

MINISTERIAL ENGAGEMENT BRIEFING: HUMZA YOUSAF

Engagement title	Telephone call with Pentland Ferries
Engagement timing	Wednesday 18 April 12:00 – 12:30
Organisation	Pentland Ferries, commercial ferry operator on the Pentland Firth
Venue and full address	T3.24 Scottish Parliament Edinburgh
Background/Purpose	<p>Following extensive engagement between TS officials and Pentland Ferries, to discuss in detail with Pentland Ferries their concerns with regards to the planned introduction of reduced fares on ferry services to the Northern Isles. To ascertain if they are willing to sign up to a commercial operators compensation scheme and ensuring that they are sufficiently compensated for any potential impact upon their business, in line with State Aid requirements.</p> <p>[REDACTED]</p> <ul style="list-style-type: none"> • [REDACTED] • [REDACTED] • [REDACTED] • [REDACTED] • [REDACTED] • [REDACTED]
Key Lines:	<p>To demonstrate the Scottish Government's commitment to introduce RET to support island communities.</p> <p>Work to establish a commercial operators mechanism is being carried out to <u>protect</u> commercial operators on the Pentland Firth and mitigate any potential</p>

	<p>market distortion.</p> <p>In June 2016 Pentland Ferries wrote to SG/TS to request that they would be involved as part of any fares reduction scheme.</p> <p>The extreme time pressures that exist on this work and the need to quickly consider other options if Pentland Ferries are simply unwilling to agree to the proposals with respect to the commercial operators mechanism, and to provide the relevant information required to inform the model (farebox revenue).</p>
Guest list or meeting attendees	<p>[REDACTED] – Pentland Ferries</p> <p>[REDACTED] Pentland Ferries</p> <p>[REDACTED] – Pentland Ferries</p> <p>[REDACTED] – Pentland Ferries</p>
Briefing	<p>Annex A – Speaking note</p> <p>Annex B – Background and timeline of key milestones</p> <p>Annex C – [REDACTED]</p> <p>Annex D - Advice on the way forward</p> <p>Annex E – Letters received from MacRoberts LLP</p>
Media	<p>[REDACTED]</p>
Official Support include mobile number(s)	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>There is a pre-meeting call with officials at 11:30 on Wednesday 18 April preceding the Minister's call with Pentland Ferries. Officials are also available to sit in on the call with Pentland Ferries.</p>

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Minister for Transport and the Islands			x		

DG Economy
 Roy Brannen, Transport Scotland
 Transport Scotland Directors
 PS/Transport Scotland

[Redacted]

Relationships Unit

[Redacted]

[Redacted]

John McFarlane, Special Advisor
 Kate Higgins, Special Advisor
 David Millar, Special Advisor

SPEAKING NOTE

I am pleased to be able to speak to you today and reaffirm this Government's commitment to introduce reduced fares on ferry services to the Northern Isles.

I would also like to thank you for your continued engagement with my officials as this work has progressed. I am aware that you have had several meetings and telephone calls on the subject prior to this and have spent considerable time discussing this matter with my officials.

I am keen to hear your views and to discuss your concerns in relation to the proposed approach.

There are a number of issues raised in the recent correspondence of 9 April from your lawyers, MacRoberts LLP. I realise that some of these concerns are more fundamental in nature.

There is an extreme time pressure on this work. I have made an undertaking that reduced fares would be introduced within the first half of 2015. That does not leave much opportunity to deal with the issues raised. Some of the issues you raise are challenging and are probably best considered outwith the scope of this piece of work.

All of this work has been carried out in a genuine attempt to protect commercial operator interests and market share. I tasked my officials with establishing an open and transparent scheme which is both State Aid and Competition compliant that would compensate commercial operators such as yourselves for the impact of reduced fares/RET on the SNF service.

