

PS/Minister for Transport and the Islands

See attached submissions, engagement pack and associated annexes.

<b>Title</b>	<b>Document(s)</b>	<b>Comments</b>
Engagement Pack		A decision on the timing of the Parliamentary statement will not be known until after the Cabinet has discussed the topic on Tuesday 26 June.
Parliamentary statement (annex A of engagement pack)		
Cabinet Paper & Annexes (annex I of Engagement Pack)		
Handling Plan Submission		
Submission with Letter to Rural Economy and Connectivity Committee		

Please do not hesitate to contact me if you have any queries.

Policy Officer, Rail Futures, Rail Directorate  
T:

Please see attached an updated speaking note on the public sector bidder for the Cabinet discussion on Tuesday 26 June.

Kind regards,

7<sup>th</sup> floor | Buchanan House



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**From:**  
**Sent:** 14 June 2018 15:04  
**To:** Minister for Transport and the Islands  
**Cc:** Cabinet Secretary for the Rural Economy and Connectivity; PS/Transport Scotland; Brannen R (Roy);  
**Subject:** RE: Public sector bidder for rail - Cabinet meeting Monday 18 June - speaking note

Adding Cabinet Secretariat.

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**From:**  
**Sent:** 14 June 2018 15:00  
**To:** Minister for Transport and the Islands  
**Cc:** Cabinet Secretary for the Rural Economy and Connectivity; PS/Transport Scotland; Brannen R (Roy);  
**Subject:** Public sector bidder for rail - Cabinet meeting Monday 18 June - speaking note

Hi,

Please see attached a speaking note and Q&A for the Cabinet meeting on Monday, which sets out the current position on work to enable a public sector bidder for future rail franchises.

The Cabinet Paper will follow shortly.

<< File: Rail policy - public sector bidder - cabinet paper - speaking note - June 2018#2.doc >>

Kind regards,

| 7<sup>th</sup> floor | Buchanan House

Thanks for letting us know. I've attached a one-page speaking note.

The rest of the material – additional lines to take and Q&A – is included in a separate document, in case it's needed.

Kind regards,  
| 7<sup>th</sup> floor | Buchanan House



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**From:** On Behalf Of Cabinet Secretary for Finance and the Constitution

**Sent:** 16 June 2018 13:02

**To:**

**Cc:** Cabinet Secretary for the Rural Economy and Connectivity; PS/Transport Scotland; Brannen R (Roy);

**Subject:** RE: Public sector bidder for rail - Cabinet meeting Monday 18 June - speaking note

**Importance:** High

You may be aware by now that Mr Mackay is presenting this paper on Monday for Mr Yousaf.

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Can you draft this up by **10am Monday** at the latest?

Thanks

**Private Secretary to Derek Mackay MSP, Cabinet Secretary for Finance and the Constitution**

**The Scottish Government**

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

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Hi,

Please see attached a speaking note and Q&A for the Cabinet meeting on Monday, which sets out the current position on work to enable a public sector bidder for future rail franchises.

The Cabinet Paper will follow shortly.

Kind regards,  
| 7<sup>th</sup> floor | Buchanan House

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**From:** **On Behalf Of** Cabinet Secretary for Finance and the Constitution

**Sent:** 14 June 2018 12:51

**To:** Brannen R (Roy); First Minister; Deputy First Minister and Cabinet Secretary for Education and Skills; Cabinet Secretary for Communities, Social Security and Equalities; Cabinet Secretary for Culture, Tourism and External Affairs; Cabinet Secretary for Economy, Jobs and Fair Work; Cabinet Secretary for Finance and the Constitution; Cabinet Secretary for Health and Sport; Cabinet Secretary for Justice; Cabinet Secretary for the Environment, Climate Change and Land Reform; Lord Advocate; Minister for Parliamentary Business

**Cc:** Cabinet Secretary for the Rural Economy and Connectivity; Minister for Transport and the Islands;

**Subject:** RE: PRE-CABINET CONSIDERATION : A PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND : STAGE 4

Roy

The Cabinet Secretary is content for the paper to proceed to Cabinet.

Thanks

**Private Secretary to Derek Mackay MSP, Cabinet Secretary for Finance and the Constitution**

**The Scottish Government**

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

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**From:** [REDACTED] (TRANS) **On Behalf Of** Brannen R (Roy)

**Sent:** 08 June 2018 13:43

**To:** First Minister; Deputy First Minister and Cabinet Secretary for Education and Skills; Cabinet

**Cc:** Cabinet Secretary for the Rural Economy and Connectivity; Minister for Transport and the Islands;

**Subject:** PRE-CABINET CONSIDERATION : A PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND : STAGE 4

**Importance:** High

Roy,

DFM is content for this to proceed

Thanks

| Private Secretary Depute to John Swinney MSP | Deputy First Minister of Scotland and Cabinet Secretary for Education and Skills | Scottish Government | St Andrew's House | Edinburgh | EH1 3DG

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**From:** On Behalf Of Roy Brannen

**Sent:** 14 June 2018 15:39

**To:** Minister for Transport and the Islands; Cabinet Secretary for the Rural Economy and Connectivity

**Cc:** PS/Transport Scotland

**Subject:** FW: PRE-CABINET CONSIDERATION : A PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND : STAGE 5

Hi

Please see below apologies Mr Yousaf and Mr Ewing should have been sent this also.

Regards

on behalf of Roy Brannen  
Chief Executive's office  
Transport Scotland

Transport Scotland, Buchanan House, 58 Port Dundas Road, Glasgow, G4 0HF  
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If you require an official record of emails or attachments you must store them in your objective business area.

