

Written response to the South Western Rail Franchise stakeholder consultation

From: **Keep Island Line in the Franchise (KILF) Campaign**

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Introduction

1. This response is being submitted by the Keep Island Line in the Franchise (KILF) Campaign. KILF was formed in July 2015 in response to the proposal put forward at that time about Island Line's possible transfer into a Community Interest Company (CIC). This followed the announcement earlier that month by the Department for Transport (DfT) that it would re-let the South Western rail franchise through a competition, to commence in 2017, rather than through a Direct Award for the period until 2019. This put the future of Island Line into sharp focus.
2. KILF's Aims, Objectives and Steering Committee (as agreed in July 2015) are set out in Appendix 1 to this submission. Our efforts have secured widespread local interest, including (at the time of writing):
 - i. 250 attendees at a public meeting on Tuesday 11th August 2015, at which unanimous support was received for our campaign to keep the Island Line rail service in the wider franchise. We have maintained regular contact with these supporters over email, encouraging their involvement in the campaign and receiving their feedback.
 - ii. 500 members of the KILF Facebook Campaign, through which a regular dialogue takes place on issues relating to the campaign.¹
 - iii. 1,542 signatures in support of a UK Parliament petition – "*Keep Island Line in the franchise; not a self-sustaining business*".² 1,059 of these signatures are from residents on the Isle of Wight.³
 - iv. 31-0 vote (with 2 recorded abstentions) by members of the Isle of Wight Council on 2nd September 2015 in support of a resolution which aligned with KILF's objectives.⁴ KILF made direct representations to all 40 councillors in advance of the vote.
 - v. More general wider feedback and support, including from hoteliers, parish councillors, rail users and other concerned local residents.

¹ KILF Facebook Campaign - <https://www.facebook.com/groups/kilfcampaign/>

² UK Parliament Petition - <https://petition.parliament.uk/petitions/117990>

³ Petition Map - <http://petitionmap.unboxedconsulting.com/?petition=117990>

⁴ Isle of Wight Council – Full Council Minutes, 2nd September 2015 - <https://www.iwight.com/Meetings/committees/mod-council/2-9-15/minutes.pdf>

3. A resolution agreed at the end of the KILF public meeting on 11th August (see 2(i) above) called on Andrew Turner MP to facilitate a delegation from KILF to meet the Rail Minister to make the following points:
 - i. Keep Island Line in franchise for the duration of the franchise and back the Isle of Wight Council's efforts in this regard.
 - ii. Investigate ways that the new franchise would require the new franchisee to make the investment required to maintain and enhance the Island Line both in terms of the service provided and in improved infrastructure.
4. Although Andrew Turner MP declined our request to facilitate a delegation to meet the rail minister, the view of the public meeting as set out above still stands.
5. We have set out the information above in order to provide an indication of the wider support there is for our objectives and the case we are making to the DfT through this written submission. However, it is worth emphasising that those members of the public who attended the public meeting and signed the petition is merely a sample indication of the wider support which Island Line has, as demonstrated through its passenger numbers and the informal feedback which we and our supporters have received over the past few months. We should also note that this submission draws on the input of many KILF supporters, pulling them together into this detailed representation.
6. We consider it is important to indicate what we believe to be a local public consensus in support of our objectives, particularly as advocates of removing Island Line from the South Western rail franchise have sought to give the impression that there is public support for their views, such as when Andrew Turner MP told the Isle of Wight County Press that "*I know this will welcomed by the whole Island community*"⁵ and that he had "*received support for the proposed Community Interest Company (CIC) from a number of Island residents*"⁶ Over the past seven months we have identified no such local support – other than a handful of close supporters of the MP – for the model which he has advocated. This is reflected in the lack of a petition or public meeting in support of this alternative approach; as clearly if such support existed that would have been some quantifiable expression of it over the past few months. There has been none. The only identifiable public support for the future of Island Line is one that aligns fully with the KILF objectives, and it is with this support that we make this detailed submission.
7. To confirm public support for our concerns and objectives, we note that slide 22 of the presentation used at the South Western Franchise Consultation Day in London on 5th January 2016 listed the following views which had been captured about Island Line by Transport Focus:⁷
 - *Higher awareness of refranchising on IoW;*
 - *Many aware and worried about proposals;*
 - *Island Line may not be part of new franchise;*
 - *Concerned about implications for service;*
 - *Wary about concept of a 'social enterprise';*
 - *Feels like thin end of wedge for passengers;*

⁵ *Isle of Wight County Press* article: "Steaming back into Ryde", 19th December 2014.

⁶ *Isle of Wight County Press* article: "Keep it within the franchise, meeting demands", 14th August 2015.

⁷ South Western Franchise Consultation Day – presentation, 5th January 2016 [Appendix 2 to this submission].

- *Expect service to be less good after 2017.*

These views align with ours and we are confident that they are reflective of the strength of local concern about the DfT's proposals as they stand.

8. As the Rail Executive may be aware, KILF (and its representatives) have previously written to the DfT with questions about the proposals for Island Line, and also to set out serious concerns about the consultation process. Some of those points are reiterated in this submission, particularly as the latter lead to questions about the appropriateness of decisions that will be made about the future of Island Line following this consultation. We would ask the DfT to carefully consider these before deciding whether to proceed with the implementation of these proposals (or a variant of them) through the Invitation To Tender (ITT) specification.
9. In order to provide a form of structure to this submission, we have identified those questions contained in the stakeholder consultation document which are relevant to our concerns and have structured our representations in response to them. Clearly some of the questions have no direct relevance to Island Line and therefore are not included in the sections which follow this introduction. The questions we are responding to are set out below.

