



The Scottish Parliament
Pàrlamaid na h-Alba

INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

AGENDA

25th Meeting, 2014 (Session 4)

Wednesday 5 November 2014

The Committee will meet at 10.00 am in the Sir Alexander Fleming Room (CR3).

1. **Decision on taking business in private:** The Committee will decide whether to take item 4 in private.
2. **Draft Budget Scrutiny 2015-16:** The Committee will take evidence on the Scottish Government's Draft Budget 2015-16 from—

Karen Campbell, Head of Policy and Operations, Homes for Scotland;

Richard Dixon, Director, Friends of the Earth Scotland, and John Lauder, Director, Sustrans Scotland, representing Stop Climate Chaos Scotland;

Alan Ferguson, Chair, Existing Homes Alliance Scotland;

Mark Tate, Director, Community Broadband Scotland.

3. **Petition: PE1481** The committee will consider a petition by Mr Pat Rafferty, Mr Harry Donaldson, and Mr Harry Frew on behalf of Unite, GMB, & UCATT, on blacklisting in Scotland.
4. **Homelessness in Scotland:** The Committee will consider the outcomes from its review of the implementation of the 2012 homelessness commitment.

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The papers for this meeting are as follows—

Agenda Item 2

Background note

ICI/S4/14/25/1

PRIVATE PAPER

ICI/S4/14/25/2 (P)

Agenda Item 3

Background note

ICI/S4/14/25/3

Agenda Item 4

PRIVATE PAPER

ICI/S4/14/25/4 (P)

Letter from the Minister for Housing and Welfare

ICI/S4/14/25/5

Infrastructure and Capital Investment Committee

25th Meeting, 2014 (Session 4)

Wednesday 5 November 2014

Scottish Government Draft budget 2015-16

Introduction

1. On 9 October 2014, the Scottish Government published its Draft Budget 2015-16. The document can be found at the following link:

<http://www.scotland.gov.uk/Publications/2014/10/2706/0>

2. The Infrastructure and Capital Investment (ICI) Committee has a duty to scrutinise the Scottish Government's draft budget on the various subjects which fall under its remit, i.e. housing, transport, capital investment, digital infrastructure and broadband, Scottish Water and public procurement.

Infrastructure and Capital Investment Committee consideration

3. The [Committee's report last year](#) proposed several ways of linking the draft budget with [National Performance Framework](#) (NPF), as a tool to help improve scrutiny, and it was agreed that this would be the basis of the Committee's approach to its work on the Draft Budget 2015-16.

4. In June 2014 the Committee identified the following [National Indicators](#) contained within the NPF on which it wishes to focus its scrutiny:

- Reduce Scotland's Carbon Footprint
- Reduce traffic congestion
- Increase the proportion of journeys to work by public or active travel

5. The ICI Committee's call for views opened on 29 August 2014, and will close on 31 October 2014, full details can be found at the following link:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/81296.aspx>

6. The Committee heard from a range of academic experts at its meeting on 29 October 2014. A link to the Official report for 29 October will be made available at the following link upon publication:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/29837.aspx>

7. A number of briefings have also been published in relation to the Draft Budget 2015-16 by the Scottish Government and the Scottish Parliament Information Centre:

- [Carbon Assessment of the 2015-16 Draft Budget](#)
- [Budget Scrutiny 2015-16](#) which outlines the Scottish Parliament's Finance Committee's approach to this year's budget
- [Draft Budget 2015-16](#) provides a general overview of the draft budget

Written submissions

8. Twenty written submissions to the call for views have so far been received. Links to these submissions are at **Annexe A**

Next steps

9. The Committee will hear from a number of stakeholders at its meeting on 5 November 2014

10. The Committee will hold a final evidence session on 12 November 2014 with the Cabinet Secretary for Infrastructure, Investment and Cities.

