

Ferguson Marine: documents

Documents describing key events leading to Ferguson Marine being taken into public ownership have been published on the Scottish Government website.

These documents cover the period from 2015 when Ferguson Marine Engineering Limited (FMEL) was awarded contracts for two ferries by Caledonian Maritime Assets Limited, to August 2019 when FMEL entered administration.

The published material describes the key events leading to Ferguson Marine being taken into public ownership, and demonstrates the extent of our interventions with the business.

Some sections of the documents are redacted for data protection reasons and other sections are redacted due to commercial or legal confidentiality. This material can be found at: <https://www.gov.scot/collections/ferguson-marine-documents/>

You may find the undernoted documents of interest :-

<https://www.gov.scot/binaries/content/documents/govscot/publications/transparency-data/2019/12/ferguson-marine-key-documents-2015/documents/ferguson-marine-submission-to-ministers-recommending-contract-award-20-august-2015/ferguson-marine-submission-to-ministers-recommending-contract-award-20-august-2015/govscot%3Adocument/Ferguson%2BMarine-%2Bsubmission%2Bto%2Bministers%2Brecommending%2Bcontract%2Baward%2B-%2B20%2BAugust%2B2015.pdf>

and

<https://www.gov.scot/binaries/content/documents/govscot/publications/transparency-data/2019/12/ferguson-marine-key-documents-2015/documents/ferguson-marine-submission-to-ministers-requesting-approval-of-cmal-contract-award---7-october-2015/ferguson-marine-submission-to-ministers-requesting-approval-of-cmal-contract-award---7-october-2015/govscot%3Adocument/Ferguson%2BMarine%2B---%2Bsubmission%2Bto%2Bministers%2Brequesting%2Bapproval%2Bof%2BCMAL%2Bcontract%2Baward%2B-%2B7%2BOctober%2B2015.pdf>

and

<https://www.gov.scot/news/ferguson-marine-update/>

Rt Hon Alex Salmond MSP
First Minister of Scotland

St Andrew's House, Regent Road, Edinburgh EH1 3DG
T: 0845 774 1741



Sent by Email



20 August 2014

Dear Jim

Further to John Swinney's letter of today, I thought it would be helpful to further explain two points that John was making.

Firstly, CalMac indicated that working with Fergusons could include a joint venture to proceed with the refurbishment work of their existing ferry fleet as was suggested in the letter.

Second, having satisfied procurement regulations, CMAL will place in very early course with Ferguson's a commission for the third hybrid vessel in the series, as they have demonstrated their capability to produce this world-leading environmentally sensitive vessel.

Yours for Scotland

ALEX SALMOND



Rt Hon Nicola Sturgeon MSP
First Minister of Scotland

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T: 0300 244 4000



Jim McColl
Clyde Blowers Ltd
1 Redwood Crescent
Peel Park
East Kilbride



19 January 2015

Dear Jim,

It was good to meet with you recently at Ferguson's Shipyard, and I am delighted that you have agreed to remain as a member of the Council of Economic Advisers.

The Council provided my predecessor with valuable insight and advice during his time in office. It made a real difference to Scotland across a range of areas and its discussions helped shape how the Scottish Government responded to the recession and prepared for the referendum in 2014.

The focus of the new Council will be around two key challenges:

- Improving the competitiveness of the Scottish Economy; and,
- Tackling inequality within Scotland.

The Council will continue to meet twice a year, and prepare a short Annual Chair's Report summarising the advice provided over the course of each year.

The attached Annex sets out the terms of appointment for your agreement. I am really pleased that you have agreed to continue, and I look forward to working with you.

NICOLA STURGEON



TERMS & CONDITIONS FOR APPOINTMENT AS A MEMBER TO THE COUNCIL OF ECONOMIC ADVISERS

THE ROLE OF THE COUNCIL OF ECONOMIC ADVISERS

The main purpose of the Council of Economic Advisers (CEA) is to provide advice to the First Minister relating to the Scottish economy.