Franchise Objectives

- *Do you feel that these are appropriate objectives for the South Western franchise?*
- *Are there any further objectives you believe should be included?*

Train Service Specification

- *Where, if anywhere, would you like to see any changes to first and last trains on the South Western network and why? Do you have any evidence to support this?*
- *Where, if anywhere, would you like to see any changes to weekend trains on the South Western network and why? Do you have any evidence to support this?*
- *Would you support a specification which is flexible enough to allow the operator to review how station calls are allocated to train paths in order to improve overall line capacity? What impact might this have on passengers?*

Partnership working and collaboration

- *We are interested in your view on the best way to achieve efficient operation of this railway through partnership and collaboration. Please describe how such working arrangements might support this objective.*

Community rail and other local partnerships

- *What opportunities are there for Community Rail Partnerships and other local partnerships to expand their role and range of activities to support local communities, businesses and other organisations?*

Island Line

- *What factors do you consider should be taken into account in assessment of options for the Island Line?*
- *Do you have any innovative proposals for how the Island Line might operate on a more self-sustaining basis?*

Fares and Ticketing

- *What are your views on the availability of retail staff and the ability for passengers to have widespread access to ticket buying opportunities (e.g. through new and improved approaches such as smart ticketing, increased advance purchase ticketing or via mobile phones), adequate measures to ensure vulnerable passengers are not disadvantaged, and more effective customer service by both station and on-train staff?*

10. In responding to the consultation, we have also had regard for the Island Line report by Christopher Garnett, as commissioned by the Isle of Wight Council.⁸ Although the Isle of Wight Council has made clear in its submission to the consultation that its formal position remains in support of keeping Island Line in the regional franchise, we note that it has supplied a copy of Mr Garnett's report to the DfT for information.⁹ We therefore recognise that consideration may be given to this report's recommendations as part of the DfT's deliberations on the tender specification, particularly as the local MP Andrew Turner appears to be promoting its conclusions¹⁰ (which is perhaps unsurprising given that his transport adviser recommended Mr Garnett for this work). Because of this, we have set out our initial views regarding Mr Garnett's recommendations in this consultation submission, and would ask that they are taken into account when deciding the way forward, particularly if any weight is given to his report.

Consultation Process

11. On 18th November 2015, David Pugh – on behalf of the KILF Steering Group – wrote to the DfT setting out concerns about the consultation process (a copy of which has been reproduced on the *On The Wight* website).¹¹ These concerns were articulated in the context of the Government's consultation principles. Although these principles are defined as guidance and without legal force, they are referred to in the published stakeholder consultation document as the basis on which the consultation is taking place. In any event, the consultation is governed by the common law duties of, respectively: fairness and legitimate expectation. As you may be aware, the long-standing Sedley principles laid out by Stephen Sedley QC in *R v Brent LBC ex p Gunning* (1985) 84 LGR 168, prescribe the necessary ingredients for a public body to have discharged its legal duties in relation to a consultation. Foremost of the four principles is that the authority must give sufficient reasons for any proposal to permit an intelligent consideration and response. Without prejudice to any potential future legal action, it is our view that the DfT's failure to provide any form of meaningful insight, context, or explanation for the proposed treatment of Island Line has nullified or significantly impaired any consultee's ability to provide a considered response to the DfT. It is only by virtue of the significant amounts of time that KILF and other certain interested parties (such as *On The Wight*) have expended interrogating franchise stakeholders and drawing on the collective political experience of the authors, that we have been able to provide something approaching a thorough response to the consultation. Clearly, it would not be reasonable to expect the man on the street to expend

⁸ Island Line report by Christopher Garnett - <https://www.iwight.com/documentlibrary/view/island-line-report-by-christopher-garnett>

⁹ *On The Wight* article: "Isle of Wight council respond to Island Line consultation", 8th February 2016 – <http://onthewight.com/2016/02/08/isle-of-wight-council-respond-to-island-line-consultation/>

¹⁰ *On The Wight* article: "Garnett Report: MP responds", 5th February 2016 - <http://onthewight.com/2016/02/05/garnett-report-mp-responds/>

¹¹ *On The Wight* article: "Island Line: Concerns raised franchise consultation pre-determined", 20th November 2015 - <http://onthewight.com/2015/11/20/island-line-concerns-raised-franchise-consultation-pre-determind/>

the time or resources in order to compensate for the apparent failures and shortcomings of the consultation exercise.

12. A response to the concerns submitted on 18th November was received on 10th December 2015 (which has also been reproduced on the *On The Wight* website).¹² In that response, George Clarkson (Passenger Services, Rail Executive), sought to reassure us that “*no decisions have yet been taken on the specification for the future South Western franchise, including for the Island Line*” and that consultees should consider the “*merits of the line operating on a self-sustaining basis, to assist the Rail Executive in meeting its stated objective to secure an appropriate, sustainable long-term future for the Island Line*”. Whilst this is welcome, we remain of the view that the consultation document does not make that sufficiently clear, and still implies a level of pre-determination.
13. Furthermore, Mr Clarkson’s response confirming that consultees should consider the merits of the self-sustaining basis was not publicised, not did the DfT do anything to inform the general public that the consultation document might have given a misleading impression in this regard (as we expand on below). It would, after all, have been easy to write to the *Isle of Wight County Press*, or place a public information notice therein. So much of the information which has been available over the past few weeks to assist consultees in shaping their responses has only been on account of the efforts of KILF, *On The Wight* and other outlets, such as *rail.co.uk*, but such platforms will not have reached many consultees who may well have been relying principally on the largely deficient and inadequate content of the stakeholder consultation document.
14. The consultation question is not framed in a neutral manner which encourages open-minded responses about the merits of the Government’s policy for Island Line to operate on a self-sustaining business; instead it just asks for proposals of how this might happen. The fact that no other branch line (either in this franchise or elsewhere) has been singled out in the same way, reinforces the message that making Island Line self-sustaining and separate is an intrinsic and unalterable feature of the DfT’s plans. A respondent would reasonably assume that because no justification for Island Line’s unique and unprecedented treatment as a South Western branch line is being advanced in the consultation document, the DfT are not inviting a response to the proposition. As no other loss-making branch line (of which there are many) has been singled out in the same way, the proposal for Island Line cannot simply be understood as being justified on economic grounds alone. In other words, a respondent would assume that they are not being asked to engage with the question of ‘if’ the proposals should go forward, because they are not being given the necessary information to engage with that issue. Indeed, the greater the change proposed in a consultation, the greater the duty on the proposer to outline the rationale and context behind it. If the DfT genuinely wished this to be an open-minded consultation which elicited responses about the merits of the proposal for Island Line, they should have provided contextual information to avoid creating the impression that the only views being sought were ‘how’ the change should take place and not ‘if’ it should.
15. Even the main narrative of the consultation document sets out a very clear bias to the Government’s preferred approach. Paragraph 2.40 states:

¹² *On The Wight* article: “Island Line: DfT respond to challenge over consultation process”, 14th December 2015 - <http://onthewight.com/2015/12/14/island-line-dft-respond-to-challenge-over-consultation-process/>

“We will be seeking proposals to determine a sustainable and secure operation, ultimately as a free standing entity, supported by local people and investors including the Isle of Wight Council and other interested parties.”

