INQUIRY INTO THE AUDITOR GENERAL FOR SCOTLAND REPORT – ‘THE GATHERING 2009’

Thank you for your letter of 21 September which, following the Committee’s 15 September meeting, seeks further written evidence from the Scottish Government to assist the Committee in its scrutiny of the Auditor General for Scotland’s report, “The Gathering 2009”. Answers to your questions are set out below.

The £180,000 loan provided by Scottish Government

The Committee has asked for a copy of the paper that Lord Jamie Sempill reported preparing for the Scottish Government setting out options to address the cash flow issues facing The Gathering 2009 Ltd. I can confirm that the Scottish Government does not hold a copy of this paper on file.

Concerning the telephone call referred to by the Directors of the company, our records show that a telephone call to Lord Sempill was made by the Private Secretary to the Minister for Culture, External Affairs and the Constitution. The call was made at some point between 7 May and 12 May 2009 and its purpose was to invite the Directors to meet with officials to discuss the cash flow position of the company and the possibility of a short-term loan. That call did not confirm that the Scottish Government would be providing a loan to The Gathering 2009 Ltd.

With regard to meetings with the Directors of The Gathering 2009 Ltd to discuss the amount of the loan and its conditions, there was one meeting at which the company’s financial circumstances were explored in more detail. This took place on 12 May 2009, following the meeting between the Directors and the Minister for Culture, External Affairs and the Constitution on 28 April at which the Directors had first reported cash flow issues.

Our ref: B4311561

The meeting was attended by Lord Jamie Sempill and Jenny Gilmour and, from Scottish Government, by the Team Leader of the International Image Team, the Programme Manager for Themed Years and Major Events, and by a special adviser. After this meeting, the offer of the short-term loan was approved by the then Minister for Culture, External Affairs and the Constitution.

First meeting with the First Minister

The first meeting between the First Minister and the Directors of The Gathering 2009 Ltd took place on 12 November 2008. The purpose of the meeting was to discuss the Gathering event and the First Minister’s role during the event given the likelihood of royal attendance.

The press release issued on 15 October on behalf of DEMA

The Committee has asked for ‘confirmation of the date of the first approach from the Scottish Government to the City of Edinburgh Council regarding the Council taking on the Gathering event’.

The City of Edinburgh Council, along with officials from VisitScotland and the Scottish Government attended a meeting with the Royal Edinburgh Military Tattoo on 12 October.
That meeting explored whether the Royal Edinburgh Military Tattoo might take on the company with a view to delivering future Gathering events. Councillor Steve Cardownie of City of Edinburgh Council attended that meeting and spoke at the meeting about the Council’s desire for the Gathering to remain in Edinburgh given the significant economic benefit to the city.

The first reference in our files to the possibility of the City of Edinburgh or DEMA purchasing the company is in a note from the then Principal Private Secretary to the First Minister issued on 13 October 2010, in which she reports that “we believe that there is a mechanism in place for the City of Edinburgh Council through Destination Edinburgh Marketing Alliance (DEMA) to purchase the Gathering (final confirmation still required).” Our files do not record how the Scottish Government first learned of this.

However, on 14 October, the Director of Corporate Services at the City of Edinburgh Council spoke by telephone to my predecessor, Sir John Elvidge, to confirm that the Destination Edinburgh Marketing Alliance would be purchasing The Gathering 2009 Ltd. As Sir John stated when giving evidence to the Committee on 6 October, there ‘was an implicit understanding that whoever bought the company would take on the liabilities’.

The Royal Edinburgh Military Tattoo was informed by the then Principal Private Secretary to the First Minister on 14 October that a solution had been found and that the proposal discussed with the Royal Edinburgh Military Tattoo at the meeting on 12 October need not be taken to the meeting of the Tattoo’s Board of Trustees on 14 October.

A number of discussions took place on 14 October involving Scottish Government officials, City of Edinburgh Council officials, VisitScotland officials, and the Directors of The Gathering 2009 Ltd. Not all of those discussions are recorded. Our files show that there were two meetings which took place that day:

- A meeting between Scottish Government officials, VisitScotland, EventScotland, and City of Edinburgh Council officials to discuss media handling. This meeting involved the Head of Corporate Communications and a Media Manager from the City of Edinburgh Council; from the Scottish Government, the Head of News; the then Principal Private Secretary to the First Minister; the Deputy Director, Promotion of Scotland and Tourism; a Communications Manager; a special adviser; and from VisitScotland and EventScotland, the Head of Communications and the Corporate Communications Manager.

- A meeting between Scottish Government officials and the Directors of The Gathering 2009 Ltd to discuss media handling. For the company, Lord Jamie Sempill; Jenny Gilmour; and Roddy Scott (Event Director, Red Sky at Night) attended. For the Scottish Government, officials in attendance were the Head of News; a Communications Manager, and a special adviser.