Myra Leckie
Committee Assistant
October 2014

ANNEXE A

Written submissions received on the Draft Budget 2015-16

[BT Scotland \(125KB pdf\)](#)
[Carplus \(375KB pdf\)](#)
[Confederation of Passenger Transport - Scotland \(246KB pdf\)](#)
[Dr David Connelly \(229KB pdf\)](#)
[East Coast Mainline Authorities \(74KB pdf\)](#)
[Energy Saving Trust \(256KB pdf\)](#)
[Existing Homes Alliance Scotland \(461KB pdf\)](#)
[Homes for Scotland \(270KB pdf\)](#)
[North Ayrshire Council \(222KB pdf\)](#)
[Ofcom Scotland \(247KB pdf\)](#)
[Paths for All \(165KB pdf\)](#)
[Passenger Focus \(166KB pdf\)](#)
[Scottish Council for Voluntary Organisations \(19KB pdf\)](#)
[Scottish Federation of Housing Associations \(102KB pdf\)](#)
[SEStran \(222KB pdf\)](#)
[South Lanarkshire Council \(187KB pdf\)](#)
[Spokes \(194KB pdf\)](#)
[Stop Climate Chaos Scotland \(387KB pdf\)](#)
[Sustrans Scotland \(234KB pdf\)](#)
[UNISON](#)

More submissions are expected to follow. A full list can be viewed at the following link:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/82856.aspx>

Infrastructure and Capital Committee

25th Meeting, 2014 (Session 4), Wednesday 5 November 2014

Public Petitions

PE1481 on blacklisting in Scotland

PE1481 – Lodged 13 May 2013

Petition by Mr Pat Rafferty, Mr Harry Donaldson, Mr Harry Frew on behalf of Unite, GMB, UCATT calling on the Scottish Parliament to urge the Scottish Government to conduct a full, independent public inquiry into the effects and extent of blacklisting in Scotland and for the inquiry to examine and determine which companies have been awarded public contracts, to investigate how to introduce ethical procurement policies and how to ensure that companies who continue to practice blacklisting are banned from tendering for future public contracts.

[Link to petition webpage](#)

Background to PE1481 (from the SPICe briefing)

1. In 2009, the UK Information Commissioner's Office (ICO) found that Ian Kerr, on behalf of the Consulting Association¹ held details on 3,213 construction workers and traded their personal details for profit. The Consulting Association's database was used by over 40 construction companies and included information about construction workers' personal relationships, trade union activity and employment history.
2. Ian Kerr was fined £5,000 in July 2009 for breaching the Data Protection Act, following a successful investigation by the ICO. [The ICO website](#) lists the companies which used the Consulting Association, and states that it has [issued enforcement notices to 14 companies](#) based on the evidence it recovered from the Consulting Association.
3. Trade Unions have called for a full disclosure of the information obtained from the Consulting Association, and an investigation into the links between construction employers, the police, security services and the Consulting Association.

Public Petitions Committee Consideration

4. The Public Petitions Committee considered this petition for the first time at its meeting on 11 June 2013 and took evidence from the petitioners. The PPC agreed to seek views and the response from the Scottish Government outlined relevant work taking place elsewhere and indicated that it did not see merit in holding another inquiry whilst that work was on-going.

¹ The Petition refers to both the Consultancy Association and the Consulting Association, but the ICO refers to the Consulting Association. Unless quoting direct from the Petition, this Briefing refers to the Consulting Association.

5. At its meeting on [1 October 2013](#), the Public Petitions Committee agreed to refer this petition to the Infrastructure and Capital Investment Committee

Infrastructure and Capital Investment Committee Consideration

6. The Infrastructure and Capital Investment Committee considered this petition at its meeting on 30 October 2013, and agreed to address this petition as part of the Committee's scrutiny of the [Procurement Reform \(Scotland\) Bill](#).