This paragraph does not give an implicit indication that dissenting proposals – i.e. not as a free standing entity – are invited, and when read together with the specific consultation question asking for innovative proposals on how the Island Line might operate on a more self-sustaining basis, strongly reinforces the message that deciding to make the network free-standing is an accomplished fact and not open for debate. The cumulative weight of the consultation’s language relating to Island Line is highly tendentious. To select but one example: in the paragraph cited above, ‘sustainability’ and ‘security’ is semantically the consequence of Island Line’s transformation to *“a free standing [sic] entity, supported by local people”*. The consultation’s tendentious narrative is further reinforced by the decision to include manifestly unflattering pictures of Island Line which clearly impugn SSWT’s management of the line and reinforce the alternative: the DfT’s clearly-favoured option of making the service free-standing. We consider the DfT’s choice of language to be against the aforementioned Sedley consultation principles and may have served to dissuade some consultees from responding to the consultation, as it does not appear to be genuinely seeking alternative views to the self-sustaining model which is put forward; instead just seeking ideas in support of how the preferred approach could be implemented.

16. One of our other concerns focused on the consultation document including unsubstantiated claims that Island Line generates revenues of £1m and costs £4m per annum to operate. Contrary to the consultation principles, the Government’s evidence base in respect of these figures is not being made available to enable contestability and challenge. No substantiation of these figures has been provided in the consultation document. In response, Mr Clarkson advised that the DfT *“does hold the detailed breakdown of costs and revenue associated with the Island Line”* and included a summary of 2014/15 Island Line costs and revenue at the end of his response. Whether Mr Clarkson was implying that the summary of the 2014/15 Island Line costs and revenue provided amounted (in his view) to a detailed breakdown was not clear, but a few sub-categories of figures clearly does not (in our view) amount to a detailed breakdown.

17. Mr Clarkson then stated:

“When providing background information in consultation documents, the Department makes a judgement on the level of detail that is included. In seeking to provide consultees with sufficient information so that they can respond to the consultation questions, a high level summary of total costs and revenue was included to provide both context, and an indication of the difference between the two values.”

It is concerning that the DfT considers that the figures contained in the consultation document of £1m revenue and £4m costs are considered to be *“sufficient information”* to enable the public to respond to the consultation questions. Given that the public are being asked *“if they have any innovative proposals for how the Island Line might operate on a more self-sustaining basis”*, it is difficult to see how they can put forward innovative proposals of any substance if there is not a detailed baseline of information about the current financial arrangements. Indeed, it is our position that it is impossible for the average respondent to offer anything other than a mere opinion on the future of Island Line in absence of detailed and reliable financials. As set out below, even when, in private correspondence, one of the authors of this submission was provided with a more detailed overview by Stagecoach SWT (see further below), the figures were still incomplete and

highly questionable. In any event, they were not made public and came mere days before the end of the consultation process. It is not clear to KILF how the DfT expects any member of the public to make a useful and informed response to the consultation when so little information has been put forward.

18. The DfT's proposals are significant, indeed, so significant that, as per Part 4 of the Railways Act 2005, they would require formal examination by the Secretary of State. Furthermore, the Island-based respondents to the consultation have the potential to be more significantly affected by the DfT's proposals than any other group of people within the South Western rail franchise area by virtue of both the scope of the proposed changes and as a consequence of the Island's unique geography and demographics. Indeed, all other areas are being consulted on questions relating to the scope of existing and new services; not the fundamental commercial and legal structure of the underlying business model itself. As such, the DfT were under a strong positive duty to provide substantially more information to Island residents than for the rest of the network and, in practice, certainly more than has been provided – which would have been insufficient even absent the special considerations that apply to Island service-users. Indeed, it is a well-established principle in public consultation law that the more likely a population are to be adversely impacted by a proposal, the greater the duty to provide detailed information. This view was most recently reiterated by Lord Justice Wilson in *R. (Moseley) v LB Haringey* [2014] UKSC 56.¹³ Although the DfT might not feel that the service's removal from a highly successful franchise (which has run one of the most reliable and punctual services in the country) constitutes a potentially adverse proposal, it is clear that it could be seen as such by any reasonable individual acting impartially. That the proposals for a 'free standing' service are as yet unexplored, unfunded and unsubstantial only serves to reinforce precisely how adverse they could reasonably be perceived to be. The issue here is not whether the proposal is conclusively adverse, but simply whether it has the reasonable possibility of being so. Unfortunately, it is clear that the DfT have applied the same approach to Island Line as they have to the rest of the franchise area despite the proposals being more controversial and far-reaching for Island residents. Indeed, the proposals go to the very heart of the business structure and the very existence of Island Line as part of the franchise area itself.
19. Slightly more detail (including income for previous years) was supplied in response to written questions^{14 15} submitted by Jonathan Reynolds MP (then Shadow Rail Minister) on 8th December 2015, to which responses were provided by Claire Perry MP (Rail Minister) on 14th December 2015. Following these responses, we submitted an FOI request to the DfT on 16th December, asking for a further breakdown of these figures – given that a few sub-categories of figures still falls considerably short of the Government's evidence base to enable contestability and challenge. A response to this FOI request was received on 22nd December, stating:

"The Department does not hold any information for how the revenue figures presented in response to Jonathan Reynolds MP's written parliamentary question is

¹³ Judgment of the Supreme Court of England and Wales - https://www.supremecourt.uk/decided-cases/docs/UKSC_2013_0116_Judgment.pdf

¹⁴ Written Parliamentary Question by Jonathan Reynolds MP, 8th December 2015 - <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2015-12-08/19131/>

¹⁵ Written Parliamentary Question by Jonathan Reynolds MP, 8th December 2015 - <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2015-12-08/19130/>

broken down in terms of ticket type or journeys made. These revenue figures were obtained from SSWT's management account information and we do not have any further breakdown."

