



The Scottish Parliament
Pàrlamaid na h-Alba

Keith Brown MSP
Cabinet Secretary for Justice and
Veterans

Public Audit Committee
Room T3.60
The Scottish Parliament
EDINBURGH
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By email only

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29 September 2022

Dear Cabinet Secretary,

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

As you will be aware, the Public Audit Committee has been scrutinising the significant issues highlighted in the Auditor General for Scotland's (AGS) report, [New vessels for the Clyde and Hebrides: Arrangements to deliver vessels 801 and 802](#). This has involved gathering a wide range of oral and written evidence to inform its scrutiny of the report.

I am writing to you as the former Cabinet Secretary for Infrastructure, Investment and Cities to seek information about your role during the procurement process for the contract to design and build two new vessels in 2015.

On [8 September 2022](#), the former Minister for Transport and Islands, Mr Mackay, gave oral evidence to the Committee. Mr Mackay confirmed during the evidence session that he was aware that papers would be forthcoming to Ministers seeking a decision to award the preferred bidder for the contract. Your approval was sought on 20 August 2015 "to award shipbuilding contracts of a total cost of £96m for 2 new major ferries for the CHFS network to Ferguson Marine Engineering Ltd (FMEL)" in the absence of Mr Mackay, who was on annual leave.

In advance of Mr Mackay going on annual leave, what information did he share with you, either orally or in writing, about the status of the procurement of the ferry vessels and whether he raised any concerns with you on this issue?

The Committee understands that you were also copied into correspondence from Transport Scotland to the Minister for Transport and Islands setting out Caledonian Maritime Assets Limited's (CMAL) significant concerns about awarding the contract to FMEL.

What direct action did you take, as the Cabinet Secretary responsible for ferry services, upon reading the detail of CMAL's concerns?

During the evidence session, Mr Mackay also confirmed that he had issued correspondence to the constituency MSP for Greenock and Inverclyde, Stuart McMillan in 2015, regarding the procurement process for ferry contracts in Scotland.

Details of this correspondence were also drawn to the Committee's attention by the former Director of the former organisation, Ferguson Marine Engineering Limited (FMEL), Jim McColl during oral evidence on [16 June 2022](#). At this meeting, Mr McColl stated that correspondence from Mr Mackay to Mr McMillan highlighted that CMAL had on occasion, taken an alternative approach to a Builders Refund Guarantee. The Committee is also aware that some aspects of this correspondence have been reported in the media.

The Committee notes that your responsibilities as Cabinet Secretary Infrastructure, Investment and Cities during 2015 included ferry services. The Committee would be grateful if you could confirm whether Mr Mackay, in his role as the supporting Minister for Transport and Islands—

- **highlighted any concerns to you about the ability of shipyards tendering for the contract, to provide a full Builders Refund Guarantee, between February and August 2015, either orally or in writing.**
- **made you aware of correspondence received from Stuart McMillan MSP regarding the procurement process for ferry contracts and his subsequent response.**

The Committee looks forward to receiving your response by **21 October 2022**, to allow our consideration of the report to continue as timetabled. Should this date present any difficulties, please contact the clerks as soon as possible.

Yours sincerely



**Richard Leonard MSP,
Convener**