From: [Redacted]
Sent: 02 February 2023 15:21
To: [Redacted] Cabinet Secretary for Rural Affairs and Islands <CabSecRAI@gov.scot>; **[Redacted]**
Cc: [Redacted] Minto J (Jenni), MSP <Jenni.Minto.MSP@Parliament.scot>; **[Redacted]** andrew.kain@argyll-bute.gov.uk; **[Redacted]** Hampsey, Amanda <Amanda.Hampsey@argyll-bute.gov.uk>; **[Redacted]** Lynch, Jim <Jim.Lynch@argyll-bute.gov.uk>; **[Redacted]** willie.hume@argyll-bute.gov.uk; Scottish Islands <info@islandsteam.scot>; Minister for Transport <MinisterFT@gov.scot>; **[Redacted]**; Cllr. Uisdean Robertson <u.robertson@cne-siar.gov.uk>
Subject: RE: CalMac Ticketing T&Cs Consultation: Stakeholder Feedback
Importance: High

Dear **[Redacted]**

I've got a couple of further points regarding this, having read carefully through your conditions of carriage.

Firstly, you have two different versions of your conditions of carriage displayed on your website. There is a version 1.2 dated September 2022 here, but at the bottom of the page you have a PDF version here that is not dated (and is presumably V1) that has many significant differences. (I attach both versions here as a record of what was published as of this date). Regardless of this error, the contentious paragraphs are the same in both versions.

Secondly, both versions have the same text regarding the treatment of the return portion of a ticket if the outward portion is not used. It's the same piece you quoted below (although differently numbered), and says:
Reservation Arrangements - Where a vehicle is booked for a return journey and fails to show for the outward sailing the return booking will be cancelled. Only one reservation per vehicle/per direction/per day will be accepted. Advance payment is required in respect of all bookings made. Unless cancelled prior to sailing time, customers failing to show will be charged the full single fare.

In your email below you say that "We accept the need to better clarify the wording in our Conditions of Carriage, however the meaning will not change.". However, **the meaning is very significantly changing**, not just in regard to the 30-minute check-in rule as explained previously, but also in relation to the proposal to cancel the return portion of a ticket if the outward portion is not used. The paragraph above (24h in the HTML version of your T&Cs) clearly states that the only thing affected by the failure to use the outward portion is the ***reservation***. The validity of the ticket is not impacted **until sailing time.** It is quite explicit that there is no financial penalty unless the customer fails to show prior to **sailing time.**
So in the event of a customer not showing for the outward leg, your proposal to invalidate the ticket (and therefore be charged the full single fare as described above) breaks your terms and conditions. The terms and conditions make a clear distinction between ***reservation*** and ***ticket***. The terms and conditions state that the return ***reservation*** will be forfeited if the outward leg is not used, it does not say that the ***ticket*** will be forfeited.

Just as with the proposal to invalidate tickets if the 30 minute check-in is missed, the proposal to invalidate returns if the outward leg is not used is **in violation of your terms and conditions**, **and therefore in violation of the outcome of the Island Communities Impact Assessment**.

To conform to the outcome of the ICIA, the only thing that should be impacted by failure to use the outward leg of a ticket is the reservation, ie the certainty of retaining a space on the car deck. You are free to re-sell that space, BUT the passengers' ticket must remain valid for travel (either by

travelling on the intended journey after joining the back of the unreserved queue) OR by being amended for free prior to check-in closing.

The same applies to the proposal to **invalidate tickets** if passengers arrive after check-in time. In order to conform to the outcome of the ICIA, the validity of the ticket must be unaffected, but the reservation is lost. (or as phrased by clause 24g the HTML version of the T&Cs, ***Late checking-in may lead to the Passenger and/or vehicle be refused carriage. Failure to meet check in times will be recorded as a no-show and your vehicle space being reallocated.*** There is nothing in this clause about ticket validity.