DUTIES/RESPONSIBILITIES

The CEA is an advisory council providing advice to the First Minister of Scotland. You are invited to participate in bi-annual meetings in Scotland to discuss various issues relating to Scotland's economic performance.

ACCOUNTABILITY

CEA members are appointed by the First Minister of Scotland and are accountable to the First Minister.

PERIOD OF APPOINTMENT

This appointment will commence on 1 February 2015, and continue until 31st March 2016. The First Minister may terminate your appointment without notice if, in her opinion, you have acted improperly in relation to your duties or are otherwise unable to perform your duties. Should the CEA be dissolved or wound up during the period of your appointment, your appointment would, of course, also cease with effect from that dissolution or such other date as is specific in any relevant correspondence.

REMUNERATION

CEA members are appointed to the advisory council on a voluntary (personal) basis and there is no direct remuneration related to this role.

EXPENSES & SUBSISTENCE

All reasonable expenses incurred in the course of CEA attendance will be met by the Scottish Executive (known as the Scottish Government) – including business-class air travel, first-class rail travel, meal allowances and accommodation.

CONDUCT

All CEA members have a duty regarding conduct, propriety and confidentiality.

LIABILITY

This appointment shall not be construed as in any way constituting a contract of service or for services between you and the Scottish Ministers; between you and the First Minister; or as between you and the Crown.

If legal proceedings are brought against any CEA member by a third party, the Scottish Executive (known as the Scottish Government) will meet any civil liability which is incurred in the execution of their functions providing that they have acted honestly, reasonably and in good faith. If, however, the CEA member has acted recklessly, negligently or fraudulently, the department may refuse to meet any associated civil liability.

CONFIDENTIALITY

As a member of the Council of Economic Advisers – and after termination of that appointment (howsoever arising) - you will owe a duty of confidentiality to the CEA and to Scottish Ministers in relation to any information of a confidential nature to which you have had access in the course of your appointment. The sensitive nature of the issues and documents with which you may be dealing makes it extremely important that such confidentiality is respected. You will be required to exercise care in the use of information which you acquire in the course of your duties and to protect any documents or other information provided to you in confidence from unauthorised disclosure.

CONFLICTS OF INTEREST

Any personal or business interests which may, or may be perceived to, influence your judgements in providing advice should be declared as a potential conflict of interest to the Chair of the CEA.

I accept the appointment to the *Council of Economic Advisers* on the terms and conditions detailed above.

Signature:

Date:

REASONS FOR NOT PROVIDING INFORMATION

Exemptions apply, subject to the public interest tests.

- Section 30(b)(i) - free and frank provision of advice
- Section 30(b)(ii) - free and frank exchange of views for the purposes of deliberation
- Section 33(1)(b) - commercial interests
- Section 38(1)(b) - personal data relating to third party

These exemptions apply for the following reasons, disclosure would, or would be likely to inhibit substantially the free and frank provision of advice and exchange of views for the purposes of deliberation and discussion. These exemptions recognises the need for officials to have a private space within which to discuss issues and options with Ministers, colleagues and stakeholders, in this case Caledonian Maritime Assets Ltd. Disclosing the content of these discussions will substantially inhibit such discussions in the future, because these stakeholders will be reluctant to provide their views fully and frankly if they believe that those views are likely to be made public.

In addition, exemptions applies to some of the information which is commercially sensitive and confidential because the release of certain financial information relating to the vessels could adversely affect future dialogs that Caledonian Maritime Assets Ltd may have with other parties which would be likely to prejudice their commercial interests.

Lastly, an exemption for personal information applies to some of the information because it is personal data of a third party and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018. This exemption is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exemption.

Public interest test

These exemptions are subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemptions. We have found that, on balance, the public interest lies in favour of upholding the exemptions. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in allowing officials, stakeholders a private space within which to communicate.

We consider, therefore, on balance, that the public interest in release is outweighed by that in favour of upholding the exemptions.