

FOI REQUEST (Fol/19/00299)

From: [Redacted]

Sent: 07 December 2018 12:17

To: Fol SpAds PO

Cc: [Redacted] Rollison R (Richard) Economic Development Business Management Unit Maxwell S (Stewart) (Special Adviser)
McCaig C (Callum) [Redacted]

Subject: FMEL - Fol/18/03135

Importance: High

SpAds

We received request number Fol/18/03135 from [Redacted] requesting all correspondence, both internal and external from Sept 2016 to July 2017 relating to challenges and cash pressures placed on FMEL as a result of the 801 / 802 contract.

I would be very grateful if you could please let me know whether you are happy for me to proceed and whether it requires Ministerial approval.

Please note this is now late and was due on 22 November.

Kind regards

[Redacted]

[Redacted]

Policy Officer, Strategic Industrial Projects
Innovation, Investment and Industries

Directorate for Economic Development
Scottish Government, 3rd Floor, Atlantic Quay, 150 Broomielaw, Glasgow G2 8LU

[Redacted]

The attached draft response letter and draft content document fall under Section 28(1) of FOISA as these are otherwise accessible at <https://www.gov.scot/publications/foi-18-03135/>

SCHEDULE OF INFORMATION/DOCUMENTS

Note: the schedule is for internal use only and should not be sent to the applicant with your response

FOI Case Number: FOI 18 03135

Request from [Redacted] (25 October 2018):

“Please provide all correspondence, both internal and external, held by the Scottish Government, covering the time period 1 September 2016 to 31 July 2017, relating to the challenges and cash pressures that the contract for 801 and 802 have been placing on Ferguson Marine Engineering Limited.”

No	Date	Brief description (title, contents, attachments)	Relevance	Release - wholly or in part	Exemption(s)/ Exception(s) applied	Outcome of public interest test
1	22-02-17	Submission from [Redacted] to Cab Sec EJFW, Cab Sec Finance and Transport Minister updating on progress to the Ferries as well as CMAL's early concerns around slippage.	Parts not relevant – Paragraphs 33 & 34 in Annex A not relevant because they are related to broader FMEL issues and not the ferries contract.	<u>For partial release.</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<u>Test not met.</u> Material is highly commercially sensitive

No	Date	Brief description (title, contents, attachments)	Relevance	Release - wholly or in part	Exemption(s)/ Exception(s) applied	Outcome of public interest test
2	01-03-17	Briefing for Cab Sec EJFW and Transport Ministers' meeting with Jim McColl on 2 March 2017 regarding Mr McColl's concerns around bank guarantess and surety bonds, as well as slippage in ferry construction.	<p>Jim McColl biography not relevant.</p> <p>Point 3 in Annex B & Annex E is not relevant because it relates to other projects FMEL are involved in and not the ferries contract.</p>	<u>For partial release.</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<p><u>Test not met.</u></p> <p>Material is highly commercially sensitive</p>
3	02-03-17	Note of meeting between Cab Sec EJFW, Transport Minister and Jim McColl on March 2 nd 2017. Discussion included status on the Ferries contract and the wider ferry market.		<u>For partial release.</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<p><u>Test not met.</u></p> <p>Material is highly commercially sensitive</p>
4	02-03-17	Document provided by FMEL on their cash funding situation.		<u>Not for release.</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<p><u>Test not met.</u></p> <p>Material is highly commercially sensitive</p>

No	Date	Brief description (title, contents, attachments)	Relevance	Release - wholly or in part	Exemption(s)/ Exception(s) applied	Outcome of public interest test
5	24-03-2017	E-mail from [Redacted] TS to Transport Minister, Cab Sec Economy and Cab Sec Finance containing a note of meeting between Jim McColl and the Ministers.		<u>For partial release.</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<u>Test not met.</u> Material is highly commercially sensitive
6	24-03-2017	FMEL Cash Funding Document (Repeat of document 4)		<u>Not for release.</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<u>Test not met.</u> Material is highly commercially sensitive
7	24-03-2017	Letter from Jim McColl, FMEL to Erik Ostergaard, CMAL containing 2 requests around contract amendments.		<u>Not for release.</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<u>Test not met.</u> Material is highly commercially sensitive

