that a little bit. I have told you what had been advised to me ahead of the preferred bidder announcement on 31 August. That was a briefing to the effect—as I said earlier, this would have been obvious, given that we were at the preferred bidder stage—that negotiations had not concluded and were ongoing, and that significant negotiations were still to be undertaken and concluded. I think that there was wording to the effect that those negotiations included complexities around the level of guarantee that FMEL could provide.

I would absolutely refute the suggestion that that was presented to me in a red flag way. It was information that I would have thought at that time was obvious, because we were at the preferred bidder stage, not the final contract award stage.

Later on, when it came to the final contract award, everything that you read out comes from a combination of the 8 October submission to Derek Mackay, the email from Erik Østergaard that was included with that submission, which I think, from memory, is dated 26 September, and the CMAL note. As I said, that was not copied to me at the time. That was provided to Derek Mackay, who took the decision. I do not think that there is any dubiety from anybody, including Derek Mackay, that that was a decision that he took at that time.

CMAL's concerns were set out there. To be absolutely fair to CMAL, as well as setting out those concerns, it set out the mitigations that had been achieved to allay concern. On their own, those mitigations did not completely satisfy CMAL with regard to its concerns. I will come on to the later bit in a moment. The mitigations were: changing the final payment to 25 per cent of the contract price, the 25 per cent builders refund guarantee and the fact that CMAL would take ownership of the assets and the vessels as they progressed at each stage of the process. Those were the mitigations that had been agreed in order to allay, to some extent, the concerns about the lack of a full builders refund guarantee.

On top of that—this is seen in the paperwork in the voted loan letter and the separate letter to CMAL from the Scottish ministers—there was the fact that CMAL would have to start repaying the loan only when the vessels were complete and, in the event that there were additional costs, ministers would look favourably on that at the time. That package was what enabled CMAL to sign the contract.

The other point that it is important to make about the 8 October documentation is that it talks about the fact that, with all of that, CMAL felt that the deal was the best one that it could negotiate with FMEL. It is absolutely the case that, in his email, Erik Østergaard said that CMAL's preference was to cancel the contract, but that paperwork also includes the opinion expressed by CMAL executives that it was possible that some of the issues could be encountered with other bidders as well. There are references to the fact that the agreements reached brought the whole tender broadly into line with the tender requirement.

A minister looks at that in its entirety. In coming to a judgment, a minister must consider whether the mitigations are sufficient—every decision involves a balance of risk—to allow the decision to be taken and whether there is a better outcome that would be guaranteed if they went down another route. They will come to a balanced decision.

The 8 October submission was not asking for a ministerial decision to cancel the contract; it was

asking whether the minister was content to proceed. All of that—you heard this from Derek Mackay himself—was considered. He says that he had a concern and of course there was a concern that there was not a full builders refund guarantee—he expressed that—but the mitigations gave the assurance at that point that sufficient had been done to allow the contract award to proceed.

Sharon Dowey: I appreciate what you say about the mitigations giving the best contract for FMEL, but I think that CMAL would still have preferred to cancel the contract. The situation has been described as a systematic failure in Government to record crucial information, and there is a lack of accountability. The people suffering are islanders. What lessons have been learned from the situation and what actions have you taken to ensure that such a fiasco does not happen again?

The First Minister: I absolutely accept Audit Scotland's view of the issue around the recording of that decision. We will reflect on that and look at Audit Scotland's views about any lessons that should be learned on the recording of decisions.

I will make two points about that. First, what happened with the construction of the vessels did not happen because a decision was not recorded in a particular format. It happened for a variety of reasons that, no doubt, we will come on to talk about. It is important to recognise that.

Secondly, had there been a fuller response from Derek Mackay—I say this from my now fairly lengthy experience of government—it would just have repeated what was in the submission as the basis for the decision. The shorthand is, "I approve it," and the implication is that it is approved on the basis of all the mitigations that are set out. Often, the lengthier responses that a minister gives are given when they go against what is in a submission.

Yes, of course we will reflect on the matter. I am sure that the committee does not need me to give it advice on any aspect of its inquiry, but it would be fundamentally wrong to say that, because a decision was recorded in shorthand as opposed to repeating verbatim what was in the submission, it is somehow the cause of what happened since.

Reflecting on lessons learned will, obviously, be an on-going process as we complete the vessels. I am absolutely determined that the Government properly and fully learns all lessons that are appropriate. I do not know what stage the committee is at in its considerations or when we might get a report out of its deliberations, but we will properly feed that into the lessons learned process as well.

I can write to the committee in more detail about this in the interests of time if you want, but CMAL has already made changes to its procurement processes. It will require a full builders refund guarantee in future for major vessel contracts, has enhanced the financial due diligence that it does on all contracts over £500,000, will use a ship broker to provide assurances on the yards that are bidding for vessels, will have an independent panel member on vessel procurements and will use naval architects to work alongside its in-house team on technical assessments.

Transport Scotland has already made considerable changes to governance on vessel procurement. For example, it has made changes to the accountable officer template and to the scrutiny and sign-off of vessel and port projects. Its investment decision-making board is now involved in that process, which was not the case when the contracts were awarded.

The Scottish Government has also strengthened its approach in general terms to any strategic interventions that it makes in commercial assets. Back in, I think, March this year, we published the business investment framework as part of the Scottish public finance manual.

That is a summary of some of the lessons and changes that have already been learned and made. I am sure that that is not the end of the process, not least because we will reflect on any recommendations that the committee makes in the fullness of time.

Sharon Dowey: I would like to see more.

The Convener: I am sorry, but we are up against the clock a little bit.

To reflect on those exchanges, First Minister, are you prepared to put on record the communications briefing that you received regarding the 31 August announcement and any related emails or correspondence?

10:45

The First Minister: Yes—I see no reason why not.

I am not going back on the commitment that I gave earlier but, since you are asking me about that, I want to say something for the record—although everything that I say here is on the record; that is understood. As you know, there is a requirement for the Government to assess anything that it puts in the public domain to make sure that legally privileged or commercially confidential information is being treated appropriately. With that caveat about the process that we need to go through, I see no reason why not.

I have been paraphrasing—although paraphrasing pretty closely—what was in the briefing in terms of the advice that was given to me about the on-going negotiations, and I certainly see no reason why I cannot provide that to the committee.

The Convener: Thank you. I will now bring in Willie Coffey.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Good morning, First Minister. It may be a little early to come in on lessons learned, but I hope to pick up on a point that was raised earlier, on which you gave some information.

