

EDINBURGH TRAMS

CALLS FOR AN INQUIRY: The Scottish Government will be delighted to have a public inquiry into the problems surrounding this project. However, the current situation demands that the immediate focus should be on delivering the project. The First Minister is on record as having publicly stated support for such an inquiry (FMQs on 23rd June)

Transport Scotland now has a more direct role in the delivery of the Edinburgh Trams project in partnership with the City of Edinburgh Council.

- Edinburgh Trams remains a City of Edinburgh Council project and they will remain the client under the contract.
- Revised grant conditions are being put in place for the release of the remaining £72, million and the details of the revised governance arrangements, including how Transport Scotland can best assist the Council in delivering the project.
- **SG does not propose to provide additional funding beyond the £500m committed to the project in 2007.**

Transport Scotland's role

- While Edinburgh Trams remains a City of Edinburgh Council project and will remain the client under the contract, following the announcement of 14 September, **Ministers will have the power to direct strategic project decisions. Ministers will also be given regular progress updates from the project team.**
- Transport Scotland's new role involves a team of around 4 or 5 staff. Transport Scotland Director will be on the new project Board and Transport Scotland staff will work alongside Edinburgh Council staff in key senior roles.
- Transport Scotland staff are based in the same offices as CEC and the contractor and work in partnership to ensure that problems are identified quickly and solutions found to avoid the approach under previous TIE Ltd regime that saw the contract blighted by disputes.

Issue: Edinburgh Trams - Freedom of Information Requests.

The Scottish Government is required to handle such requests as Mr Okasha's recent case under the Environmental Information Scotland (Regulations) 2004. The information released on the role of Transport Scotland in the Trams included submissions to John Swinney with advice on the Governance of the trams project particularly regarding the decision to remove Transport Scotland from the Tram Project Board in 2007. Some information was redacted because it contained;

- Information **not relevant** to the request; (advice on the Edinburgh Airport Rail Link)
- Names of officials were redacted in line with Scottish Government policy on the **release of officials names**;
- Information concerning **on going policy development** (e.g. concessionary fares).

Issue: Removal of Transport Scotland from the Tram Project Board:

Transport Scotland was removed in August 2007 because – “the City of Edinburgh Council was to be the owner of the owner and that it was appropriate for us, in the role as funder for the project, to take a different role rather than being on the project

board.” – Evidence that Transport Scotland gave to the Public Audit Committee, 2 March 2011

FINANCE AND EXPENDITURE TO DATE: To date, the SG has paid £12m from the £72m leaving £60m of grant funding remaining. In total £440m out of the £500m allocation has been paid. Council is proposing to use prudential borrowing to raise additional £231m to complete the line to St Andrew Sq and York Place. Council Leader, Jenny Dawe, confirmed they would not be seeking any more money from the Scottish government above the £500m already allocated. The following table summarises the original project cost and subsequent cost escalations since contract award:

14 May 2008	Estimated final cost at contract award £512m
13 Nov 2008	Revised estimate £533m
3 Mar 2009:	Revised estimate £546m
18 Jun 2009:	CEC admits that their estimated final costs still under pressure
4 Mar 2010:	Final cost estimate of £545m confirmed unachievable
10 Jun 2010	Revised estimate £600m
9 December 2010	Final estimate of £600m likely to be exceeded
30 June 2011	Revised estimate to complete to St Andrews Square now £773m
2 September 2011	Revised estimate to St Andrews Square now £776m

Expenditure

The funding for the years 2002/03 to 2004/05 were authorised under a previous grant arrangement

Financial Year	02/03	03/04	04/05	05/06	06/07	07/08	08/09	09/10	10/11	11/12
Amount £m	2.0	7.2	6.4	13.5	25.7	50.6	122.6	107.2	58.4	62.0

Future Years	12/13	13/14	14/15
Amount £m	25	25	10

CALLS FOR AN INQUIRY:

The Scottish Government opposed the trams project, but were outvoted in the Scottish Parliament in 2007. Given the clear failures of the previous management, Ministers are working with the Council as part of a new management team that will include Transport Scotland’s experience and expertise.

We are very happy to have a public inquiry into the trams issue, and will do so once the full circumstances can be examined. The current situation demands that the immediate focus should be on delivering the project.

Kezia Dugdale (Lothian) (Lab): *In the light of new information regarding the cost of the Edinburgh trams project, does the First Minister agree that the time has come to instigate a full public inquiry?*

The First Minister: *I am supportive of a public inquiry into the trams project. We should let the City of Edinburgh Council continue its deliberations, but a public inquiry would be an excellent thing to do. I say as gently as possible to the member*

that, if it comes to a public inquiry, some people and some political parties will have more to worry about than others.

Ian Gray approved the funding for trams in 2003

In a press release issued by the then Scottish Executive on 4 March 2003 headlined “Funding secures Edinburgh’s new tram line” the Transport Minister announced the promise of £375 million investment in public transport improvements for Edinburgh.