20. Answers to various other questions also made clear that the DfT have no breakdown of the figures relating to costs, despite quoting summary figures in their consultation document. We therefore then turned to Stagecoach SWT to see whether they could shed any further light on these figures, given how much the DfT were relying on them to inform and influence the response to the public consultation. A response was received from Andy West, Stagecoach SWT's Finance Director on 2nd February 2016, which is appended to this submission.¹⁶ That response was helpful in informing our understanding of some of the figures contained in the consultation document, although clearly the provision of such information just seven days before the end of the consultation did not allow for wider public consideration of such information to inform their response.
21. The most significant part of SSWT's response was the detail of the cost escalation arising from the Infrastructure Lease arrangement, which allows Network Rail to recover costs incurred through a substantial lease charge. As the response from SSWT notes, the most recent contract renewal point was 1st April 2015, when the lease charge increased by £863k from £1,324k p.a. to £2,197 p.a. This is a significant uplift, and does raise questions of consistency given that a conventional Track Access Agreement may not give rise to such costs being recharged to the franchisee; but instead borne by Network Rail. The escalation of such lease charges also leads to questions as to the appropriateness of such costs being included within a headline figure of operating costs, as the consultation document implies. Such costs are not what would ordinarily be considered to be 'operating' costs, as they do not relate to the day-to-day running of the line. Presumably no other branch lines have hyper-inflation style lease charges being added to their purported operating costs in such an arbitrary manner, and heightens our concerns that the supposed cost base of Island Line is not being accurately described. If like-for-like comparisons were made with other small branch lines, we have no doubt that such figures would not be cited.
22. In the context of the stakeholder consultation, it is financially misleading of the DfT not to highlight that Network Rail have been allowed to move the costs of capital infrastructure, fully amortised, on to the terms of the lease's remaining duration, with no account taken for the proportion of all Network Rail's national costs that are met through the government's Network Grant. According to figures published by the Office of Rail and Road, Network Rail's income from the Network Grant is in the region of 61% and therefore we would expect a figure roughly commensurate to this being deducted from the capital costs currently being recovered through the lease charge.¹⁷ Yet this is not the case. The failure to do so is not only inequitable to Island residents, but, in the context of the consultation, puts an unfairly negative complexion on Island Line's costs base. Furthermore, this practice currently puts Island Line outside the reach of delegated taxpayer money contained within the Network Grant. The consequence is a loss of resources for Island Line to the detriment of Island taxpayers who help fund the Network Grant through general taxation. Although the grant benefits other loss-making branch lines, Island Line and Island residents are unjustifiably discriminated against. It is one thing to structure Island Line's relationship with

¹⁶ Letter from Andy West, Finance Director, Stagecoach SWT – 2nd February 2016 [Appendix 3 to this submission].

¹⁷ Network Rail / Office of Rail & Road – Overview of Charges - <http://www.networkrail.co.uk/ORR-overview-of-charges.pdf>

Network Rail in the form of a lease, it is quite another to deprive it of public resources without logical justification. Although it is hoped that this will change with the Rail Minister's proposal to give Network Rail responsibility for Island Line's infrastructure, that does nothing to address the adverse impact that the current arrangements have had on the perceptions of Island Line's costs base or on the consequences of years of under-investment.

23. Similarly, there are questions as to whether the cost of rail replacement services during the recent, extensive land-stabilisation work has been added on to the amortised lease rather than being met by Network Rail as it would be for any other service in the event that engineering work had to be completed. It is yet another cost that would otherwise be underwritten by Network Rail (and its significant funding from the Network Grant).

24. This also leads to questions regarding the accuracy of some of the information contained in the consultation document. Paragraph 2.39 states:

"Island Line forms part of the South Western Franchise, but operates under a separate Lease Agreement with Network Rail rather than an Access Agreement. Responsibility for infrastructure maintenance and renewals are shared between the operator and Network Rail under this lease, which is due to expire in 2019."

This paragraph implies that because responsibility for infrastructure is shared between the operator (the franchisee) and Network Rail that the latter bears the costs associated with their element of such work, whereas the information I have set out above makes clear that they recover this cost from the franchisee through a lease charge and this is reflected in the cited operating costs. Our concern about this paragraph is that it gives the impression that Network Rail are already bearing the cost of their element of infrastructure, thereby reinforcing the false impression that the cited costs of £4m are solely those generated by the franchisee in the operational aspects of running the service. It would have been more accurate if the consultation document had made clear that whilst Network Rail have some responsibility for infrastructure maintenance, that the franchisee bears the cost of such work and this is recovered through lease charges. The absence of such a proper explanation could easily lead to a misunderstanding as to what the crude £4m figure covers – thereby reinforcing our concern about the accuracy of information included in the consultation document.

25. The wider context to this is that Rail Minister Claire Perry has already indicated that Network Rail should take on the full cost of maintaining the line's infrastructure, including the track, pier and stations. In an article in the *Isle of Wight County Press* in September 2015, the Rail Minister noted that *"this cost currently falls to the operator of the line and represents a significant proportion of the expense and financial risk of running the railway"*.¹⁸ The acknowledgement that infrastructure maintenance currently represents *"a significant proportion of the expense"* of running Island Line strengthens our concern about the reference to the operating costs of £4m, as we believe that the unique circumstances of the franchisee having responsibility for the infrastructure (including the recharging of Network Rail costs through the lease) means that these figures distort what would be the comparable costs for a branch line which benefits from the more conventional arrangement of these infrastructure costs sitting exclusively with Network Rail.