One of the early messages that the committee got on the project concerned the lack of technical rigour that was applied at the outset to determine the yard's capabilities to build the ships, in terms of its facilities and so on, and the skills and expertise of the workforce to build the designs that were presented to them. For example, the vessels had a clamshell-door design, and we heard from the workers that they had never built ships to that design before.

I realise that you cannot possibly be aware of the details of that at that stage, but perhaps you can say something about the importance of technical design and rigour, and a thorough assessment of technical capabilities, at the outset of such a project. Is that one of the key lessons that we are learning from the experience?

The First Minister: I preface my answer by stating an obvious point: I am not a shipbuilder, so I am not qualified in any way to talk about the technical requirements of ferries or any other vessels. That is the task of CMAL.

We should remember that these vessels are not the first, or the only, ferries that CMAL has procured. CMAL is a very well-established and experienced organisation when it comes to procuring vessels, and the experience there is exceptional. I certainly do not think that there is any suggestion—obviously, I am talking in general summary terms here—that CMAL did not do the sort of proper technical process for this procurement that it would do for any procurement.

The other point to make concerns Ferguson's. It was under new ownership; perhaps there is a lesson there in terms of the confidence in the shipyard based on previous contracts—many vessels in the CalMac fleet were constructed at Ferguson's—versus the experience under new ownership. CMAL went through a process, the contract was a standard industry contract and FMEL signed that contract. The management and ownership of FMEL were experienced businesspeople, and they signed the contract in full knowledge of what they were signing up to. They would have taken their own advice on that.

To go back to your question about whether there are lessons to be learned here, of course there are. In some of what I said in response to previous questions, I captured some of the changes that CMAL has already made: having a ship broker to provide assurances on yards that are bidding; having an independent panel member on vessel procurements; and using naval architects alongside its own in-house team on the technical assessment. Those changes certainly suggest that CMAL is very serious about learning lessons and strengthening the process around technical aspects of bids for the future.

Willie Coffey: Following on from that, one of the other messages that we heard was that the design seemed to chop and change from time to time after the build had started. That presented the workforce with significant problems—and probably still does, to be honest. On reflection, do we really need to insist on that aspect and strengthen agreement about the design before we start building? That could apply to anything from a ship to a house—or a bridge, even. We must not engage in a redesign process while we are actually building the thing that we are trying to build.

The First Minister: I again caveat this by saying that I am not a technical expert on how to design and build ferries. It feels as if all of you have become technical experts on that, but none of us is.

What was used here was a standard shipbuilding contract. Setting aside the issue of the builders refund guarantee, this was a standard approach that CMAL used in other procurements. Organisations and Governments procuring vessels across the world will use the BIMCO standard contract. A key point is that that standard contract puts the obligation for design and construction firmly on the shipbuilder. The contract contains provisions relating to modifications and changes to the contract specification.

The standard in shipbuilding contracts is that the tender design requirement set out by the client is then developed by the bidder into a concept design as part of its tender. Following contract award, it is then developed into a basic and finally a detailed design. All of that was accepted by FMEL when it tendered for and then entered into the contracts. As I now understand it, that is an absolutely standard approach to building ferries.

It is the responsibility of the shipbuilder to satisfy itself that the design is at an appropriate stage for work to commence. You have heard directly from CMAL on that point: it was the decision of FMEL—not a decision of CMAL—not to wait for a finalised design before it started construction. In fact, I think that CMAL used the term that it had opted instead to “build at risk”.

The putting in of the tender, and the agreeing of the contract on the basis of the tender and all those standard provisions, was something that FMEL did, knowing that it was taking on that responsibility. FMEL did not raise the issues that have since been raised retrospectively. To my knowledge, it certainly did not raise those issues at the time of the contract process.

Are there lessons to be learned? Of course, but I have not seen anything that would suggest that what was done in terms of the procurement and design arrangements was different to what would have been done in contracts that do not run into such problems. FMEL contracted to do a job. That job has not yet been done. I cannot speak to the advice that FMEL took, but it presumably took its own technical, legal and other advice before signing that contract, with all the obligations that came with it.

Willie Coffey: Thank you for that.

The Convener: Thank you, Willie. I will endeavour to bring you back in at some point.

I turn to Craig Hoy, who has some questions.

Craig Hoy (South Scotland) (Con): Good morning, First Minister. Thank you for coming.

Before we get into the detail, I seek some reassurance about the nature of the evidence that you will give today. Can we be sure that you intend to answer transparently and truthfully, that your memory will not fail you and that you will not need to come back under cover of darkness to correct the *Official Report*?

The First Minister: You may want to expand on what you mean. All evidence that I give before a committee is as transparent as it can be. I am trying to be very clear with the committee about the decisions that I am speaking about and about those that I had knowledge of at the time versus those that I now have knowledge of but was not part of. I am being as open and transparent as possible with the committee.

After I give evidence, it is for the committee to decide if there are points for clarification that it wants to address. I cannot determine what questions the committee asks; that is for you. I will answer all of them to the best of my ability. I hope that that has been your experience so far in this evidence session.

Craig Hoy: On the question of transparency and the Government’s engagement, you said that the 8 October submission very clearly set out the issues highlighted by CMAL. When that was released, some fundamental elements of the email thread attached to that, including those about the likelihood of the threat of a legal challenge to that decision, had been redacted. Is that the kind of transparency that your Government believes in?

The First Minister: Committees—and particularly this committee, the Public Audit Committee—know full well the issues that any Government, not just this one, has with the release of legally privileged or commercially confidential information. That process has been applied to the information that has been released. If you feel that there is any piece of information or document that exists and which you do not have, and you want to put that to me, I will endeavour to consider whether it is able to be made available. However, those processes apply, and any Government applies them, which I think is well known.

Craig Hoy: Okay. Let us take a helicopter view of the whole issue.

We have a dodgy procurement process that has been described by CMAL as—

The First Minister: With the greatest of respect, that is a pejorative term. We have a contract that has not been delivered the way that it should have been.

Craig Hoy: Okay, First Minister. I—

The First Minister: That is a very different thing to the term that you used.

Craig Hoy: Okay. In a previous—

The First Minister: Just as I have a duty to be open and transparent, I think that the committee probably has a duty not to indulge in shorthand such as that, which has not been evidenced.

Craig Hoy: Okay. I had tidied it up a bit. Previously, I had used the word “fishy”. When I put that to CMAL, it said that it would not comment on that word but that it was “not normal”. Let us therefore use the term “not normal”.

The contract was then awarded to a well-known supporter of independence—a close friend of your party. There was the lack of the standard builders refund guarantee; key tender documents were resubmitted after the submission deadline; there was the presence of this cheat sheet that the BBC identified—

The First Minister: I am sorry—what did you say there?

Craig Hoy: There was the cheat sheet.

