

Keep Island Line in the Franchise (KILF)

Mr Nigel Nuttall
Project Director - South Western Franchise Competition
Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR

By email to nigel.nuttall@railexecutive.gsi.gov.uk

19th April 2016

Dear Nigel,

South Western Rail Franchise: Island Line

I write further to our earlier email correspondence on the above subject, including the written response which we (KILF) submitted to the South Western Rail Franchise stakeholder consultation on 9th February.

I am aware from my email exchange with your colleague Richard Hughes during February (see Appendix 1 to this letter) that the Invitation To Tender (ITT) is due to be published in late April or early May, and I therefore expect that preparations of this documentation are now at a relatively advanced stage.

Nevertheless, I wish to make a further representation on behalf of our supporters to the DfT, and would ask that what I am outlining below is taken into account during the current preparation of the ITT.

You will be aware from my email exchange with Richard that I set out our concerns about the possibility of the DfT taking into account the Report by Christopher Garnett (commissioned by the Isle of Wight Council) when preparing the ITT, particularly as it had not yet been considered by the local authority's elected membership when its Chief Executive John Metcalfe sent it in response to the stakeholder consultation. Richard's response to me indicated that the DfT would be "*taking into account the responses from all parties who have submitted*", which served to heighten our concern at the decision of the IW Council's Chief Executive to prematurely provide the DfT with a copy of the Garnett Report.

As you will be aware from an email Mr Metcalfe subsequently sent you on 17th March (Appendix 2 to this letter), the Isle of Wight Council formally resolved on 16th March to disagree with Mr Garnett's conclusion "*that there does not appear to be any clear logical arguments for Island Line being part of a wider franchise*", and instead reaffirmed its view "*to support Island Line remaining as a fully integral part of the South Western rail franchise for the entire duration of its post-2017 period*".

In light of this unambiguous formal stance of the local authority, we hope that the DfT will now completely disregard Mr Garnett's recommendation that Island Line is excluded from the wider franchise and instead give full weighting to the Isle of Wight Council's reaffirmed view in support of

Island Line being treated as a full, integral part of the franchise – and that this is properly reflected in the forthcoming ITT.

We consider it is particularly important that the Isle of Wight Council’s formal resolution in this respect is given due weighting in the DfT’s evaluation of the consultation responses given that the stakeholder consultation document stated in paragraph 5.11 that the local authority “*will lead this initiative* [turning Island Line into a separate self-sustaining business]”. It is clear that not only does the Isle of Wight Council not wish to lead any such initiative, but it fundamentally disagrees with the proposal to turn Island Line into a separate self-sustaining business. It would therefore be entirely perverse if the DfT sought to include (to any extent) this aspiration in the ITT, given that its proposed lead stakeholder has completely rejected the role suggested for it in this regard.

As you will be aware, our written response to the stakeholder consultation set out our detailed concerns about the process, particularly our view that the DfT failed to provide any form of meaningful insight, context, or explanation for the proposed treatment of Island Line – and as a result the consultation ran contrary to the established Sedley principles. Our concerns about the largely deficient and inadequate content of the stakeholder consultation document in relation to Island Line – particularly in relation to the abject failure to inform consultees that they should consider the merits of the proposed separate, self-sustaining business – are now further heightened in light of the named lead stakeholder for this model (the Isle of Wight Council) formally distancing itself from the role which the DfT stated in the consultation document it “will” fulfil.

To compound the concerns we set out in our consultation submission, it could now be argued that consultees were significantly misled as to the suggested role of the local authority in leading the initiative for a separate self-sustaining business, thereby giving this proposal far greater credibility than it actually deserved. Whilst KILF was very aware – at the time of the consultation process – of the IW Council’s reluctance to lead any such initiative, other prospective consultees would have been unlikely to have been similarly informed, and instead are likely to have read the consultation document’s forthright wording about the local authority’s role as a clear indication of the leadership it would be providing. Indeed, the statement that the Isle of Wight Council “will lead this initiative” is misleading to the extent of being a complete misrepresentation of the actual situation, by implying that the local authority had agreed to take on such a role. Consequently, this may well have distorted prospective consultees’ consideration of whether and how to respond, having incorrectly believed the document’s gross misrepresentation of the Isle of Wight Council’s position in leading the initiative.

