



The Scottish Parliament
Pàrlamaid na h-Alba

David Middleton

Public Audit Committee

Room T3.60

The Scottish Parliament

EDINBURGH

EH99 1SP

By email only

Email:

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26 May 2022

Dear Mr Middleton,

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

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

The Committee recognises that a number of personnel changes have taken place since Ferguson Marine Engineering Limited (FMEL) was announced by Scottish Ministers as the preferred bidder for the contract to design and build two new vessels in August 2015 and the subsequent contract was awarded to FMEL by Caledonian Maritime Assets Limited (CMAL) in October 2015.

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

The Committee understands that up until November 2015, you were the Chief Executive of Transport Scotland, and therefore the Accountable Officer personally responsible at that time for the propriety and regularity of the finances under your stewardship and for the economic, efficient and effective use of all related resources.

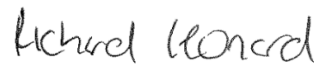
The Committee would therefore be grateful for a response to the following questions—

- At what stage in the procurement process, Transport Scotland first became aware that FMEL was unable to offer a full Builders Refund Guarantee?
- What discussions took place between you and the Portfolio Accountable Officer for matters including transport at the Scottish Government, about the significant risks and concerns identified by CMAL?
- The Scottish Public Finance Manual confirms that Accountable Officers have “a statutory duty to obtain written authority from, as the case may be, the Scottish Ministers or relevant governing body before taking any action that they consider may be inconsistent with the proper performance of their functions”. Reflecting on this statutory responsibility—
 - What discussions took place between CMAL and Transport Scotland on the contract award, and specifically whether CMAL asked Transport Scotland to request a written authority on its behalf from Scottish ministers, or whether you considered doing this in your role as Accountable Officer for Transport Scotland?
 - Why the decision was taken not to request written authority in light of the significant concerns and risks raised by CMAL?
- Why there appears to be a significant mismatch in CMAL’s strength of feeling about the scale of risk and the divergence from standard terms and conditions, given the absence of the builder’s refund guarantee, and how that was reported in communication to Ministers in correspondence issued on [8 October 2015](#), which included CMAL’s concerns as Annexe A?
- What engagement did you have with Scottish ministers in providing formal advice to them regarding the contract award (in particular, over 8 and 9 October 2015)?
- In your role as Accountable Officer, whether you recorded any decisions taken by Scottish Ministers which explained why the decision was made to proceed with the contracts, given the significant risks raised by CMAL?

Should there be other points that you believe would be beneficial to the Committee’s scrutiny of the AGS’s report, please include this information in your response. The Committee looks forward to receiving your response to this letter by **24 June 2022**.

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

Yours sincerely

A handwritten signature in black ink that reads "Richard Leonard". The signature is written in a cursive style with a large initial 'R'.

**Richard Leonard MSP,
Convener**