The First Minister: I do not recognise that. I do not know what you are referring to.

Craig Hoy: It was a guide as to how to meet the submission criteria. It was referred to in the BBC documentary.

Obviously, there was then the decision that was taken to proceed against the advice of CMAL, and then there was then the very risky and uncosted nationalisation. Now we have two ferries that are

half a decade overdue and £150 million over budget. All the while, as you identified in your opening, our island communities are paying the price. This is a monumental scandal, First Minister, and it happened on your watch. What do you say to islanders today? It surely has to be more than “Sorry”.

The First Minister: I addressed that point in my opening remarks. As I have said before, I deeply regret the impact on island communities. The seriousness with which we take issues of connectivity to our islands, of which ferries are the critical part, is reflected in our overall ferries plan, in recent decisions that we have taken on the procurement of additional vessels and in our determination, notwithstanding the deep regret that we feel, to complete those ferries and ensure that all lessons are learned. That is very clear in my mind and I hope that it is clear from the Government overall.

Craig Hoy made a number of comments in his question to me. I would refute many of them, but clearly I am not able—and nor would I try—to refute the fact that this contract was not delivered in the way that we would have expected and wanted, nor has it come close to that. We can get into the issues of why that is the case. However, that does not lead inevitably to a conclusion that the procurement process was any of the ways that Craig Hoy has chosen to describe it.

Allegations have been made about the procurement process. Craig Hoy mentioned the BBC documentary. To be clear, ministers and I are not aware of impropriety in the procurement process. However, the allegations in the BBC “Disclosure” programme are serious and need to be properly investigated. When those allegations were reported, I asked the permanent secretary to proactively contact the Auditor General. Of course, the Auditor General has since said that he is looking at those allegations.

I can go through my understanding of each of them. The term “cheat sheet” that Craig Hoy used relates, I think, to the statement of operational and technical requirements that it has been alleged that Ferguson’s had. CMAL has been very clear that, to the best of its knowledge, it did not come from CMAL. In fact, I do not even think that the BBC alleged that; the BBC was clear in its programme that some design consultant that Ferguson’s commissioned was probably the source of it.

There are serious issues here. However, knowing how serious this committee is, I hope that it will not prejudge its outcome and that it looks at all of those things. The experience with the contract is clearly not acceptable, but it is important, if we are to genuinely learn lessons, that we do not come to summary judgments in the

way that Craig Hoy's question would suggest. Instead, we need to go through all these things rigorously and systematically and try, as best we can, to get to where the failings actually were, in order that we can learn the right lessons.

11:00

Craig Hoy: Let us go back to the very beginning. When were you first made aware that Jim McColl was interested in buying the Ferguson's yard?

The First Minister: Buying the yard?

Craig Hoy: Yes.

The First Minister: At the time that the yard went into administration, I was not First Minister. My predecessor was—rightly, I should say—doing everything that he could to see whether we could find a buyer for the yard. I understand, and would have understood at the time—I cannot give you precise dates for that—that Jim McColl was somebody he was speaking to about that.

I was not directly involved in that at the time, but I am not telling you that I did not have an awareness of it.

Craig Hoy: Okay, but you would concede that Alex Salmond encouraged Jim McColl to buy the yard.

The First Minister: My differences with Alex Salmond on other matters are well known, but he was the First Minister and Ferguson's, the last remaining commercial shipbuilder on the upper Clyde, faced the threat of extinction and closure, so he was right to seek to find a way to save the shipyard. Any First Minister would have been right to do that. Although I may now have many differences with Alex Salmond, I would not criticise him for making every effort to find a future for the shipyard.

Craig Hoy: When you became First Minister, how were your relations with Mr McColl?

The First Minister: I had a professional relationship with him. Jim McColl had been on the Council of Economic Advisers, and I think that he had done other pieces of work for and around the Government. I cannot remember the exact timing of this, but he made a contribution to the skills policy of the Scottish Government. I would have come across him in what I would describe as a more political context, but I would not say that I had, or have had at any time, what I would describe as a personal relationship with him. It is a professional relationship.

Jim McColl is a businessman of renown and standing in Scotland—he is a public figure, in that sense. As regards his relationship to my party, to the best of my knowledge, he is not a member of

my party and has never been a financial contributor to my party. I am not even sure that it would be correct to describe him as a full-throated supporter of independence. He has certainly made comments about constitutional politics.

When I became First Minister, my relationship with Jim McColl was principally through his continued membership of the Council of Economic Advisers.

Craig Hoy: When it all started to go badly wrong at the yard, Mr McColl reached out to you to request a meeting. You met on 31 May. He said that he raised with you a "red flag". Can you tell the committee what that red flag was? Who else was at that meeting? He said that at least one official was present at it. Who was that official and what was discussed?

The First Minister: I am being as open as I can be. I deal with several things on a daily basis, and this was some years ago.

Craig Hoy: It was a pretty key meeting in the context of today's meeting.

The First Minister: From memory, I think that it was a special adviser who was with me. I asked for some work to be done out of that meeting.

That meeting was on 31 May 2017. By that point, there were already concerns about slippage in the contract. There were concerns about what I would describe as the cash flow and financial position of FMEL, so when Jim McColl asked to see me, it was reasonable that I spoke to him, given the importance of the contract, which we are reflecting on now.

You have seen all the material that will tell you what the issues were that were of concern to him and to us at the time, which were around the finances. There had already been discussion about the changing of the milestone payments. The reduction of the final 25 per cent payment to 10 per cent freed up £17 million to help with cash flow. Jim was and has been publicly—although not since then—of the view that he had money unfairly tied up in the surety bond.

Craig Hoy: Can I just cut in there? That meeting was a pretty big deal, and there was no official—no civil servant—present. There was a special adviser. How can it be an official meeting if there was no civil servant present?

The First Minister: Special advisers are civil servants—they are temporary civil servants—so that was not an issue in that respect. You say that the meeting was a "big deal"—

Craig Hoy: Well, he was coming to complain about a major public procurement that was going on—

The First Minister: Yes, but in my mind—I am trying to think—I knew that there were issues that he was expressing concern about. By that point, ministers were aware that there were issues around slippage in the contract. CMAL was reporting regularly to what was called the project steering group.

It was a conversation that I clearly thought that it was appropriate to have. Did I go into that meeting thinking that it was a great crisis meeting? No, nor did I come out of it thinking that. Mr McColl had concerns about cash flow, and he had had concerns about the structure of the milestone payments. He had a concern, which he continued to express, about the amount of money that, in his view—it is not a view that I or CMAL would share—was unfairly caught up in what I think had, by that point, become the surety bond that replaced the builders refund and the partial builders refund guarantee.