As referenced further above, all of this is not helped by the decision of the Isle of Wight Council’s Chief Executive to prematurely provide the DfT with a copy of the Garnett Report (given that its principal recommendation was subsequently rejected by the local authority’s elected membership), as its provision may have served to encourage you and your colleagues to advance proposals for Island Line in the ITT which run contrary to the recently reaffirmed stance of the local authority. We remain concerned that the Garnett Report could be, as I write, being used to inform the preparation of the ITT – when actually it should carry no weight whatsoever.

In light of all I have set out above, I wish to reiterate our serious concerns about:

- 1) The substantial shortcomings (running contrary to the Sedley principles) of the stakeholder consultation process regarding the approach taken towards Island Line, which are likely to have skewed the public’s response and dissuaded some consultees from responding.
- 2) The Isle of Wight Council’s position being ambiguous at various points during the process and its future role being misrepresented in the consultation document.

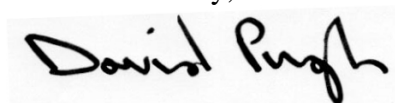
- 3) The risk of decisions being made about Island Line's future – particularly in terms of what is included in the ITT – on the back of this flawed and misleading consultation process.

Even though these shortcomings could give rise to a formal challenge, it remains our strong preference for these matters to be resolved by Island Line's future requirements being properly stipulated in the forthcoming ITT – and being treated in an equitable and proportionate manner to other branch lines in the franchise area. If the ITT does take this approach, our concerns will have been addressed and we would look forward to a franchise award being made that is in the best interests of both the Government and the Isle of Wight.

We do not necessarily expect a response at this stage, but would ask that the concerns we have set out above are taken into account – and we look forward to seeing the ITT documentation in the near future.

In the interests of transparency, I am copying this to the Isle of Wight Council's Leader and Chief Executive, along with your colleague Richard Hughes.

Yours sincerely,

A handwritten signature in black ink that reads "David Pugh". The signature is written in a cursive style with a large, prominent 'D' and 'P'.

David Pugh

On behalf of the Keep Island Line in the Franchise (KILF) Campaign

davidpugh@shanklin.com

EMAIL EXCHANGE BETWEEN DAVID PUGH (KILF) AND RICHARD HUGHES (DfT) – 13th-15th February

-----Original Message-----

From: David Pugh [mailto:davidpugh@shanklin.com]

Sent: 15 February 2016 10:26

To: 'Richard Hughes' <richard.hughes@dft.gsi.gov.uk>; 'Nigel Nuttall' <nigel.nuttall@dft.gsi.gov.uk>

Subject: RE: Invitation To Tender for South Western rail franchise

Richard

Thank you for this. Having had some experience of purdah local elections issue, I can imagine that there will only be a perceived impact on the local elections if something radical (positive or negative) was advocated, which given that this is only likely to happen in relation to the Isle of Wight, is not necessarily relevant as no local elections are taking place here this year.

I note you say that the ITT will be drafted taking into account the responses from all parties who have submitted, so I can only assume this includes the Garnett report. I am surprised that the leadership of the Isle of Wight Council chose to submit the Garnett report to the DfT prior to its consideration by elected members, as presently it should carry no weight in the DfT's deliberations as a submission from a key stakeholder.

Hopefully - given the timescales for the ITT being published in late April / early May - the DfT will also be able to have regard for any resolution reached by elected members at Full Council in March.

Kind regards

David

-----Original Message-----

From: Richard Hughes [mailto:richard.hughes@dft.gsi.gov.uk]

Sent: 15 February 2016 09:12

To: 'David Pugh' <davidpugh@shanklin.com>; Nigel Nuttall <nigel.nuttall@dft.gsi.gov.uk>

Subject: RE: Invitation To Tender for South Western rail franchise

David,

The ITT is due to be published in late April or Early May, depending on the impact of purdah for the local elections.

Following the evaluation of all the consultation responses the ITT will be drafted accordingly, taking into account the responses from all parties who have submitted.

Regards,

Richard Hughes | Specification Manager, Direct Awards, Department for Transport

-----Original Message-----

From: David Pugh [mailto:davidpugh@shanklin.com]

Sent: 13 February 2016 16:07

To: Richard Hughes <richard.hughes@dft.gsi.gov.uk>; Nigel Nuttall <nigel.nuttall@dft.gsi.gov.uk>

Subject: FW: Invitation To Tender for South Western rail franchise

Dear Richard and Nigel

Further to my note below, I see that the ITT is actually due to be published in April, not March.

