

Questions for Councillors August 2016

This questionnaire has been designed to gather evidence about Councillors' involvement and knowledge of the Edinburgh Trams Project. The questionnaire contains 12 questions and, for guidance, a list of issues that may assist you in answering these questions. Please ignore any questions and issues which you feel do not apply to you, for example, questions that relate to a period when you were not serving as a Councillor of the City of Edinburgh Council.

Your details

In order for the evidence to be analysed and taken forward by the Inquiry we require some information about you.

As you are responding as a Councillor (or ex-Councillor) your name and ward will be published, but your postal address, postcode, telephone number and email address will not be published.

Ward	Sighthill Gorgie
Period that you were a Councillor	1999 to present
Surname	Wilson
Forename	Donald
Postal Address	[REDACTED]
Postcode	[REDACTED]
Telephone	[REDACTED]
Email	[REDACTED]

What will happen to your response

Your answers will be considered by the Inquiry and will form part of the record of the Inquiry

All of the written evidence, unless deemed offensive or inappropriate, which is submitted through this process will also be published on the Inquiry's website at some point, either during the Inquiry proceedings or when the Inquiry Report is issued.

The Inquiry team may wish to explore the evidence you have provided in more detail. They may wish to contact you following completion of this questionnaire to take a

statement from you, and you may be invited to give evidence at an oral hearing. However, not everyone who submits written evidence at this stage will be invited to provide more information, and participation at any oral hearings would be by invitation only.

Questions

Please refer to the guidance to assist you in answering these questions.

1. Please provide an overview of your duties and responsibilities as a Councillor? Please also provide an overview of any duties and responsibilities you had in relation to the Edinburgh Trams Project.

I have been a Labour Councillor in the City of Edinburgh Council since 1999 firstly for Shandon Ward and then after reorganisation for Sighthill Gorgie.Ward. I have held the positions of Vice Convenor of Economic Development (1999-2000); Convenor of the Children and Young People Scrutiny Panel (2000-2001); Executive Member for Communications and Business Management and then Executive Member for Smart City (2001-2007); an opposition Councillor 2007-2012 and Lord Provost from 2012 to the present. I have never had any direct duties or responsibilities in connection with the Edinburgh Trams Project. Specifically I have never been a member of the Tram Project Board, TIE Ltd or TEL Ltd. . My involvement throughout the Project is solely for the majority of the period concerned as an opposition Councillor. I have not at any stage sat on any of the Boards or groups, neither managerial or advisory, associated with the Edinburgh Trams Project. Prior to the change of Administration in May 2007 I was Executive Member for Smart City but this had no involvement with the development of the Edinburgh Trams Project other than generally as a member of the Administration. Whilst in opposition I served as a Bailie and a variety of committees but never on Transport and Environment Committee (or its predecessor the Transportation Committee) either in opposition or Administration. I have never served on the Planning Committee. Out with the Council I served on a number of outside and arms length organisations most notably as Chair of the Science Festival and a member of EDI . None of these organisations had any connection with the tram project to my knowledge. Since becoming Lord Provost in 2012 as civic leader I have not served on any Council Committees and have convened the Full Council in a non Party political way.

2. Do you have any comments on the trams project during the initial proposals stage (i.e. between 2000 and 2006)?

My involvement at this stage was generally as a member of the Council's Executive (though not with specific responsibility for the project as previously indicated) and a member of the Full Council. This seemed generally a very positive phase culminating in the Audit Scotland Report in May 2007. In 2002 for example the Edinburgh Trams Project was ranked fourth in the top ten national transport projects by the Scottish Executive. There was a great deal of activity around the integration with existing bus routes and the development of Tram lines routes and the applications to the Scottish Government for the relevant powers. In March 2007 the Full Council instructed 'the Council Solicitor, in discussion with the Chief Executive and Director of City Development, to conclude an agreement with tie limited protecting the Council's interests in all aspects of the project; '.

3. Do you have any comments on the trams project in relation to events between May 2007 and the signing of the infrastructure contract in May 2008?

