



The Scottish Parliament  
Pàrlamaid na h-Alba

## TRANSPORT, INFRASTRUCTURE AND CLIMATE CHANGE COMMITTEE

### AGENDA

6th Meeting, 2011 (Session 3)

Tuesday 15 March 2011

The Committee will meet at 2.00 pm in Committee Room 2.

1. **Forth Crossing Replacement Project:** The Committee will take evidence from—

David Climie, Project Director, Forth Replacement Crossing Team, Lawrence Shackman, Project Manager, Forth Replacement Crossing Team, and Stewart Turner, Senior Transport Planner, Strategy and Investment, Transport Scotland.

2. **Subordinate legislation:** The Committee will consider the following negative instrument—

the Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2011 (SSI 2011/119).

3. **Annual report:** The Committee will consider a draft annual report for the parliamentary year from 9 May 2010 to 22 March 2011.
4. **Legacy paper:** The Committee will consider a draft legacy paper.

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The papers for this meeting are as follows—

**Agenda item 1**

Written evidence from Transport Scotland

TIC/S3/11/6/1

PRIVATE PAPER

TIC/S3/11/6/2 (P)

**Agenda item 2**

[The Provision of Water and Sewerage Services \(Reasonable Cost\) \(Scotland\) Regulations 2011 \(SSI 2011/119\)](#)

Cover note

TIC/S3/11/6/3

**Agenda item 3**

Draft annual report 2010-11

TIC/S3/11/6/4

**Agenda item 4**

Draft legacy paper

TIC/S3/11/6/5

Mr Steve Farrell  
Clerk to the Transport, Infrastructure and Climate Change committee  
The Scottish Parliament

Our ref: FRC/TICC/Feb

Date: 23 February 2011

Issued by email

Dear Mr Farrell

### **TICC Committee: Forth Replacement Crossing Project: Update 02**

I refer to the commitment given to the Transport Infrastructure and Climate Change committee to provide a regular written update on the status of the Forth Replacement Crossing (FRC) project. This is the second of these updates and will cover the following topics:

- Forth Crossing Act 2011
- Project Procurement update
- Community Engagement
- Newton village mitigation
- Alternative route or means for pedestrian and cyclists over the Forth
- Public Transport

### **Forth Crossing Act 2011**

The Forth Crossing Bill received Parliamentary approval on 15 December 2010 and Royal Assent on 20 January 2011. Following completion of the Bill process, land acquisition is progressing. This will be done by way of a General Vesting Declaration (GVD) which is programmed for April with the vesting in the land in May.

### **Project Procurement Update**

On 28 January 2011 tenders were received from both competing consortia for the Principal Contract. The project team are now focused on completing the tender assessments.

Following the necessary analysis and appraisal of the bids it is anticipated that Principal Contract award will take place in April.

The issue of a contingent liability associated with the crossing of the BP Forties pipeline was discussed and approved at the Finance Committee on 22 February 2011.

The procurement of the Fife ITS and M9 Junction 1A contracts is progressing and we expect to be able to award these contracts this summer.

Work is progressing in conjunction with Forth Ports to provide a new radar station that will maintain full radar coverage of the Forth in the vicinity of the FRC. Construction commenced on 17 January 2011, and will be commissioned before construction of the main crossing.

## **Community Engagement**

In response to the Forth Crossing Bill Committee Stage 2 report we committed to hold an event in January for the local business community to help assist them in preparation for the construction phase of the project.

A Business and Industry event was held on 28 January in North Queensferry in collaboration with the Scottish Procurement Directorate and supported by Fife and West Lothian Chambers of Commerce, the Federation of Small Business', Business Gateways (Fife and Lothian), local community councils and Fife council economic development team. In particular a session was run on the Public Contracts Scotland website and the process for registering interest in FRC and all public contracts.

The event was attended by over 150 representatives from local businesses, ranging from engineering firms to bed and breakfast owners. It provided an opportunity to learn more about the project, the construction programme, as well as potential impacts and opportunities which might result during the construction phase of the project. Initial feedback from attendees has been positive.

Work is progressing on an updated 'Engaging with Communities' brochure for the construction stage of the project. This will provide information regarding how construction works will be monitored, how compliance with the Code of Construction Practice will be enforced and a step-by-step guide to the enquiries and complaints procedure. A draft will be shared with the local community councils on the revised document in advance of publication.

Further to the stage 3 debate, revision 5 of the Code of Construction Practice was published. A requirement of the Code of Construction Practice is the establishment of structured forums which will work in conjunction with the contractor, local authorities and other statutory bodies. The facilitation of these groups and their terms of reference is being developed currently and they will be fully operational for the construction stages.

Work is also progressing, in conjunction with FETA, to develop the Projects' Contact and Education Centre which will be located adjacent to the offices of the Forth Road Bridge.