¹⁸ Article by Claire Perry MP: "The future of IW railways", *Isle of Wight County Press*, 11th September 2015.

26. In light of this anomaly, we asked the DfT through our FOI request on 16th December 2015 if they could provide a revised total cost estimate to reflect what would be regularised circumstances of the cost to the franchisee under a conventional Track Access Agreement (as opposed to the current lease arrangement). In their response, the DfT said that it has made no estimates about any changes in costs in the event of any change in responsibility for infrastructure maintenance, including if the Island Line were to be run under a traditional Track Access Agreement. Whilst it is perhaps understandable that the DfT has not made any estimate about any changes in costs if Island Line was run under the more conventional model, this reinforces our concerns that figures are being cited for Island Line and described as if they were operational costs (i.e. what a franchisee would ordinarily incur) when in reality they reflect much more than that – i.e. including the escalating lease charges being applied. If the Rail Minister’s proposal for Network Rail to take on the full cost of maintaining the line’s infrastructure was implemented, this “*significant proportion of the expense*” (to use her words) would be deducted to reflect a much more realistic costs-revenue ratio of the operating arrangements.
27. The relevance of all this is that the public has been presented with a consultation document that claims Island Line “*generates revenues of £1m and costs £4m per annum to operate*”, despite these figures (a) not being substantiated and (b) including a significant cost element which is on an escalating trend towards the end of the current lease (2019) which does not reflect the actual operating costs involved. Even though we have been able to secure some additional detail behind these figures, the fact remains that the vast majority of consultees will be shaping their responses (or choosing not to submit such responses) in light of the stark, unsubstantiated figures included in the consultation document. We would go as far as to suggest that the inclusion of these arbitrary headline figures in the consultation document may have served to dissuade some potential respondents from submitting a representation to the consultation, on the basis that the financial position has been presented in such a uncontextualised, negative light that it diminishes the worthwhileness of submitting a response challenging such assumptions. Such figures certainly do not enable contestability and challenge to take place.
28. Our concerns in this regard are heightened having read an article *On The Wight* last month regarding the figures quoted in respect of costs and revenue.¹⁹ Their article notes that it has been raised many times during the ongoing debate on the future of Island Line trains, that the current franchise holder claims less than £1 million revenue was achieved in the last year, despite advertising passenger numbers of 1.4 million. The article states that Nigel Nuttall, the programme manager for the franchise bid, told those attending December’s consultation meeting on the Isle of Wight that the DfT were looking more closely at the figures provided by Stagecoach. He said:
- “We recognise there are some questions about that data and we are, as a department, looking into that and trying to establish a true baseline of information data and to be transparent about that, so that we can all move forward on a consistent basis rather than people espousing that it’s £2m, or £1m here or £1m there, we need to get to the facts so everybody can work off that at that same baseline. We need to be there before we make decisions.”*

¹⁹ *On The Wight* article: “Danger that public response on Island Line won’t be made with correct information”, 13th January 2016 - <http://onthewight.com/2016/01/13/danger-that-public-response-on-island-line-wont-be-made-with-correct-information/>

So the DfT have now conceded that the currently published figures may not be accurate, yet they are still allowing them to be used to influence and inform the public response to the consultation. This certainly could open up the subsequent decision to challenge, particularly if it could be demonstrated (or reasonably argued) that the public's response has been skewed as a result of these figures being taken into account when submissions have been made.

29. The article goes on to highlight a response that *On The Wight* received from the DfT in January, in which a spokesperson told them that the confirmed costs and revenue figures would only be finalised in advance of the April tendering process:

"Confirmed costs and revenues relating to the Island Line will be finalised in advance of the Invitation to Tender, which is due to be issued in April, so that potential industry bidders can factor them into their bids."

As the article notes, given that the consultation closes on 9th February, this means that consultees would be responding without the correct baseline of revenue information being officially confirmed, including the suggested operating costs. This denies the public the ability to undertake proper contestability and challenge to take place with a proper evidence base, as the consultation principles suggest is required.

Responses to Consultation Questions

Franchise Objectives

Do you feel that these are appropriate objectives for the South Western franchise?

30. We are broadly in agreement with the South Western franchise objectives. Taking the objectives in turn:
- i. We agree with the objective to support of the economy of the South Western franchise area by offering high quality rail services that reflect the specific requirements of the different markets. We consider that Island Line is an essential service needed to support the discrete Isle of Wight economy as an integral part of the franchise area, and the service's continued part of the franchise is needed for non-London flows, intra-regional and London-radial, given that it is used by a wide range of inter-Island travellers and as the essential first part of a journey for many London-bound commuters. Noting the objective to work within the affordability constraints on public funding, we consider that the DfT should use the opportunity of the franchise tender to place specific obligations on the bidders to develop a long-term solution which reduces the cost of running the line, and that such economies of scale can be best achieved within a wider franchise model. Taking these factors into account, we feel that this is an appropriate objective for the South Western franchise.
 - ii. We agree with the objective to increase capacity to meet current demand and future growth. From Island's Line perspective, current demand (based on station entry / exit usage figures) is considerably higher than those relating to many stations in Hampshire and elsewhere, including those along local branch lines which are – like Island Line – designated as community rail routes, with formal Community Rail Partnerships (CRPs) in place. All the figures show that Island Line is a well-used and much needed service, which clearly benefits from being supported by a wider franchise operation. With proper investment and promotion, there is every possibility

that it could benefit from future growth, and infrastructure works and rolling stock investments should take place to support this.