Between the date of City of Edinburgh Council issuing its press release (15 October), and the council confirming in writing to the Scottish Government that it and DEMA intended to take no further action in relation to The Gathering 2009 Ltd, there were a number of conversations between Scottish Government officials and City of Edinburgh Council officials. Not all of these are recorded. Those that officials recall or that we have a record of are:

- 16 October 2009 - the day after the City of Edinburgh Council issued its press release, there were some telephone conversations between the Deputy Director, Promotion of Scotland and Tourism, and officials from the City of Edinburgh Council
after Lord Sempill reported to the Scottish Government that one of the company’s creditors was threatening to take legal action that same day. Scottish Government officials asked the City of Edinburgh officials to contact Lord Sempill to discuss this issue further, which they then did. Scottish Government officials played no part in any action taken by City of Edinburgh Council in relation to that creditor.

- 4 November 2009 – meeting between the Director of Corporate Services and the Head of Financial Services at City of Edinburgh Council and the Scottish Government’s Acting Director of Culture, External Affairs and Tourism; a representative from the Accountancy Services team; a representative from the Scottish Government Legal Directorate; and a representative from the Promotion of Scotland and Tourism Division;

- 20 January 2010 – meeting between the Director of Corporate Services at the City of Edinburgh Council and the Scottish Government’s Director, Culture, External Affairs and Tourism and Deputy Director, Promotion of Scotland and Tourism.

Financial losses of The Gathering 2009 Ltd

You asked for confirmation of dates of meetings that took place with the Directors between 31 August and 15 October. The meetings that involved Ministers have already been set out for you in Mr Russell’s letter to you of 23 September. Those, together with names of officials attending where we have a record of that are listed here:

- 9 September 2009 – The Minister for Culture, External Affairs and the Constitution met with the Directors. The Directors provided further details of the company’s financial losses and informed the Minister that they were unlikely to be able to repay the loan. A special adviser also attended this meeting.

- 16 September 2009 – The First Minister and the Minister for Culture, External Affairs and the Constitution met with the Directors to discuss potential courses of action in order to protect the reputation of the event and the associated economic benefits. The Scottish Government’s Deputy Director, Promotion of Scotland and Tourism and a special adviser were also in attendance at this meeting.

- 30 September 2009 – The Minister for Culture, External Affairs and the Constitution met with Directors to discuss progress being made in looking at potential courses of action. The Chief Operating Officer of EventScotland; the Scottish Government’s Acting Director of Culture, External Affairs and Tourism; Deputy Director, Promotion of Scotland and Tourism; and a special adviser were also in attendance at this meeting.

- 8 October 2009 - The Minister for Culture, External Affairs and the Constitution met with Directors to discuss progress being made in looking at potential courses of action. Officials also in attendance at this meeting were the Acting Director of Culture, External Affairs and Tourism; Deputy Director, Promotion of Scotland and Tourism; a representative of the Accountancy Services team and a special adviser.

- 12 October 2009 – The First Minister briefly met with the Directors, immediately following his meeting with the Royal Edinburgh Military Tattoo and the City of Edinburgh Council to report on progress. Officials in attendance at this meeting were the then Principal Private Secretary to the First Minister; the Deputy Director, Promotion of Scotland and Tourism; the Head of News; and a special adviser.
As well as these meetings involving Ministers, there were meetings with the Directors involving officials but no Ministers, as follows:

- 11 September 2009 – meeting between Jamie Sempill, Jenny Gilmour and a representative of the Scottish Government’s Accountancy Services team;

- 28 September 2009 – meeting between Jamie Sempill, Jenny Gilmour and for the Scottish Government, the Deputy Director, Promotion of Scotland and Tourism; a representative of the Scottish Government Legal Directorate; a representative of the Scottish Government Accountancy Services Team. A representative of Harper Macleod LLP, who was providing legal advice to the Scottish Government was also present.

Finally, you have asked for confirmation that the Committee can publish the names and job titles of individuals named above as part of the Scottish Government’s response. I should explain that it would not be normal practice for individual public officials to be named in a response intended for publication. This reflects established convention and is consistent with both data protection requirements and the principle that Ministers are accountable to the Parliament for the actions of their officials. I am, however, happy to provide details of the number of officials involved in the meetings and discussions listed above, together with the job titles of relevant members of staff. I trust this information, which I have incorporated into the body of the response, will be of assistance to the Committee.

I hope this information is of assistance to the Committee.