No	Date	Brief description (title, contents, attachments)	Relevance	Release - wholly or in part	Exemption(s)/ Exception(s) applied	Outcome of public interest test
8	24-03-2017	Update and advice note from TS to Ministers on FMEL Cash Funding Situation		<u>For partial release.</u>	<p><u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation</p> <p><u>Section 36(1) – Legal Advice Privilege</u></p> <p>Legal advice privilege covers communications between lawyers and their clients where legal advice is sought or given. The communications do not have to be connected with litigation (although they may well be).</p>	<p><u>Test not met.</u></p> <p>Material is highly commercially sensitive</p>
9	24-03-2017	E-mail from [Redacted] TS to Transport Minister, Cab Sec Finance and Cab Sec Economy containing an update e-mail from Kevin Hobbs, CMAL.		<u>For partial release.</u>	<p><u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation</p>	<p><u>Test not met.</u></p> <p>Material is highly commercially sensitive</p>

No	Date	Brief description (title, contents, attachments)	Relevance	Release - wholly or in part	Exemption(s)/ Exception(s) applied	Outcome of public interest test
10	24-03-2017	Update e-mail from Kevin Hobbs, CMAL to Transport Scotland.		<u>Not for release.</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<u>Test not met.</u> Material is highly commercially sensitive
11	27-03-17	E-mail from Kevin Hobbs, CMAL to Tom Cousin, FMEL FMEL seeking background on cash flow information.		<u>For partial release.</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<u>Test not met.</u> Material is highly commercially sensitive
12	27-03-18	E-mail from Tom Cousins, FMEL to Kevin Hobbs, CMAL detailing draft management accounts.		<u>For partial release.</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<u>Test not met.</u> Material is highly commercially sensitive

No	Date	Brief description (title, contents, attachments)	Relevance	Release - wholly or in part	Exemption(s)/ Exception(s) applied	Outcome of public interest test
13	29-04-2017	Submission from Roy Brannen to Cab Sec Finance on FMEL cash funding situation seeking views on next steps.		<u>For partial release.</u>	<p><u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation</p> <p><u>Section 36(1) – Legal Advice Privilege</u></p> <p>Legal advice privilege covers communications between lawyers and their clients where legal advice is sought or given. The communications do not have to be connected with litigation (although they may well be).</p>	<p><u>Test not met.</u></p> <p>Material is highly commercially sensitive</p>
14	10-05-2017	E-mail from DG Economy to Cab Sec Finance providing update on FMEL cashflow difficulties.		<u>For partial release.</u>	<p><u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation</p>	<p><u>Test not met.</u></p> <p>Material is highly commercially sensitive</p>

No	Date	Brief description (title, contents, attachments)	Relevance	Release - wholly or in part	Exemption(s)/ Exception(s) applied	Outcome of public interest test
15	11-05-17	Submission from Roy Brannen to Cab Sec Finance providing an update cash funding situation and options available for re-profiling stage payments and CMAL bringing forward payments.		<u>For partial release.</u>	<p><u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation</p> <p><u>Section 36(1) – Legal Advice Privilege</u></p> <p>Legal advice privilege covers communications between lawyers and their clients where legal advice is sought or given. The communications do not have to be connected with litigation (although they may well be).</p>	<p><u>Test not met.</u></p> <p>Material is highly commercially sensitive</p>
16	30-05-17	E-mail from DG Economy to Ministers providing a note of DG Economy's call with Jim McColl on May 30 th .		<u>For partial release.</u>	<p><u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation</p>	<p><u>Test not met.</u></p> <p>Material is highly commercially sensitive</p>

No	Date	Brief description (title, contents, attachments)	Relevance	Release - wholly or in part	Exemption(s)/ Exception(s) applied	Outcome of public interest test
17	31-05-17	E-mail from DG Economy to [Redacted] requesting an update on information.	Not relevant because it seeks information and does not contain it.	<u>For partial release.</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<u>Test not met.</u> Material is highly commercially sensitive

