LETTER FROM MICHAEL RUSSELL MSP, CABINET SECRETARY FOR EDUCATION AND LIFELONG LEARNING TO THE CONVENER OF THE PUBLIC AUDIT COMMITTEE, 21 DECEMBER 2010.

You wrote to me on 7 December following the Committee’s consideration of my oral evidence to the Committee at its meeting on 1 December 2010.

In response to that letter, I can confirm that, prior to the Scottish Government’s decision to award a short-term loan of £180,000 to The Gathering 2009 Ltd, I was not aware of any previous business failures involving Lord Sempill or Jenny Gilmour.

The Clerk to the Committee subsequently contacted my officials asking for a detailed written briefing on the issue of State aid and de minimis aid; and details of the financial information provided to the Scottish Government by the directors of The Gathering 2009 Ltd in April 2009.

Turning first to State aid, this is a European Commission term which refers to forms of assistance from a public body, or publicly-funded body, given to undertakings on a discretionary basis, with the potential to distort competition and affect trade between member states of the European Union. The 'State aid rules' are set out by the European Commission and comprise various articles of the EC Treaty, regulations, frameworks and guidelines - which set out what aid can be given.

The Scottish Government’s view is that the public funding provided to The Gathering 2009 Ltd was likely to constitute a State aid but that the funding could be provided using the regulations, frameworks and guidelines in a compatible way.

The European Commission considers that public funding to a single recipient of up to €200k over a three year fiscal period has a negligible impact on trade and competition and does not require notification. As the Committee noted in its meeting on 1 December, the letter that was sent to the company making the offer of the short-term loan referred to the funding as de minimis aid and asked the company to confirm any other de minimis funding received during the previous three years.

We do not have on our files any record of the company declaring other de minimis aid, but the Scottish Government considers that the £100k grant provided by EventScotland to the company and the £10,500 grant provided by the Heritage Lottery Fund would likely have fallen into this category.

As such, the Scottish Government identified an alternative way of providing allowable funding to the company. Under the European Commission’s Temporary Framework, public funding can be awarded to an undertaking up to a maximum of €500,000 as Small Amounts of Compatible Aid. The timeframe for awarding aid under this scheme is between 01/01/2008 and 31/12/2010.
We consider that the Scottish Government’s £100k grant to the company in December 2008 and £180k short-term loan in June 2009 were allowable state aid under this framework, together with the £80k funding awarded to the company by EventScotland as part of the Homecoming programme.

I turn now to the question of the financial information that was provided to the Scottish Government when they first reported a cash flow difficulty resulting from the World Pay issue in April 2009. As the Committee is aware, following my meeting with the Directors on 28 April 2009, the Directors produced a paper setting out their financial situation in some detail. Officials who were involved at the time recall that the financial information provided to the Government included the company’s overall budgetary position, its cash flow position, the amount being held by WorldPay at that point in time and future projections; and the terms of the agreements with WorldPay.

As the Permanent Secretary has already confirmed to the Committee, the Scottish Government does not hold a copy of that paper on its files so I am unable to provide a copy. I would however point the Committee to the evidence provided to the Committee by Jenny Gilmour and Jamie Sempill on 15 September 2010 in which they reported that they had provided the Scottish Government with both the overall budgetary position, and the cash flow position.

LETTER FROM THE CONVENER OF THE PUBLIC AUDIT COMMITTEE TO MICHAEL RUSSELL MSP, CABINET SECRETARY FOR EDUCATION AND LIFELONG LEARNING, 7 DECEMBER 2010.

AUDITOR GENERAL FOR SCOTLAND REPORT – THE GATHERING 2009

Following consideration of your oral evidence to the Committee at its meeting on 1 December, the Public Audit Committee agreed that it would seek further written evidence from you on the following issues which arose during the meeting.

http://www.scottish.parliament.uk/s3/committees/publicAudit/or-10/pau10-2101.htm

The Committee agreed that it would be helpful if you could confirm whether, prior to the Scottish Government decision to award a loan of £180,000 to The Gathering 2009 Ltd, you were aware of any previous business failures involving Lord Sempill or Jenny Gilmour.

I would be grateful for your response by no later than Monday 20 December 2011. Please do let me know if this time frame presents you with any difficulties.

Should you require any further information please do not hesitate to contact the Clerk, Jane Williams on 0131 348 5390 or by email at pa.committee@scottish.parliament.uk.