Yours sincerely,

PERMANENT SECRETARY
LETTER FROM THE CONVENER OF THE PUBLIC AUDIT COMMITTEE TO SIR PETER HOUSDEN, PERMANENT SECRETARY, SCOTTISH GOVERNMENT, 21 SEPTEMBER 2010.

INQUIRY INTO THE AUDITOR GENERAL FOR SCOTLAND (AGS) REPORT - THE GATHERING 2009

At its meeting on 15 September, the Public Audit Committee received oral evidence from Lord Sempill and Jenny Gilmour, Directors of the Gathering 2009 Ltd. A copy of the Official Report of that meeting can be found on the Committee’s web page at:

http://www.scottish.parliament.uk/s3/committees/publicAudit/or-10/pau10-1401.htm

Having considered the evidence received the Committee agreed that it wished to seek written evidence from the Scottish Government on a number of matters which arose in oral evidence.

I have set out these matters below and I would be grateful for your response to the questions by Monday 18 October. Please do let me know if this time frame presents you with any difficulties. Further information on the publication of written submissions is contained in the enclosed policy on the treatment of written evidence by committees.

The £180,000 loan provided by the Scottish Government

The Committee heard from Lord Sempill and Jenny Gilmour (“the Directors”) that there were a number of meetings and telephone exchanges prior to the Scottish Government providing a short term loan to The Gathering 2009 Ltd.

Whilst Appendix 1 of the AGS report entitled The Gathering 2009 details some of the key events of The Gathering 2009, the Committee was unclear whether all of exchanges between the Scottish Government and the Directors regarding the loan were detailed in this time line.

The Committee would therefore be grateful if you could provide the following information:

- A copy of the paper provided by the Directors to the Scottish Government setting out possible options to address the cash flow difficulties facing The Gathering 2009 Ltd;
- The date of the telephone call to Lord Sempill confirming that the Scottish Government would provide a short term loan to The Gathering 2009 Ltd as well as the name and job title of the person who telephoned Lord Sempill;
- The dates of any meetings held with the Directors to discuss and agree the amount of the loan they required as well as the names and job titles of those who attended at each meeting;
- The date of the meeting at which the Directors met with the Scottish Government to agree to the loan and its conditions as well as the names and job titles of those who attended that meeting.

First meeting with the First Minister

In oral evidence Lord Sempill confirmed that he and Jenny Gilmour had first met with the First Minister to brief him on The Gathering 2009 event. I would be grateful if you could confirm the date of this meeting.

The press release issued on 15 October on behalf of DEMA.
The AGS report notes at paragraphs 55 and 56 that the Scottish Government approached the City of Edinburgh Council to see if it would consider being party to a solution to the company’s financial problems. The Council then told the Scottish Government that DEMA might be interesting in taking on the Gathering event.

The Committee would be grateful for confirmation of:

- the date of the first approach from the Scottish Government to the City of Edinburgh Council regarding the Council taking on the Gathering event, (as well as whether that approach was by phone, email or in a meeting), together with the names and job titles of those involved in that phone call, email or meeting;
- the dates of subsequent discussions between the City of Edinburgh Council and the Scottish Government regarding the Council taking on the Gathering event together with the names and job titles of those involved in each of those discussions; and
- the dates of discussions between the Council and the Scottish Government regarding DEMA taking on the Gathering event, together with the names and job titles of those who participated in those discussions.

In oral evidence the Committee heard that the Directors attended a meeting at St Andrews House at which they were given sight of the press release issued on 15 October on behalf of DEMA. Please can you confirm the date of that meeting and the names and job titles of those who attended.

Financial losses of The Gathering 2009 Ltd.

The Committee sought oral evidence from the Directors on whom they had notified once they had realised, after the event on 25/26 July, that The Gathering 2009 Ltd had made a loss. Lord Sempill indicated that the Directors had initially notified EventScotland, before attending a meeting with Paul Bush, then meeting with Mike Russell and Paul Bush and, finally, attending another meeting with the First Minister and Paul Bush.

The Committee would welcome confirmation of the dates of the above meetings as well as any other meetings held between 31 August (the date that the Scottish Government loan was due to be repaid) and 15 October (when the press release was issued on behalf of DEMA) at which the losses incurred by The Gathering 2009 Ltd were discussed by the Scottish Government (and/or EventScotland) with the Directors. Please could you also confirm the names and job titles of those who attended at each meeting.

I would be grateful if you could also confirm that any person named in your response is content for their name and job title to be published by the Public Audit Committee as part of the Scottish Government’s written response.

Should you require any further information please do not hesitate to contact the Clerk, Jane Williams on 0131 348 5236 or by email at pacommittee@scottish.parliament.uk.

