



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC AUDIT COMMITTEE

Wednesday 9 February 2011

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PUBLIC AUDIT COMMITTEE

4th Meeting 2011, Session 3

CONVENER

*Hugh Henry (Paisley South) (Lab)

DEPUTY CONVENER

*Murdo Fraser (Mid Scotland and Fife) (Con)

COMMITTEE MEMBERS

*Willie Coffey (Kilmarnock and Loudoun) (SNP)

*George Foulkes (Lothians) (Lab)

*Jamie Hepburn (Central Scotland) (SNP)

*Mr Frank McAveety (Glasgow Shettleston) (Lab)

*Anne McLaughlin (Glasgow) (SNP)

*Nicol Stephen (Aberdeen South) (LD)

COMMITTEE SUBSTITUTES

Derek Brownlee (South of Scotland) (Con)

Linda Fabiani (Central Scotland) (SNP)

James Kelly (Glasgow Rutherglen) (Lab)

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Mr Robert Black (Auditor General for Scotland)

Malcolm Chisholm (Edinburgh North and Leith) (Lab)

Graeme Greenhill (Audit Scotland)

Shirley-Anne Somerville (Lothians) (SNP)

CLERK TO THE COMMITTEE

Jane Williams

LOCATION

Committee Room 1

Scottish Parliament

Public Audit Committee

Wednesday 9 February 2011

[The Convener *opened the meeting at 10:00*]

Decision on Taking Business in Private

The Convener (Hugh Henry): I convene the fourth meeting in 2011 of the Public Audit Committee and ask all members of the public, committee members and others to ensure that electronic devices are switched off. I welcome Audit Scotland staff to the meeting. Before I get to the main items on the agenda, I am sure that the plebeian members of the committee will wish to recognise that we now have two lords in our midst. I congratulate Lord Stephen on joining the great and the good.

Members: Hear, hear.

Nicol Stephen (Aberdeen South) (LD): Thank you.

The Convener: Agenda item 1 is to decide whether to take in private item 3 and whether to take in private at future meetings consideration of our legacy paper and annual report. Are members agreed?

Members *indicated agreement.*

Section 23 Report

“Edinburgh trams interim report”

10:02

The Convener: Item 2 is consideration of a section 23 report, “Edinburgh trams interim report”. I welcome to the meeting Malcolm Chisholm and Shirley-Anne Somerville, both of whom have at various times expressed specific interest about the project’s development.

I invite the Auditor General for Scotland to brief the committee on the report.

Mr Robert Black (Auditor General for Scotland): Good morning, convener, and thank you for this opportunity to introduce the report. Given the complexity and importance of the subject, my introduction might take a few moments longer than normal.

This report, which was published on Wednesday 3 February, has been undertaken jointly with the Accounts Commission. As members are aware, the commission has formal responsibility for the oversight of local authorities and clearly the project in question very much involves the City of Edinburgh Council.

It is an interim report on a major project that is clearly far from being completed. In recent years, there has been something of a trend for requests to come to us for interim audit reports on live projects. I always consider such requests very carefully and, in each case, I have to judge whether an interim audit is in the public interest and in the interests of the Parliament. If I ask Audit Scotland to undertake such an audit, my colleagues and I are always very careful to explain clearly the scope of the work and, in particular, its limitations.

Back in June 2007, I brought to the committee a short report on the overall project management arrangements for both the Edinburgh tram project and the Edinburgh airport rail link and at the time made it clear that the report did not provide assurances on the accuracy of the estimated project costs; did not examine the operating costs or projected revenues; and did not review the options appraisals for either project or the benefits that were expected to be generated.

At that time, both projects were still at a relatively early stage. With regard to the trams, the City of Edinburgh Council had yet to approve the final business case. Some utilities diversion works had commenced, but major contracts for the construction of infrastructure and tram vehicles had yet to be awarded. The report concluded that although the overall arrangements to manage the

project appeared to be sound, a range of key tasks, such as negotiations with bidders over the infrastructure construction contract, needed to be completed before the business case could be signed off and I said that, unless work progressed to plan, cost and time targets might not be met.

Since then, concerns have been expressed in Parliament, the media and elsewhere about reports of rising costs and delays becoming significant. In particular, Transport Initiatives Edinburgh, which is the arm's-length company established by the council to deliver the project, has confirmed that the whole of phase 1a, running from Edinburgh airport to Leith waterfront cannot now be delivered for £545 million.

This report's purpose is to provide an objective review of the progress to date with the project, the costs incurred so far and the overall governance arrangements that are in place. I see it as an interim report that might well lead to further audit work and another report at a later date.

As members will be fully aware, an important contractual dispute is going on between TIE and the Bilfinger Berger Siemens consortium over the infrastructure construction and it would be inappropriate for us to make any comments that might be perceived to have a bearing on that dispute or its progress towards resolution. As a result, the report expresses no opinion on the project's management, on the cause of time delays and any costs associated with the delays, or on the performance of any of the contractors involved. I emphasise that we have not examined in any detail the form of contract or the performance of the contractor in relation to the infrastructure construction contract.

I will outline the progress to date, the costs and the governance arrangements. When the infrastructure construction contract was signed in May 2008, TIE's project plan said that phase 1a was expected to be open for service by summer 2011. This complex project consists of a number of different stages and contracts: the project design; work to divert and upgrade pipes and wires, commonly called utilities diversion works, and related works such as construction of the park and ride at Ingliston; the contract for 27 tram vehicles; and finally the major contract for building the infrastructure—in other words, the tram lines, the power lines, the tram depot and so on. However, several parts of the project have experienced delays and it is not yet clear when the trams will be operational.

The utilities diversion works were expected to take more than 70 weeks between July 2007 and November 2008. The original scope for that work covered 27,000m of pipes and cables. According to TIE, however, the complexity of utilities along the tram route, the congestion of pipes and cables

in key locations and unforeseen obstructions meant that the work was much more extensive than originally expected. TIE now estimates that the final extent of diverted utilities is around 50,000m and it has reported that around 48,500m of utility diversion works has now been completed, which is equivalent to about 97 per cent of the revised scope of the contract.

For the infrastructure construction, TIE sought to put in place a lump-sum, fixed-price contract for an agreed delivery specification and programme, which was intended to obtain some certainty around the costs of this contract. Although our report provides some description of TIE's overall procurement strategy, I emphasise that we did not consider in detail that strategy or the forms of contracts used. We must leave to any future audit examination of the project important issues such as the overall risk management arrangements and the potential benefits and risks of having a procurement strategy different from the strategy adopted by other tram projects that have been constructed in the past.