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**From:** On Behalf Of Roy Brannen (

**Sent:** 14 June 2018 15:29

**To:** Brannen R (Roy);

**Cc:**

**Subject:** PRE-CABINET CONSIDERATION : A PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND : STAGE 5

Dear All

Please find attached the final version of Cabinet paper which seeks agreement on a proposed approach to identifying a suitable public sector body to make a bid for a future rail franchise. Cabinet Secretariat will issue the paper shortly. The paper has been updated to include comments from Cabinet colleagues at Annex B.

Cabinet Paper – Final version

*on behalf of Roy Brannen*

Chief Executive's office  
Transport Scotland

Transport Scotland, Buchanan House, 58 Port Dundas Road, Glasgow, G4 0HF

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Roy,

RE: PRE-CABINET CONSIDERATION : A PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES  
IN SCOTLAND : STAGE 4

Minister for Parliamentary Business

Mr FitzPatrick is content for the paper to proceed for Cabinet consideration.

Thanks,

|Deputy Private Secretary to Minister for Parliamentary Business|T4.21, Scottish  
Parliament|E:

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Please liaise with given the reshuffle this will have to be taken forward by Mr Matheson

Private Secretary to the Minister for Transport and the Islands  
Work  
BlackBerry

Sent from my BlackBerry 10 smartphone.

**From:**

**Sent:** Wednesday, 27 June 2018 10:13

**To:** Minister for Transport and the Islands; Minister for Parliamentary Business; ParlyClerk Scotland

**Cc:**

**Subject:** Public sector bidder - Cabinet paper and possible announcement

We each spoke this morning, just emailing to confirm. There is no advice yet know whether a Cabinet decision will be made on the public sector bidder issue, or if an announcement is to be made before recess.

I understand that it *may* be possible to accommodate a statement in the Chamber on Thursday 28<sup>th</sup>, or to lodge a written GIQ on Thursday 28<sup>th</sup> and answer it on the same day.

[REDACTED]  
[REDACTED] Thanks for the quick chats earlier this morning, and I'd be grateful for a notification of any change to the likelihood of accommodating a statement or a GIQ as soon as you are able.

Kind regards,  
| 7<sup>th</sup> floor | Buchanan House



TRANSPORT SCOTLAND  
COMHAIL ALBA



All,

**RE: Public Sector Bidder, Rail - Cabinet Paper & Cabinet**

Further to your recent input on this matter, this is to let you know that due to the Cabinet and Ministerial reshuffle earlier this week and the cancellation of the scheduled Cabinet on 26 June, the Cabinet has not had an opportunity to discuss this topic. As a consequence, no parliamentary statement was made nor a GIQ issued.

We do, however, expect to pick up this issue again next week with the new Cabinet Secretary, and we shall update you again as soon as possible thereafter.

Policy Officer, Rail Futures, Rail Directorate

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**From:**

**Sent:** 19 June 2018 15:44

**To:**

**Subject:** Public Sector Bidder, Rail - Briefing Pack for Review

All,

In advance of the proposed Parliamentary statement by the Minister for Transport on the Rail Public Sector Bidder, I attach the Minister's briefing pack to support that statement.

I would be grateful if you could review the **briefing items** in this material and provide any comments by **10:00am on Thursday 21<sup>st</sup>**. We have sought to ensure the material is line with that previously reviewed by you.

A draft of the statement is included, but its text is still to be finalised. eRDM and Word versions attached.

<< File: Rail Policy - public sector bidder - briefing for Parliamentary Statement - 19 June 2018.doc  
>> << File: Rail Policy - public sector bidder - briefing for Parliamentary Statement - 19 June 2018.obr  
>>

I would be grateful in particular for input on those sections highlighted yellow and/or where I have requested specific feedback.

[REDACTED]

If you have any queries, do not hesitate to contact [REDACTED]

Policy Officer, Rail Futures, Rail Directorate

T:

Please find attached an urgent submission to the Cabinet Secretary for Transport, Infrastructure and Connectivity on the issue of the public sector bidder for rail. I have also attached the Stage 5 Cabinet Paper that was due to be discussed on at the Cabinet meeting on 26 June, which was cancelled.

The submission includes wording for a Government Initiated Question (GIQ) and letters to stakeholders. Should Cabinet approve the recommendations and agree to announce through a GIQ, we will be in touch again to discuss timing, contact details etc.

Let me know if you have any queries.

Kind regards,

| 7<sup>th</sup> floor | Buchanan House

PS/First Minister  
PS/Cabinet Secretaries

Please find attached submission and related Cabinet paper for approval.

Thanks

Submission

Cabinet paper

Private Secretary to Michael Matheson MSP, Cabinet Secretary for Transport, Infrastructure and  
Connectivity  
The Scottish Government | St Andrew's House, Edinburgh, EH1 3DG | Web: [www.gov.scot](http://www.gov.scot)

Thanks, Ms Somerville is content for her interests.

Private Secretary to the Cabinet Secretary for Social Security  
The Scottish Government  
St Andrews House, Regent Road, Edinburgh, EH1 3DG

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**From:** On Behalf Of Cabinet Secretary for Transport, Infrastructure and Connectivity  
**Sent:** 03 July 2018 10:57  
**To:** First Minister; DL Cabinet Secretaries  
**Cc:** Permanent Secretary; Director Generals; Brannen R (Roy);  
**Subject:** PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND: NEXT STEPS  
**Importance:** High

PS/First Minister  
PS/Cabinet Secretaries

Please find attached submission and related Cabinet paper for approval.

Thanks

Hi

Thanks – Ms Cunningham is content with the proposals at paragraph 10.

Many thanks,

Deputy Private Secretary to Roseanna Cunningham MSP | Cabinet Secretary for Environment,  
Climate Change & Land Reform | Scottish Government | 2N:08, St Andrew's House, Regent Road,

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**Sent:** 03 July 2018 10:57  
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**Cc:** Permanent Secretary; Director Generals; Brannen R (Roy); Transport  
**Subject:** PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND: NEXT STEPS  
**Importance:** High

PS/First Minister  
PS/Cabinet Secretaries

Please find attached submission and related Cabinet paper for approval.