Yours sincerely

Hugh Henry MSP
Convener

Inc: Policy on handling of information received in response to calls for evidence
INQUIRY INTO THE AUDITOR GENERAL FOR SCOTLAND REPORT – ‘THE GATHERING 2009’

Thank you for your letter of 8 October which, following the Committee’s 6 October meeting, seeks further written evidence on the circumstances which led to the Scottish Government agreeing to write off the £180,000 loan made to the Directors of the Gathering 2009 Ltd.

The Auditor General’s review of the event included consideration of the basis of the decision to write off the public sector monies owed by The Gathering 2009 Ltd. At paragraph 53 of the Auditor General’s report it states that “The Scottish Government and the three public sector bodies all agreed to write off the outstanding debt, in accordance with the Scottish Public Finance Manual (SPFM).

The SPFM states that losses should only be written off after careful appraisal of the facts and all reasonable action must have been taken to affect the recovery of losses. The SPFM also sets out the process to support an authorisation of write off. The detailed work that is necessary in each case will depend on the circumstances.

As noted in the report, the then Permanent Secretary took internal advice on whether the loan could be written off for internal accounting purposes in line with the SPFM. As subsequently recorded in Sir John Elvidge’s evidence to the committee on 6 October, that internal advice was provided by the then Director General for Finance and Corporate Services.

The advice was predicated on the criteria set out in the SPFM and followed the investigative work by Finance Directorate accountants referred to at paragraph 48 of the Auditor General’s report. On the basis of the information provided by the company, specifically the latest available six-monthly accounts prepared on the company’s behalf by their (external) accountancy provider and the list of creditors, it was concluded that the debts were likely to be irrecoverable. This work took place mid-September following the 9 September admission by the company directors that the company could not repay the loan.

Our ref: B4311605
The write off assessment followed on 14 October when it seemed likely that a mechanism was to be put in place to purchase The Gathering 2009 Ltd. That purchase would not proceed with the level of debt then held by the company and the proposal was contingent on central government bodies accepting that they would not recover sums provided to The Gathering 2009 Ltd.

In this case, the advice given, based on the company’s financial position, was that any attempt by the Scottish Government to enforce recovery of amounts owed by the company through legal routes would involve the Scottish Government incurring legal expenses, be likely to precipitate company failure and would not secure the return of the Scottish Government funds or the desired continuation of the economic benefits derived from the Gathering event. It was also considered likely that, if the proposed arrangement did not go ahead, the company would be forced into insolvency proceedings and as an ordinary creditor, and based on our knowledge of the financial position, there was no reasonable expectation of the Scottish Government being able to recover any funds.

I hope this information is of assistance to the Committee.
Yours sincerely,

PERMANENT SECRETARY
LETTER FROM THE CONVENER OF THE PUBLIC AUDIT COMMITTEE TO SIR PETER HOUSDEN, PERMANENT SECRETARY, SCOTTISH GOVERNMENT, 8 OCTOBER 2010.

INQUIRY INTO THE AUDITOR GENERAL FOR SCOTLAND (AGS) REPORT - THE GATHERING 2009

Further to my letter of 21 September, the Public Audit Committee took evidence from Sir John Elvidge on the AGS report entitled “The Gathering 2009” at its meeting on 6 October. A copy of the Official Report of that meeting can be found on the Committee’s webpage at:

http://www.scottish.parliament.uk/s3/committees/publicAudit/or-10/pau10-1601.htm

Having considered the evidence received, the Committee agreed that it wished to seek written evidence on the circumstances which led the Scottish Government to agree to write-off the £180,000 loan made to the Directors of the Gathering 2009 Ltd.

In oral evidence to the Committee, Sir John Elvidge said “the Scottish Public Finance Manual is very clear: the only basis for writing off a debt is that it is irrecoverable. I sought advice from the then director general for finance and corporate services, who said that the debt was indeed irrecoverable.”

The Committee would therefore seek further evidence from you on the processes followed by the finance and corporate services directorate which enabled the director general for finance and corporate services to advise the Permanent Secretary that the debt was irrecoverable.

It would be helpful if you could provide information on any due diligence work undertaken as part of that process, including who undertook this work and the timescales involved from when the Scottish Government began looking into the recovery of the debt, until it came to the conclusion that the debt was irrecoverable. It would also be helpful if you could indicate what the usual timescales are for undertaking this process.

I would be grateful for your response to this question by Monday 18 October, along with the response to my previous letter of 21 September. Please do let me know if this time frame presents you with any difficulties. Further information on the publication of written submissions is contained in the enclosed policy on the treatment of written evidence by committees.

Should you require any further information please do not hesitate to contact the Clerk, Jane Williams on 0131 348 5236 or by email at pa.committee@scottish.parliament.uk.

Yours sincerely

Hugh Henry MSP
Convener
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