7. The Committee undertook its Stage 1 scrutiny of the Procurement Reform (Scotland) Bill throughout November and December 2013, and published its report in January 2014. Stage 2 consideration took place during March 2014, and the Stage 3 debate in the Chamber was held on 13 May 2014. All the material produced during Bill scrutiny can be found at the following link:

<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/68170.aspx>

8. During the Stage 1 evidence taking process the Committee heard evidence on the issue of blacklisting, and petitioners were invited to speak to the Committee on this issue as part of a wider panel of witnesses.

9. The Committee noted in its [Stage 1 report](#) that the approach to be taken by the Bill to eliminate the practice of blacklisting via regulations will support the existing guidance and welcomed the Scottish Government's ongoing dialogue with the trade unions on this matter.

10. The Bill passed at Stage 3, and the Scottish Government renewed its commitment to continuing to work with trade unions on this issue during the [chamber debate](#).

Action on PE1481

11. The Committee considered the Petition at its meeting on 28 May 2014 and agreed to write to the Petitioners asking if they were content with the action taken by the Scottish Government during the course of the Procurement Reform (Scotland) Bill. See link to Official Report:

<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=9206&mode=pdf>

12. The Committee received a response from the Petitioners on 13 June 2014 in which the Petitioners asked the Committee to keep the petition open and further consider the terms to address the blacklisting issue. **See Annexe A.**

13. The Committee considered the Petition at its meeting on 13 August and agreed to write to the Scottish Government to seek an update on the preparation of procurement guidance on blacklisting and other matters related to the petition. See link to Official Report:

<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=9463&mode=pdf>

14. The Committee received a letter from the Scottish Government dated 8 October 2014 confirming a planned undertaking of a full public consultation on a UK level towards the end of 2014. **See Annexe B.**

Next Steps

15. The Committee is invited to consider the letter from the Scottish Government dated 8 October on what action it wishes to take in respect of this petition at its meeting on 29 October 2014.

Myra Leckie
Committee Assistant
October 2014

Annexe A

Text from email from Pat Rafferty, petitioner, dated 13 June 2014.

“Whilst we welcome the issuing of guidelines on how public authorities in Scotland can deny contracts to companies involved in the blacklisting of trade unionists, we are not satisfied that there are not further steps that could and should be taken by the Scottish Government and the Scottish Parliament to address this issue. In particular:

- The guidelines are discretionary for public authorities to operate. We believe that the denial of public sector contracts to companies involved in blacklisting should be put on a firm legal footing. There are still cases of companies who have been shown to be involved in the blacklisting of trade unionists being awarded public sector contracts. For example, only in the last few weeks, BAM were awarded a major contract in the NHS.
- The clause in the guidelines which allows companies involved in blacklisting to bid for contracts if they have taken “remedial action” is ill defined and requires further amendment. In particular, “remedial action” should include the payment of adequate compensation (negotiated with representatives of blacklisted workers) and the employment of previously blacklisted workers (to refuse to employ these workers is to continue the practice of blacklisting)
- The facts of the blacklisting scandal are still emerging and warrant further consideration. For example, in recent weeks it has been revealed that other blacklists exist (in addition to that organised by the Consulting Association on behalf of construction companies). For example, it has been revealed that employment agencies, such as Atlanco Rimec, may be operating a blacklist. It has also been revealed that employment agencies in construction, who may be linked to the blacklisting scandal, are engaged in forming so-called “umbrella companies” for the administration of wage payments and, in doing so, deducting employer NI contributions from workers’ wages, deducting (and gaining interest from) wages “banked” as holiday pay and deducting an administration fees from the wages of the workers affected. Many of our members affected by this are now reporting up to a 25% reduction in their earnings through this practice.
- As part of the on-going revelation of facts concerning the blacklisting scandal, information is emerging pointing to the involvement of the police and security services in the gathering of information for use by blacklisting firms and organisations. Given the disproportionate number of Scottish workers known to have been blacklisted and the potential involvement of Scottish police forces in the blacklisting issue, we believe that there remains a case for the Scottish Government and the Scottish Parliament to convene a full public inquiry into blacklisting in Scotland.