- iii. We agree with the objective to deliver an excellent experience for passengers which leads to significantly improved passenger satisfaction. However, we note that Island Line already has significantly high levels of passenger satisfaction, notwithstanding the ageing nature of its rolling stock. We would recommend that Island Line is used as a benchmark and example for improving passenger satisfaction in the rest of the franchise area.
- iv. We strongly agree with the objective to secure whole industry efficiencies and help reduce overall industry costs by working in partnership across the rail industry. In relation to Island Line, this is only possible by keeping the service in the wider franchise where it can benefit from whole industry efficiencies, wider expertise and economies of scale.
- v. We agree with the objective to secure short, medium and long term benefits from collaborative working practices and partnering with industry stakeholders such as Department for Transport, Network Rail and Transport for London (TfL). Putting Island Line on a regularised footing with Network Rail is essential to securing its future as an equitable part of a wider franchise operation. We also would like to see franchise bidders open up a constructive dialogue with TfL about the possible purchasing of appropriate tube stock for use on Island Line, thereby enabling TfL to introduce new carriages early with the capital receipts.
- vi. We agree with the objective to work with stakeholders to support local communities to deliver local transport integration, local regeneration and investment in and around stations through Community Rail Partnerships (CRPs) and other organisations. The Isle of Wight Community Rail Partnership plays an essential role in support Island Line's role in the wider local community, including with other transport providers, such as cross-Solent and bus operators.
- vii. We do not fully agree with the objective to work with the Isle of Wight Council to secure a long-term sustainable solution for the future of the Island Line, and we strongly disagree with the intention that this should extend to enabling it to become a self-sustaining business during the course of the next franchise. Our concerns about this are set out in detail further below. We would also note that the objective to work with the Isle of Wight Council should not extend to seeing to place any form of obligation on them to take responsibility for Island Line. We remain of the view that securing a long-term sustainable solution for Island Line is best enabled by fully including it in the wider franchise (and tender specification), thereby enabling and incentivising the franchise bidders to undertake this work, drawing on their expertise and experience.
- viii. We agree with the objective to improve social and environmental sustainability to reduce carbon emissions, use resources effectively, and build skills and capability within the business and supply chain.

Franchise Objectives

Are there any further objectives you believe should be included?

31. Ensure that a broadly equitable approach is taken to all lines across the existing franchise area, insofar as a universal commitment to continue the provision of all current services as part of the franchise operation, but with an adjustment that puts Island Line onto a more conventional track access agreement when the current lease arrangements end in 2019. Taking a consistent approach also extends to addressing Island Line's future requirements as part of the forthcoming Invitation To Tender, rather than deferring this matter for consideration at some point during the next franchise period. This would be an abrogation of responsibility by the DfT and run contrary to the public's expectation of them as the franchising authority, as well as being a missed opportunity.

Train Service Specification

Where, if anywhere, would you like to see any changes to first and last trains on the South Western network and why? Do you have any evidence to support this?

32. We support the continuance of current service levels for Island Line as a baseline, and would like to see the Service Level Commitment²⁰ set out in the existing agreement to be used as the starting point for the Train Service Requirement (TSR). We see no need for changes to first and last trains for Island Line; we are more concerned at the risk of being removed in the future if an alternative management / operational model was put in place.

Train Service Specification

Where, if anywhere, would you like to see any changes to weekend trains on the South Western network and why? Do you have any evidence to support this?

33. As above.

Train Service Specification

Would you support a specification which is flexible enough to allow the operator to review how station calls are allocated to train paths in order to improve overall line capacity? What impact might this have on passengers?

34. In theory yes, with in terms of Island Line we wish to see a specification which continues to call at all stations on the route.

Partnership working and collaboration

We are interested in your view on the best way to achieve efficient operation of this railway through partnership and collaboration. Please describe how such working arrangements might support this objective.

35. The best way to achieve efficient operation of Island Line through partnership and collaboration is to make it a more integral part of the South Western rail franchise, with the next franchisee required to invest in new rolling stock (as part of their rolling stock strategy) and for the infrastructure obligations to be entirely the responsibility of Network Rail, managed through a Track Access Agreement. Being part of a wider franchise operation is

²⁰ South Western Franchise – Service Level Commitment -

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/395182/SSWT_service_level_commitment_2.pdf

undoubtedly the best way to achieve efficient operation of the service, albeit the DfT – as the franchising authority – must place specific obligations on the next franchisee to invest in the service and reduce the operating costs. Partnership and collaboration with other public transport providers is also essential.

Community rail and other local partnerships

What opportunities are there for Community Rail Partnerships and other local partnerships to expand their role and range of activities to support local communities, businesses and other organisations?

36. We support the submission by the Association of Community Rail Partnerships (ACoRP) in this regard. Partnerships with local business associations, hoteliers' groups and Visit Isle of Wight is essential to ensuring that Island Line is marketed as a key part of the Island's offer.

Island Line

What factors do you consider should be taken into account in assessment of options for the Island Line?

37. We believe that the following factors should be taken into account in assessing the options for Island Line:
- a) The clear public support for keeping Island Line in the wider regional franchise, as supported by the Isle of Wight Council and evidence in the presentation given by Transport Focus. We specifically draw your attention to slide 23 of the presentation given at the consultation event on London on 5th January, and would ask that the 19 points set out on this slide are taken into account.
 - b) The essential nature of the service to users (commuters, students, workers, visitors and others) and its connectivity to onward services to the mainland.
 - c) The continued employment of Island Line staff by the wider franchise operator, bringing with it the training, HR support and opportunities that are available by being part of a wider operation.
 - d) The need to take a consistent approach that treats Island Line in a broadly equitable manner to other small branch lines, drawing on the support and expertise offered as part of a wider regional franchise (rather than treating the Island differently because of its physical separation from the rest of the network).
 - e) Recognise that past franchise awards (such as those in 1994 and 2006) did not place any specific obligations on the franchisee to improve the service (and invest in the infrastructure), and that we should now learn from this shortcoming by using the upcoming franchise tender to place specific requirements to secure the future of the service, in line with the Government's announcement that it expects bidders to develop proposals for how they will reduce the cost of running the line.²¹
 - f) A realistic analysis of Island Line's operating costs and revenue is undertaken, including an assessment of what the costs would be under a conventional Track Access Agreement model, and that these figures are used to inform the ITT (on the basis that a Track Access Agreement model should replace the Lease Agreement in 2019).
 - g) That whilst alternative operational models (such as a tram or light railway) are worthy of consideration, proper regard is had for the likely significant start-up costs of an entirely

²¹ DfT press release: "New proposals for Isle of Wight rail services announced", 11th September 2015
<https://www.gov.uk/government/news/new-proposals-for-isle-of-wight-rail-services-announced>

new system; compared to the potential for the franchise bidders to negotiate the potential purchase of tube stock from Transport for London at an appropriate juncture.