The rest of my query below remains.

Many thanks

David

-----Original Message-----

From: David Pugh [mailto:davidpugh@shanklin.com]

Sent: 12 February 2016 09:31

To: Richard Hughes <richard.hughes@dft.gsi.gov.uk>; Nigel Nuttall <nigel.nuttall@railexecutive.gsi.gov.uk>

Subject: Invitation To Tender for South Western rail franchise

Hi Richard and Nigel

I hope that you received our (KILF) submission to the South Western rail franchise consultation.

Other than analysing and publishing a summary of feedback to the consultation, I understand that the next stage is for the ITT to be published at some point in March. Do you have an approximation of when this may be?

I only ask as I know that the Isle of Wight Council is due to discuss the Garnett Report on 16th March, to decide whether they wish to endorse his recommendations. I am aware that the IW Council has submitted the report to you, but at the moment it should carry no weight as it was not commissioned by the DfT and presently it does not reflect the view of the council, which is to see Island Line kept in the franchise, and invested in accordingly.

We are naturally concerned that the ITT may not seek to place any particular obligations on the bidders to invest in a long-term strategy for Island Line, particularly if the plans by Garnett are seen as some form of alternative that can be worked up in due course.

Can you confirm that in preparing the ITT you will not have any regard for Garnett's recommendations, at least not until such time as (and if) the IW Council decides to endorse his suggested way forward?

Kind regards

David Pugh

On behalf of the Keep Island Line in the Franchise (KILF) campaign

EMAIL FROM JOHN METCALFE (IWC) TO NIGEL NUTTALL (DfT) – 17th March

From: Metcalfe, John
Sent: 17 March 2016 16:27
To: Nigel Nuttall
Cc: SouthWesternFranchise2016@railexecutive.gsi.gov.uk; Richard Hughes
(Richard.Hughes@railexecutive.gsi.gov.uk)

Subject: Island Line - Representations

Dear Nigel,

I write to advise you of the outcomes of the Isle of Wight Council's further discussions about the future of Island Line at its meeting of Wednesday 16 March 2016.

When I responded to the stakeholder consultation exercise on behalf of the Council I appended a paper looking at possible options produced by Mr Christopher Garnett and indicated that whilst this had not been discussed by the Council it would be considered at the planned meeting in March.

In the interim a further report has been received by a Member of the Council from a Mr Mark Briton; this was circulated to all Members of the Council in advance of the debate at last evening when Council formally resolved:

- (i) Thanks Mr Garnett for his work in consulting with stakeholders, considering options and preparing his report.
- (ii) Also notes and welcomes the technical response to the report submitted by St Helens resident Mark Brinton, a practising railway engineer with over forty years of experience (including in relation to Island Line).
- (iii) Whilst welcoming some of Mr Garnett's analysis, disagrees with his conclusion that there does not appear to be any clear logical arguments for Island Line being part of a wider franchise.
- (iv) Instead reaffirms the view set out in its September 2015 resolution to support Island Line remaining as a fully integral part of the South Western rail franchise for the entire duration of its post-2017 period.
- (v) Agrees to submit a copy of Mr Brinton's report to the DfT as a late representation to the consultation process and asks Ministers and the Rail Executive to take its content into account in preparing the Invitation To Tender (ITT) – to ensure that the franchise specification invites bidders to set out how they would invest in, maintain and improve the service throughout this time, including looking at different operational models (such as those set out in the reports prepared by Mr Garnett and Mr Brinton).
- (vi) Agrees to ask the DfT to ensure that within the next franchise specification there is an explicit obligation on the franchisee to work proactively with the ferry operators to ensure connectivity between services including taking due account of late running services including delaying rail departures as necessary.

I have attached herewith a copy of the report provided by Mr Brinton in accordance with item (v) above.

In writing may I confirm that this resolution sets out the Council's final agreed position in respect of the future of Island Line and would ask that the DfT take this into account when making its decisions in respect of the service. Items (v) and (vi) are of the most relevance in this regard.

Yours sincerely,

John

John Metcalfe | Chief Executive
Isle of Wight Council | County Hall | Newport | Isle of Wight PO30 1UD