I realise that in all of this there is an element of 'leap of faith' and I ask that you take me at my word when I say that the only goal with the mechanism is to protect your position and market share, for the benefit of ferry passengers to Orkney. You will remain a wholly commercial, private operation, free to make your own decisions just as you do at the moment, which I understand was a key concern of yours set out in early discussions with Transport Scotland officials. In a way this would be similar to bus operators who receive Government grants which allows them to charge reasonable fare levels, but still remain wholly private organisations.

I am aware that my officials have already gone some way to alleviate concerns that have been raised, from your right to set your own fare levels as raised in the first paper provided by your legal advisors in October last year, through to the discussions in Orkney last month.

RET has been successfully rolled out on the west coast. If RET was to be applied on the Pentland Firth route, the fares would be a fraction of what they are just now. We are currently in a position whereby ferry passengers to Orkney are not receiving as good a deal as travellers in other areas of Scotland. That is something I am keen to rectify. I am aware that Pentland Ferries have in recent times pitched their fares slightly below the fares on the Scrabster – Stromness route. Unlocking an agreement would pave the way for a fairer deal for all passengers, regardless of geography.

Given the issues you have raised and the context in which they have been disclosed, I am keen to understand what you consider are the barriers to committing to the proposed compensation scheme.

I can provide assurances that the support will be provided to maintain lower fare levels after the conclusion of the current NIFS contract that will be extended to October 2019. I can offer further assurance that the mechanism can be reviewed if you feel that it is not working, as the impact of reduced fares becomes clearer.

If Pentland Ferries are fundamentally opposed to signing up because of the wider issues with, for example, regards to the presence of a subsidised service on the Pentland Firth, I will need to move on and consider options and next steps for this piece of work. I would much rather work with the commercial operators and unlock the reduced fares to the benefit of all and at the same time protect your commercial interests. However, if there can be no agreement, given my position and manifesto commitment I will very quickly have to consider what other options exist.

Having set out my position I would very much like to hear your perspective.

BACKGROUND AND TIMELINE OF KEY MILESTONES

1. The 2016 SNP manifesto contained a commitment to *"take action to reduce fares on ferry services to Orkney and Shetland."*
2. You subsequently announced on 22 August 2017 that reduced passenger and car fares would be introduced in the first half of 2018 and would consist of RET on the Pentland Firth and an RET Variant on Aberdeen routes. You also announced the intention to include private operators (Pentland Ferries and John O'Groats Ferries) on the Pentland Firth in the fares reduction.
3. Transport Scotland officials have commissioned PBA in order to achieve a state aid compliant, transparent and auditable mechanism for bringing commercial operators into any subsidy. The work to develop a financial model is expected to be concluded shortly, depending on Pentland Ferries providing relevant information in order to inform any model; however agreement will still have to be reached with the commercial operators.
4. Transport Scotland officials have been in regular contact with the commercial operators. Both commercial operators have intimated that they are content with the current level of engagement and officials have remained in close contact throughout.
5. Despite positive initial discussions around concerns that Pentland Ferries had raised, recent correspondence received from their lawyers, MacRoberts LLP indicates that Pentland Ferries would be unwilling to sign up to any agreement unless certain conditions and demands are met.
6. These conditions and demands are wholly outside the terms of any agreement on a commercial operators mechanism, and there is an unrealistic expectation on the part of both Pentland Ferries and MacRoberts LLP as to what can be achieved through this piece of work.
7. Some of the concerns raised relate to the very presence of a subsidised service on the Pentland Firth, and the recent support provided by SG to OIC/Orkney Ferries as part of the recent Budget settlement.
8. Following the submission of 14 April, and in order to see whether there was a way through the concerns expressed by Pentland Ferries, TS officials and SGLD held a further discussion on 16 April, to try and establish any other legally compliant options that would be available to Ministers at this time, one of which was the possibility of a phased introduction of reduced fares on the routes from Aberdeen only.