Those were the kinds of concerns that he was expressing to me. Not long after that, of course, he made the first claim to CMAL for additional costs over and above the contract. Clearly, at that point, tensions were already appearing in the relationship between FMEL and CMAL, so that was the nature of that discussion.

Craig Hoy: Where is the minute of that meeting?

The First Minister: I am happy to go and look at what came out of that meeting. From what I remember, I would have then asked officials to do certain things.

Craig Hoy: But there was no recorded minute of that meeting.

The First Minister: I am trying to be honest—I do not, as I sit here right now, know the answer to that question.

Craig Hoy: You must have done a lot of research before you came here today.

The First Minister: I have seen the actions that I asked officials to take forward coming out of that meeting. If the committee has not seen that—if it is not in the bundle of documents that has already been published—I will certainly look to see whether it can be made available.

Craig Hoy: Okay. Paragraph 4.22 of the ministerial code says that—

The First Minister: I am very familiar with it, Mr Hoy.

Craig Hoy: Yes. It says that minutes should be taken and meetings should be recorded.

The First Minister: I have seen the outcome of what I asked officials to do. I will certainly look to

see whether that can be provided to the committee; I do not see why it could not.

Craig Hoy: Okay. That does not provide me with a huge amount of assurance, to be honest. Regardless of what Mr McColl was ultimately asking for, either he did not get it or it did not work, because the yard fell into administration—with some rancour, I think.

The First Minister: That was some time later—an awful lot happened between that meeting and the yard going into administration. I am very happy to go into that with you in detail.

Craig Hoy: But clearly the red flag that was raised continued and persisted.

Mr McColl has a view that, at a certain point, for your Government, it became about nationalisation at any cost, and you went on to write what is probably one of the biggest blank cheques in history. Was that the case? Was it about nationalisation at any cost? Had you fallen out of favour with him?

The First Minister: No. I believe that the information that is published will show you that, because it shows, in a lot of detail, the different options that the Scottish Government looked at very rigorously. Project Kildonan looked at the different contingency options that were there. There was a lengthy period of time, so it is completely wrong to jump from May 2017 to nationalisation, and not to take proper account of all that happened in between, not least the loan provisions that the Scottish Government made, which I am sure that you may want to come on to later—

Craig Hoy: Others may want to bring that up.

The First Minister: The Government looked at different contingency options—that is all there in the documents that you have seen. We got to the point at which, in our view, public ownership became the best option—given that we were in a process in which there was no ideal option—to meet the objectives that the Scottish Government had always been driven by: completing the ferries; protecting, if we could, the future of the shipyard; and protecting employment at the shipyard. That is why public ownership became the option that we pursued.

It is no secret that that was not the preferred option of Jim McColl. In the latter stages, before we got to public ownership, the parent company, Clyde Blowers Capital, put an alternative proposal to the Scottish Government. You can see from all of the documentation that that proposal was rigorously assessed and considered by the Government and that, for a range of state aid, procurement and legal issues, we could not accept the proposal.

Of course Jim McColl has views on the issue, and some of his views have more credence than others, as, I am sure, people will say about mine.

Craig Hoy: He was on your Council of Economic Advisers.

The First Minister: Absolutely—I have referenced that several times. However, in this context, he is not a disinterested observer.

Craig Hoy: I accept that.

The First Minister: Therefore, clearly, he will have views, and I might have more sympathy with some of those views than with others.

Throughout that whole period, the Scottish Government was largely looking at how we could help deal with the cash flow financial issues because, without that, we could not make progress on the vessels, and we rigorously looked at all options. The Scottish Government gave the budgetary cover for CMAL to change the milestone payments and accelerate the final payment. We looked at and delivered loan provision for CMAL. Later, after the second loan, I certainly had concerns about Jim McColl's adherence to some of the agreements that we had reached. We also looked at the different option that CBC put to us.

Craig Hoy: But there was a clear point at which nationalisation became your preferred option.

The First Minister: I would go further than that. Certainly, at the point at which we got to nationalisation, had we not nationalised, in my view, the yard would have closed, and the vessels would never have been completed. Every decision that a Government takes on any issue involves a balance of risk. Clearly, in the period before we took public ownership in December 2019, there was a whole process of exploring and considering all the issues around nationalisation and alternatives to it but, by the time that we got to that point, it was not just the preferred option; it was the only viable option that was available.

Craig Hoy: There was another option, which was not to proceed, but—

The First Minister: Sure, but, to be clear, that would have meant that—undoubtedly, in my view—the yard would have closed, and there would have been no route to completing the vessels. However difficult and unsatisfactory the route to completing the vessels has proved to be, at that point, there would have been no route to completing the vessels, and those employed at the yard would have been without that employment.

Craig Hoy: They are not complete yet.

My colleagues will come in shortly, so I have two final questions. You have said repeatedly in TV studios and in Parliament that the buck stops

with you. What does that actually mean in your Government? What are the consequences of a quarter of billion pounds being spent on two ferries that are five years late and might launch into obsolescence?

The First Minister: Our—and my—fundamental responsibility is to ensure that we deliver the contract, that the vessels are completed and that we properly learn the lessons that need to be learned. I am very serious about that responsibility.

Craig Hoy: Obviously, you are aware that we visited the yard this week, and the management made clear that, as a result of the issues surrounding the yard, the order book is not as healthy as it could be, and that a fresh injection of working capital will be needed to avoid redundancies. That means more taxpayers' money. How can it be that painters, welders and cleaners might lose their jobs as a result of the fiasco, but you keep yours?

The First Minister: Mr Hoy, as has been reflected in the exchanges that we have just had, a key driver for the Scottish Government all along has been protecting employment at the shipyard. You have rightly probed me about the decision around nationalisation and, understandably in the circumstances, you have questions and scepticism about whether that was the right decision. However, I repeat that, without that decision, people would have lost their jobs. A key driver of the Scottish Government has been to protect employment, and I make no apology for that.

11:15

I was not party to your discussions at the yard earlier this week, but we have made no commitment to additional funding for the vessels since March 2022. The chief executive of what is now Ferguson Marine Port Glasgow wrote to the portfolio committee with an assessment of the cost to complete the vessels and the latest update on delivery timescales. That is still under scrutiny by the Scottish Government, with input from legal shipbuilding technical advisers, and we will come to a view on it in due course.

Beyond those vessels, of course we want to support the shipyard to reach a position in which it is a viable proposition that can successfully bid for and win contracts, and I think that the shipyard is closer to that now than it has been in recent history. That goes beyond the particular issues around the vessels that we are discussing.

