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**From:** Colin MacKenzie  
**Sent:** 01 April 2009 11:19  
**To:** Alan Coyle  
**Cc:** Marshall Poulton; Max Thomson; Nick Smith; Andy Conway  
**Subject:** RE: EDINBURGH TRAMS: GRANT AWARD LETTER

Alan,

Thanks and noted. I was not suggesting anybody was acting in a fraudulent or misleading manner, but merely flagging up that we have to bear the relevant obligation in mind for future communings with Scottish Ministers.

Kind regards,

Colin MacKenzie  
for Council Solicitor

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**From:** Alan Coyle  
**Sent:** 31 March 2009 13:24  
**To:** Colin MacKenzie  
**Cc:** Marshall Poulton; Max Thomson; Nick Smith; Andy Conway  
**Subject:** RE: EDINBURGH TRAMS: GRANT AWARD LETTER

Colin

I don't see that we will be holding back information. A range of outturns and costs were presented at the end of last week which gave open for revenues of Feb 2012 -Oct 2012 (unmitigated) and between £533m and £545m. I've been through the numbers with SMG and the assumptions and don't think we are being fraudulent or misleading. I think we do need a broad range of outcomes to assess the affordability issue and the set of circumstances that drive the costs. I hope this will be covered by the strategic options.

A

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**From:** Colin MacKenzie  
**Sent:** 30 March 2009 16:52  
**To:** Alan Coyle  
**Cc:** Marshall Poulton; Max Thomson; Nick Smith; Andy Conway  
**Subject:** EDINBURGH TRAMS: GRANT AWARD LETTER  
**Importance:** High

Alan,

At last Wednesday's inaugural meeting of the Commando Squad we discussed whether the Council was obliged to be wholly transparent with Transport Scotland/Scottish Ministers about the true financial position on the project. The thinking, subject to looking at the Grant Award Terms and Conditions, expressed by Nick was that we should be open about such matters.

I have checked the Terms and Conditions and consider Clause Clause 13 to be relevant. This provides that certain events shall constitute an Event of Default ( by the Council ): this includes "the Council knowingly and deliberately giving any fraudulent information to the Scottish Ministers which read as a whole is incorrect or misleading....". By implication I would contend that this obligation ( generally to act in good faith ) would extend to holding back information, thereby misleading Scottish Ministers as to a material financial aspect of the Project.

Kind regards,

Colin MacKenzie  
for Council Solicitor