9. [REDACTED]

10. [REDACTED]

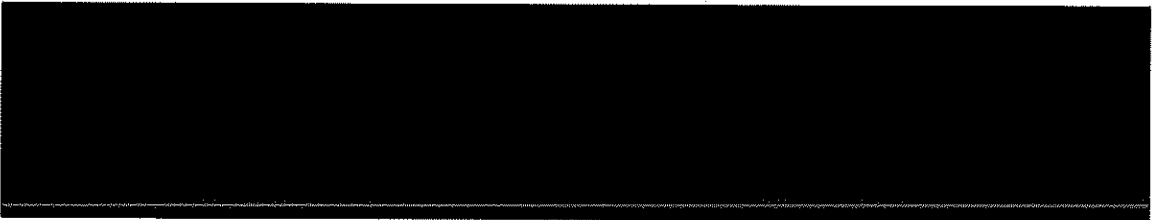
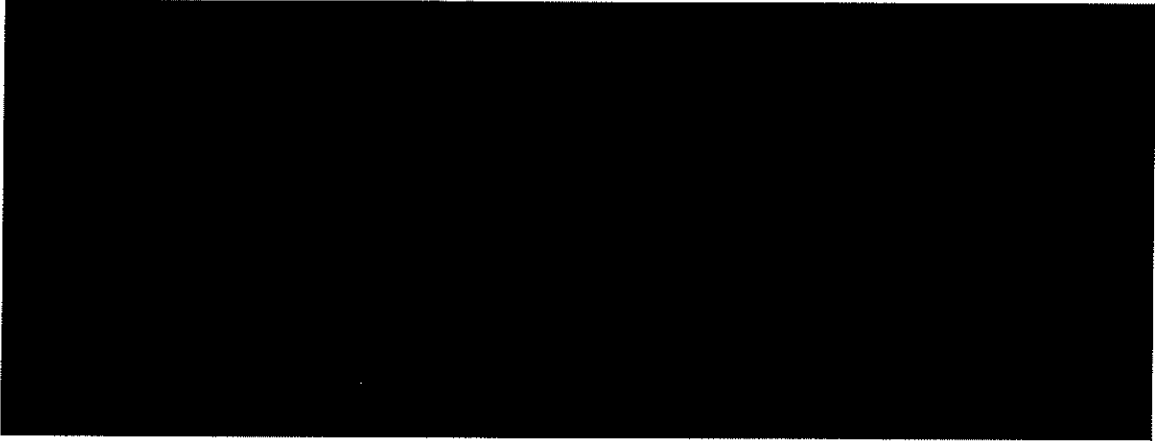
Minister will be aware that this would not be well received generally and in particular by Orkney stakeholders and in addition it would fail to meet the Manifesto Commitment.

11. [REDACTED] submission of 11 April outlined in detail the concerns raised by MacRoberts LLP / Pentland Ferries and is attached at Annex C.