Furthermore, as well as not conforming to the ICIA, neither of the above proposals meet the legitimate objective that is shared by both operator and user – the reduction of 'no shows'. Invalidating a ticket does not prevent no-show. It just adds a punitive 100% surcharge to the journey. You want to be able to re-sell the space allocated for a vehicle that may not turn up, and that is exactly what you can do under your current terms and conditions. **There is nothing in your contract with passengers that allows you to invalidate the ticket fare in either circumstance.**

As well as being contrary to the ICIA and not meeting legitimate objectives, these rules would appear to be out of kilter with other public transport providers. Can you point to examples where the return leg of a return air, train, or bus ticket is **routinely** and **universally** invalidated if the outward leg is not used?

We are repeatedly reassured by TS, CalMac and government that community interest is paramount in ferries policy, in reflection of the lifeline service provided. One of the few legislative / formal powers we have that can give those words weight is the Islands Act. It obliges CalMac to perform rigorous and meaningful consultation in the form of an ICIA. We had to argue for the Islands Act to be respected by CalMac, after initially being told the company was not subject to it. Having now acknowledged the company's obligations under the Islands Act, I think we should expect the outcome of the ICIA process to be respected also.

Finally, there may be other legal questions here around the invalidation of tickets due to circumstances outside passengers' control. A passenger's late arrival for check-in or decision to use an alternative service for one leg of a journey will often be due to ***force majeure*** issues such as weather and traffic congestion. Certainly from a fair-dealing perspective, it does not seem a balanced contractual arrangement whereby the provider of a service may claim force majeure for not providing a contracted service (as you can in your T&Cs regarding Acts of God) , but the customer of those services may not.

I look forward to discussing these issues face to face with you and **[Redacted]** as soon possible.

Best regards
[Redacted]

Mull & Iona Ferry Committee
www.mullandionaferrycommittee.org

[Redacted]

From: [Redacted]
Sent: 01 February 2023 23:34
To: [Redacted] Cabinet Secretary for Rural Affairs and Islands <CabSecRAI@gov.scot>; **[Redacted]**
Cc: [Redacted] Minto J (Jenni), MSP <Jenni.Minto.MSP@Parliament.scot>; **[Redacted]** andrew.kain@argyll-bute.gov.uk; **[Redacted]** Hampsey, Amanda <Amanda.Hampsey@argyll-bute.gov.uk>; **[Redacted]** Lynch, Jim <Jim.Lynch@argyll-bute.gov.uk>; **[Redacted]** willie.hume@argyll-bute.gov.uk; Scottish Islands <info@islandsteam.scot>; Minister for Transport <MinisterFT@gov.scot>
Subject: Re: CalMac Ticketing T&Cs Consultation: Stakeholder Feedback

Dear **[Redacted]**

I'm sorry but this does not address my points and seems to suggest that you will be proceeding with the proposal that breaks your own terms and conditions, contrary to the undertaking given in last year's ICIA.

The company is proposing to make tickets **invalid** if a vehicle arrives after check-in closes. Ie, we will be expected to buy a new ticket if for any reason we arrive less than 30 minutes before departure. At least, this is what we have been told and despite several emails has not been refuted.

On this subject, there are two relevant sections:

24 g:
Latest Check-in Time - On all Services, Passengers and vehicle drivers must be in possession of tickets before boarding (where applicable) and shall be required to check-in no later than the times for checking-in, as shown on the company website, from time to time in respect of each route. Late checking-in may lead to the Passenger and/or vehicle be refused carriage. Failure to meet check in times will be recorded as a no-show and your vehicle space being reallocated
This clearly states that the result of late arrival is that we may not be carried; ie we must join the 'unbooked' queue rather than take our place with the booked traffic. This is exactly what happens now. **It does not say that our tickets will become invalid, as is proposed now.**

And also ***24 h***:
Reservation Arrangements - Where a vehicle is booked for a return journey and fails to show for the outward sailing the return booking will be cancelled. Only one reservation per vehicle/per direction/per day will be accepted. Advance payment is required in respect of all bookings made. Unless cancelled prior to sailing time, customers failing to show will be charged the full single fare.
This makes it clear that tickets remain valid up until sailing time. There is no mention of check-in time. **Sailing time is the deadline for ticket validity, not check-in time**.