No	Date	Brief description (title, contents, attachments)	Relevance	Release - wholly or in part	Exemption(s)/ Exception(s) applied	Outcome of public interest test
18	02-06-17	E-mail from DG Economy to First Minister containing detailed information on the surety bond and legal advice.	Financial Services Initiatives section not relevant as doesn't relate to ferries contract.	<u>For partial release.</u>	<p><u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation</p> <p><u>Section 36(1) – Legal Advice Privilege</u></p> <p>Legal advice privilege covers communications between lawyers and their clients where legal advice is sought or given. The communications do not have to be connected with litigation (although they may well be).</p>	<p><u>Test not met.</u></p> <p>Material is highly commercially sensitive</p>
19	16-06-17	E-mail from DG Economy to Ministers containing a note of a meeting on 7 th June.		<u>For partial release.</u>	<p><u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation</p>	<p><u>Test not met.</u></p> <p>Material is highly commercially sensitive</p>

No	Date	Brief description (title, contents, attachments)	Relevance	Release - wholly or in part	Exemption(s)/ Exception(s) applied	Outcome of public interest test
20	14-07-17	E-mail from DG Economy containing a report from Scottish Enterprise and initial first thoughts on the report.		<u>For partial release.</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<u>Test not met.</u> Material is highly commercially sensitive
21	14-07-17	Scottish Enterprise report on FMEL financial position.		<u>For partial release.</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<u>Test not met.</u> Material is highly commercially sensitive

No	Date	Brief description (title, contents, attachments)	Relevance	Release - wholly or in part	Exemption(s)/ Exception(s) applied	Outcome of public interest test
22		Briefing for Cab Sec Finance meeting with Jim McColl on July 17 th	<p>All mentions of Annex E and Annex F and point 2 in the agenda are not relevant as they relate to other projects of Jim McColl's or FMEL's and not the ferries contract.</p> <p>Jim McColl's biography not relevant to request as not to do with ferries contract or cash flow issues.</p> <p>Broader issues section in Annex B not relevant as relates to FMELs other projects.</p>	<u>For partial release.</u>	<p><u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation</p> <p><u>Section 36(1) – Legal Advice Privilege</u></p> <p>Legal advice privilege covers communications between lawyers and their clients where legal advice is sought or given. The communications do not have to be connected with litigation (although they may well be).</p>	<p><u>Test not met.</u></p> <p>Material is highly commercially sensitive</p>
23	18-07-2017	E-mail from DG Economy to officials containing note of a meeting with Jim McColl on 12 th July.	All paragraphs except paragraph 1 outwith the scope as not to do with the contracts.	<u>For partial release.</u>		

No	Date	Brief description (title, contents, attachments)	Relevance	Release - wholly or in part	Exemption(s)/ Exception(s) applied	Outcome of public interest test
24	25-07-2017	E-mail from [Redacted], TS to DG Economy laying out Kevin Hobbs', CMALs position on the claims.		<u>Partial Release</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<u>Test not met.</u> Material is highly commercially sensitive
25	27-07-2017	E-mail from Roy Brannen to DG Economy containing note of a call with Jim McColl.		<u>Partial release</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<u>Test not met.</u> Material is highly commercially sensitive
26	28-07-2017	E-mail from Jim McColl to Cab Sec Finance and DG Economy		<u>Partial Release</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<u>Test not met.</u> Material is highly commercially sensitive

No	Date	Brief description (title, contents, attachments)	Relevance	Release - wholly or in part	Exemption(s)/ Exception(s) applied	Outcome of public interest test
27	28-07-2017	E-mail from DG Economy to Cab Sec Finance and Officials containing a note from a call with Jim McColl		<u>Partial Release</u>	<u>Section 33(1)(b) – Substantial prejudice to commercial interests:</u> disclosure would (or would be likely to) prejudice substantially the commercial interests of any person or organisation	<u>Test not met.</u> Material is highly commercially sensitive

From: [Redacted] **On Behalf Of** Fol SpAds PO

Sent: 10 December 2018 16:57

To: [Redacted] Fol SpAds PO

Cc: [Redacted] Rollison R (Richard) Economic Development Business Management Unit [Redacted]

Subject: RE: FMEL - Fol/18/03135

Good afternoon [Redacted]

Special Advisers have considered this FOI and have made comments regarding some points;

Page 31 – Highlighted in green – The note at the bottom of this page should be redacted. has it just been missed rather than deliberately left in.