Thanks

The DFM is content with the proposals from Mr Matheson on the Public sector bidder for ScotRail.

Thanks

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**Sent:** 03 July 2018 10:57  
**To:** First Minister; DL Cabinet Secretaries  
**Cc:** Permanent Secretary; Director Generals; Brannen R (Roy);  
**Subject:** PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND: NEXT STEPS  
**Importance:** High

PS/First Minister  
PS/Cabinet Secretaries

Please find attached submission and related Cabinet paper for approval.

Thanks

Mr Ewing has noted and is content to clear.

Thanks,

Assistant Private Secretary  
Cabinet Secretary for Rural Economy

Please check our updated [Ministerial Preferences](#)

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**Sent:** 03 July 2018 10:57  
**To:**  
**Cc:**  
**Subject:** PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND: NEXT STEPS  
**Importance:** High

PS/First Minister  
PS/Cabinet Secretaries

Please find attached submission and related Cabinet paper for approval.

Thanks

Private Secretary to Michael Matheson MSP, Cabinet Secretary for Transport, Infrastructure and Connectivity  
The Scottish Government | St Andrew's House, Edinburgh, EH1 3DG | Web: [www.gov.scot](http://www.gov.scot)  
Tel:

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Thanks – Mr Yousaf has seen and confirmed he's content with the proposals at point 10 of this submission, commenting that this is the right approach.

Kind regards,

Deputy Private Secretary  
Office of Humza Yousaf, Cabinet Secretary for Justice

Scottish Government, Room 1W.11, St Andrew's House, Regent Road, Edinburgh, EH1 3DG I

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**Sent:** 03 July 2018 10:57  
**To:**  
**Cc:**  
**Subject:** PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND: NEXT STEPS  
**Importance:** High

PS/First Minister  
PS/Cabinet Secretaries

Please find attached submission and related Cabinet paper for approval.

Thanks

Private Secretary to Michael Matheson MSP, Cabinet Secretary for Transport, Infrastructure and Connectivity  
The Scottish Government | St Andrew's House, Edinburgh, EH1 3DG | Web: [www.gov.scot](http://www.gov.scot)

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**From: On Behalf Of** Cabinet Secretary for Health and Sport

**Sent:** 06 July 2018 17:26

**To:** Cabinet Secretary for Transport, Infrastructure and Connectivity

**Cc:**

**Subject:** RE: PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND: NEXT STEPS

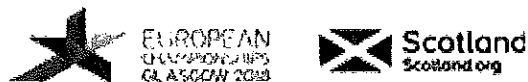
Ms Freeman has noted and is content,

Kind regards,

Assistant Private Secretary  
Cabinet Secretary for Health and Sport

Tel

Ext:



*Official Partner*

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Cabinet Secretary for Transport, Infrastructure and  
Connectivity  
Michael Matheson MSP



Scottish Government  
Riaghatais na h-Alba  
gov.scot

T: 0300 244 4000  
E: scottish.ministers@gov.scot

[REDACTED]  
The Wise Group

[REDACTED]

Our ref: 2018/0022805  
27 July 2018

Dear [REDACTED],

Thank you for your e-mail of 25 June 2018 to Humza Yousaf MSP, former Minister for Transport and the Islands, about the Scottish Government's proposals for a public sector bidder for rail franchises in Scotland, suggesting a related discussion with Mr Yousaf.

Following a Cabinet refresh within the Scottish Government, Michael Matheson MSP is the new Cabinet Secretary for Transport, Infrastructure and Connectivity and is responsible for this particular policy.

Due to considerable diary commitments in respect of his new role, I am afraid that Mr Matheson will be unable to take up your invitation at this time. However, officials from Transport Scotland will be able to meet with you instead. If you are content to do so, in the first instance please contact [REDACTED] Senior Policy Officer at Transport Scotland, either by telephone on [REDACTED] or e-mail: [REDACTED]

Mr Matheson has also asked me to pass onto you his best wishes for your new role.

[REDACTED]

Private Secretary

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St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)



[REDACTED]

**Subject:** PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND: NEXT STEPS  
**Importance:** High

PS/First Minister  
PS/Cabinet Secretaries

Please find attached submission and related Cabinet paper for approval.

Thanks  
[REDACTED]

<< File: A21468570#2.docx >> Submission

<< File: rail policy - public sector bidder - Cabinet paper - Stage 5 -14 June 20....docx >> Cabinet paper

[REDACTED] | Private Secretary to Michael Matheson MSP, Cabinet Secretary for Transport, Infrastructure and Connectivity  
The Scottish Government | St Andrew's House, Edinburgh, EH1 3DG | Web: [www.gov.scot](http://www.gov.scot)  
Tel: 0131 244 0585 | [REDACTED] | Email: [CabSecTIC@gov.scot](mailto:CabSecTIC@gov.scot)

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**From:**

**Sent:** 23 August 2018 12:08

**To:** - GIQ & Response issued

All,

To note response to GIQ on Rail Public Sector Bidder issued today by Mr Matheson and press release issued by Transport Scotland.

27444

**Question S5W-18378: Gail Ross, Caithness, Sutherland and Ross, Scottish National Party, Date Lodged: 22/08/2018**

To ask the Scottish Government what steps are being taken to ensure that a public sector body can bid for rail franchises in Scotland.

**Answered by Michael Matheson (23/08/2018):**

The Scottish Government secured a legislative change through the Scotland Act 2016 that allows public sector bodies to bid for rail franchise contracts in Scotland. The requirement for the contracts to be let through open competition remains.