TIE awarded the contract for infrastructure construction to the Bilfinger Berger Siemens consortium in May 2008, but contractual disputes began almost as soon as the work had commenced. The first major dispute arose in February 2009, one week before track-laying work was due to start in Princes Street. It is my understanding that TIE accepts that delays in completing utilities diversion works had some impact on the progress of infrastructure construction but that it considers that the contractual difficulties with BBS are associated mainly with design issues, including delays in design completion, and failures to achieve progress on the works.

I draw members' attention to page 20 of the Audit Scotland report, where exhibit 5 describes the 816 notice of claims received up until December 2010 and tries to summarise what has happened to those disputes. Formal dispute resolution procedures have been used to settle disagreements concerning whether certain work packages are integral to the fixed-price contract or additional to it. If they are additional, BBS is entitled to additional payments. However, a continuing difficulty with progressing the work is TIE's and BBS's different interpretation of certain contract clauses. TIE has issued a number of instructions to BBS to proceed with works in accordance with its interpretation of the contract. According to TIE, BBS has a different interpretation of its contract responsibilities and, until a price is agreed, it is not progressing works where there is a change, or an alleged change, to the contracted scope of the works.

As a result of the contractual problems, infrastructure construction work is currently largely at a standstill. TIE estimates that, to the end of December 2010, some 28 per cent of infrastructure construction works had been completed against an original target of 99 per cent. Off-street works from Haymarket to Edinburgh airport had been 40 per cent completed against a plan of 100 per cent, whereas the on-street works from Haymarket to Newhaven were only 11 per cent completed against a plan of 99 per cent. Better progress can be reported in respect of the construction of tram vehicles, because 20 out of 27 trams had been built by December and the remaining seven were in production. TIE expects that the final tram vehicle will be delivered in April 2011.

I move on to the project's costs to date. In January 2008, Scottish ministers, via Transport Scotland, offered grant support for phase 1a of 91.7 per cent of the eligible capital costs, subject to a maximum grant of £500 million. The Scottish Government's grant offer was conditional on the City of Edinburgh Council approving a final business case for the tram network containing the following requirements: an affordability assessment that the capital cost of phase 1a would not exceed £545 million; a benefit cost ratio that indicated that the project benefits were to exceed costs; and a projection that the Edinburgh tram network would not require any on-going subsidy during its operation. I stress, however, that there is no requirement in the grant offer that the Scottish Government's continued funding of the project should be withdrawn if it became clear that phase 1a could not be delivered for £545 million. That was not a requirement of the grant.

To the end of December 2010, TIE had spent a total of £402 million on phase 1a, which is some 74 per cent of the £545 million cost limit. Had the project been progressing to plan, by the end of December 2010 TIE should have spent around £501 million. Infrastructure construction clearly forms the largest element of the expenditure. The total budget for the work when the contract was awarded in May 2008 was £243 million. The expenditure to the end of December was £150 million. That means that 62 per cent of the budget that was set in May 2008 has been spent, but only 28 per cent of the scope of the works has been delivered. However, I emphasise that we would not expect to see a strict linear relationship between spend and progress, because it is not unusual in contracts of this kind to make an initial up-front payment to allow the contractor to purchase materials and get mobilised.

The combined expenditure on all other areas of the project is £252 million against a budget set in May 2008 of £267 million, including a contingency and risk allowance.

TIE considers that it can accurately predict the outturn expenditure for most elements of the project, but it is unable to report a robust final cost estimate for infrastructure construction. TIE says that, until the key contractual issues with BBS are resolved, it is not possible to forecast accurately what the tram project will finally cost. In March 2010, however, the City of Edinburgh Council indicated to Transport Scotland that it was unlikely that the full scope of phase 1a would be completed within the Scottish Government's cost limit of £545 million.

10:15

TIE is now considering the completion of phase 1a in incremental stages, with the aim of delivering the Edinburgh airport to St Andrew Square section as the first phase. TIE considers that that would yield early economic benefits and allow integration with bus services, although it has still to clarify the cost of that staged completion. If the council decides to take an incremental approach to developing the tram system, I suggest that it should update its cost benefit analysis; I also suggest that that should be verified independently and made public. If public confidence in the project is to be strengthened, the council and TIE need to communicate clearly to the public the benefits and the costs.

The City of Edinburgh Council is considering ways in which it may be able to increase its funding of the tram project. Audit Scotland understands that the council is examining contingency planning options up to a capital cost of £600 million. The current situation between TIE and BBS is, however, complex and the outcome of a further round of mediation talks planned for March 2011 will help to inform the options for taking forward the tram project.

Finally, I turn to the governance arrangements for the project. The City of Edinburgh Council's governance arrangements for the project are complex. The committee may find it useful to look at exhibit 12 on page 34, which attempts to describe those arrangements. They are intended to allow TIE's work to be subject to scrutiny while keeping elected members informed of the project's progress. Some members of the project's main governance body, the tram project board, are also members of TIE's board. The City of Edinburgh Council's director of finance and director of city development also exercise a number of different oversight roles in the project.

I suggest that there is scope for a wider review of governance arrangements while the project is still in its construction phase. In particular, the council needs to be satisfied that the membership and remit of each element of its governance framework contain sufficient scrutiny of the

progress of the project and the risk management arrangements.

Members of the committee may have seen the media coverage relating to the senior management of TIE. I would like to record exactly what is said in the report on that issue, which is captured on page 6:

"a number of staff have left TIE in recent months and others may also leave, creating a risk that it may lack the necessary skills and experience to complete the project. TIE is aware of the effects that criticism of the project is having on staff morale and organisational resilience, and may therefore wish to consider how best it can reassure the public over its project management capabilities."

Finally, I want to mention the role of Transport Scotland. At the time of my report in June 2007, Transport Scotland was represented on the tram project board by its director of rail delivery. The make-up of the original board can be seen in exhibit 11, on page 33 of the report. Transport Scotland considers that its need to be represented on the tram project board ended in June 2007 when, after a vote in the Parliament, ministers decided that the Scottish Government's contribution should be capped at £500 million.

Transport Scotland does not consider that it has the same oversight role for the tram project as it has for other Scottish Government transport projects. That is because it is not the promoter of the project, nor does it have a contractual relationship with any of the private sector bodies that are engaged in the project's construction and delivery. However, given that the Scottish Government has such a significant financial commitment to the project and—equally important—given that Transport Scotland is acknowledged as the centre of expertise in managing major transport projects across Scotland, I suggest that the Scottish Government might reconsider whether Transport Scotland should be more actively involved in assisting with this project, as it has done with other projects.

In summary, the Edinburgh tram project is at a significant decision point. If a negotiated solution to the current dispute is to be found, it will be important that it is designed to ensure value for money from future public spending.

I will be happy to answer any questions, with support from the team that did the detailed work.

The Convener: Thank you for that very full briefing, which the committee found worth while.