- h) That rather than looking to the DfT, the Isle of Wight Council, the MP or other enthusiasts to come up with the long-term solution, instead the franchise bidders are encouraged and incentivised by the Rail Executive to use their experience and expertise to come up with the best operating model which strikes an appropriate balance between projected infrastructure costs, deliverability, practicality, desirability and reduced operating costs.
- i) That taking all the above into account, the franchise bidders factor a costed proposal into their tender specification, with a resulting impact on the level of premium offered for the franchise.
- j) That whilst the Isle of Wight Council clearly has an important role to play as a key local stakeholder, they should not (to quote paragraph 5.11 of the consultation document) “*lead this initiative*”, not least because they have no statutory duties in relation to the provision of rail services. As Christopher Garnett makes clear in his report:

“The IWC would not have either the financial resources or skills to be able to operate the Island Line franchise. The line would have to be franchised by the DfT.”

We go further to state that we do not believe that the Isle of Wight Council should be involved in the franchising of the service. Whilst we recognise that there is some merit in inviting them to contribute ideas for the future, we believe that Island Line’s inclusion as an integral part of the franchise tender can place principal responsibility on the bidders to come up with and deliver (if successfully awarded the franchise) a secure future for Island Line.

Island Line

Do you have any innovative proposals for how the Island Line might operate on a more self-sustaining basis?

- 38. We do not believe that Island Line should operate on a more self-sustaining basis (i.e. operating in isolation to the rest of the franchise area), although we do believe that every effort should be made to reduce its operating costs – with the same obligation also being placed on other loss-making branch lines in the franchise area (and elsewhere).
- 39. Whilst we consider that the intention to ask bidders to develop proposals for how they will reduce the cost of running the line is laudable, we take the view that this can be best achieved by giving them the opportunity to have full responsibility for Island Line for the duration of the next franchise.
- 40. The Rail Minister suggested last September that the way forward “*could involve the next operator securing an investment partner or working with the community and stakeholders to set up a social enterprise to take over the running of the line*” and they would be asked to suggest ideas “*to turn it into a separate and self-sustaining business during the life of the franchise*”. Yet we are concerned that these vague aspirations towards an alternative model could actually serve as a disincentive for the next franchisee in undertaking work to reduce the operating cost of the line. There would, in our view, be little incentive for the bidders to develop cost effective long-term solutions (which would be likely to require upfront investment) if they are unlikely to have direct or sole responsibility for the line for the duration of the franchise period. Furthermore, we consider that the DfT could only

reasonably require a franchisee to make the necessary investment (with the resulting improvement in the financial position) if it was based on a long-term obligation of responsibility for running the service – rather than just helping to sustain the line ahead of it being turned into a separate self-sustaining business.

41. We believe that the Government's desire (to see a reduction in the costs of running Island Line) would be much more likely to be achieved if the bidders are incentivised through the tender process to come up with a long-term solution as part of their proposals for the entire network area. It is beyond doubt that the bidders would be far better placed to achieve this – by drawing on their professional expertise and obvious economies of scale – than an unspecified investment partner or a locally managed social enterprise. We are realistic enough to recognise that a locally-run outfit simply would be unable to match what major Train Operating Companies (TOCs) would be able to offer on this front.
42. Instead of asking bidders to come up with models for how Island Line could be separated from the franchise, the DfT should propose to place much more specific obligations (than they have in the past) on the prospective franchisee about what improvements are required across the entire network (including Island Line) during the ensuing franchise period. As stated above, we are concerned that the much-needed investments in Island Line could not be required of the franchisee if the service did not have a secure future in the franchise for its entire duration. In short, if bidders are only asked to sustain Island Line for the short-term, it will continue to be starved of investment.
43. We recognise that the incumbent operator has not – under the current terms of the current franchise – been incentivised or obligated to make improvements to Island Line. However, this should not be used as an excuse to say that the franchise model is not capable of requiring such improvements in the future, as clearly the DfT has the authority to place such obligations on the franchisee.
44. Our concern remains that if the Invitation to Tender (ITT) in March does not place an explicit requirement on bidders to themselves bring forward (and implement) long-term solutions for Island Line – and instead places an emphasis on what was outlined in the DfT press release in September and the consultation document – the Island will miss out on the opportunity to see a proper plan come forward. A failure to ask bidders to focus solely on providing a long-term solution, fully integrated within a franchise model would – in our view – be an abrogation of the DfT's responsibility to not only secure the best deal for the taxpayer, but fail to seize the opportunity to place such an obligation on those parties (the bidders) who are best placed to prepare and implement an effective, efficient, long-term solution. Any alternative outside of the wider franchise model will almost certainly fall short of this.
45. We would now like to briefly comment on the recommendations set out in the recently published report by Christopher Garnett, on the basis that his work may well be considered by the DfT in their forthcoming deliberations. The idea of converting to a single line tram operation is certainly one that merits further consideration, although the current lack of detail of the likely operational costs of such a model (along with the significant upfront investment required to convert the whole route to such a model) leads to questions about how feasible this might be. The introduction of trams in Manchester and Edinburgh are indicative the substantial infrastructure costs involved. The day-to-day operational costs of

light rail might be cheaper, but not necessarily the gross sunk-costs. Obviously, it is the latter that is germane and should be fully taken into account when assessing the merits of this suggestion.