12. A copy of the correspondence received from MacRoberts LLP is attached at Annex D.

13. A timeline of key milestones is included below:

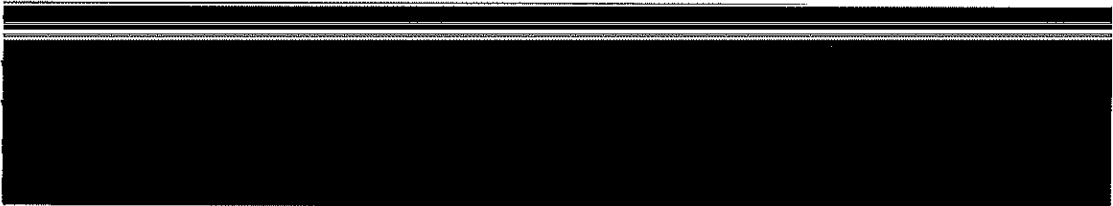
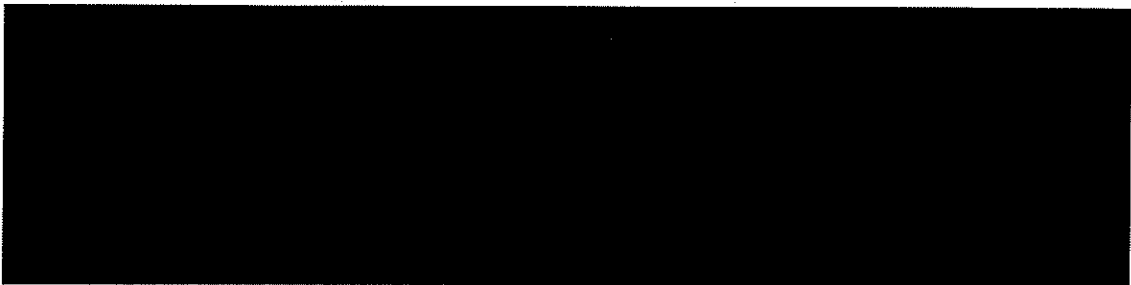
Timeline	Date
Consultants Peter Brett Associates (PBA) appointed to work on Northern Isles STAG	December 2015
Manifesto commitment to maintain the Road Equivalent Tariff on all current ferry routes and reduce ferry fares on routes to Orkney and Shetland	April 2016
TS officials meet Pentland Ferries in Orkney. Pentland Ferries confirm that they wish to be part of any fares reduction scheme	June 2016
TS officials write to Pentland Ferries to confirm intention is to include them in any fares reduction scheme following Ministerial approval	October 2016
PBA appointed and begin work on NI Fares Consultation	December 2016
Minister meets with [REDACTED]	March 2017
Minister travels to Northern Isles to make fares announcement including details of fares structure, intended implementation timings and intention to include commercial operators	August 2017
Consultants PBA appointed to carry out work on delivering a 'commercial operators mechanism' to compensate commercial operators	October 2017
TS officials meet with Pentland Ferries in Edinburgh for initial discussions	October 2017
TS officials call with Pentland Ferries for follow up discussions	September 2017
TS officials further call with Pentland Ferries	December 2017
TS officials meet with Pentland Ferries in Orkney for further discussions	January 2018
TS officials travel to Orkney again to meet with Pentland Ferries	March 2018
Letters received from MacRoberts LLP	March/April 2018