The consistent view of this Government over many years is that there ought to be a level playing field between the private and the public sector in bidding for rail franchises. In line with our manifesto commitment, we want to enable a competitive public sector bid to strengthen competition in order to secure best value for the public purse while delivering continuous service improvements.

David MacBrayne Limited has confirmed its interest in exploring the possibility of a bid for a Scottish rail franchise contract. Indeed, any public sector body that wishes to consider bidding for a rail franchise contract that is let by the Scottish Ministers is able to do so – that is a decision for them. Future Scottish rail franchise competitions will continue to be fair and transparent, giving equal treatment to all bidders whether from the public or private sectors.

**Current Status:** Initiated by the Scottish Government. Answered by Michael Matheson on 23/08/2018

<https://www.transport.gov.scot/news/public-sector-bidders-will-be-able-to-bid-for-next-scotrail-franchise/>

Rail

Buchanan House, 58 Port Dundas Road, Glasgow G4 0HF



Your ref: 85300

Our ref:  
A21885278

Date:  
30 August 2018

Dear [REDACTED]

Thank you for your enquiry of 2<sup>nd</sup> August 2018 asking for details of the membership of the "Public Sector Bidder Stakeholder Reference Group".

I attach at Annex A the current list of invited spokespersons and/or organisations. Once I receive further outstanding information, I shall provide an update.

The name of this group evolved as a shorthand from its subject matter and not all attendees refer to it as such. Invitees do not always attend. This is for a variety of reasons, for instance due to other commitments, though a representative can attend instead.

The Group was previously chaired by the then Minister for Transport and the Islands, Mr Humza Yousaf MSP.

I hope this is helpful. If you require further information, for instance about previous attendees, please do not hesitate to contact me.

**Public Sector Bidder – Stakeholder Reference Group  
Members / invitees – August 2018**

Organisation /Role	Attendee/ invitee	Role / Comment
SG Cabinet Secretary for Transport, Infrastructure and Connectivity	Michael Matheson MSP	Group Chair
Green Party Transport Spokesperson	John Finnie MSP	
Labour Party Transport Spokesperson	Collin Smyth MSP	
Liberal Democrats Transport Spokesperson	Mike Rumbles MSP	
Conservative Party Transport Spokesperson	Jamie Greene MSP	
Transport Focus	[REDACTED]	Senior Stakeholder Manager
Tactran	[REDACTED]	Director
SPT	TBC	
NESTRANS	[REDACTED]	Director
SWestrans	[REDACTED]	Lead officer
Hitrans	[REDACTED]	Partnership Manager
SEStran	TBC	Recent change of role
COSLA	TBC	
ASLEF	[REDACTED]	Scottish organiser
RMT	[REDACTED]	Regional officer
STUC	[REDACTED]	Assistant General Secretary
TSSA	[REDACTED]	Currently on Annual Leave - Confirmation to follow
TSSA	[REDACTED]	Currently on Annual Leave - Confirmation to follow
Unite the Union	[REDACTED]	Regional Political Officer
Unite the Union	[REDACTED]	Regional Industrial Officer

Mr Matheson is content to proceed with the meeting and invites to go out,

Thanks

Deputy Private Secretary

Cabinet Secretary for Transport, Infrastructure and Connectivity

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**From:**

**Sent:** 03 September 2018 13:54

**To:** Cabinet Secretary for Transport, Infrastructure and Connectivity

**Cc:**

**Subject:** FW: For comment - PSB SRG sub - updated

There is a slot in the Cabinet Secretary's diary on Wednesday 24 October for a meeting of the Public Sector Bidder Stakeholder Reference Group. I have provided below details of the group composition, format and issues previously discussed. When attendees are agreed, I will issue a basic invitation, noting that a more detailed agenda will follow.

**Grateful if you would confirm if Mr Matheson is content for invitations to the Public Sector Bidder Stakeholder Reference Group on 24 October to be issued to the stakeholders listed below and agrees to the proposed format of the meeting.**

Format and issues previously discussed

To date, meetings have started with an address by the former Minister for Transport, then a short narrative by Transport Scotland officials on any relevant evidence and/or work done to date, then an open Q&A among group members. We propose for meetings to continue in this same format.

The discussion has previously covered:

- an explanation of the policy drivers;
- an overview of officials' analytical work;
- a summary of the potential options considered, e.g. existing public bodies (DML, SPT and Lothian buses) or a new public body;



- confirmation of the requirement for open competition between public and private sector bidders, and the commitment to a level playing field.

We suggest that the meeting on 24 October covers:

- the recent GIQ, which acknowledged DML's interest in bidding for a future ScotRail franchise contract; and,
- the next steps in the Scottish Government's work to enable a public sector bid.

### Attendees

We propose to continue to invite those individuals and organisations who have been involved in the discussion previously. Note that some staff members within the organisations named below have moved on so, while these organisations have been represented previously, some of the individuals will not have attended before.

#### **MSPs (opposition party transport spokespeople)**

John Finnie	MSP (Green)
Colin Smyth	MSP (Labour)
Mike Rumbles (usually represented by staff member)	MSP (Liberal Democrat)
Jamie Greene (new attendee)	MSP (Conservative)

#### **Passenger representative**

[REDACTED]	Transport Focus
------------	-----------------

#### **Regional Transport Partnerships**

[REDACTED]	Hitrans
[REDACTED]	Nestrans
[REDACTED]	SEStran
[REDACTED]	SPT
[REDACTED]	SWestrans
[REDACTED]	Tactran

#### **Union representatives**

[REDACTED]	ASLEF
[REDACTED]	COSLA
[REDACTED]	RMT
[REDACTED]	STUC
[REDACTED]	TSSA
[REDACTED]	TSSA
[REDACTED]	Unite the Union
[REDACTED]	Unite the Union

Regards,

| 7<sup>th</sup> floor Buchanan House

Dear Sir/Madam,

I would like to invite you to the next meeting of the Rail Public Sector Bidder Stakeholder Reference Group on 24 October 2018. The meeting will be chaired by the Cabinet Secretary for Transport, Infrastructure and Connectivity. An agenda will be issued closer to the meeting date.