The project started with lots of potential, but it seems to have degenerated to a disastrous situation with cost overruns, bickering and disputes at all levels. Obviously, the work that the committee can do on the matter will be somewhat constrained because of the impending dissolution

of Parliament, but there are a number of important issues that need to be considered.

You referred to press reports. A headline in *The Herald* of Saturday 5 February said that the tram report had been "watered down", and claims about changes that were made to Audit Scotland's findings were reported. Those are serious accusations that have implications not only for Audit Scotland, but for the work that we do and the reliance that we place on the reports that come from Audit Scotland. Will you comment on those claims?

Mr Black: Every report that is being prepared on my behalf to go to the Scottish Parliament goes through a clearance process. That is acknowledged and reflected in the policy and practice that we have operated over the past 10 years, and it means that reports necessarily change, as the clearance process exists to clarify matters of fact. That process was undertaken with the project that we are discussing. Wording will, of course, change in that process.

The report that I have brought to Parliament matters, and I believe that it is the only one for which I should be held to account by the Parliament. Given that there are live contract disputes that involve significant sums of money, there was particular concern about ensuring that the wording in the final report was carefully balanced. I took advice on that from many quarters, including my own legal advice, before I brought a report to Parliament. I will stand by only the report that has been formally laid in the Scottish Parliament, but I assure members that, between earlier drafts and the final draft, there were no substantial changes to the key messages.

The Convener: Was any pressure brought to bear on you by TIE or the City of Edinburgh Council to tone down the references to TIE?

Mr Black: There was none whatsoever. The team received comments from TIE and the City of Edinburgh Council on the content of the report, and it took them into account, but I am entirely satisfied that no pressure was brought to bear on us.

The Convener: On a similar theme, you mentioned Transport Scotland. The committee has had some experience of that organisation in the past few years, on which I shall comment no further. On page 7 of your report, you say:

"The Scottish Government should also consider whether Transport Scotland should use its expertise in managing major transport projects to be more actively involved and assist the project in avoiding possible further delays and cost overruns."

Is it not the case that Transport Scotland was still involved after 2007, and that it was heavily involved in the final business case that was

produced in late 2007 and the finalising of the contract in January 2008?

Mr Black: It was involved, but the project sponsor and owner was the City of Edinburgh Council and its officials, and TIE in particular.

The Convener: So any failures at the contract stage or subsequently would be more the responsibility of the City of Edinburgh Council and TIE than of Transport Scotland. Does Transport Scotland have any underlying responsibility?

Mr Black: The project sponsor and owner is the City of Edinburgh Council, so it is primarily accountable for the project. The council took expert and legal advice before forming the contracts; that was not Transport Scotland's responsibility.

The Convener: The Scottish Government committed £500 million of taxpayers' money, which is not an insignificant sum, to the project. Who was looking after the interests not just of ministers but of the public purse to ensure that the money was properly spent?

Mr Black: Transport Scotland took the view, on behalf of the Scottish Government, that the City of Edinburgh Council was the proper body to manage the project. The role of Transport Scotland was seen as primarily one of authorising the release of the stage payments, on completion of certain parts of the work. That was the limit that was put on Transport Scotland's involvement after the Scottish Government decided to award a grant of £500 million.

The Convener: So Transport Scotland took the view that its role in protecting that £500 million was simply to approve the signing off of the cheque, rather than to confirm that the money was being properly spent.

Mr Black: The money would be properly spent if it were spent on activities and services relating to the contract.

The Convener: So Transport Scotland had no interest in whether the project was being properly managed and whether we were getting best value for the money that was being spent.

Mr Black: Not at that stage.

The Convener: It seems a rather alarming state of affairs that such a substantial amount of money can be paid over to others and that it should be for those who receive the money to decide whether it has been properly spent. That seems like a slight dereliction of duty and responsibility. It is not for you, as Auditor General, to comment on that point, but we can take it up with others.

Murdo Fraser (Mid Scotland and Fife) (Con): The committee clerks have received a communication from Siemens, which is part of the

consortium that is undertaking the infrastructure construction contract works on the project. Why were the infrastructure construction contractors not asked to make an input into the report that you have prepared?

Mr Black: As you can imagine, I thought carefully about the issue. I decided clearly that it would be inappropriate to speak directly to the contractors. The purpose of the report is to provide an independent factual commentary from an audit perspective on the progress of the project and its cost to date, to look at the overall governance arrangements and to comment on some of the key issues that are important in taking forward the project. We specifically did not look at matters relating to the performance of the contractors, not least because of the on-going dispute between a major contractor and the council. It would be wholly inappropriate for us to get involved in that in any way. I thought that it would be inappropriate to speak to any of the contractors directly. The audit looks at the public funds that are involved in the project and how it is being managed by the public sector, not at the performance of contractors.

Murdo Fraser: I am grateful for that explanation. Committee members may want to consider later whether we wish to pursue the issue.

I want to ask about some of the figures in the report. In paragraph 51, on page 23, you refer to the fact that TIE's final business case indicated that phase 1a would cost £498 million. Am I right in saying that the figure included a 15 per cent contingency? That means that the real base cost was £449.1 million, which appears in paragraph 10.47 of the final business case. Given that £402 million has been spent, as against an original anticipated base of £449.1 million, the situation is worse than it would appear from the figures that are given in paragraph 51.

10:30

Mr Black: I ask Graeme Greenhill to help you with the detailed numbers in the report.

Graeme Greenhill (Audit Scotland): You are correct in saying that the £498 million included an element for contingency costs. As the report says, most of the contracts that were signed were intended to be fixed-cost contracts, so there was an element of certainty about those costs. However, other elements of the project, such as utilities work, were paid for on the basis of the work that was carried out. There was always an expectation that it would be necessary to carry out additional work, even under the fixed-cost contracts, that would attract payments in addition to the fixed costs. The contingency was intended to cover that.

Murdo Fraser: Thank you for that clarification. Further to the convener's questions on Transport Scotland funding, you point out in the report that, as of December 2010, 74 per cent of the funding had been spent yet only 28 per cent of the infrastructure had been completed. Why did Transport Scotland not put in place safeguards to ensure that payments were made only when various proportions of the work were completed?

Graeme Greenhill: The 74 per cent of funding that has been spent includes elements of the contract other than the infrastructure works—the cost of the trams, the cost of utilities diversion work and so forth. The rest of the question would be better addressed to Transport Scotland.

Murdo Fraser: Okay. What safeguards are there in relation to the remainder of the funding that Transport Scotland has still to pay over? What guarantees are there that further works will be completed before the additional sums are paid over?

Graeme Greenhill: I am not aware of any additional guarantees that Transport Scotland has sought regarding the rest of the expenditure. Again, the question would be better put to Transport Scotland.

Murdo Fraser: So as far as you know, the remaining £98 million of Government grant could be paid out without any understanding of when phase 1a could be completed.