Priority



Background



Further letter

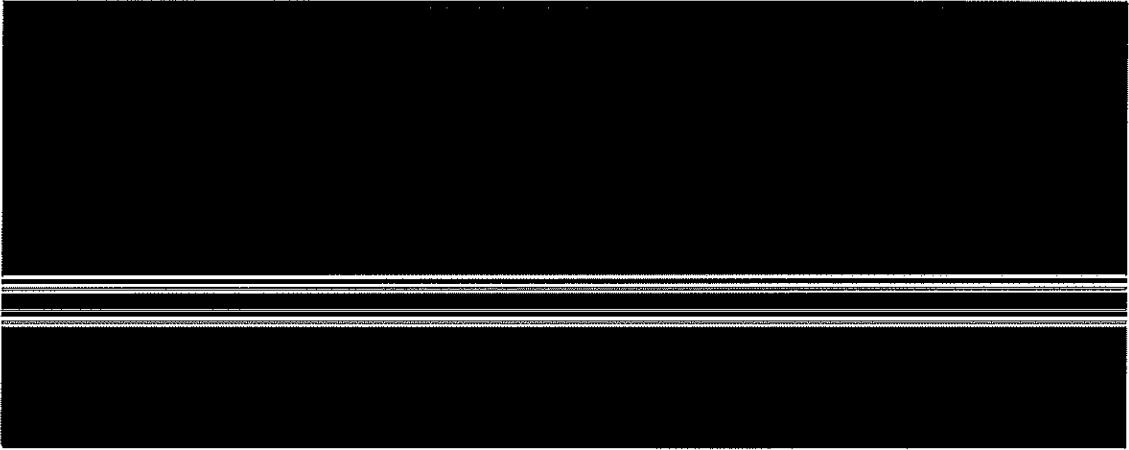
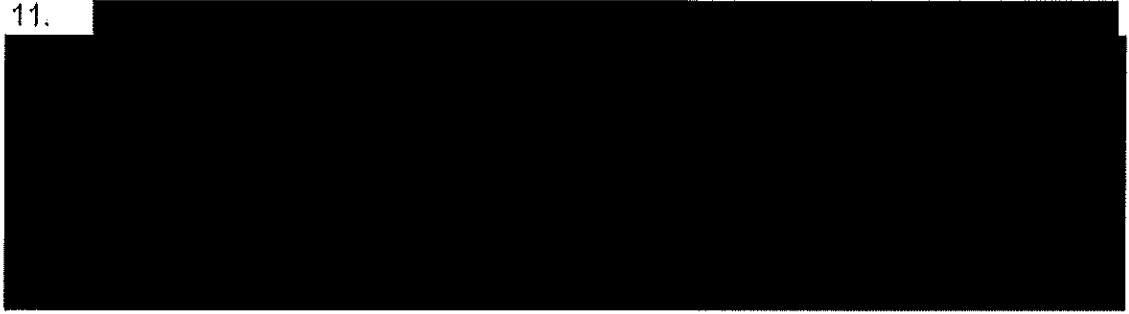
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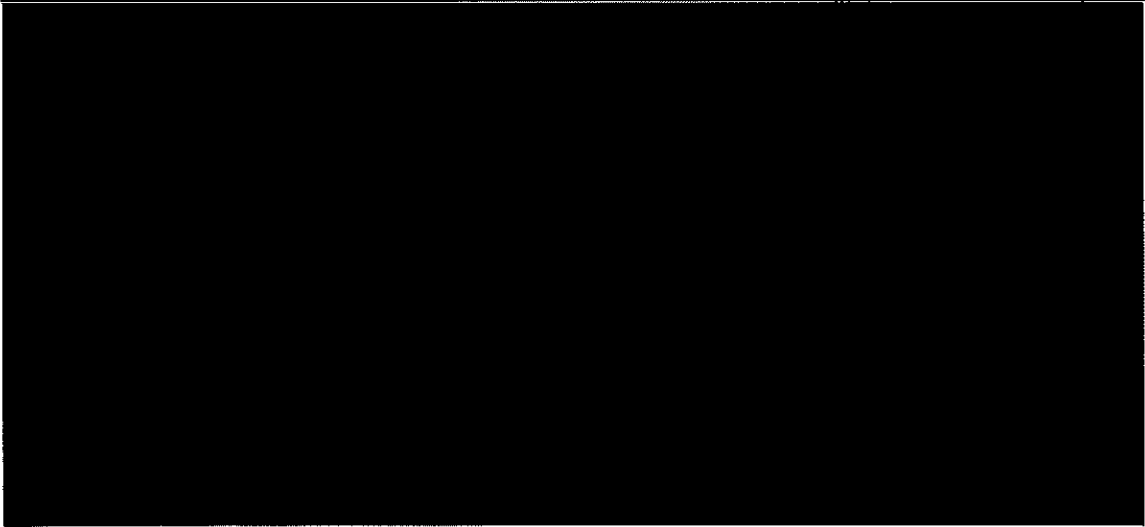
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11.







Minister for Transport and Islands
Humza Yousaf MSP

T: 0300 244 4000
E: scottish.ministers@scotland.gsi.gov.uk



[REDACTED]
Pentland Ferries

By email
[REDACTED]

19 April 2018

Dear Andrew,

Thank you for taking the time yesterday for our phone call to discuss my proposals for delivering the Scottish Government's Manifesto Commitment to introduce reduced ferry fares on services to Orkney and Shetland. It was good to hear that you can see the benefits that cheaper fares would bring to the islands.

