Differences between an Equity-Based PPP and the NPDO Structure
(based on deals to date: future deals may vary)

Appendix 5

<table>
<tr><th>Subject</th><th>Equity PPP</th><th>NPDO</th></tr>
<tr><td>Compensation on termination</td><td colspan="2">Broadly the same in both equity and NPDO situations but requires redrafting of SSSC to provide for:
– Repayment of junior debt instead of shareholder’s equity (different calculation formulae, which may produce slightly different results depending on the particular circumstances)
– Definition of a liquid market for sale of the project on contractor default.</td></tr>
<tr><td>Finance</td><td>Finance for the project is provided by senior debt (c. 90%) and equity or shareholder loans (c. 10%)</td><td>Finance for the project is provided by senior debt (on substantially identical terms to an equity-based project) and fixed-rate junior debt. There is a nominal amount of equity, owned by the junior lenders, with no rights to dividends or other distributions.</td></tr>
<tr><td>Sharing of Refinancing Gains</td><td>Sharing of refinancing gains is only available on senior debt. This limits the authority’s access to refinancing gains in a market where senior debt is at a competitive rate.</td><td>Sharing of refinancing gains available on both senior and junior debt. Junior debt is priced higher than senior debt based on the additional risk profile. As such, there is greater scope for refinancing junior debt after the construction period (when most risk is present) has been completed.</td></tr>
<tr><td>Profits</td><td>Profits in the SPV, including those generated by efficiencies or windfalls, are taken by the equity shareholders.</td><td>Junior debt, with a fixed return, is substituted for equity. Profits after paying the junior loan return are passed down through the SPV to the community body or Charity.

However, there are higher unitary charge payments due to fact that lenders require a longer “tail” of extra cash flow in the last two years of the project</td></tr>
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Subject	Equity PPP	NPDO
		It should be noted that, in the Argyll and Bute base case model, profits are not generated until after the debt is repaid (i.e. during the "tail" period). These surpluses are taken into account in considering the overall value for money to the Council provided by the NPDO structure. The lack of equity shareholders might suggest there is no impetus for the SPV to generate surpluses due to the lack of shareholder pressure. This is addressed in part through management incentives and it is in the lenders' interests for surpluses to be generated as this improves the security for their loan. There are, however, potential conflicts of interest as to what might happen to any surplus. This is addressed below.
NPDO requirements	None.	The NPDO Project Agreement defines certain requirements that must be signed up to by the SPV. These include the requirement to pay surpluses to the community body or charity. The Council may terminate the Agreement if these requirements are breached.
Governance	The equity interest acts as a control over directors to ensure that the SPV operates efficiently so that distributions can be made from any profits in the SPV.	The Board of the NPDO typically has up to 7 directors, of which up to 5 are appointed by the junior lenders. In general it is in the lenders' interests to manage the company efficiently, and there is no conflict of interest with the Council/Community Body or Charity's position. The NPDO has an Independent Director and a Stakeholder Director (appointed by the Community Body or Charity). These directors have a role in ensuring that the company is run efficiently as well as ensuring surpluses are passed down to the NPDO.

Subject	Equity PPP	NPDO
		The SPV's Articles of Association may prevent the lender directors voting on areas where there is a potential conflict of interest. This could include where lenders might wish to use surplus cash to improve their own position, or built up unreasonably high reserves, rather than distribute legitimate surpluses to the Community Body or Charity.