Last year's ICIA concluded that no changes would be made to the terms and conditions, save for the minor points you mentioned. The terms and conditions clearly state that arrival after check-in results in loss of guaranteed vehicle space, but it does NOT say that the ticket will become invalid. Those conditions need to be adhered to.

With regard to the Advanced standby changes, the criticism we are upholding is the most critical one, and one that has nothing to do with when or how we responded to the consultation, as you seem to suggest. Holiday makers were added as a result of consultation, but you are unable to say

who requested that change or how many people requested that change. That is what we want to know, because it goes directly to the competence and validity of the consultation process.
Can I please repeat the questions:
Can you say how many people made this suggestion?
Were they individuals, or were they representatives of formal groups?
If so, which formal groups?
After the community suggestions were collated and changes made, was there any opportunity for community reps to respond to your presentation of the 'combined view'?

Can I please repeat my requests:
Can we please have an urgent meeting with you and [Redacted] at your earliest convenience.
[Redacted] – Can I please request a phone call or meeting to discuss these topics (and others from other recent correspondence) as a matter of urgency.
Cabinet Secretary for Rural Affairs and the Islands – I'd be grateful if you can please consider whether this process and outcome conforms to the letter and spirit of the Islands Act, and respond to all copied.

Thank you

[Redacted]

Mull & Iona Ferry Committee
www.mullandionaferrycommittee.org
[Redacted]

From: [Redacted]
Sent: 01 February 2023 16:34
To: [Redacted] CabSecRAI@gov.scot; **[Redacted]**
Cc: [Redacted] Minto J (Jenni), MSP <Jenni.Minto.MSP@Parliament.scot>; **[Redacted]** andrew.kain@argyll-bute.gov.uk; **[Redacted]** Hampsey, Amanda <Amanda.Hampsey@argyll-bute.gov.uk>; **[Redacted]** Lynch, Jim <Jim.Lynch@argyll-bute.gov.uk>; **[Redacted]** willie.hume@argyll-bute.gov.uk; info@islandsteam.scot; MinisterFT@gov.scot
Subject: Re: CalMac Ticketing T&Cs Consultation: Stakeholder Feedback

Dear **[Redacted]**, thanks for your latest e-mail. Please allow us to further clarify.

We have not changed our ticketing terms and conditions around failure to show in time for a sailing. These were always in place but never enforced. Enforcement of conditions commenced on 19 September 2022, and communications were released to all the communities we serve, including Mull & Iona, at the time and leading up to said date.

Three minor enhancements were introduced to align with our community's needs:

1. The decrease from 48 to 24 hours for cancellations (to gain a refund minus the £10 admin charge)
2. The ability to amend bookings up to the point of check-in (this was 48 hours previously also)
3. An additional exception: NHS National Services Scotland cancelling an appointment.

All were welcomed as improvements to the existing T&Cs.

Section 24. (h) of our Conditions of Carriage has always stated:

> Reservation Arrangements - **Where a vehicle is booked for a return journey and fails to show for the outward sailing the return booking will be cancelled**. Only one reservation per vehicle/per direction/per day will be accepted. Advance payment is required in respect of all bookings made. Unless cancelled prior to sailing time, customers failing to show will be charged the full single fare.

We accept the need to better clarify the wording in our Conditions of Carriage, however the meaning will not change. Communications will be released to our website shortly to provide this additional clarification, including that on validity.

We followed the ICIA process to ensure the voices of all our communities – across our network – were heard. I have included our Executive Summary presentation which summarises our community feedback, which I trust is useful.

Our original proposed T&Cs changes were not welcomed by our communities. As a reminder, this is what was originally proposed, compared to what has now been implemented.