It was in May 2007 that I moved from part of the Administration to being a member of the opposition. Reporting on the project became more indirect at this point through transport spokespersons which is a role I never occupied or for example updates to the Full Council. The Audit Scotland Report in May 2007 concluded for example that 'Transport Scotland CEC and tie, all of which have satisfactory high level governance arrangements in place' (Key Messages 8.). Para 14 details why 'arrangements in place to manage the project appear sound'.

4. Do you have any comments on events after May 2008, including, in particular, in relation to the dispute that arose with the infrastructure consortium?

No. I was in opposition and not on the relevant Committees or groups nor even a spokesperson for this area. Detailed comments should come from those directly responsible for the negotiations. It is the case however that a succession of reports came to the Full Council delegating powers and authority to the Chief Exec and others such as the Director of Corporate Services to conclude contracts and conditions and indicating a threat to phase 1b. Costs appeared at this point to be still within the 'funding envelope' however. From 2008 on concern increased dramatically and this was reflected in the motions to the Full Council and Acts of Council calling for detailed information on costs and contractual information. This came to a head in Dec. 2010 when the whole contract was called into question.

5. Do you have any comments in relation to the settlement agreement reached at the Mar Hall mediation in March 2011, and finalised later that year?

Only that it was at this point that the project got moving again. From this point till the change of administration in 2012 progress seemed more rapid. The mediation and subsequent agreement seemed to have improved the situation.

6. Do you have any comments on the project management or governance of the trams project?

Nothing to add to my previous comments other than that it seemed to me the problems arose not at the start but in the period between 2008 and 2011. Expenditure prior to 2007 had been 44 million and there had been a lot of activity evident. In the next four years the expenditure rose to over 460 million but activity on the project fell away.

7. Do you have any comments on the reporting of information relating to the trams project to Councillors?

There was a clear lack of reporting to the Full Council though it has to be said that this was partly due to the legal and contractual nature of the negotiations.

8. Which body or organisation do you consider was ultimately responsible for

ensuring that the trams project was delivered on time and within budget?

The Administration in the Council (2007-2012). Some responsibility had been devolved to senior management and of course the Tram Project Board, TIE Ltd and TEL Ltd.

9. What do you consider were the main reasons for the failure to deliver the project in the time, within the budget and to the extent projected?

The lack of detailed information on the negotiations as outlined above makes it difficult for me as an opposition Councillor and not on any of the bodies concerned during the time when things were going wrong to identify the reasons. Full Council in its reports and updates tended to react to the worsening situation by bringing in remedial measures but this told us little of how the situation had been allowed to arise. We were often told that things were confidential and that commenting would prejudice the negotiations being undertaken by the senior management team and the Administration.

10. Do you have any comments on how these failures might have been avoided?

More direct involvement by the leaders of the Administration as happened post Mediation in 2011. This should have happened at an earlier stage.

11. What do you consider are the main consequences of the failure to deliver the trams project in the time, within the budget and to the extent projected?

There are many consequences of this failure. Firstly there is the waste of public money. Then there are the financial consequences to the businesses and organisations on and around the route of the trams. Thirdly there is reputational damage to the CEC and the City as a whole.

12. Are there any other comments you would like to make that fall within the Inquiry's Terms of Reference and which have not already been covered in your answers to the above questions? (The Terms of Reference can be found on the [Inquiry's website](#))

Nothing to add other than to reiterate that during 2007 to 2011 the expenditure went up and the activity slowed to a halt. Repeated attempts by the opposition to clarify the remedy the situation seemed to fail. It was not until the remedial action of 2011 that the activity became once again obvious and the project started to again move forward.

Guidance: **Possible issues to consider in your response**

Your duties and responsibilities

1. It would be helpful if you could set out the dates you served as a Councillor, the Ward you represented, the political party (if any) you were a member of and any positions in CEC you held (e.g. membership of committees, Group Leader etc)?
2. Were you a member of the Tram Project Board, TIE Ltd or TEL Ltd? If so, please provide dates.
3. Do you consider that you, or other Councillors, had any relevant qualifications or experience that assisted when taking decisions relating to the Edinburgh Trams Project? Did you receive any training or guidance in that regard? Do you consider that any such training and guidance would have been helpful? If you were given some training was it sufficient to enable you to fully consider the issues relating to the trams project that were brought before the Council? If not what was missing?
4. Did the fact that not all members/political parties supported the trams project cause any problems or difficulties (and, if so, in what way)?