I found it helpful to hear your concerns regarding the proposed mechanism first hand. I fully understand your concerns for your business interests. I hope that the reassurance I sought to offer Pentland Ferries was useful. The aim of the proposed mechanism is to achieve my commitment to reduce fares to Orkney, but not at the expense of your business. In doing this I must work within the law, so consequently the mechanism may seem more complex than you expected.

During the call I undertook to write to you with some information, which you felt was necessary before Pentland Ferries would be in a position to be able to sign up to any agreement.

Allow me to take these issues in turn:

Indicative Fares

You asked for sight the indicative RET fares which would apply on the subsidised ferry service. The single fares on each of the routes is illustrated in the following table. Please treat this information in confidence for the time being.

	Passengers	Cars
Scrabster-Stromness		
Lerwick-Kirkwall		
Aberdeen-Kirkwall		
Aberdeen-Lerwick		

Provision of Farebox Revenue information and Data Protection

We discussed the issue of the provision of information from Pentland Ferries in order to inform the compensation model that is being prepared by consultants Peter Brett Associates (PBA).

You indicated that you were unwilling to release your farebox information due to the competition concerns, and the risk of this being seen by Serco NorthLink Ferries or Scottish Government to your disadvantage. I explained that, given the use of public funds for the mechanism, it was important that there was no overcompensation and so a certain degree of transparency is required. However provision of information for a certain purpose does not mean that it will be used widely. There are well tested approaches within the Scottish Government to ensure that commercially sensitive information is handled appropriately and sensitively.

I therefore provide you with written assurance that information provided by Pentland Ferries which you regard as commercially sensitive will be treated in the strictest confidence, that it will only be used for the specific purpose for which you have agreed to provide it, and that access to the information will be limited to only those involved in the mechanism work – in this case our consultants developing the mechanism and our analysts – and those who will be involved in processing payments to you. There is no question of Serco Northlink Ferries seeing this information.

I also hope that it will provide some comfort to you to know that PBA have signed Non-Disclosure Agreements in relation to this and other work and have also in the past worked on highly sensitive projects for Transport Scotland without issue.

Future Northern Isles Ferry Services (NIFS) Contract

During the call we also discussed the future of ferry service provision across the Pentland Firth. I have announced my intention to take views from various stakeholders before I take any decisions in respect of any new NIFS contract. I can therefore confirm that I will have a conversation with Pentland Ferries on this to hear your views. I will be happy to travel to Orkney to meet you and discuss this in more detail, before taking any decisions on future service provision.

I also explained that I cannot, for any reason, envisage any future Scottish Government removing RET once it is in place. I cannot think of any set of circumstances where elected members would follow that course of action. We know that RET has been a huge success on the West Coast, and this Government is rightly proud of delivering cheaper fares. There is, therefore, absolutely no intention to even consider removing RET after the initial 18 month period.

Summary

As I explained, the Scottish Government has made a commitment to introduce reduced fares on ferry services to the Northern Isles, and I need to move forward in delivering this commitment.

I firmly want Pentland Ferries to be a part of the fares reduction scheme whilst retaining their independence as a company. I see Pentland Ferries as a Scottish success story, and you are rightly proud of the business you have built. The mechanism work is designed to protect your business and to ensure that no undue harm comes to Pentland Ferries as a result of the reduced fares initiative.

I am under strong pressure from island interests to make an announcement in respect of the Manifesto Commitment and will likely have to do this within the next two weeks at the latest. I hope my assurances both on the call and in this correspondence are enough for you to trust me. I am very much looking for Pentland Ferries to be part of the solution to provide cheaper fares on ferry services to Orkney. Regardless, I will need to have a decision from you about participation without delay.

My officials have engaged with you during the course of this work, and I would like to give you one final assurance that they will continue to do so over the course of the next 18 months. [REDACTED] will be in touch with you shortly with a further note on the mechanism and I am aware that he has followed up with PBA on the further information which Kathryn requested, and has since provided this to Kathryn.

I look forward to hearing from you.

Best Wishes,
H. You
HUMZA YOUSAF