Original proposal in ICIA

Proposed cancellation levy (excluding commercial block reservations)	
Cancellation options	**Cancellation levy**
29 days or more before travel.	Deduction of 25% of the total vehicle fare.
Between 8 and 28 days before travel.	Deduction of 50% of the total vehicle fare.
Between 24-hours and 7 days before travel.	Deduction of 75% of the total vehicle fare.
Less than 24-hours or failure to show for travel.	Deduction of 100% of the total vehicle fare.

Proposed change levy (excluding commercial block reservations)	
Amendment options	**Amendment levy**
Change the date or time 48-hours or more in advance of travel.	£10

Updated T&Cs now implemented as a result of community feedback

Updated Terms and Conditions (excluding commercial block reservations)	
Cancellation options	**Administration fees**
Greater than 24-hours before travel*	A refund will be given, however an administration fee of £10 will be deducted from the total fare.
Less than 24-hours or failure to show for travel *	No refund will be given. No additional administration fees will be charged.

- **Customers can amend bookings free of charge up to check-in****

**A reminder that these options were both reduced to 24 hours from 48 hours to allow more time for our customers to make cancellations.*

***When eBooking launches, there will be slight time variations depending on platform and channel – we will provide more detail in our forthcoming customer communications*.

We believe that what has now been implemented represents a better solution for our communities, compared to the original proposal.

With regard to Advanced Standby, the proposal to include holidaymakers with accommodation bookings initially came from island business owners who were concerned about the impact on their

businesses relating to customers not being able to get onto the island. Statistically, more non-islanders used the old 'waitlist' facility than islanders themselves.

We do not anticipate Advanced Standby being an attractive option for holidaymakers with confirmed accommodation bookings. We would discourage tourists from using the Advanced Standby option, unless in an emergency situation – a confirmed booking made well in advance will always be the preferred option. By implementing this monitored approach, we can better control the system for the benefit of all of our customers. Once again, **this point will be re-evaluated at the 6-month review.**

Please be assured that, in coming to these decisions, we have followed our established and approved communicative and consultative processes to ensure we received as much feedback as possible on both of these topics, from all of the communities we serve – including Mull & Iona.

The network-wide responses were collated, and decisions were informed based on this feedback. To ensure that all voices are heard, we strongly encourage that feedback is submitted on time, with as much detail as possible. It is also important to remember that we must make decisions based on the views of all our communities across our network, and not any one community/island in isolation.

As previously mentioned, we will be sure to consider your additional thoughts in our next 6-month review on both topics. Any amendments to the current status quo must follow the full ICIA process. We would need a network wide consensus in order to change anything, therefore our decision will not be changing on either topic as of now. We must observe a coordinated and consistent experience for all community/user groups.

Thanks again for getting in touch, and I hope this e-mail is of further assistance.

Best regards,

[Redacted]

[Redacted]
Customer Experience Manager
CFL Commercial Team
[Redacted]

From: [Redacted]
Sent: 28 January 2023 10:53

To: [Redacted] >; CabSecRAI@gov.scot <CabSecRAI@gov.scot>; **[Redacted]**
Cc: [Redacted] Minto J (Jenni), MSP <Jenni.Minto.MSP@Parliament.scot>; **[Redacted]** andrew.kain@argyll-bute.gov.uk <andrew.kain@argyll-bute.gov.uk>; **[Redacted]** Hampsey, Amanda <Amanda.Hampsey@argyll-bute.gov.uk>; **[Redacted]** Lynch, Jim <Jim.Lynch@argyll-bute.gov.uk>; **[Redacted]** willie.hume@argyll-bute.gov.uk <willie.hume@argyll-bute.gov.uk>; info@islandsteam.scot <info@islandsteam.scot>; MinisterFT@gov.scot <MinisterFT@gov.scot>
Subject: RE: CalMac Ticketing T&Cs Consultation: Stakeholder Feedback