Initial proposals (2000 to 2006)

5. What were your views on the creation of TIE to deliver the various projects forming part of the Council's New Transport Initiative, including the Edinburgh Trams Project? What was your understanding of how CEC would, and did, exercise control over TIE? Did you have any concerns in relation to these matters?
6. Various draft Business Cases and STAG (Scottish Transport Appraisal Guidance) appraisals were produced between 2002 and 2006. Did you have any views on these documents including, for example, the various estimates for the project and the allowance for risk?
7. The Council decided in January 2006 to build the tram network in phases, with a first phase to be built from Edinburgh Airport to Leith Waterfront. What was your understanding of the reason for that decision? What were your views?
8. What was your understanding of the procurement strategy for the trams project including, in particular, the aims of the procurement strategy, the extent to which design and utility diversions would be complete before the infrastructure works commenced and the extent to which the infrastructure contract would be a fixed price contract?

Events between May 2007 and May 2008

9. Following local government elections in May 2007 the administration of the Council changed from a Labour administration to a Liberal Democrat/SNP coalition. Do you consider that that had any effect on the trams project (and, if so, in what way)?
10. Following national elections in May 2007, and a vote in the Scottish Parliament, the SNP government announced that funding from Transport Scotland for the trams project would be capped at £500m. What was your awareness and understanding of the extent to which the capping of the grant from central government represented an increased risk for CEC? What was your understanding of the steps taken by CEC following the capping of the grant to address, quantify and mitigate any increased risk?
11. The Council's approval was sought in October and December 2007 for the Final Business Case for the trams project. In general, what were your views on the Final Business Case?
12. What was your understanding in late 2007 of the extent to which design and utility works were complete? What was your understanding of any difficulties that could arise from incomplete design and utility diversion works and how any such difficulties would be addressed?
13. What was your understanding in late 2007 of the extent to which the infrastructure contract was a fixed price contract? What was the basis of your understanding? How important to you was it that the infrastructure contract was a fixed price contract? To what extent, if at all, did your understanding in that regard influence your vote on whether the trams project should proceed?
14. What was your understanding of the allowance for risk made by TIE/CEC (including the amount of the risk allowance and the main risks allowed for)?
15. In early 2008 there were various increases in the price of the infrastructure contract. What was your understanding of the reasons for these increases?
16. The infrastructure contract was signed in May 2008. What was your understanding at that time of (i) which party bore the risks arising from any incomplete design and utility diversion works, (ii) the extent to which the infrastructure contract was a fixed price contract and (iii) the extent to which the aims of the procurement strategy had been met?

The dispute (May 2008 onwards)

17. In general, what information were you given as to the progress made with the design, utility diversion and infrastructure works after May 2008? Were you given progress reports or revised estimates of risk?
18. When, and how, did you first become aware of the dispute between TIE and the infrastructure consortium, BSC? What was your understanding of the nature of the dispute and the reason(s) for the dispute? What were your views on the dispute, including which party or parties were primarily responsible for

the dispute arising? What was the basis of your understanding of these matters? Did your views on these matters change at any time (and, if so, when and why)?

19. A dispute arose in respect of track laying works due to commence at Princes Street in February 2009. What were you told about the Princes Street dispute and the agreement to resolve that dispute? What were your views?
20. What was your understanding of, and views on, TIE's strategy to resolve the dispute? To what extent, if at all, did you consider that that strategy had been approved by the Council?
21. What were you told about the use of the contract dispute resolution procedures including, in particular, the referral of certain of the disputes to adjudication? What were you told about the outcome of these procedures including, in particular whether the outcomes were more favourable to TIE or to BSC? What was the basis of your understanding of these matters?
22. What were your views on the letters sent by BSC directly to Council members in 2010?
23. In late 2010 the Council were provided with a refreshed Business Case, which recommended building a line from the Airport to St Andrew Square. What were your views on that proposal?
24. At a Council meeting in December 2010 an amendment was passed to request a review of the updated Business Case by a specialist public transport company with no previous involvement with the trams project. What was your understanding as to why members requested that review?