Page 43 – Highlighted in green – The start of paragraph 16 should also be redacted.

Page 55 – Highlighted in light blue – Not all of the names in this email should be redacted E.G, the SpAds names should not be redacted, nor should Perm Sec or DFM or DG Economy etc. The normal rules about which names should and should not be redacted should be applied which will result in most of these names being released.

Page 55 – Highlighted in light grey – The bits highlighted on this page do not think should be redacted and should in fact be released.

Page 69 – Highlighted in green – The phone numbers highlighted should be redacted.

Once these corrections are made Special Advisers are content for it to go to Ministers for clearance. Lines should be prepared with Colleagues in Comms.

Thanks
[Redacted]

From: [Redacted]
Sent: 10 December 2018 17:11
To: Fol SpAds PO
Cc: [Redacted] Rollison R (Richard) Economic Development Business Management Unit [Redacted]
Subject: RE: FMEL - Fol/18/03135

Hi [Redacted]

Many thanks for getting back to me on this, but there is no attachment. Apologies!

[Redacted]

[Redacted] | Innovation, Investment and Industries Division | Directorate for Economic Development | Scottish Government |
[Redacted]

From: [Redacted] **On Behalf Of** Fol SpAds PO
Sent: 10 December 2018 17:15
To: [Redacted] Fol SpAds PO
Cc: [Redacted] Rollison R (Richard) Economic Development Business Management Unit [Redacted]
Subject: RE: FMEL - Fol/18/03135

Apologies [Redacted] ...attached now.

[Redacted]

The attached draft content document falls under Section 28(1) of FOISA as it is otherwise accessible at <https://www.gov.scot/publications/foi-18-03135/>

From: [Redacted]

Sent: 10 December 2018 17:31

To: Cabinet Secretary for Finance, Economy and Fair Work

Cc: Cabinet Secretary for Transport, Infrastructure and Connectivity Rollison R (Richard) [Redacted] Economic Development Business Management Unit [Redacted]

Subject: FOR IMMEDIATE RESPONSE: FoI/18/03135 in relation to FMEL

Importance: High

PO

Cc: For Info

We received request number FoI/18/03135 from [Redacted] requesting all information regarding cash flow issues suffered by FMEL as a result of 801/802.

Attached is the draft reply letter and response content.

This has been cleared by SpAds.

I would be grateful if this could be cleared by the Cabinet Secretary as soon as possible as this is now late and was due on Nov 22nd.

Please be aware there are a further two outstanding requests in relation to FMEL.

Kind regards

[Redacted]

[Redacted]

Policy Officer, Strategic Industrial Projects
Innovation, Investment and Industries

Directorate for Economic Development
Scottish Government, 3rd Floor, Atlantic Quay, 150 Broomielaw, Glasgow G2 8LU

[Redacted]

The attached draft response letter and content documents fall under Section 28(1) of FOISA as they are otherwise accessible at <https://www.gov.scot/publications/foi-18-03135/>

From: [Redacted] **On Behalf Of** Cabinet Secretary for Finance, Economy and Fair Work

Sent: 13 December 2018 12:21

To: [Redacted] Cabinet Secretary for Finance, Economy and Fair Work

Cc: Cabinet Secretary for Transport, Infrastructure and Connectivity Rollison R (Richard) [Redacted] Economic Development Business Management Unit [Redacted]

Subject: RE: FOR IMMEDIATE RESPONSE: FoI/18/03135 in relation to FMEL

[Redacted]

Cab Sec is content to clear

Thanks

[Redacted]

Private Secretary to Derek Mackay MSP, Cabinet Secretary for Finance, Economy and Fair Work

The Scottish Government

St Andrew's House | Regent Road | Edinburgh | EH1 3DG | [Redacted]

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