Transport Minister Iain Gray said: *“To keep our cities moving we want to support modern, efficient public transport infrastructures and the creation of a tram network for the city will make a significant contribution to that.”* – 4 March 2003 The press release continues:

“It will secure at least the completion by 2009 of the 'north Edinburgh loop', the first tram line for the city in almost 50 years.” It will provide a circular service linking the city centre with Leith and Newhaven as well as passing through the Waterfront development area.”

Other opposition politicians disregarded the Scottish Government’s concerns

2002: - CEC setup Tie..Ltd to project manage their Trams project. -and Ian Gray, Transport Minister agreed to provide £375m funding for the project.

2004 - 2007: Transport Scotland on the Tram Project Board in an advisory capacity Ian Gray, Nicol Stephen and Tavish Scott were Transport Ministers until 2007

June 2007: - Parliament agrees £500m funding for project so on basis of secured funding TS withdraw from the Project Management Board

Debate 27 June 2007

“By supporting that (the Labour) amendment, Parliament has the opportunity to send the message that we are in favour of the trams project.” **Derek Brownlee,**

“Messrs Salmond, Swinney and Stevenson claimed on the record that costs were running out of control” **Nicol Stephen,**

“We cannot allow the new Government to condemn our capital city to a grinding halt.”

“Are the ministers seriously suggesting that we should stop it and wait until we have the business case, which would mean losing months of progress?” **Sarah Boyack,**

NATIONAL CONCESSIONARY FARES: A decision on whether or not to include the trams in the National Concessionary Fares Scheme will be made nearer completion of the project.

COMPLAINT UNDER AARHUS CONVENTION: A group of individuals calling themselves the “Moray Feus”, have complained at UN level regarding the Edinburgh Trams project - the hearing is due in Geneva on 15 December. Scottish Government Officials, along with representatives from City of Edinburgh Council and UK Government, have instructed UK Counsel to make representations on the UK’s behalf. Transport Scotland is working with the City of Edinburgh Council, who are of course leading on this matter and attending the hearing, as needed.

The group argue that the private bill process for the 2006 Trams legislation does not adequately meet the Convention obligations on this front. We understand the group also intend to make submissions about the cost of bringing any legal challenge to the legislation and that it is in breach of the Convention requirement that access to justice must not be “prohibitively expensive”.

So far as we can anticipate, we think it unlikely the Committee will uphold the 2006 Trams legislation complaint, however, we do not yet know to what extent the

complainers or the Committee will focus on the access to justice point. If they do there is a strong likelihood – given previous UN draft rulings, and the fact the position across the UK is largely similar – that the Committee will ultimately make another adverse finding.

There are no sanctions available to the UN, but an adverse ruling will increase pressure on the UK generally, and Scotland in particular, to take measures to comply with the Convention and the EU directives which in part implement them. Our immediate priority should continue to be to address the EU infraction, given that this has now progressed to the ECJ, with wider compliance with our international obligations being dealt with as part of our action plan referred to in the recent Protective Costs Order consultation Cabinet Paper.

CURRENT ISSUES

BBC Scotland have asked CEC about Richard Jeffrey's departure from TIE

To note that BBC Scotland have asked CEC about Richard Jeffrey's payment as part of his compromise agreement on departure from TIE. Details of the payment are being withheld under the terms of that agreement.

CEC Cllr Gordon Mackenzie was interviewed yesterday afternoon (7 March) by BBC's David Miller on the above. The story is likely to focus on local political disagreement over whether the terms should be released or not. This is expected to have run online last night and will feature on GMS this morning, and subsequent radio bulletins and (briefly) on breakfast, lunchtime and Rep Scot TV news.

The Scottish Government's position is that this is entirely a matter for CEC.

Richard Jeffery took over from Willie Gallagher as Chief Executive of TIE, and was in the post for two years from May 2009 – 8 June 2011. Previous to this Mr Jeffery was the Managing Director of Edinburgh Airport.

Daily Record Queries regarding waste disposal

An article in the Daily Record on Friday 2 March 2012 claimed that waste material from the Baird Drive area was not disposed of properly. The article alleges that contaminated waste was taken to a dump which should only be used for 'inert' waste. It is understood that the allegations came from a sub-contractor who failed to win the contract for waste disposal.

A spokesperson on behalf of City of Edinburgh Council and Bilfinger Berger said:

"The article in today's Daily Record is inaccurate and misleading.

"The waste soil from the Baird Drive area has been tested by an accredited company and independently classified as inert. SEPA have worked with Bilfinger Berger to examine those results and we are confident that the classification will remain unchanged. Bilfinger Berger are working with SEPA to ensure public safety remains paramount.

"We would like to reassure everyone that there is no risk to public health".