Graeme Greenhill: The fact that TIE and BBS are in dispute, the rise in budgets for the project and the severe programme slippage that has taken place are not in themselves breaches of the grant agreement. As long as valid expenditure is being incurred, Transport Scotland is committed to continuing to make payments in respect of that.

Murdo Fraser: So the entire Government grant could be spent without any additional physical progress on the project having been made.

Graeme Greenhill: Again, the question would be better addressed to Transport Scotland.

The Convener: Jamie Hepburn has a question. Is it on the same issue?

Jamie Hepburn (Central Scotland) (SNP): Yes, although there are other issues that I want to ask about.

The Convener: I want to follow up on Murdo Fraser's questions, but I will bring you in first.

Jamie Hepburn: My question follows on from Murdo Fraser's line of inquiry. The Auditor General said clearly that the performance of the contractors was not looked at for the report, which focused on the public sector management of the project. Would it not be fair to say that the performance of the contractors is a key part of the

public sector management of the project? You could have a report that said that the public sector had managed the project brilliantly but the contractors had not done the work. I do not see the distinction.

Mr Black: It is absolutely fair to say that the performance of the contract—and, indeed, the contract's form—appears to be a central element in explaining how the contract has gone so far and the difficulties that are associated with it, but it is a live contract that is subject to dispute between the parties. It is not possible for me to comment on that at this stage. That is one of the limitations of producing an interim report on a live project.

Jamie Hepburn: You said that you took legal advice. Presumably, part of the legal advice that was provided to you was that you could not look at the area.

Mr Black: No, it was not. I am absolutely clear in my mind that it is inappropriate for the Auditor General for Scotland to comment on live contracts, not least live contracts that are the subject of disputes.

Jamie Hepburn: So when—or if—this project is completed, we can expect a fuller assessment by Audit Scotland.

Mr Black: That would require to be determined at the time. However, given the problems that the project has encountered and given the size of the project, I would have thought that it would be highly likely that there would be an independent audit report to the Parliament after the end of the project.

The Convener: I will stick with the issue that I raised, which Murdo Fraser developed.

As Murdo Fraser said, potentially £500 million of Government funds have been paid out, and the remaining funds that are in that account might be paid out, without any further work being completed. Who is responsible for alerting ministers to the impending crisis that we now know about? Could Audit Scotland have done anything to alert ministers? Would Audit Scotland have known about the situation? Should Transport Scotland have played a role?

Mr Black: As I think that I mentioned earlier, the project owner in this case is the City of Edinburgh Council, which would be primarily responsible for communicating with Government about the on-going performance of the contract and any issues arising from that. However, Transport Scotland is the Government's vehicle for managing this sort of project and it would be reasonable to expect it to be fully aware of progress with the project. Indeed, as we say in the report, there is regular reporting on a quarterly basis on these matters.

The Convener: What seems to be happening with that regular reporting is that Transport Scotland takes at face value what it is told, approves or signs off further cheques and, presumably, limits its comments to ministers to statements such as, "We have signed off another cheque and progress is being made." However, no one has defended the public's investment in the project by checking to see whether problems were developing along the line.

I realise that it is not for you to comment on what Transport Scotland has done—we might be able to find out some more about that through other channels—but do you agree that, when we are dealing with the spending of such substantial amounts of money, someone should be acting as a defender of the public purse?

Mr Black: The City of Edinburgh Council owns the project and it is for the council to monitor the performance of the project, ensure effective communication and take whatever action is necessary as the project goes along.

The Convener: There might be issues to do with the governance of the council that need to be considered. That has come up in relation to our inquiry into The Gathering 2009 Ltd, as well. We will leave that issue to one side for the moment, however.

The contract for the project is detailed and complex, so presumably all parties who are involved in it will have taken legal advice before signing it. Clearly, therefore, either someone has been given bad advice or someone has not taken good advice. If bad advice has been given to those who are responsible for public funds, could there be an underlying legal route whereby funds could be recovered from those who were responsible for giving advice that is subsequently proved to be deficient?

Mr Black: I am not in a position to speculate on the quality of the advice that the City of Edinburgh Council and TIE received on the matter. We say in the report that the council took expert advice and legal advice before forming the contract.

The Convener: Are there more questions about the contract, before we move on?

George Foulkes (Lothians) (Lab): Transport Scotland withdrew from the tram project board. Audit Scotland described the project as

"the fourth largest public capital project in Scotland."

Is Transport Scotland on the project boards for other, parallel projects?

Graeme Greenhill: One of the other projects is an NHS hospital, so Transport Scotland is not involved in that, but Transport Scotland actively manages the other projects.

George Foulkes: Transport Scotland has the role in those projects that the City of Edinburgh Council has in the tram project.

Graeme Greenhill: Yes. The other projects are national projects—hence Transport Scotland's involvement.

George Foulkes: So the tram project is different. In paragraph 70 of your report, you say of Transport Scotland's withdrawal from the board:

"This changed the emphasis of its role in the project to managing the grant funding."

Transport Scotland therefore still has responsibility for managing the funding and being the conduit from the project to the minister. Is that right?

Mr Black: Yes, that is correct. As we go on to say in paragraph 71, we are satisfied that there are

"clear project monitoring processes, with grant claims or requests for payment checked and authorised prior to processing."

George Foulkes: Therefore, even though Transport Scotland is not on the board, it still has a responsibility to ministers and to the Parliament for the proper expenditure of the money.

Mr Black: Yes.

George Foulkes: So if we wanted to pursue the matter further it would be appropriate to call Transport Scotland and ask questions.

Mr Black: Yes, if you were so minded.

The Convener: Does Frank McAveety have a question on the contract?

Mr Frank McAveety (Glasgow Shettleston) (Lab): My question is about staff issues.

The Convener: Okay. We will come back to that.

Anne McLaughlin (Glasgow) (SNP): In paragraph 7, Audit Scotland says:

"The grant agreement between Scottish Ministers and CEC required CEC to provide evidence that it had approved a final business case showing that the capital cost would not exceed £545 million".

Did you get sight of the business case? Whether you did or not, do you know whether it contained evidence to substantiate the claim that the capital cost would not exceed £545 million?

Graeme Greenhill: The final business case is on the public record, so yes, we saw it. We did not review any of the assumptions that were built into the final business case, but the conditions for Transport Scotland giving the grant were based on the council approving certain aspects of the business case, namely, that the cost would not exceed £545 million, that there was a positive cost benefit ratio and that there was no requirement for

on-going subsidy. The full business case was considered in December 2007 by the City of Edinburgh Council, which transmitted the results to Transport Scotland.

Anne McLaughlin: You said that Audit Scotland did not review the assumptions in the business case. Did anyone do that? Would such assumptions normally be reviewed or would they simply be accepted? Was it simply up to the council to be satisfied?