Dear **[Redacted]**, **[Redacted]** and Cabinet Secretary,

The following addressed **[Redacted]'** completely unacceptable response on behalf of CalMac:

Tickets becoming invalid if passengers arrive after check-in closes
You have obfuscated around the subject and have not answered the question. You seem to be suggesting that the solution to the issue is to change the terms and conditions to match what you propose?!?
This is completely unacceptable, both in terms of procedure and outcome.
An ICIA process was followed last year to address potential changes to CalMac's terms and conditions, as expected under the Islands Act. The conclusion to that ICIA was there would be **no** changes to your existing terms and conditions. This proposal is explicit and significant in its deviation from your existing T&Cs. So therefore either:

a. You are disregarding the outcome of the ICIA from last year, and are going to change the T&Cs regardless.
b. You believe that this change was not covered by last year's ICIA, and also believe that no ICIA (or community consultation of any kind) is required before implementing these new policy changes.
c. You believe that you are adhering to your existing T&Cs.

It is unclear from your response which of these possibilities apply. Any of them is completely unacceptable. All that you have committed to is "…to consider your comments and suggestions when formulating our updated communications.". We do not expect you to adjust your ***language*** in response to community consultation, we expect you to adjust your ***decision***.

Please clarify which of a, b, or c applies.

Not only is the procedure unacceptable, but the outcome is **utterly** unacceptable. All of your rationale for T&C changes has had the objective of better utilisation of deck space. That is a legitimate aim, with mutual benefit to both users and operator. We have accepted some painful changes, because they are focussed on addressing this issue. However, this proposal does **nothing** to encourage better deck utilisation. It is entirely punitive, and places a significant stress and financial penalty on users for absolutely no purpose. Just to remind everyone – you are proposing that if a vehicle arrives less than 30 minutes before sailing on a bookable route, that our tickets will become null and void. We will not only loose the certainty of deck space (as is the case now), but we will lose the entire value of our fares. The only behaviour you are incentivising is dangerous driving (if a vehicle has been delayed for some reason); and the only benefit is to the company, in the form of increased fare revenue.

Concessionary tickets for LGV drivers
This issue is of lesser significance than the other two the list, and I will take it up with Transport Scotland as you advise. I would point out however that it has nothing to do with the length of the van. All vans regardless of length are issued a combined ticket.

Advanced Standby
As others have already said, we very much question the basis for saying that the system "…reflect(s) the combined community view." As we understand it, holiday makers were added to list of qualifying travellers as a result of suggestions from community consultees. Can you say how many people made this suggestion? Were they individuals, or were they representatives of formal groups? If so, which formal groups? After the community suggestions were collated and changes made, was there any opportunity for community reps to respond to your presentation of the 'combined view'? We are repeatedly told by management that you cannot discriminate between types of passenger. Whenever we have argued for some form of prioritisation for local users, we have been told that it just can't be done because it would break the terms of the CHFS contract. But you seem to have no problem giving preferrential treatment of tourist visitors **ahead of islanders**. To be clear – in the circumstances of a fully-sold sailing and faced with queue of vehicles attempting to take any available remaining space, a car full of holiday makers will be prioritised over **any** islander travelling, unless they are going to a funeral, have a hospital appointment or are driving a van full of shellfish. So far as the view from Mull and Iona is concerned, we can say that our proposed 'Samso system' of islander prioritisation has the support of 96% of islanders, and even among the tourist industry there was more than 90% approval. This proposal is the exact opposite of the system that has gained overwhelming support on our islands.

[Redacted] - As soon as [Redacted] returns from holiday we would like to have a meeting to discuss these matters.

[Redacted] – Can I please request a phone call or meeting to discuss these topics (and others from other recent correspondence) as a matter of urgency.

Cabinet Secretary for Rural Affairs and the Islands – I'd be grateful if you can please consider whether this process and outcome conforms to the letter and spirit of the Islands Act, and respond to all copied.

With best regards

[Redacted]

Mull & Iona Ferry Committee
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[Redacted]

[Redacted]