The Convener: You mentioned your Government's decisions, and one matter that is of interest to the committee is what was brought to Cabinet. Was the preferred bidder announcement taken to Cabinet, or were the unconditional

financial guarantee of £106 million to CMAL, the £45 million bail out of FMEL, the financial collapse of FMEL or the nationalisation decision taken to Cabinet?

The First Minister: I understand and have seen many of the submissions to ministers in the published documents. Forgive me if I sound as if I am explaining some basic things here, but there is a provision on Cabinet agendas called SCANCE—Scottish Cabinet analysis of news and current events—which I think was there for previous Administrations as well and through which ministers can report things to Cabinet without full papers that require decisions. Issues around those will usually be reported to Cabinet after the event, as decisions taken.

Procurement decisions are not made by Cabinet. We decide the policy and budget, but the Cabinet would not decide on the actual award of a contract—the Queensferry crossing is an example of that. There will not have been full papers and Cabinet decisions on all of the matters that you raise. The decisions will have been taken—

The Convener: Which ones did go to Cabinet?

The First Minister: Let me come back to you on the exact Cabinet decisions. The issues would have been reported to Cabinet by ministers saying, “We’re doing these things,” rather than through full Cabinet papers, on which Cabinet would take the decision.

The Convener: So a paper was not submitted to Cabinet on the decision to take public ownership of the Ferguson Marine shipyard?

The First Minister: The submissions on that will have been circulated and provided to the relevant ministers, and the minister at the time would have updated Cabinet periodically on the progress of that.

The Convener: What is the point of the Cabinet if it does not take decisions of that kind?

The First Minister: The Cabinet takes decisions on policy, budgets and budget cover for certain things. Ministers are tasked to get on with the jobs within their portfolios. They report back to Cabinet and update it, and Cabinet colleagues can ask questions, but that does not always take the form of papers that ask Cabinet to substitute for the minister and to make decisions.

The Convener: Will you get back to us with a reflection on the items that I listed and tell us which of them were considered at Cabinet level and what form that took?

The First Minister: Indeed.

Colin Beattie (Midlothian North and Musselburgh) (SNP): First Minister, I would like to start with a couple of questions about money. I

refer you to pages 35 and 36 of the Auditor General’s report, and specifically to paragraph 72. This is in relation to the £45 million that the Scottish Government loaned to FMEL. There were some problems with CBC carrying out its side of the bargain. It paid only part of the investment that it said that it would make into FMEL, and there was some disagreement with the Scottish Government over the structure of loans. Can you give more background on that?

The First Minister: Mr Beattie, which paragraph is that? I have the Audit Scotland report here.

Colin Beattie: It is paragraph 72.

The First Minister: I think that that refers more to the second loan than to the first loan.

Colin Beattie: Correct.

The First Minister: We considered the issue of the second loan. Obviously, all Government investment in private companies, whatever form that takes, has to satisfy state aid procurement rules and the national ethics and integrity policy rules, and there will often be a judgment that the Government can invest more only if the company is investing, in order to satisfy those various tests. There was an issue at the outset or in the early stages of consideration around the £30 million loan that, if the Government was able to do more, it would require Clyde Blowers to also invest more. I certainly recollect being clear that that position had to be made clear to Clyde Blowers.

If I fast forward to after we had made the decision on the second loan and reached the agreement with Clyde Blowers, to be frank, soon after that—I was involved at that time—I became concerned that it felt as if the ink was not even dry on the agreement and Clyde Blowers was not fulfilling the requirement on it as part of the agreement. In summary, that was to invest its own equity as well as drawing down the Scottish Government loan.

Towards the end of 2018, that was a significant concern. In my mind, it raised issues of a lack of good faith in the process, and at that point I gave officials an instruction that there should be no further drawdown by Clyde Blowers of that loan until we had resolved the issue of what I think was a breach of the loan conditions. There was then a process of doing that. There was a resolution of that issue and the loan was then drawn down, but behind that lay a concern, which I certainly had at that point, that we had entered an agreement in good faith but that that good faith was not necessarily being honoured at that point.

Colin Beattie: Continuing on the question of good faith, most probably, I am looking at the Rural Economy and Connectivity Committee’s report of 9 December 2020, which makes it very

clear that, in connection with the staged payments that had been made,

“there is strong evidence that the contractor deliberately proceeded to construct specific sections of the vessel either out of sequence or not according to the proper specification purely as a means of triggering milestone payments on the contract.”

That is a strong statement. The Auditor General has also highlighted those payments.

Subsequently, as I understand it, CMAL took legal advice, which was that it had to make the payments. Was there any discussion between ministers, you and the Cabinet about that issue?

The First Minister: Again, there are different aspects to the issue. In relation to the original decision on how many milestones there should be and what percentage of the contract price should be attached to each of them, that was a negotiation between CMAL and FMEL. I think that Kevin Hobbs made the point to you when he was here that that is standard. There is nothing untoward or unusual about that. In fact, he made the point that there is often flexibility around that.

It has been commented that there would usually be five milestones. There were more in this contract, but as Kevin Hobbs said, projects that he has been involved in have had a range of different numbers of milestones. There was nothing untoward in that and, as I understand it, it is standard in how such contracts are structured.

That then puts an obligation on the contractor—in this case, it was CMAL—to make payments when particular milestones are reached. That would be what the legal advice was about. When it got to the point where steel was being cut, that triggered a milestone payment, which CMAL had no option but to pay. As I understand it, that is not peculiar to the contract. It is a standard part of shipbuilding contracts of the type that was used.

I think that there is an issue—although, again, as I understand it, it is not unique to the contract—in relation to the substance that needs to be evidenced about the progress on the contract before payments are made. That is one of the lessons on which we need to reflect. Should it be enough that the steel has been cut? Should it not be that that has led to progress on construction of the vessel? We need to reflect on that aspect—although, if changes to that took the approach that CMAL would use out of what is standard in shipbuilding generally, it would have implications for contracts, so that would have to be considered as well. However, that part of the matter is one of the lessons that we, and CMAL as part of that, need to reflect on.

The significant issue that ministers were involved in considering, not least because we had to give CMAL the budgetary approval to do it, was

about changing the final milestone payment from 25 per cent to 10 per cent to allow, in effect, the acceleration of some of the contract price. From previous evidence and other published documentation, you will be familiar with the fact that CMAL attached particular conditions to that but Government gave the approval because we had to make funding available on a different schedule and in a different financial year from what was originally anticipated.

Colin Beattie: When Mr McColl appeared in front of the committee, he made the comment that the way that the milestone payments were made was in accordance with normal shipbuilding practice. We do not have the expert opinion here to guide us as to whether that is the case, but it seems extraordinary that things can be done out of sequence and still qualify for payment when the bits between them have not been done.