Graeme Greenhill: Yes. The council would have had procedures for satisfying itself as to the validity of the business case.

Nicol Stephen: On Transport Scotland's decision in 2007 to withdraw from the project board, do you know whether the decision was taken by ministers and therefore whether Transport Scotland was instructed to withdraw, or whether Transport Scotland took the decision itself, in its role as an arm's-length executive agency?

Mr Black: We are not aware of the terms on which it was decided that Transport Scotland should pull back.

Nicol Stephen: Given that £500 million had been committed to the project, it seems extraordinary that the national transport agency took the decision to step back from the project board.

You seem to be saying that, in relation to the public sector generally, and bearing in mind the cost to the City of Edinburgh Council and the £500 million that is still committed by the Scottish Government, we have no current estimate of how much the project will cost. We have an item later on our agenda on how we handle capital projects in the public sector in Scotland. Is it not an extraordinary situation that we have no estimated cost for our fourth-largest project? It might now be the third or second largest—I hope it has not caught up with the Forth road bridge, although it is certainly increasing in cost. We have no estimated cost for the completion of the project.

10:45

Mr Black: Yes, the project is in a very unusual situation. As I mentioned in my opening remarks, TIE says that it could present a reliable estimate of the outturn costs of all aspects of the project, with the notable exception of the major contract, which is infrastructure construction. The reason for that is because of the on-going dispute with the contractor. Until that is resolved and values are placed on what comes out of it, TIE will not be able to provide a reliable up-to-date estimate of the final cost of the project.

Nicol Stephen: So, as of today, the final outturn and final liabilities remain unquantified.

Mr Black: That is correct.

Malcolm Chisholm (Edinburgh North and Leith) (Lab): I have one question about the contract and one about Transport Scotland. My view, which I am sure others share, is that many of the problems reside in the nature of the 2008 contract, although you could not really examine that in the report. Is it possible to quantify or estimate the extent of the contribution made by the problems with the contract to the cost overruns? Obviously, there were other issues such as the utilities diversions costing more than anticipated. Is it possible to assess the extent of the effect of the contract? Obviously, it has contributed to the delays, but to what extent has it contributed to the cost overruns?

Mr Black: I ask Graeme Greenhill if he can help you with that at all. The main infrastructure construction contract is problematical for us.

Graeme Greenhill: Exhibit 9 on page 26 of the Auditor General's report shows the details of how much has been spent against each aspect of the project. Obviously, significant infrastructure construction work is still to be carried out, but a lot of the budget has been spent. The other elements of the project are, by and large, well progressed. As we can see from exhibit 9, the red columns show the actual spend to the end of December 2010. Leaving aside the infrastructure construction columns, the exhibit shows that actual expenditure has not exceeded budget by a huge amount in the other elements of the project. As Bob Black said, however, the big imponderable is how much the infrastructure construction will finally cost to complete.

Malcolm Chisholm: I also have a question on Transport Scotland, although there have been a lot of questions about that already. The Auditor General has made an important recommendation, which obviously received quite a lot of coverage, in relation to a possible future role for Transport Scotland. Other major infrastructure projects might be similar to the tram project in being led by local authorities. Are there precedents in which Transport Scotland—or, before Transport Scotland existed, ministers and civil servants—had that role?

Mr Black: A new approach is developing, which I welcome, whereby the Scottish Government facilitates the provision of central hubs of expert advice to support local authorities and health authorities in the commissioning of major projects. In this case, it seems to me that it would be appropriate to bring in the expertise that resides in Transport Scotland to support and advise a local authority in delivering a major and complex

project. That approach is happening in waste management and in schools procurement, so such involvement has a precedent.

Malcolm Chisholm: Given that, is it particularly odd that Transport Scotland has not assumed in the recent past such a role in the tram project?

Mr Black: As I said, the report recommends that the Scottish Government, with Transport Scotland, might wish to reconsider the extent of its involvement in the project and whether that should be more active.

George Foulkes: I have one little question to follow up Anne McLaughlin's questions about the City of Edinburgh Council's approval of the final business case. Who in the council—the director of finance, say—made recommendations on that to elected members? Which officials worked on the business case?

Mr Black: The recommendation came primarily from TIE, because TIE is responsible for the design, procurement, construction and delivery of the network. TIE has a key role to play.

George Foulkes: TIE worked out the business case. Did council officials not examine that? When I was on the council many years ago, the director of finance, the director of corporate services or the chief executive would have examined and made recommendations on such a business case. Surely some officials must say to councillors, "This business case is okay—you can go ahead with it."

Mr Black: I turn to Graeme Greenhill for the detail, because the governance arrangements not only are intrinsically complex but have evolved as the project has developed. Will you help us with your understanding of the arrangements that were in place when the council took its principal decision?

Graeme Greenhill: We did not examine the detail of how the final business case was approved. However, the council's director of finance and its director of city development are members of the tram project board, which is the main monitoring board, so we would expect them to have undertaken a challenge function in relation to the validity of the final business case.

George Foulkes: The Scottish Executive has an infrastructure investment group, about which I have asked parliamentary questions. It consists of highly paid executives who sit around a table and meet regularly to consider infrastructure investment in Scotland. As Audit Scotland said, the Edinburgh tram project is the fourth-largest public capital project in Scotland. Does that group have responsibility for monitoring, making recommendations on and advising ministers on the tram project?

Mr Black: We mentioned that group in the report that we presented to the committee recently on the management of major capital projects. Of course, that report did not consider local authority project management, because local authorities are separate. Local authorities receive a grant from the Scottish Government as a contribution to major projects, but the local authorities run those projects.

In the normal course of events, the Scottish Government would not be expected to arrange to have active oversight of grant-aided projects in local government. Furthermore, the group to which you refer is a fairly recent creation.

George Foulkes: Convener, I presume that we will consider whether councils are equipped to manage and own projects of such a size—particularly councils whose leader and deputy leader do not seem even to talk to each other.

The Convener: We will leave that one hanging.

Jamie Hepburn: We have not referred to the fact that the Government opposed going ahead with the project in the first place. Others wanted it to go ahead—some of them are represented on the committee. I presume that the concerns that the Government expressed about the financial viability and other aspects of the project in part determined the decision that Transport Scotland should not have the same involvement as before, as did the fact that the project was Edinburgh's baby, as the Auditor General said. Even if Transport Scotland had been involved, that would not have changed the project's ownership, would it?

Mr Black: No. Had Transport Scotland been more actively involved, the project owner would have remained the City of Edinburgh Council.

