

## 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your name and ward will be published, but your postal address, postcode, telephone number and email address will not be published.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	I have been a Councillor with the City of Edinburgh Council from 1996 to date.
Surname	Milligan
Forename	Eric
Postal Address	City Chambers High Street Edinburgh
Postcode	EH1 1YJ
Telephone	██████████
Email	██

### 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 Councillor with the City of Edinburgh Council since 1996. I am a member of the Labour Party. The Labour Group on the Council was in Administration from 1996 to 2007. From 2007 to 2012 a coalition of the Liberal Democrat and SNP Groups was in Administration. From 2012 to date the Labour Group has been in Administration in coalition with the SNP Group. During that time my duties have been as follows:

- 1996 to 2003 – Lord Provost
- 2003 to 2007 - Chair of Lothian and Borders Police Board
- 2007 to 2012 – Member of the Planning Committee and Lothian and Borders Police Board
- 2012 to date – Chair of Edinburgh Licensing Board; member of the Education, Children and Families Committee, the Culture and Leisure Committee, the Economic Development Committee and the Planning Committee.

I have never held any post directly related to the Edinburgh Trams Project. My response to these questions is therefore based on information I received as a member of the Council rather than a member of the Transport Committee, TIE or TEL.

There may have been a case for Councillors who were more intimately involved in the project to have benefited from a clearer understanding of the complexities of introducing a tram system into a historic city centre. They were too dependent on the professional advice that came from Council officers and officers employed by Tie.

Between 2003 to 2007 the Labour Administration, the Liberal Democrat Group and, less so, the Conservative Group were supportive of the tram project. The SNP Group was opposed to the project but at this stage they only had one member. The SNP Group expanded in 2007 and was very vocal in its opposition to trams on the grounds that their introduction would be expensive and disruptive.

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

The Labour Group was in Administration from 2000 to 2006. At March 2007 around £44m had been spent on the Tram Project and two full Parliamentary Bills had received formal approval and were on the statute book. By 30 June 2011 (when Labour was in opposition) expenditure stood at over £460m, indicating that around £100m a year had been expended during the intervening four years (2007-2011) with no trams yet on the streets of Edinburgh.

There was a view that the political parties should try to reach political consensus on this issue. Setting up TIE was an attempt to make it less politically partisan. TIE was headed up by a highly respected business figure in Edinburgh. My understanding was that TIE, with representatives of the Council on its Board, would advance a proposal which would then be considered by the Council.

The Council was persuaded that the Business Case stacked up because otherwise we would never have approved it.

There is no doubt that a modern, swish public transport link that would connect the airport to the seaport with Line 1b to quickly follow, connecting the original line to the Granton area of Edinburgh which was seen at the time as an important priority in revitalising the waterfront area, was for many members a powerful argument. Connectively between the city, the waterfront and the Leith area were seen as goals to be pursued as there was a perception that the population in those two areas felt disconnected and they were perceived to be remote areas excluded from much of what Edinburgh offered.

The issue of the fixed price contract was heavily influenced by the SNP minority government's decision to cap the contribution they were willing to make to 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?

The Liberal Democrat/SNP coalition came into power in 2007. This had a big impact on the project. One of the Coalition parties was trying to thwart the project while the other party carried forward its support for the project. The SLD Group had no real experience of being in power. It took them some months after May 2007 to familiarise themselves with what was involved and to take leadership roles within the Council as distinct from being a fringe party on the margins. As a result of the political management arrangements in the previous Administration, they hadn't had access to the same information as the ruling party. The Labour Group now found itself excluded from the effective decision making within the Council.

I had no reason to believe that the final business case wasn't sufficiently robust. You do take on trust that those intimately involved with the project were themselves satisfied that the business case stacked up.

It was first flagged up that the project would be phased and line1b would not be progressed quite soon after the new Administration came into power. At this point the Labour Group started to become very concerned about the whole project.

Personnel changes at a senior level within the project seemed to coincide with the decision not to go ahead with line 1b and that was when real concerns started to be felt. Councillors found it difficult to get information at this point because it was often of a confidential nature.

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?

The dispute was reported to Council in late 2008/early 2009. Relationships were delicate and the Council was anxious not to be publicly seen to be doing anything to aggravate the tensions that were developing.

We were told categorically that the Council had run out of money and the project was in danger of collapse. The Labour Group decided they could not be involved in a project of this scale and expense and that therefore the Council should build what it could and complete the project as far as it could with the money available and to decide in the future how to build on that.

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?

At the time the Labour Group was relieved that at least some sort of progress was being made.

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

My understand is that it was TIE who were responsible for delivering the project within the budget provided. The Convener of the T&E Committee from the Liberal Democrat Group was moved from his post about two years into their Administration. It's obvious from this that there were concerns within that Group and the Labour Group was also alive to the problems which were developing. Personnel changes within TIE did not help at this time.

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

Once you set up a body to deliver a project it's necessary for the Council to be involved but the Council's relationship with delivering the project was indirect and therefore not very effective. There was a genuine wish by the Labour Group to be supportive. We were very aware that the two coalition parties didn't see eye to eye. This was a major project and it didn't seem wise for the Liberal Democrat Group to have gone into coalition with a political group which was opposed to its introduction.

8. Which body or organisation do you consider was ultimately responsible for ensuring that the trams project was delivered on time and within budget?

I believe Tie was ultimately responsible.

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?

I don't think the challenges were fully appreciated in developing a tram system through the centre of Edinburgh, a tight city centre, the extent of the disruption and how this would impact and clearly it proved a lot more expensive and took far longer than anticipated.

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

The Liberal Democrat/SNP coalition had a fault line running right through its middle. Attempts to depoliticise the situation failed miserably and it became very political.

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?

I hope that in the foreseeable future the Council is able to realise the monies that will allow it to complete what it set out to do from the start. It may be some considerable period of time.

What the city now has is a half-built project which is of limited value as it is not making a meaningful contribution to Edinburgh's transport challenges. This has resulted in undermining the public's confidence in the Council taking on a major project in the future; it has done serious damage to the standing of the Council with the public. Anyone wanting to ridicule the Council has an easy stick to use. It has taken up so much time and resources available to Council and has had a detrimental impact on other things the Council is responsible for. It has also skewed Council priorities with regards to capital expenditure which will probably last for some time to come.

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](#))

## **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.?