The First Minister: There is another point that may be worth making, which I will come on to in a second.

Like you and the committee, I am not an expert on shipbuilding contracts—although I know more about them than I might ever have wanted to, unfortunately, because of the situation—but my understanding is that the approach to the milestone payments, the negotiation about the particular structure and the process of triggering those payments are not unique to the contract. They are standard in shipbuilding contracts. If I am wrong on any aspect of that, others can give you a more expert opinion, but that is my understanding.

There might be a legitimate argument that that should change. As I have said, in a Scottish context, given our experience with the vessels in question, we should look at whether it should change. However, if that took the Scottish approach to contracts for shipbuilding, which is a global industry, out of the standard, I guess that there would be issues with that that would have to be considered as well.

The other point that it is important to make is about what happened as the milestones were reached. Going back to 8 October 2015, one of the mitigations that was put in place against the lack of a full builders refund guarantee was that CMAL took ownership of the vessel and the assets at each stage of the construction process. Therefore, as CMAL made payments, it took ownership of assets that were equivalent to those payments. As I understand it, that is how it works in such contracts, but it was the case that CMAL was getting value for those payments.

We all have responsibility and lessons to learn but, to be frank, I do not think that I have heard the people who owned FMEL talk about the lessons that they should be learning about this point.

Clearly, the project management—the process of putting the vessels together—was not happening in the way that it should have done.

11:30

Colin Beattie: Continuing that aspect, I note that one of the factors that exacerbated the staged payments issues was the relationship between CMAL and FMEL, which seems to have deteriorated at an early point to the extent that, we understand, CMAL could not get access to the yard.

Although there was discussion about the possibility of a dispute resolution mechanism, it never happened. CMAL received legal advice that it must continue making the staged payments despite the fact that it had no sight of what was happening. That was obviously escalated up the line from CMAL. To what extent were you aware that it was discussed with ministers? Did you have any sight of those issues? What did ministers say about resolving the dispute, which involved a major issue?

The First Minister: We were certainly aware that the relationship was becoming progressively more strained and difficult. Ministers—principally the portfolio ministers of the time—would have been involved periodically in discussions and updates.

That said, a lot of effort was made—on both sides, I think, and I know particularly by CMAL—to keep the relationship where it needed to be for us to see progress on the vessels. If you go through CMAL's various updates to the programme steering group, for example, and the updates that came through the expert that the Scottish Government commissioned, you will see that they contain many references to there being improvements at times, things working better and there being more confidence. Overall, however, and broadly speaking, that relationship was in a downward spiral.

It is not hard to understand the frustration that CMAL felt at having signed a contract of that nature, with responsibility for design and build passing to the shipbuilder, as is standard practice, yet all those issues were being raised that had not been raised at the time. I understand its frustration. Similarly, Jim McColl and FMEL clearly had concerns, which they voiced.

Ministers were aware of that and—again, I think that this is all reflected in the documents that have been published—there was definitely a view on the part of the Government that we wanted to encourage mediation. There was a period in which mediation was agreed to by both parties, but it did not happen. The chosen mediator was not available in the timescales that were necessary.

The contract allowed for mediation, expert determination and then court proceedings as the dispute resolution steps. CMAL's view, I think rightly, was that expert determination was not appropriate here. Apart from anything else, that was because of the scale of the claim that FMEL was making outside the contract, which ultimately became £66 million. The right way to resolve it was therefore for FMEL to go through the court process, which—as was its right—it never chose to do.

Ministers were seeking to keep the relationship where it needed to be, to improve it and, where we could, to use our best offices to resolve the issues between the parties. In the published documents, you will see evidence of the Government seeking to do that all along in relation to the contract issues between FMEL and CMAL.

Beyond that, as is evidenced in the loan agreements, the consideration of the proposal that Jim McColl put prior to public ownership and then at public ownership—at all stages—we were also seeking to discharge the wider responsibilities of trying to keep the yard open and operational and protecting employment, as well as getting the vessels finished.

Colin Beattie: I am looking at the Auditor General's report, and specifically at paragraphs 81 to 83. The sequence of events that led to FMEL entering administration in August 2019 seems almost like a progression of that dispute, to the extent that

"the Scottish Government concluded ... there was no legal basis for CMAL to pay more than the fixed price for the contract."

That seems to imply that that was the trigger for FMEL entering administration. When the Scottish Government took that decision, was there any thought that that might result in FMEL going into administration?

The First Minister: I think that it would be fair to say—I do not know whether it would always be expressed as explicitly as this—that, certainly in the months leading up to the decision around public ownership, there would of course have been concern that that was a possibility. Some months previously, FMEL had had a redundancy programme at the yard, and there were clearly very significant financial and cash-flow problems there, so of course that would have been a concern.

Just as FMEL signed up to the terms of the contract for the vessels, so did CMAL, so it was always—understandably—restricted in what it could do by the terms of the contract. CMAL's view is that simply paying a lot more to FMEL at that time, in line with the claim that FMEL had made, would not have been within the terms of the

contract, because there were not unforeseen problems. The contract had terms for modifications within it, but FMEL was not seeking to use those. If CMAL had acceded to those claims, it would have opened itself up to legal challenge from unsuccessful bidders. CMAL was at all times seeking—rightly—to operate within the terms of the contract.

As you know, the Scottish Government asked an independent Queen's counsel to look at the claim, and that is what led to the conclusion that there was no legal basis for CMAL to make the additional payment that FMEL was requesting. CMAL's view was that, if FMEL felt that that claim was justified, it should take it through the court process. I say again that FMEL always had that option and it chose not to do that.

The Government was looking at ways in which we could help to get the vessels completed, and to protect the yard and employment there if it was appropriate and possible to do so, over and above the contract terms. That is where the loans came in, and the options that were looked at in project Kildonan: how do we get the vessels completed but also protect the longer-term economic interests? Of course, keeping the yard open was pretty essential to getting the vessels completed. Those were the considerations that led to the decisions that the Government took.

Colin Beattie: The Auditor General's report says:

"By May 2019, the relationship between CMAL and FMEL had broken down completely."

The report goes on to say that FMEL had said that it was going to have

"significant redundancies and CMAL notified Scottish ministers of its intention to cancel the contract for vessel 801 and make a call on the surety bond".

Was that ever done? Did CMAL ever do that?

The First Minister: That was the point at which—if my memory serves me correctly—we commissioned the independent QC to look at the matter. At that point, we were all trying to see whether there was a way through.