Jamie Hepburn: Given the position, the Government was clearly wise to cap its investment. The report says that there will be a cost overrun; if the Government had not capped that investment, it could have been het for ever-increasing amounts. We do not know how much more money would have had to be invested. What do you think of the suggestion that, if Transport Scotland had been more directly involved in the way that you suggest, there would have been increased impetus for more Scottish Government moneys to be invested in the project, although we do not know how much that would have been?

Mr Black: I am not sure that I can help you with that, because it would involve reading people's minds in relation to a non-existent situation.

The Convener: It is also possible that, had Transport Scotland been involved, we might all have been in a better position to address the cost overruns earlier.

Will you clarify Jamie Hepburn's point that concerns were raised when the decision was taken about the project's financial viability? That is an important point. I seem to recall that you produced a report to Parliament before it took a decision. Did you have concerns at that stage about financial viability?

Mr Black: I was clear when I presented that report to Parliament that we were not examining the financial viability or costs of, or the business case for, the tram project. As I think I mentioned, that report was written well in advance of the business case being finally pulled together.

Willie Coffey (Kilmarnock and Loudoun) (SNP): I will go back to a point that Nicol Stephen raised on the overall cost of £545 million and the Auditor General's comment that TIE says that the project cannot be delivered for that amount. Mr Stephen followed that with a plea to be told how much it will cost, but nobody knows. I do not for a minute believe that there are no estimates of worst-case or best-case scenarios at this stage. There must be. If there is a dereliction of duty anywhere, it must be in respect of the agencies that are delivering the project not having at least indicative estimates for a worst-case scenario of what it will cost to deliver the full project. I imagine that the public want to know how much it will cost and when it will be ready. Can we press that matter later, convener?

My second point—

The Convener: Just before you make your second point, I ask Mr Black to illuminate the committee on whether his officials have asked for the details of the possible costs and whether any have been forthcoming.

Mr Black: The team has asked for all the information that it is possible to make public. As I think we indicated to the committee earlier, there is a major contractual dispute that is subject to litigation and there must be matters that are commercially confidential at this stage. In many respects, there is a duty on those who are looking after public funds not to say anything in public that might prejudice the ultimate achievement of value for money in the spending of those funds.

Willie Coffey: I fully understand that, but I am pretty confident that the organisations involved must internally hold cost estimates that are based on worst-case and best-case scenarios. Such estimates must exist, otherwise there has been a serious dereliction of duty.

My second point concerns Transport Scotland's involvement. In his initial comments, Mr Black recommended that the agency become involved now. Perhaps that is a bit like calling in the cavalry, but I see from his report that Transport Scotland is involved in quarterly meetings with the

City of Edinburgh Council—it says that on page 5. What might Transport Scotland bring to the table at this stage in the project that it is not able to bring in its quarterly meetings?

11:00

Mr Black: As we understand it, the role that Transport Scotland is currently playing is, first, to authorise and pay the money for work that has been completed and, secondly, to take part in quarterly review meetings that consider how the project is going. That role does not in any way extend to active involvement in the project management. However, given that Transport Scotland has expertise in that area, I have included in the report a suggestion that the Scottish Government might consider inviting Transport Scotland to be more actively involved in the project.

Willie Coffey: In your opening remarks—I know that we are going back to June 2007—you said that the project management arrangements appeared to be sound. Are you changing your view on that now?

Mr Black: Yes. The report that I made in 2007 was a high-level report on the overall governance and project management arrangements, which are described in the diagram labelled exhibit 11, on page 33. As I said to the committee at the time, those arrangements seemed to be appropriate for a project of this type.

Shirley-Anne Somerville (Lothians) (SNP): It is unfortunate that we cannot, for understandable reasons, get into the detail of either the business case or the contract, given where we are at. I hope that either this committee or its successor can look into those matters.

I will pick up the point that Willie Coffey made about the best-case and worst-case scenarios. I fully appreciate that there are commercial confidentiality issues, but is there a role for Mr Black—in respect of this report or for the future—to look at what understandably cannot be made public but must be retained within private knowledge, to see whether the best-case and worst-case scenarios stand up to independent scrutiny? There is a concern that the project will run and run, that there are no figures and that nobody is looking into those scenarios to audit how realistic they are.

Mr Black: I understand the basis of the question, but it is well beyond what it would be appropriate for the Auditor General and Audit Scotland to do to become involved in a live contract when there are legal disputes and different commercial interests. The role that we will play is to review the project after everything is settled.

Shirley-Anne Somerville: When we watch a live contract get into difficulty, there is the question of who can step in and be an independent adviser. You mentioned the role of Transport Scotland and obviously it is coming up a great deal. At one point you said that it can sign over money only when valid expenditure has occurred. Would it be able to withhold money if valid expenditure had occurred or do we get into the territory of legal challenges if work is done but the City of Edinburgh Council is not able to pay the bills because Transport Scotland withholds money?

Mr Black: As I think both Graeme Greenhill and I have indicated to the committee, the conditions of grant are very clear. We find no evidence of a condition of grant that would permit the Scottish Government, through Transport Scotland, to withhold grant if the conditions in the contract are being observed.

Shirley-Anne Somerville: An updated business case went to the council very recently, but much of it was redacted and a lot of it—for example, the cost benefit ratios—had not been updated. Is enough information out there for councillors or anyone else to make a decision about where to go with the project? Are we at the point at which we need TIE to publish updated business cases with a full range of updated cost benefit ratios so that people can get an idea of the impact of any decision for incremental delivery to wherever?

Mr Black: I think that we must recognise that TIE and the council are in a difficult place at the moment because the dispute resolution process is still running in relation to the infrastructure construction contract. Until that dispute is resolved one way or another, it would be very difficult for them to give a full public account of the outturn costs and benefits of the project.

As we say in our report, there is a particular issue that the city council may wish to address, which is to ensure that, given the constraints of commercial confidentiality, it works hard and professionally to communicate well with councillors, with other stakeholders and with the public regarding the best estimate of the final costs and benefits that should flow from the scheme. It might be appropriate for the council to have such an analysis independently verified.

The Convener: I am sure that you can understand the frustration, not just around this table but in many quarters, about the fact that those who are directly responsible for the project—TIE and the City of Edinburgh Council—are overwhelmed and unable to contain and manage the costs. The organisation that is the main funder on behalf of Scottish ministers, Transport Scotland, is reduced to a passive role, and is merely signing cheques for the organisation that is delivering the project but without asking any

detailed questions or receiving any detailed reports.

You discuss governance in your report. Can you understand why people are so frustrated that there does not seem to be anyone who is willing or able to take responsibility for such a massive project and its potential overruns?

Mr Black: It is rather difficult for me to respond to that, because we are where we are. If you read the report in its entirety, I hope that the message comes over that the project is really complex and challenging and that when the council, its companies and experts set off on the project, they took the best legal and professional advice on it. They structured a series of contracts that they thought were appropriate. The council has run the contract principally through TIE, which has over the period of the contract had the expertise that one would expect to be in place for a contract of this sort.