Given our concerns listed above (and the suggested actions – all of which are within the competency of the Scottish Parliament to address), we urge the committee to continue its consideration of our petition. We also urge the Scottish Government and the Scottish Parliament to take further measures to address the blacklisting issue.

Pat Rafferty, 13 June 2014

Annexe B

Deputy First Minister
and Cabinet Secretary for Infrastructure, Investment and Cities
Nicola Sturgeon MSP

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Maureen Watt MSP
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In 2014 Scotland Welcomes the World



Your ref: PE1481: BLACKLISTING IN SCOTLAND

7 October 2014

Dear Maureen

Thank you for your letter of 20 August regarding the Committee's consideration of public petition PE1481 on blacklisting in Scotland.

The Scottish Government remains completely opposed to blacklisting in any form.

We have taken significant steps already by publishing guidance for public bodies on how to deal with blacklisting in the award of public contracts, and I am pleased that this guidance has been welcomed by the petitioners. Indeed, it was developed in collaboration with interested trade unions. My officials continue to meet with those trade unions on a regular basis to monitor its implementation.

I also recently wrote to representatives of the construction industry in Scotland to make sure that they are in no doubt about the strength of our commitment to ensure that this practice is eradicated once and for all.

We will take a number of further steps over the course of the coming year or so to continue to address this issue.

The Procurement Reform (Scotland) Act 2014 gives Ministers the ability to make statutory guidance about how public bodies can take a range of employment-related issues, including blacklisting, into account when awarding contracts.

We plan to take that opportunity to place the voluntary guidance which we developed alongside trade unions on a statutory footing, meaning that public bodies must have regard to it. We will also consider the opportunities which the need to transpose the three new European procurement Directives give us to take as robust a stance as is practicable on blacklisting.

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www.scotland.gov.uk



Annexe B (cont'd)

Taken together, the development of secondary legislation and statutory guidance arising from the Procurement Reform (Scotland) Act 2014 and the transposition of the three new Directives represents a significant change to the legislative framework for procurement in Scotland. We are therefore co-ordinating all of this work, in order that we can present a clear and structured proposition, and plan to undertake a full public consultation towards the end of this year, with a view to laying regulations and publishing statutory guidance towards the end of next year.

I remain of the view that given the effort which the Scottish Affairs Committee in Westminster has already, and continues, to invest into the issue, there would be limited additional value from a separate public inquiry in Scotland.

I am happy to repeat my earlier commitment to continue to work with trade unions and Members as we develop our approach to this issue.



NICOLA STURGEON

Infrastructure and Capital Investment Committee

25th Meeting, 2014 (Session 4)

Wednesday 5 November 2014

Homelessness in Scotland

Letter from the Minister for Housing and Welfare to the Infrastructure and Capital Investment Committee

During the Infrastructure and Capital Investment Committee meeting on 8 October 2014 it was indicated that it would be helpful to be given an update on the progress of statistics on homelessness prevention work (PREVENT1).

At the moment, statisticians are collecting the second quarter of PREVENT1 information from local authorities. All local authorities have been asked to submit their PREVENT1 data to the Scottish Government by the end of October 2014, covering the period from 1 April to 30 September 2014.

Under the Code of Practice for Official Statistics, the Chief Statistician has the sole responsibility for deciding on statistical methods, standards and procedures, and on the content and timing of statistical releases. In line with the Code, statistical publications on PREVENT1 will be released as soon as they are judged to be of sufficient accuracy and quality.

Statisticians have informed me that their current plan is to take stock of the PREVENT1 data in early November to see what the quality looks like and to see how many local authorities have submitted. At this point a decision about publication timescales will be made and I will write to you again to update you.

Margaret Burgess MSP
Minister for Housing and Welfare
23 October 2014