CMAL's concern at that point, in addition to its concern about the lack of progress on the vessels, was that the surety bond was due to expire, so things were obviously coming to a head for CMAL in that sense. The discussions from that led to the commissioning of the independent QC, and the view there was that there was no legal basis in the contract for CMAL to make those payments. The process, which ultimately concluded with nationalisation, continued after that.

The Convener: Thank you. I now turn to Willie Coffey, who has a couple more questions to put, after which I will bring in Graham Simpson.

Willie Coffey: Looking ahead, I think that all the committee members who visited the yard on Monday were impressed by the current management and the dedication of the workforce to completing the work. We were told that they were a wee bit apprehensive about our visit.

Given the level of attention that the project is attracting, can you give the committee and the public an assurance that sufficient technical oversight and management are in place to see the project through, and that the workforce's expertise is part of the process that will take us to completion?

The First Minister: Before I answer that question, I want to say something that I think is really important. I know that Kevin Hobbs said this to the committee. There is no issue about the quality of the work that is being done by the workforce in the yard. There are many different organisations and people—including the Scottish Government, which, ultimately, is accountable for public sector contracts—that bear responsibility and have lessons to learn here, but I would exempt the workers at Ferguson's from that. All along, they have tried to build the ships with the quality, the expertise and the dedication that are required. What has gone wrong is the overall management of the process. As I said, different people have to bear different shares of the responsibility for that. I put on record my thanks to the members of the workforce, because it has been a really difficult time for them, as lots of aspersions have been cast on the quality of their work along the way.

I think that you are right to have a degree of confidence in the current management and the chief executive. They have inherited the situation with the vessels. There have been significant challenges, and there remain challenges around the completion of the vessels, but I believe that the chief executive and his team have a grip of the situation. We can see that reflected in the regular reports that are given to the relevant committee here and the way in which issues are being identified and raised.

As I mentioned earlier, one of the recent reports has made updated assessments on the cost of completing both vessels and has given updates around the delivery dates. The Government is currently scrutinising that information before we reach a decision. Last week, the company gave an update on the issue with the liquefied natural gas sensors. We have asked for all options to resolve that to be considered as quickly as possible.

The current management are doing a very good job. I think that they have a grip of the situation. Does that mean that we will definitely not encounter further challenges between now and the completion of the vessels? I do not think that it

would be sensible of me to say that categorically, but I believe that the current team is working in the way that would be expected in order to get the vessels to completion.

Willie Coffey: On Monday, the workers said to us that they were fed up with the whole issue being used as a political football. I am sure that we all know that there is an inevitability to that, but they were fed up with it.

Can you offer some words of comfort and support to the members of the workforce, to show them that we value the work that they are doing and that we recognise that they are playing a crucial role in helping us to complete projects that will ultimately benefit the public when the ships go into service?

The First Minister: I think that the political scrutiny of the issue is absolutely 100 per cent justified. It is the understatement of the decade for me to say that the contract has not gone as the Government would have expected or hoped, so I do not complain about the scrutiny and the pressure, or the fact that I am sitting here now having these discussions. That is entirely legitimate and understood.

However, I repeat what I said earlier. Whoever deserves to be under that scrutiny and to take responsibility, or a share of it, for what has happened, that is not the workforce. As Kevin Hobbs told the committee, there is no question about the quality of the work. I have been into Ferguson's shipyard on many occasions. Obviously, the workforce will change, and people will come and go, but there will be a core workforce that has been there for a long time.

Those workers are skilled shipbuilders and do a fantastic job; they do not deserve and should not get any of the criticism that is, rightly, directed at others—including, on some aspects of this, the Scottish Government. Assuming that they get the right support and the right project management, and that everybody else does their job in the way that we would want and expect, I have every confidence in their ability to build those vessels—and, hopefully, many vessels, long into the future—at that shipyard.

11:45

The Convener: If the workforce is not culpable—as I agree with you that it is not—who do you think is culpable?

The First Minister: First, I and the Scottish Government are ultimately accountable. This is a public sector contract. First Ministers do not regularly sit before individual committees of the Parliament. I am not saying that I had any choice in the matter, but I welcome being here, because I

recognise unreservedly that ultimate accountability.

We all—the Scottish Government; CMAL; to a lesser extent, to be fair, but nevertheless, I include CalMac; and Transport Scotland, which is an agency of the Scottish Government—have to reflect on all aspects, recognise whether decisions that we have taken could and should have been taken differently, and learn lessons from that. I do not shy away from that.

However, neither do I think that the fact can be escaped that this was a contract that a private company signed up to. It contracted to do a job that has not been done. Therefore, in my view, a significant degree of responsibility has to rest with FMEL and FMEL's management at the time—not sole responsibility, and I am not saying that none of its concerns is legitimate, but it has to be part of this, too. Although I am sitting here readily accepting that there are lessons for the Scottish Government and for our agencies, I am not sure that I have heard that from FMEL. I have heard lots about why it is all somebody else's fault. Absolutely, a degree of responsibility lies elsewhere. However, it is also important that it recognises that it contracted to do a job that was then not done. That has to be a significant part of it, too.

The Convener: So you share some responsibility for the position that we are now in, of—

The First Minister: Me?

The Convener: Yes.

The First Minister: I am the First Minister. You can—

The Convener: Is that a yes?

The First Minister: I am the First Minister. I am accountable and responsible for everything that happens. Earlier, I said to you that I do not take every decision in the Scottish Government—contrary to some of the things that are said about me by my critics—but I am accountable and responsible for everything that happens in the Scottish Government's name. Whatever people think about me, and whatever the political or other disagreements, I never shy away from that—nor will I ever shy away from that. That is not the hardest question that you have asked me today, or will ask me in the future, I am sure.

The Convener: Okay. I turn to Graham Simpson. Maybe he has some hard questions to ask in the final few minutes that we have left.

Graham Simpson (Central Scotland) (Con): I do not know about that, but we will see.

To follow on from the convener's questions, what mistakes have you made, First Minister?

The First Minister: I will review matters. For example, as I have said, I have gone over the submission of 8 October, and the decision—many times, actually. I have tried to put myself in the shoes of the minister and to think whether, based on all the information, I would have taken the same decision. Based on all that information, I think that the decision—based on what was known—was, at the time, a reasonable decision to have taken. Based on what we know now, we of course wish that we had taken a different decision.

One of the things that I will reflect on, as I do regularly, is the expectation of and requirement on the organisation of the Scottish Government about when things should be brought to my attention.

To be fair to Derek Mackay, let me be clear that, had that submission of 8 October been brought to my attention, and based on everything that was in it, I am not saying that I would have reached a different decision. I do not think that I would have done. However, with hindsight, perhaps it should have been brought to my attention.