The Mar Hall mediation in March 2011

25. What were your views on the proposals for mediation that took place at Mar Hall in March 2011? To what extent, if at all, were Councillors consulted on, or had an input into, CEC/TIE's strategy for the mediation?
26. What were you told about the outcome of the mediation? What were your views?
27. What did you understand to be the main changes brought about as a result of the mediation?
28. Do you consider that you were provided with adequate briefing in relation to the mediation, both before and after the mediation?
29. What was your understanding of, and views on, the Council's decision in late 2011 to build a line from the Airport to Haymarket before, shortly afterwards, voting to build a line from the Airport to St Andrew Square/York Place?
30. What were your views on the settlement agreement reached in September 2011?

Project management and governance

31. What did you understand to be the respective roles and responsibilities of CEC, TIE, TEL, the Tram Project Board and Transport Scotland in relation to the trams project?
32. Do you have any views on whether members and officers of CEC should have been more actively involved in the project? Did you hold these views at the time or later? Do you consider that members and officers of CEC exercised effective oversight and control over the trams project (and, if not, why not)?
33. Did you have any concerns at any time in relation to the performance of any of the bodies involved in the project management or governance of the trams project, or the senior personnel in any of these bodies? If so, what were your concerns? Did you report or discuss any such concerns with anyone (and, if so, with whom and what was their response)?

Reporting

34. Which official or officials in CEC were responsible for advising Councillors of developments relating to the trams project, including explaining the risks and liabilities of the Council arising from the project?
35. Were issues relating to the project discussed separately or in the course of other Council business? Do you consider that there was sufficient time at Council meetings to discuss and consider the project? Did you have a free vote in relation to matters relating to the trams project or were you required or encouraged to vote along party lines?
36. How were you, as a Councillor, kept informed of developments relating to the trams project?
37. Did other Council members (including the Council Leader, the Finance and Transport Convenors and Group Leaders) receive separate briefings on the project? If so, did they, in turn, keep you informed?
38. What was your understanding about the level of information that you required before taking a decision in respect of the trams project?
39. In general, do you consider, that Council members were provided with sufficient information in relation to the trams project? Do you consider that members were advised in sufficient detail of developments in relation to the trams project? Were members provided with any guidance (eg on financial and or technical matters) to assist them in coming to decisions? Was information and advice provided in a clear and intelligible form? Did you have the opportunity to request further information, or seek further guidance, advice or clarification and, if so, by what means? Did you ever make such a request and, if so, what was the response? Do you consider that the information and advice provided to members was accurate? Did you have any concerns in relation to these matters? If so, did you express these concerns to others (and what was their response)?

40. To what extent did concerns over commercial confidentiality affect the information provided to and from Council members? What steps were taken to address any such concerns? Do you consider that concerns in relation to commercial confidentiality adversely affected Councillors' understanding of the project (including the problems that arose) and their ability to take informed decisions?
41. What was your understanding in relation to the extent to which information provided to Council members derived from TIE and the extent to which it was produced or checked by Council officers?
42. How did you report matters relating to the trams project to your constituents? Did your constituents report concerns relating to the trams project to you? If so, how and what steps did you take to address your constituents' concerns?
43. To what extent, if at all, was your understanding of, and views on, the trams project informed by what was reported in the media?

Cost overrun and consequences

44. When, and how, did you first become aware that there was likely to be a significant cost overrun, including that the total cost of the project was likely to exceed £545m? What did you understand to be the main reason(s) for that overrun?
45. What was your understanding following the Mar Hall mediation as to how the additional contribution by the Council would be financed, including the different financing options? What was your understanding about the effect that was likely to have on the Council's finances and expenditure, including on services and capital projects etc?
46. Do you consider that Councillors were kept properly informed of the risk of a cost overrun throughout the project, including the likely amount of the overrun?
47. What do you consider to be the main consequences of the failure to deliver the trams project in the time, within the budget and to the extent projected, both on your constituents and more generally?
48. To what extent did the shortened line result in the project failing to meet the objectives and benefits set out in the Final Business Case?
49. What was the effect of the additional borrowing by CEC for the trams project on the Council's finances and expenditure, including on services and capital projects etc.?