As I think I mentioned earlier, the majority of the work that does not involve the infrastructure construction contract has actually been completed, albeit that there have been some cost overruns and delays. Nevertheless, it has been completed. It is important for me to emphasise that there is no simple key message in the report. It is a complex project, with a number of different factors that need to be balanced.

George Foulkes: You say that it is a complex and challenging project. Tram schemes are being built all around the world, on time and on budget. It is just the City of Edinburgh Council that does not seem to be able to do it. The schemes in Bordeaux, Shanghai and all the other places where tram systems are being built, are just as complex and challenging, are they not?

Mr Black: A few years ago, the National Audit Office produced a report on the experience from the construction of half a dozen tram projects in England. The picture was complex there, too. There were delays, there were cost overruns and there were problems around whether the benefit to cost analysis was actually realised.

As we say on page 12 of the report, the city council took account of that, and of the fact that

“the NAO found that the design, build, maintain and operate form of contract ... could result in higher construction costs because consortia might not be best placed to bear all the revenue risk of running a light rail system.”

All of that was taken into account by the council and TIE in constructing the package of contracts. I am sorry—I sound like a stuck record—but it is a complex set of issues.

Murdo Fraser: I wanted to follow up on Shirley-Anne Somerville's question on the payments from Transport Scotland. The question reflected the

concern that I raised earlier that Transport Scotland could pay the remaining £98 million with very little to show for it by way of progress.

Paragraph 72 on page 36 of the interim report mentions the grant offer letter. In response to Shirley-Anne Somerville, I think that you said that Transport Scotland really had no alternative in this matter because it was bound by the terms of the grant offer letter. In the penultimate sentence of the paragraph, you say:

"Transport Scotland and CEC are reviewing the conditions contained in the grant offer letter."

Will you expand on that? For what purpose are they conducting that review?

Mr Black: Does Graeme Greenhill have any detailed knowledge of that issue?

Graeme Greenhill: I do not have detailed knowledge. The discussion is still at a very early stage; it will be influenced by the mediation talks between TIE and Bilfinger Berger Siemens, which are due to start soon. If the council decides to take an incremental approach to rolling out the project, that may also influence the discussion.

Murdo Fraser: Perhaps we can pursue this issue separately with Transport Scotland.

Willie Coffey: As someone who is looking in from the outside—from Kilmarnock, which did away with its trams perhaps 100 years ago, when the buses arrived—I have never understood, despite considering the issue as much as I have been able to, how the previous Executive came to approve this project. The lines for the trams appear to follow routes on which there are already buses. Why does Edinburgh need such a tram system when it has a really good bus service on the same routes? I will never understand why people got into such a pickle at the outset, for a project that does not appear to have public support. The public do not want it. It is to the credit of the Scottish Government that it has put up the money for the project, although it is a scheme that it seems nobody wants.

The Convener: I do not really think that that is a point for the Auditor General to answer.

George Foulkes: There are environmental reasons for the project; we need an environmental seminar for Mr Coffey.

Anne McLaughlin: Convener, I was waiting to ask about progress and costs to date.

The Convener: Feel free.

Anne McLaughlin: Before I do, I want to say something in response to what the Auditor General said about the National Audit Office report and about the City of Edinburgh Council's taking into account of a report that showed the

complexities and the risks of overruns. The Scottish National Party took that into account as well when we voted against the project. I appreciate what George Foulkes is saying, but I agree with Willie Coffey—I have never understood why we are going ahead with this project.

George Foulkes: Ask John Swinney.

Anne McLaughlin: John Swinney did not vote for it, Lord Foulkes. However, we are going ahead with it.

I wanted to ask about the mediation talks between TIE and BBS. I understand that those talks are happening in March, but a decision was taken in December. Is there a reason why they had to wait three months for the mediation talks? Those three months are costing businesses money and are costing the country money.

Mr Black: It is true to say that the longer this continues, the more cost is being incurred. However, I think that the question would be better addressed to the City of Edinburgh Council and TIE.

Anne McLaughlin: But you cannot see any reason—

Mr Black: It is not something that we have looked at.

Anne McLaughlin: Page 21 of the interim report mentions the contract between TIE and BBS. It says that part of the problem is that they had a

"different interpretation of certain contract clauses."

Is it not standard practice to agree on interpretation before a contract is signed?

Mr Black: It is important to bear in mind that this is not a simple contract—I am going to use the "complexity" word again. It is not a folder like the one sitting in front of me on the table; the contract will run to many, many, many volumes. It is extremely complex. The difficulties that are being encountered in interpreting contract responsibilities and clauses have to be viewed in that context. It is difficult for us to say much more than that, because we have not examined the form of the contract in detail.

Anne McLaughlin: If it is so complex and there are so many volumes, could this not take for ever to resolve?

Mr Black: I am sorry, but to answer that would be speculation on my part.

Anne McLaughlin: Who will conduct the mediation?

Graeme Greenhill: There is an independent arbiter whose name escapes me for the moment. We can give you a note of that.

11:15

Anne McLaughlin: There is something about utility companies on page 25. It states:

“CEC and TIE expect that the utility companies will contribute around £4 million towards the cost of this work.”

That is the cost of the pipe work and everything. It continues:

“Utility companies have yet to agree how much they will contribute.”

On what basis do the City of Edinburgh Council and TIE expect that contribution to be £4 million? Have they just plucked that figure out of the air?

Mr Black: That question would be best answered by TIE.

The Convener: We will make a note of that question for the future.

Mr McAveety: Earlier you talked about the point that is made on page 6 about the staff complement and the staff skills mix in TIE. Is there an adequate skills mix to deal with everything in the project at the moment? On page 6 you allude to the fact that there may be issues with that in the future. I would like clarification on that.

Mr Black: At the moment, TIE has the range of skills that you would expect to see in a project of this type. The risk is that if it experiences further turnover similar to that which it has experienced in the past, its capacity might be put under some threat. However, I have absolutely no reason to say to you that, at the moment, it does not have the required skills on the management team.

Mr McAveety: Was TIE aware of those concerns about either the present or the future when you were drafting the report? Does it understand the concerns? I hope that it will not experience the situation to which you have alluded and lose staff.

Mr Black: The top management and chief executive of TIE are well aware of that issue. It is not unrelated to the suggestion that I make in the report about the further involvement of Transport Scotland. The more people with the right expertise who can gather round the project and help it through to the next stage—and, hopefully, to a successful outcome—the better. If Transport Scotland were somewhat closer to the project, it might help to manage the risk of staff turnover in TIE.

Mr McAveety: In the process of pulling the report together, have you had an informal discussion about that with Transport Scotland, or can you not do that at the moment?