46. We remain of the view that whatever operational model (including a tram) is put in place that this can be best managed as part of a wider franchise operation. We disagree with Mr Garnett's conclusion in paragraph 8.4 of his report that the franchisee would probably not have the management skills to run a tram based system as part of its operation. Both bidders for the franchise – Stagecoach and First Group – have extensive experience of running trams (in Manchester and London respectively), and it is not unusual a range of operational models to exist within a wider operation.
47. We note that Mr Garnett has said that *“it is understood that replacement LUL stock is unlikely to be made available before 2027”*, but as we have outlined further above, this is working on the assumption that TfL would be unwilling to negotiate with a franchisee who wished to purchase such stock for an acceptable price. Whilst Mr Garnett has said that such replacement stock would be over 40 years old and would be expensive to convert, no figures are provided on this – and we would be surprised if such conversion costs were anything like the scale of what would be required to introduce an entirely new operational model, such as a tram. We therefore believe that the DfT should encourage franchise bidders to properly assess the merits of a range of different operational models, taking into account both the longer-term operational costs along with the start-up infrastructure costs (particularly the substantial amount which Network Rail would have to incur in relation to the latter for certain operational models).
48. Linking to our suggestions further above about what factors should be taken into account, we would like to offer a view on a section of Mr Garnett's report in which he casts doubt on the benefits of Island Line being part of the wider franchise. In paragraph 9.2 of his report he states:
- “There is a perception that because Island Line is part of the main franchise it is provided with more protection and investment than if it was on its own. It is not understood that even when part of the main franchise Island Line is a separate cost centre. No extra money is, or would be invested by the franchisee into Island Line over and above the amount contracted in its franchise agreement, unless it is not achieving the targets in its franchise agreement, or there was a clear economic return for the franchisee, which in the case of the Island Line is difficult to see.”*
- It is potentially misleading for Mr Garnett to suggest that no money would be invested by the franchisee into Island Line, because ultimately it is in the DfT's gift – as the franchising authority to place obligations on the franchisee as to what level of support (including longer-term investment requirements) they have to provide. A recent House of Commons briefing paper is clear on this point, when it says: ²²
- “Franchising involves the Government setting out a specification for what it would like a franchisee to do over a set period (level of service, upgrades, performance etc.)”*
49. This is why we remain so firmly of the view that the current franchising tender process is the opportunity to secure Island Line's future – and this opportunity should not be missed,

²² House of Commons, railway passenger franchises – 18th August 2015 - <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN01343>

for all the reasons we have set out. We are concerned that all the aspirational talk of alternative operational models (such as a tram) may be used as convenient excuse to postpone the timely and necessary consideration of Island Line's long-term needs as part of the current tender process. It would be all too easy for the DfT to cite the Garnett Report (and similar such proposals) as a convenient reason to exclude Island Line's future requirements from being addressed in the forthcoming Invitation To Tender, whilst all other parts of the franchise area (including other loss-making routes) benefit from very specific guarantees about future service provision. This would not only be inequitable, but would be using entirely uncoded and unfunded aspirations for the future as spurious grounds for kicking the issues of Island Line into the long grass. We believe that now is the time for the nettle to be grasped on determining a clear way forward for Island Line, and that this should be reflected in the ITT when it is published next month.

Fares and Ticketing

What are your views on the availability of retail staff and the ability for passengers to have widespread access to ticket buying opportunities (e.g. through new and improved approaches such as smart ticketing, increased advance purchase ticketing or via mobile phones), adequate measures to ensure vulnerable passengers are not disadvantaged, and more effective customer service by both station and on-train staff?

50. We consider that the guards on Island Line do an excellent job in selling tickets to passengers, insofar as the limitations on the current rolling stock allow for. As Christopher Garnett notes in paragraph 5.8 of his report, there have been issues about staff not being able to pass between the carriages when the train is moving. As he notes, this has seriously affected the ability to check / sell tickets on the route especially when the trains are busy. We are concerned that the existing operator appears not to have made any effect to rectify this matter, with an undoubted resulting adverse impact on levels of passenger income generated. Therefore, we believe that resolving the issue of passing between the carriages should be a high priority whilst the existing stock remains in use, so that the ability of passengers to have access to ticket buying opportunities is increased.
51. Whilst we note that Ryde Esplanade Station has a self-service machine, none of the others do. We suggest that that a self-service machine is reintroduced at Shanklin and consideration is given to introducing one at Sandown also. We should also add that the customer service desks (when open) at Ryde Esplanade and Shanklin also provide a helpful and excellent service, and these should be retained.

Keep Island Line in Franchise
“KILF” CAMPAIGN

Campaign Aim

To secure the future of the Island Line (Isle of Wight) train service within the next South Western rail franchise (2017 onwards), with a sustainable, reliable and viable service on the existing route for the duration of the next franchise period.

Campaign Objectives

- 1) To convince the Department for Transport (DfT) that Island Line must be included within the scope of the next South Western rail franchise, and any forthcoming public consultation on this should include Island Line within the preferred option.
- 2) To make clear that we recognise the need for significant upgrades to be made to the Island Line infrastructure – and to urge the Government to require Train Operating Companies (TOCs) bidding for the franchise to include proposals for how they would deliver such improvements during the next franchise period.
- 3) To support and promote the policy objectives set out by the Isle of Wight Bus & Rail Users Group (IWBRUG) in their recent Policy Statement.
- 4) To involve the local community in this campaign, particularly to ensure that the views of passengers, Island Line employees, residents and interested groups (including local businesses) are taken into account in pursuing the stated aims and objectives.
- 5) To set out why an alternative model (outside of a wider regional franchise) is against the best interests of the Island.
- 6) To seek to secure the support of the MP, the Isle of Wight Council, town and parish councils, other public transport providers and other stakeholders for the stated aims and objectives.

Steering Committee

The KILF Campaign is focused on achieving the aims and objectives set out above. It brings together the input from a few individuals with a range of political and community backgrounds, and since the public meeting in August has drawn on the input and experience of a wide range of supporters. KILF is a cross-party and community-led campaign.

The Steering Committee is made up of:

- Stewart Blackmore, former Labour parliamentary candidate and current member of Ventnor Town Council.
- David Pugh, former Conservative councillor and leader of the Isle of Wight Council.
- Chris Quirk, Chairman of the Shanklin Theatre & Community Trust, and member and deputy mayor of Shanklin Town Council.

Please note that all the above named individuals are on the Steering Committee in a personal capacity, and not necessarily reflecting the view of any named organisation of which they are part.