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**From:** Colin MacKenzie  
**Sent:** 01 May 2008 14:58  
**To:** Rebecca Andrew; Andy Conway; Nick Smith  
**Subject:** RE: Tram Sub Committee 12 May - SDS Claims.doc

**Importance:** High

Rebecca,

You will note that I have not copied this response to Stewart for reasons which will become obvious.

Stewart is entitled to his view of the definition of a "claim". However, this requirement to report was introduced by members, following Councillor Wheeler's addendum at Council. The debate is not minuted *verbatim*, but I suspect this would have been moved so that members have more transparency on the costs of the project. **tie** must appreciate that it is public money which is being spent; with that comes accountability to members. I would resist any attempt to change the report.

Turning to the report, I have a couple of minor suggestions.

At **1.1** after "Sub-Committee" consider adding "as required by Council"...

It might be worthwhile inserting a new paragraph **3.1 "The remit of the Tram Sub-Committee was approved by Council on 20 September 2007, with the proviso that the Sub-Committee was empowered to take the final decision with respect to the settlement of any financial claims that might arise against tie/the Council, subject to ratification by the full Council for amounts in excess of £500,000."** This should help focus minds on why the report has to come in the first place, but according to the Act of Council, it would normally have to be ratified by full Council given the value involved. Since this claim was settled at a time when TPB had no authority to do so, all the Sub-Committee or Council can do is to note. As a matter of interest do you know when the money went out the door to SDS; was it before or after 20 September 2007 ?

If you accept the new paragraph, then the subsequent paragraphs will fall to be re-numbered. The date in old **3.2** should be September 2007. The reference to TPB acting " in accordance with governance arrangements operating at that time " is not appropriate. In September 2007 TPB effectively had no power from the Council, whatever **tie** and TEL might have believed.

Kind regards,

Colin MacKenzie  
for Council Solicitor

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**From:** Rebecca Andrew  
**Sent:** 01 May 2008 13:02  
**To:** Stewart McGarrity; Andy Conway; Colin MacKenzie; Nick Smith  
**Subject:** RE: Tram Sub Committee 12 May - SDS Claims.doc

Please see revised report.

Stewart - can you confirm whether this meets your requirements?

Colin/Nick - can you review para 3.2 to ensure the governance part makes sense?

Thanks

Rebecca

Rebecca Andrew | Principal Finance Manager | Financial Services | The City of Edinburgh Council | Waverley Court,  
Level 2:5, 4 East Market Street, Edinburgh, EH8 8BG | Tel [REDACTED] | [rebecca.andrew@edinburgh.gov.uk](mailto:rebecca.andrew@edinburgh.gov.uk) |  
[www.edinburgh.gov.uk](http://www.edinburgh.gov.uk)

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**From:** Stewart McGarrity [mailto:Stewart.McGarrity@tie.ltd.uk]

**Sent:** 01 May 2008 11:30

**To:** Rebecca Andrew

**Cc:** Donald McGougan; Willie Gallagher; Steven Bell; Susan Clark; Graeme Bissett; Dennis Murray; Duncan Fraser

**Subject:** FW: Tram Sub Committee 12 May - SDS Claims.doc

Rebecca,

The wording looks fine to me. However I think the definition of what is a "claim" is absent and the full amount of these settlements are not in my opinion claims however you define it. In my email to Alan of 25 April I said:

*To fulfil your pre-close requirements and to address Donald's letter to Willie of 18<sup>th</sup> March I am providing chapter and verse on the pre-existing settlement with SDS dating back to September last year of £2.5m (including c£1.0m of changes and like matters) and an additional settlement being proposed at Novation which stands at £450k (including c£250k in respect of changes and like matters). It's important to realise that only a part element of these settlements is in respect of 'claims' and even then these are what I regard as normal commercial settlements rather than disputes requiring recourse to a dispute resolution procedure, adjudication or arbitration.*

I repeat what I said above - in my opinion it is inaccurate to report that that the full £2.5m + £450k are "claims" however that word is defined. It is normal commercial practice to wrap up valid variations / changes to scope or programme in an overall commercial settlement.

Call me if you need to discuss.

Stewart

Stewart McGarrity  
Finance Director  
tie Limited  
Mobile: [REDACTED]

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**From:** Rebecca Andrew [mailto:Rebecca.Andrew@edinburgh.gov.uk]

**Sent:** 01 May 2008 09:29

**To:** Stewart McGarrity

**Subject:** FW: Tram Sub Committee 12 May - SDS Claims.doc

Can you review urgently please, as this report needs to be sent to committee services today, if possible.

Thanks very much,

Rebecca

Rebecca Andrew | Principal Finance Manager | Financial Services | The City of Edinburgh Council | Waverley Court,  
Level 2:5, 4 East Market Street, Edinburgh, EH8 8BG | Tel [REDACTED] | [rebecca.andrew@edinburgh.gov.uk](mailto:rebecca.andrew@edinburgh.gov.uk) |  
[www.edinburgh.gov.uk](http://www.edinburgh.gov.uk)

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**From:** Alan Coyle

**Sent:** 30 April 2008 16:52

**To:** Rebecca Andrew

**Cc:** Donald McGougan

**Subject:** Tram Sub Committee 12 May - SDS Claims.doc

Rebecca

please find attached Draft SDS Report. The path for the document is noted below.

G:\Projects\Trams\Committee Reports\Tram Sub-Committee\Tram Sub Committee 12 May - SDS Claims.doc

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