Mr Black: I have had no discussions at all with Transport Scotland about that. Transport Scotland is aware that there is a general suggestion in the

report that, along with the Scottish Government, it might consider whether it should be more closely associated with the project in the future.

The Convener: You have, yet again, raised the issue of the involvement of Transport Scotland. You have said on more than one occasion—you also say it in your report—that you hope that Transport Scotland will become more involved in the project and use its expertise.

However, at the stage when the agreement for the paying over of the grant was being approved, the organisation does not seem to have had the wit to insert a clause that required it to be provided with detailed accounts and that allowed it to go in and look at what was happening with its £500 million, which is a huge amount of money. It seems not to have had the wit to design anything more robust at that stage or, as things developed over the past two to three years, to flag up concerns to ministers, to become more involved or to suggest actions itself. Why are you so confident that an organisation that has not been able to act on its own initiative to take a firmer grip would be able to bring anything constructive to the discussion from this point onwards?

Mr Black: As I said in my opening remarks, a number of different projects make up the total project. Let us take, for example, the utilities diversion works. Although the extent of the utilities diversion is much greater than was originally anticipated, that has been substantially completed.

The project for building the trams themselves is going according to plan. It seems to us that the heart of the matter is undoubtedly the troublesome contract with BBS. It is understandable that TIE, on behalf of the council, should be given the opportunity to resolve that matter, because it is responsible for managing the contract. We have a complex set of issues here, unfortunately.

George Foulkes: Is it not the case that the scheme was approved in December 2007 because trams are environmentally friendly and much easier for disabled people and women with buggies to get on to than buses, and that the Parliament voted £500 million towards the major cost of the scheme? The picture that comes out is that it has been bungled administratively, as you say, because the councillors—the two ruling groups on the council—hold entirely different views.

As you state in your report,

“it may be difficult for the council to present a unified commitment to this major project.”

Would it not have been easier, and made the project more likely to succeed, if the council had presented a unified view right from the start in December 2007 and got on with it, and if some

people had stopped bickering from the sidelines, which made things even worse?

Mr Black: I am not sure that I can comment on that view.

George Foulkes: No, neither am I.

Anne McLaughlin: This is not what I was going to say, but I want to pick up on what George Foulkes has just said with regard to the unified front. There are 58 councillors on the City of Edinburgh Council: 46 want to go ahead with this waste of money, as it is in my view, and 12—the SNP councillors—are against it. How does that affect the project? A minority is opposed to it happening, but it is going ahead anyway.

George Foulkes: They are part of the ruling administration.

Anne McLaughlin: I am asking the Auditor General.

The Convener: We are not going to get the Auditor General to resolve the disputes between the various political parties around this table.

Anne McLaughlin: I am asking about something that is in the report.

The Convener: Which specific thing in the report?

Anne McLaughlin: The bit where the Auditor General mentions that there is not a “unified commitment”. I am asking whether that affects the project.

Mr Black: It is important to distinguish between the management of the project itself and open communication with the public and other stakeholders. I recognise that there are different views in the council, but nevertheless the report recommends that the council, once it gets through this critical phase of the dispute resolution with BBS, works hard together to present clear communication to the people of Edinburgh and to other stakeholders on outturn costs and the perceived benefits. We are encouraging the council to have that independently validated to help to rebuild confidence in the project.

The Convener: Does Anne McLaughlin want to ask her other question before we move on?

Anne McLaughlin: I think the Auditor General said that TIE has the correct skill set at present, but the concern is that personnel may leave, as I expect that there is a correlation between staff morale and staff turnover. Are you aware of anything that TIE is doing, in addition to trying to resolve the dispute—the sooner it is resolved, the better—to try to boost staff morale? It must be difficult to work there at the moment. If TIE is teetering on the point at which it has the right

amount of skill mixes, but there is a risk of people leaving, it would surely want to address that.

Mr Black: We did not look at that level of detail in the interim audit report. However, I think that it is important that information about TIE senior management and so on needs to be accurate and balanced in the public reporting.

Willie Coffey: To go back to the criteria that the Scottish Government set down for the project, I note that one of the conditions was that the cost benefit ratio should be favourable. Page 30 of your report gives us an indication of the current volumes of people travelling on Lothian Buses. It states that there are 107 million passengers—presumably that is per year—with a total turnover of £112 million and a profit of £5.8 million.

At the outset, when the tram project was approved, did anyone have the wit to try to balance that up and consider how on earth the project could possibly exceed those figures in terms of a cost benefit ratio?

From the way that I look at it, if everyone who gets a bus into Edinburgh gets on a tram, it will yield only £112 million of income. How is that supposed to beat the cost of the project, which is currently running at £545 million? I just do not see how the cost benefit ratio can exceed that.

Mr Black: The cost benefit calculations in a project such as this are extremely complex and require great expertise. As I said, we have not validated or looked at that in any detail.

I will mention, however, one lesson that came out of the National Audit Office's work some time ago. In order to achieve the benefits from projects such as this, it is essential to integrate the other forms of public transport with it at key nodes, so that moving from bus to tram and so on is a simple and easy thing to do—not least if one has things such as bags and buggies to cope with. The project has been designed to maximise that integrated approach, but other than that I do not think that I can help you in that regard.

Willie Coffey: Was any analysis carried out on the expected volumes of people who would leave the buses and their cars to go on the trams?

Mr Black: Questions like that would be better directed to the City of Edinburgh Council.

Willie Coffey: Is that type of analysis available?

Graeme Greenhill: As Bob Black says, the detail would be better asked of the council.

The Convener: Is there anything else?

Shirley-Anne Somerville: I have just one question. In your report, you mention the progress to date and go on to talk about a suggested start date for when we might actually see the tram

running in Edinburgh. You say that it will not be operational until at least 2013. By that, do you mean the whole of phase 1a, part of it or any variation thereof?

Graeme Greenhill: That was TIE's estimate of what might be deliverable if there was a satisfactory resolution of the dispute between itself and BBS. The mediation talks have not taken place yet: the outcome is unknown, so to say that it will not be before 2013 is probably as accurately as it can be expressed.

Shirley-Anne Somerville: TIE has not made clear whether that is for the whole lot or a part of it.

Mr Black: I am aware that we are having difficulty in answering your question. Quite frankly, we are not entirely sure what a completion date of summer 2013 means; that would be best answered by TIE. As you will have picked up, BBS is projecting a somewhat later completion date of November of that year.

The Convener: I draw this part of our agenda to a close, and I thank the Auditor General and his staff for their contribution. There are clearly a number of questions arising from what we have heard this morning. No doubt we will try to do what we can in the very limited time that is available to us, but I suspect that the successor committee in the next session of Parliament will want—and need—to return to this issue.

11:29

Meeting continued in private until 12:32.

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