Please confirm by return email whether you wish to attend, or let me know if you wish to be represented instead by a colleague. **Responses are requested by Friday 5 October.**

**Date and time:** Wednesday 24 October 2018, 14:15-15:30 (arrival from 14:00).

**Venue:** Salisbury Suite 2, MacDonald Hotel, 81 Holyrood Road, Edinburgh, EH18 8AU. (Information at <http://www.macdonaldhotels.co.uk/our-hotels/macdonald-holyrood-hotel/>.)

**Invitees:** Representatives of passenger interests, Regional Transport Partnerships, Trade Unions and political spokespeople for transport.

In the meantime, please contact me if you require further information, or have any particular access requirements.

Regards,

**Rail policy**

| Buchanan House | 58 Port Dundas Road | G4 0HF

Due to other business commitments, and being on annual leave, no-one from TS attended the DML Board meeting.

Thanks

**From**

**Sent:** 05 October 2018 16:36

**To:**

**Subject:** RE: DML & Rail Public Sector Bidder - Request for Briefing in advance of Rail Stakeholder Reference Group meeting on 24 October

Thanks for that. I am happy to contact Robbie at DML direct.  
For information only, can I just check that Frances did not attend the Board Meeting? I wasn't sure whether a TS Ferries official would attend or not.

Thanks,

**From:**

**Sent:** 04 October 2018 21:20

**To:** Pacitti F (Frances) <

**Cc:** Reeve W (Bill) <

**Subject:** RE: DML & Rail Public Sector Bidder - Request for Briefing in advance of Rail Stakeholder Reference Group meeting on 24 October

as the TS Assessor to the DML Board, would ordinarily be best placed to advise on the Board's view. However has been on holiday for the last couple of weeks so is probably unsighted on the DML Board's current views. Richard only returns from holiday on Wednesday 10 October leaving little time to engage with DML and prepare a contribution.

Consequently, in the circumstances I suggest there would be merit in TS Rail contacting DML in this instance.

Thanks

**From:**

**Sent:** 04 October 2018 09:09

**To:** Pacitti F (Frances) <

**Cc:** Reeve W (Bill) <<

**Subject:** DML & Rail Public Sector Bidder - Request for Briefing in advance of Rail Stakeholder Reference Group meeting on 24 October

Frances,

As you will recall, we met recently with representatives from DML for a general discussion about their expression of interest in the tender for the next ScotRail franchise and to answer some of their outstanding queries.

The meeting took place on the 19<sup>th</sup> September and the DML Board was due to meet the following week. The rail franchise would be one item for discussion at their meeting.

The Cabinet Secretary is due to chair a meeting of the Public Sector Rail Stakeholder Reference Group on Wednesday 24<sup>th</sup> October, and we shall need to submit briefing to him by, say, Wednesday 17<sup>th</sup>. My colleague [REDACTED] will be leading on that briefing material. [REDACTED]

[REDACTED] we shall need to make the Cabinet Secretary aware of the Board's latest views.

Would you therefore be able to arrange for background briefing and lines to take to be provided based on the outcome of DML's discussion at the Board Meeting? Mr Wheelhouse will also be copied into the Ministerial submission as will you and your team of course.

If you would prefer TS Rail to contact DML directly on this topic, by all means let me know. Robbie Drummond has been our main contact on this topic for the last year or so, and we can approach him.

Could the information be provided by, say, close on Friday 13<sup>th</sup> October, to allow for the briefing pack to be finalised.

I would be happy to discuss meantime if necessary.

Policy Officer, Rail Futures, Rail Directorate

Transport Scotland, Buchanan House,  
58 Port Dundas Road, Glasgow, G4 0HF

Dear Sir/Madam,

The Rail Public Sector Bidder Stakeholder Reference Group is due to meet this Wednesday, 24 October 2018, 14:15-15:30. The meeting will be chaired by Michael Matheson MSP, the Cabinet Secretary for Transport, Infrastructure and Connectivity, and will take place in Salisbury Suite 2, MacDonald Hotel, 81 Holyrood Road, Edinburgh, EH18 8AU.

Agenda:

1. Welcome & introductions
2. Overview of current position
3. Overview of progress to date (Transport Scotland official)
4. Discussion
5. Summary and next steps

If you have any queries, please don't hesitate to contact me.

Regards,

| Buchanan House | 58 Port Dundas Road | G4 0HF

Thanks for this [REDACTED], Mr Matheson is content.

Private Secretary to Michael Matheson MSP, Cabinet Secretary for Transport, Infrastructure and Connectivity  
The Scottish Government | St Andrew's House, Edinburgh, EH1 3DG | Web: [www.gov.scot](http://www.gov.scot)

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**From:**

**Sent:** 17 October 2018 10:37

**To:** Cabinet Secretary for Transport, Infrastructure and Connectivity

**Subject:** FOISA - Rail Public Sector Bidder - Scottish Daily Mail; Case 2018/02320

PS/Cabinet Secretary,

As agreed with our SPAD, I attach a Ministerial submission in respect of this Freedom of Information Request, along with the proposed reply and redacted documents. For information only, as it will not be released, I also attach the response from DML about this request. If the Cabinet Secretary wishes to see the redacted text itself, I am happy to discuss handling.

The submission is marked routine as the (revised) target date for the reply is 30 October.