I will reflect on all those things. Again, I have looked at this many times—and again, it is all with the benefit of hindsight, but that is important, sometimes: should we have taken more quickly some of the decisions that ultimately led to nationalisation?

I will always look very critically, with hindsight, at the process of decision making and try to learn from it—not just in this case, but in every case.

Graham Simpson: Do you wish that you had actually listened to the advice of CMAL and retendered?

The First Minister: That is a really important point. Believe me, I have agonised over it. Perhaps I might need to put it more clearly, but I think that I did answer you on that point.

If, at the time—on 8 October 2015—we had known probably a fraction of what we know now, clearly, we would wish that we had taken a different decision. However, we did not know that at the time, so all that I can do is assess the information that we did have then and come to a view on whether the minister took a reasonable decision based on what was before them. Every decision involves a balancing of risk. The risk was clearly set out but so, too, were the mitigations. Also, taking another approach would not necessarily have avoided all the problems. Based on what was known at the time, I think that it was a reasonable decision. However, based on what we know now, of course I wish that I could turn the clock back and take a different decision.

Graham Simpson: What decision would you take now?

The First Minister: I would have taken a decision—I do not know what it would have been, but it would have been one that did not lead to delays on the vessels. However, your asking me that question demonstrates the inherent weakness in trying to take decisions with the benefit of hindsight. We can only take decisions on the basis of what is before us at the time, and that is what I have looked at very closely. I am trying to be as frank with you as I possibly can be. Every day, we take decisions on all sorts of matters based on what we know at the time. There will be times when things happen in a way that makes us wish that we could take a different decision, but that is not how life works.

Graham Simpson: Do you wish, with hindsight, that you had retendered and the job could have gone to a different yard?

The First Minister: Sitting here, I cannot say—again, this is just the inherent limitation of trying to decide which decisions you would have made with hindsight—and cannot be sure, and I do not think that anyone could be, that retendering would have resulted in a situation where we did not have any problems. I cannot sit here and give you a guarantee on that. There is commentary in the 8 October paperwork that underlines this point. That submission says that, in CMAL's view, some of the problems around the guarantee would have been encountered with any bidder.

It is really impossible to answer categorically, from the perspective of hindsight, what you would have done and what the consequences of it would have been.

Graham Simpson: Okay. Earlier, Craig Hoy mentioned the recent BBC programme. I think that he used the term “cheat sheet”, and you have addressed that. However, the programme included another allegation, which was that Ferguson's was allowed to revise its bid whereas other bidders were not. Why was that?

The First Minister: I think that you have heard CMAL respond to that. It took procurement advice and it would not say that that was out of the ordinary as regards the procurement process. However, it is important that such issues are now properly and fully investigated by the Auditor General rather than by my coming to summary conclusions without allowing that process to be undertaken.

Graham Simpson: Can I stop you there? Whether he does so is entirely a decision for the Auditor General—

The First Minister: Exactly.

Graham Simpson: —but I am asking you why Ferguson's was allowed to revise its bid but no one else was.

The First Minister: I think that we are talking about a meeting on 4 June, which was part of the ordinary process of obtaining technical clarifications from bidders. As I understand it, CMAL took proper in-house procurement advice on that and there was nothing inappropriate in having such a meeting. That is CMAL's response to that point.

However, it is right that that aspect should be subjected to proper scrutiny by the Auditor General. Although you are absolutely right to say that that is entirely for him, it is important that it is not just my word that is taken on that and that the matter is properly scrutinised, as should be the case for all aspects of the BBC documentary.

Graham Simpson: Okay. That is up to the Auditor General.

The First Minister: Indeed.

Graham Simpson: He can do that work if he wants to; he does not have to do anything.

We have not yet covered when you attended what has been described as the fake ferry launch. I am not a member of the Public Audit Committee, but it has heard evidence from CMAL that the very act of launching at that point added to the cost of the project. Do you regret that now?

The First Minister: Again, that is one of those questions where the answer is that if I knew then what I know now, of course I would not have wanted to do that, but I did not know then what I know now. I am not telling the committee anything that it does not know when I say that it is not unusual—in fact, it is entirely usual—for vessels to be launched well in advance of them being completed. I have been at other ship launches in my political career. It is known that, at the point of the launch of a vessel, it is not completed, so there was nothing unusual in that.

I certainly was not aware of this at the time of the launch. I was aware that there was a slippage in the contract delivery date, and I think that Parliament was also aware of that at that point, because I think that Derek Mackay had already advised it of the initial slippage in the delivery date. However, I was not aware that CMAL had concerns about doing the launch at that point. In fact, having reviewed my briefing for that event, there were plenty of CMAL executives and non-executives on the attendance list. I certainly was not aware that there were concerns about launching the vessel at that point.

Graham Simpson: Will you provide the briefing to the committee?

The First Minister: Everything that I am referring to today—subject to the caveats on the processes in the Government about legal privilege

and commercial confidentiality—I am happy to make available to the committee.

Graham Simpson: Okay. What has been the total cost of this so far—including nationalisation and Tim Hair's exorbitant salary—and what do you envisage will be the end cost?

The First Minister: Well, in answer to the last part of your question, I think I have referenced that the latest cost assessment by the current management of Ferguson's is being scrutinised by the Government. I am not able to give you the outcome of that process, because it is not concluded yet. The current Scottish Government-endorsed estimate from March 2022, in terms of completing the vessels, is known. If there are any increases on that as a result of the latest assessment, that will be properly notified to Parliament in the normal way, but that process is under way and is not complete. I will undertake to go away and come back to you with the costs around things such as Tim Hair's salary. Obviously, we want not only to complete the vessels—although that is the immediate priority—but the shipyard to have a good, sustainable and successful future. I make no apology for the Government continuing to behave and act in a way that supports that objective.

Graham Simpson: I do not know how long I have left, convener.

The Convener: You have 30 seconds.

Graham Simpson: Okay. Is it your intent to keep the yard under public ownership?

The First Minister: The Government's position is that, ultimately, we want all the commercial assets that we have taken ownership of to be back in the private sector, but we will have to make decisions about the point at which that becomes viable. We have not reached the point of decision on Ferguson's.

The Convener: On that note, First Minister, I thank you for your time this morning, and for the interaction that you have had with the committee; it is greatly appreciated. We have identified a number of areas where it would be useful to follow up to try to seek further particulars, and I am sure that the clerks and your office will be able to coordinate that. We hope that that will then add to the scrutiny record that the committee has and inform any report that we produce.

Thank you, once again, First Minister. I now draw the public part of this morning's meeting to a close.

11:59

Meeting continued in private until 12:27.

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