<p>&lt;&lt; File: 24 August 2018 - rail policy - public sector bidder - TS to DML - redact....docx &gt;&gt;</p>	<p>Submission to Cabinet Secretary.</p> <p>[REDACTED]</p>
<p>&lt;&lt; File: 23 August 2017 - &amp; 22 August 2017 - TS - DML - redactions.docx &gt;&gt;</p>	<p>Response from DML to notification of FOISA request. Not for release.</p> <p>Abellio has no objections to material relating to it being released though that material is very limited.</p>
<p>ANNEX A</p>	

<< File: 1 August 2018 - DML - briefing for meeting with Paul wheelhouse - redact....docx >>	Reply to Mr Blackley
<< File: A22287090.docx >>	31 May 2017 –
<< File: 8 June - TS - DML - redactions.docx >>	Meeting of 1 June 2017 –Briefing was for Mr Yousaf; confirmed by Ferries
<< File: 16 May & 17 May 2018 FW - DML & Calmac - interest in exploring rail fra....docx >>	23 August 2017
<< File: 6 April; 30 April & 11 May; 14 May 2018 - TS- DML redacted.docx >>	26 February 2018
<< File: 18 April & 19 April - Discussion with Mr Yousaf - redactions.docx >>	12 March 2018 submission for 14 March 2018 meeting
<< File: 9 March 2018 & 16 March 2018 - FW DML Calmac - interest in exploring ra....docx >>	9 March & 16 March 2018
<< File: 14 March 2018 - DML - briefing for meeting with Humza Youaf - Redacted v....docx >>	18 & 19 April 2018 –
<< File: 26 February 2018 & 28 February - FW - DML Board meeting - redactions.docx >>	6; 16 & 30 April; 11 May & 14 May
<< File: 23 August 2017 - & 22 August 2017 - TS - DML - redactions.docx >>	16 & 17 May 2018
<< File: 31 May 2017 - PSB briefing for future rail franchises - redactions.docx >>	8 June 2018
<< Message: RE: FOISA Request for certain correspondence between Scottish Government and DML >>	21 June 2018
<< File: 1 June 2017 - DML - rail bids - briefing	Meeting of 1 August 2018 –



for call Mr Yousaf to XXX - red....docx >>	
<< File: October 2018 - FOISA - response to FOISA request from Mr Blackley, Scott....docx >>	23 August 2018
<< File: A22164692.doc >>	24 August 2018

Policy Officer, Rail Futures, Rail Directorate

Transport Scotland, Buchanan House,  
58 Port Dundas Road, Glasgow, G4 0HF

Bill,

A quick read out for you, from Wednesday's meeting of the Public Sector Bidder, Stakeholder Reference Group meeting, Chaired by the Cabinet Secretary. (Copied to Frances & [REDACTED] for information only, given DML references).

- The Public Sector Bidder Stakeholder Reference Group met on Wednesday 24<sup>th</sup> October. The meeting was well attended with three MSPs (Finnie, Greene, and Smyth), Transport trade unions (RMT, TSSA and ASLEF) and RTPs all in attendance. Officials: [REDACTED].
- Given new attendees, [REDACTED] updated the group on the context for the Rail Public Sector Bidder (PSB) work, steps taken to date and planned ongoing work
- Some attendees were critical that (i) more progress had not been made particularly with the preferred option (for some at least) of a new entity set up in time to bid by 2020 and (ii) no plans existed to invoke the break clause despite repeated poor performance by ScotRail which would (in their view) provide a route to a public sector operator.
- The Cabinet Secretary made plain that the UK Rail Review *could* provide an opportunity for significant change. Though only brief conversations with the UK Minister had happened, his impression was that all options will be on the table, including his preferred option of devolved structures that provide far better alignment between operations, infrastructure and therefore SG & Scottish Parliament objectives. The preparatory work for a PSB must therefore be seen in that new context.
- The Cabinet Secretary was robust in his responses to criticisms raised, stating that
  - While agreeing that performance was nowhere near where it should be, he expected ScotRail's performance to improve on the back of the demands placed on them.
  - Without meaningful devolution of majority of NR functions the ability of any rail franchisee – public or private – to perform well would be compromised. NR in Scotland was responsible for 60% of all delays, faults, on the Scottish rail network. SG already pays for NR's activities despite no direct control of the organisation and though the Alliance has helped, the structures remain inadequate. (SPT indicated that this was often their experience in respect of extra costs for works –without a means to challenge.)
  - It is the UK legislation currently in place that prevents a public sector operator simply being awarded the contract. He cannot operate outwith those constraints. An OLR, for instance, did not provide a route to a Public Sector operator. Asked by attendees for his personal view if the existing constraints were not in place, he confirmed his support for a publically owned rail service.
  - Removal of State aid legislation post-Brexit would not necessarily mean a new Public Sector operator because of separate Scottish procurement and UK competition legislation

- DML would not have the “infrastructure” in place to bid for the Rail franchise if the break clause was invoked in 2020.
  - The risks would be too great for the Board of any entity (including DML) to commit to a future environment which may be radically different from the present
- Timing : If clear recommendations began to emerge before the Review’s final report, there may be an opportunity to move quickly.
  - The Cab Sec informed the group that he would update them again in the future, but only if any substantial developments emerge.

██████████

████████████████████

Policy Officer, Rail Futures, Rail Directorate

████████████████████

Rail Public Sector Bidder  
Stakeholder Reference Group  
Wednesday 24 October 2018  
14:15-15:30  
Salisbury Suite 2, MacDonald Hotel

## **Agenda**

1. Welcome & introductions
2. Overview of current position
3. Overview of progress to date (Transport Scotland official)
4. Discussion
5. Summary and next steps

**Rail Public Sector Bidder – Stakeholder Reference Group Meeting  
Wednesday 24 October 2018 - MacDonald Hotel, Edinburgh**

**Attendees**

Michael Matheson, Cabinet Secretary for Transport, Infrastructure and Connectivity

John Finnie MSP, Scottish Green Party

[REDACTED] Tactran

[REDACTED] Tactran, Scottish Labour Party, Dundee City Council

Jamie Greene, MSP, Scottish Conservative and Unionist Party

[REDACTED], Mr Greene's office

[REDACTED], Sustran

[REDACTED], RMT

[REDACTED], SPT

[REDACTED], SWestrans

[REDACTED], ASLEF

[REDACTED], Unite

[REDACTED], Hitrans

[REDACTED], Transport Focus

Colin Smyth, MSP, Scottish Labour Party

[REDACTED], TSSA,

[REDACTED], TSSA

[REDACTED] Transport Scotland

[REDACTED] Scottish Government

[REDACTED] Transport Scotland

[REDACTED] Transport Scotland

**Apologies:** Nestrans, STUC

**Welcome and Introductions**

The Cabinet Secretary welcomed attendees to the meeting, each of whom introduced themselves.

**Overview of progress to date and current position**

With new members present for this fourth meeting of the Group, [REDACTED] (TS) provided an update on context and progress to date. In line with the Programme for Government commitment, the Scottish Government (SG) had announced the ability of a public sector body in Scotland to bid for future Rail Franchises and David MacBrayne Limited (DML) had expressed an interest in considering a bid. In line with information provided at previous meeting and following the DfT's recent announcement of a UK rail review and ongoing engagement with DML, further research and policy consideration will be required.

The Cabinet Secretary explained that public sector bodies other than DML could bid for the rail franchise, and that he would welcome input from all stakeholders accordingly.

On the current position, the Cabinet Secretary made plain that the UK Rail Review provided an opportunity for significant change. Through brief conversations with the UK Minister, the Cabinet Secretary's impression is that all options would be on the

table including his preferred option of devolved structures to provide proper alignment of rail operations and infrastructure and therefore with SG and Scottish Parliament objectives. In theory, franchising itself could come to an end subject to legislative change. The preparatory work for a PSB must be seen in this new context: any public (or private) sector body considering a bid would rightly wait until future governance arrangements and structures are confirmed; and equally the SG could not make definitive future arrangements as circumstances will change.

The Cabinet Secretary indicated that if recommendations emerge in advance of the Review's final report he would, if appropriate, look to take those forward.

## Discussion

The group went on to discuss a range of items with comments and questions from many of those present, with the Cabinet Secretary responding to the points raised.

Some attendees were critical that (i) more progress had not been made particularly with the preferred option (for some) of a new entity ready to bid by 2020 and (ii) the absence of plans to invoke the current franchise's break clause.

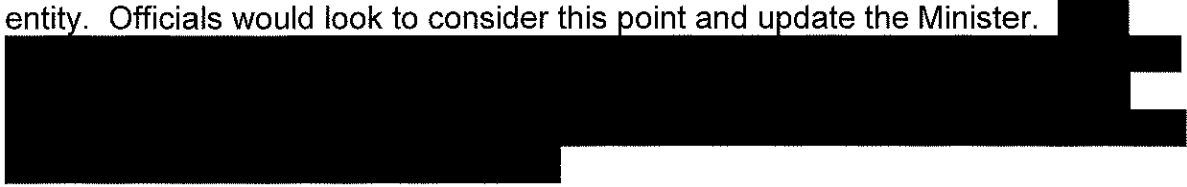
The Cabinet Secretary responded to these and other points raised by explaining / confirming that:

- While fully aware of ScotRail's recent poor performance, he expected it to improve on the back of the demands placed on them.

NR is currently responsible for 60% of all delays and faults on the network and without meaningful devolution of the majority of NR's central functions (such as timetabling) the ability of any rail franchisee – public or private – to perform well would be compromised in Scotland.

- In the event that the franchisee could not continue, the SG would step in and set up an Operator of Last Resort (OLR).
- Current UK legislation prevents a public sector operator being handed a rail franchise without competition. Ministers must operate within those constraints. An OLR, for instance, does not provide a route to a public sector operator. It is merely temporary prior to re-franchising. Asked by attendees for a personal view if existing constraints were not in place, he confirmed support for a publically-owned fully integrated rail service. He would lobby accordingly but ultimately what matters most is the available options.
- UK State aid would be determined by revised relationship EU post-Brexit and would not necessarily mean a public sector operator could be put in place due to procurement and competition legislative requirements and transition arrangements.
- DML would be unlikely to be ready to bid for the Rail franchise if the break clause were to be invoked in 2020.
- The risks would be too great for the Board of any entity (including DML) to commit at present to bid in future, when the franchising environment could change significantly in the meantime (due to the Rail Review, Brexit).
- A joint venture is another avenue which exists, between public sector entities or a public and a private sector entity.

Reservations were expressed by some about the prospect of more than one public sector body bidding as the total costs involved can be up to £10 million depending on the scope of the franchise. It was pointed out that a new entity would incur additional start-up costs. Union representatives referred to the importance of reinvesting profits in the rail industry and to the reported profitability of Abellio and queried how this related to the commercial rate of return on borrowing expected of a state funded entity. Officials would look to consider this point and update the Minister.



Though outwith the scope of this group, and hence not recorded, the management approach, etc, adopted by the current franchisee was discussed.

### **Summary and Next Steps**

After thanking all attendees for their presence and input, the Cabinet Secretary said that he would update the group in the future of any substantial developments.

## **Rail Policy**

**16 November 2018**

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<sup>1</sup> <https://www.rmt.org.uk/news/public-and-passengers-pay-8-on-scotrail-bailout-loans/>

## **Rail Public Sector Bidder**

### **Stakeholder Reference Group**

Wednesday 24 October 2018  
14:15-15:30, MacDonald Hotel

**Chair:** Cabinet Secretary for Transport, Infrastructure and Connectivity  
Transport Scotland officials present.

#### **Organisations represented**

ASLEF, Hitrans, MSPs (Green, Scottish Conservative and Unionist, Scottish Labour), RMT, Sestran, SPT, Tactran, Transport Focus, TSSA, Unite

Also invited: COSLA, Nestrans, STUC, SWestrans

#### **Meeting note:**

A Transport Scotland official provided an updated on the work done to date and the interest shown by David MacBrayne Limited in bidding for a future Scottish rail franchise.

The Cabinet Secretary explained the relevance of the recently announced UK Rail Review to the work to enable a public sector bid: it may lead to change in respect of rail franchising and/or rail industry structures.

The wider group then discussed a range of items, including ScotRail / Network Rail operations and performance; the conditions required for an Operator of Last Resort; and existing UK and EU legislation.

The Cabinet Secretary thanked attendees for their participation in the discussion and advised that the group will be updated on any substantial developments as they arise.





[REDACTED]

Mr Richard Lochhead  
The Scottish Parliament  
EDINBURGH  
EH99 1SP  
[REDACTED]

Your ref:  
Our ref: 2018/0041567  
November 2018

Thank you for your email of 26 November 2018, which raises the concerns of your constituent [REDACTED] about the operation of the railway in Scotland.

Your constituent has called for Scotland's trains to be taken into public hands. The Scottish Government secured powers in 2016 to accept bids from UK public sector bodies for rail franchises that are let by the Scottish Ministers, a position which is unique to Scotland. UK public sector bodies are now able to bid to run the next ScotRail franchise, due to commence in 2025.

However, while we have powers to accept public sector bids for franchises, current UK legislation means that a franchise can only be awarded through open competition. After securing the rights in 2016, we hope to create a level playing field between the public and private sectors, to help improve services for passengers.

It would, of course, be in Scotland's interests for the Scottish Government to be able consider the full range of options for arranging rail services for the benefit of our communities and businesses, rather than being constrained by UK legislation which has, broadly speaking, been in place since the early 1990s. That is why we have pressed the UK Government on a number of occasions for the devolution of rail powers, and will continue to do so in the context of the recently announced Williams Review of UK railways.

Turning to the concerns raised about current rail service provision. [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I hope this response helps to assure your constituent that the Scottish Government is committed to improving rail services, and to pressing for the necessary legislative powers to allow us to consider all of the options for structuring and delivering a railway that meets the needs of rail passengers in Scotland.

**Michael Matheson**

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Thanks , Mr Matheson has noted.

| Private Secretary to Michael Matheson MSP, Cabinet Secretary for Transport, Infrastructure and Connectivity

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Email: [CabSecTIC@gov.scot](mailto:CabSecTIC@gov.scot)

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**From:**

**Sent:** 16 November 2018 14:48

**To:** Cabinet Secretary for Transport, Infrastructure and Connectivity <[CabSecTIC@gov.scot](mailto:CabSecTIC@gov.scot)>

**Cc:** Chief Executive Transport Scotland; Reeve W (Bill)

**Subject:** Rail - Public Sector Bidder - Stakeholder Reference Group Meeting - 24 October 2018

PS/Cabinet Secretary,

With apologies for not sending up sooner, which was partly due to annual leave, I attach a note of this meeting for the Cabinet Secretary. It is for information only.

There were no actions from the meeting other than gathering information about a point raised by a trade union rep about loan repayments to the Dutch Government made by Abellio ScotRail. This is included as a post meeting note.

Policy Officer, Rail Futures, Rail Directorate

Transport Scotland, Buchanan House,  
58 Port Dundas Road, Glasgow, G4 0HF

24 October 2018

#### Organisations represented

A Transport Scotland official provided an updated on the work done to date and the interest shown by David MacBrayne Limited in bidding for a future Scottish rail franchise.

The Cabinet Secretary explained the relevance of the recently announced UK Rail Review to the work to enable a public sector bid: it is a potential opportunity for significant change in respect of rail franchising and/or rail industry structures.

The wider group then discussed a range of items, including ScotRail / Network Rail performance; the conditions required for an Operator of Last Resort; and existing UK and EU legislation.

The Cabinet Secretary thanked attendees for their participation in the discussion and advised that he will update the group on any substantial developments as they arise.

29 June 2017

A Transport Scotland official updated the group on work done to date:

- Review of a range of existing public bodies - gathering evidence and assessing against a set of criteria;
- Consideration of the ability of an existing body to bid;
- Consideration of the possibility of creating a new body to bid;
- Key objective is to ensure a level playing field between the public and private sectors.

A broader discussion then took place, which included:

- The need for a public sector bidder to be capable to operate rail services;
- The potential for Brexit to impact the process (with reference to relevant EU legislation);
- A range of views on the funding of a bid;
- An acknowledgement of the necessity of private sector involvement (e.g. rolling stock companies) in the event that a public sector organisation bids and wins.

The Minister indicated that a further meeting would be held in the year ahead to update stakeholders on the progression of the work.

**MEIP / funding**

[Redacted]

**Direct awards**

Possible under European Law through derogation, prevented by UK legislation.

[Redacted]

[Redacted]

**Regional railways**

[Redacted]

**Unions**

Opportunity to offer solution through Rail2014 consultation.

Transport Scotland has expertise to run a franchise (e.g. OLR) but not a bid team.

**Options**

[Redacted]

**Cab Sec policy position**

[Redacted]

**Workstream 1: DML**

List of things to think about if bidding for a franchise.

[Redacted]

[Redacted]

**Workstream 2: Identify possible options.**

[Redacted]

What would each of those look like?

Timescale: by end of November.

### **Workstream 3: What do we want from the Rail Review?**

Franchising – ability to award contracts directly.



#### **First**

Create project plan.

#### **Next steps**

Present options to Ministers and ask if they want us to do more detailed work, after SWOT analysis agreed by Bill, aim for December 2018.