## **Newton village mitigation**

Proposals for mitigation measures for Newton Village were submitted to Newton Community Council for agreement in November 2010 following discussions with the Community Council and West Lothian Council.

We are awaiting a formal response from the Community Council on the suggested proposals and we will update the TICC Committee once agreement has been reached.

## **Alternative route or means for pedestrians and cyclists over the Forth**

The project team were tasked at Stage 2 proceedings to look at provisions for an alternative route or means for pedestrians and cyclists to cross the Firth of Forth when the FRC is in operation and the Forth Road Bridge is closed.

We have investigated the current arrangements and can confirm that the current bridge operator of the Forth Road Bridge does not employ a formal arrangement to ensure non-motorised users are able to cross the Forth when the bridge is closed. We have also established that the Second Severn Crossing, which is a motorway, does not provide any facilities for pedestrians or cyclists which would allow them to cross when the paths, which are outside the designated motorway, along the Severn Bridge are closed.

By 2017 there will be three bridges across the Firth of Forth. If the Forth Road Bridge has to close to pedestrians and cyclists for safety reasons, there will be two other bridges available to allow passage across the Forth in the immediate area. Whilst pedestrians and cyclists would not be permitted to cross the FRC as it is to be designated as a motorway, they will be able to access bus based public transport which will be able to divert across the FRC. They are also able to travel across the Forth on the rail bridge accessing services from Dalmeny station across to North Queensferry and beyond.

## **Public Transport**

A public transport workshop with representatives from the three Local Authorities directly affected by the scheme, SEStran and officials from Transport Scotland took place on 13 December 2010. Those present agreed to focus on determining and confirming projects and measures to encourage modal shift both during the construction of the FRC and during its operation.

It was agreed that the objective of increased public transport use will best be achieved by working collectively. This is currently being taken forward on two linked strands - bus operations and infrastructure provision. A Bus Operators Workshop was held on Thursday 20 January 2011; and an Infrastructure Workshop will be held on Friday 4 March 2011. These groups will focus on how to increase public transport usage by reviewing current bus routes, considering new routes, reviewing the current infrastructure being proposed and also to determine whether there are any additional schemes to take forward. This work will focus on a timetable for delivery and potential funding mechanisms. The TICC will continue to be advised on the progress of public transport developments in relation to the scheme.

A regular written update will continue to be provided to the TICC or its successor.

Yours sincerely



David Climie CEng FICE  
FRC Project Director

**TRANSPORT, INFRASTRUCTURE AND CLIMATE CHANGE COMMITTEE**

**6th Meeting, 2011 (Session 3)**

**Tuesday 15 March 2011**

**Subordinate Legislation Cover Note**

<b>Title of Instruments</b>	The Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2011 (SSI 2011/119)
<b>Type of Instruments</b>	Negative
<b>Laid Date</b>	21 February 2011
<b>Circulated to Members</b>	10 March 2011
<b>Meeting Date</b>	15 March 2011
<b>Minister to attend the meeting</b>	No
<b>SSI drawn to the Parliament's attention by Subordinate Legislation Committee</b>	Yes
<b>Enforcement Date</b>	25 March 2011
<b>Reporting Deadline</b>	14 March 2011

**Procedure**

1. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Subordinate Legislation Committee (on various technical grounds) and by the relevant lead committee (on policy grounds). Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament. If that is also agreed to, Scottish Ministers must revoke the instrument.

2. Each negative instrument appears on a committee agenda at the first opportunity after the Subordinate Legislation Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

## **Purpose**

3. Section 1 of the Sewerage (Scotland) Act 1968 and section 6 of the Water (Scotland) Act 1980 respectively require Scottish Water to extend the public sewerage and water supply systems to the point or points at which premises can be connected at reasonable cost.

4. These Regulations replace the Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2006. In general terms, they define the reasonable costs limit of extending Scottish Water's network, so as to enable a new connection to the public sewerage and public water supply systems.

## **Subordinate Legislation Committee**

5. The Subordinate Legislation Committee reported:

"The Committee reports that it considers that regulation 2 is made by what appears to be an unusual or unexpected use of the powers conferred by the parent statutes (the Sewerage (Scotland) Act 1968 and the Water (Scotland) Act 1980). This is in respect that the regulation does not directly provide under the enabling powers for the determination of a question as to what is a reasonable cost for the purposes of section 6 of that 1980 Act and section 1 of that 1968 Act, respectively. Regulation 2 appears to provide for a determination of the physical limit of the supply or system, without reference to the actual costs of this in any individual case, and whether that is "reasonable".

6. A full extract of this report is annexed to this note and available at the following address:

<http://www.scottish.parliament.uk/s3/committees/subleg/reports-11/sur11-24.htm>

## **Instruments and accompanying documents**

7. The SSI and accompanying documents are available on the OPSI website: <http://www.legislation.gov.uk/ssi/2011> and are linked to the agenda.

## **Recommendation**

8. **The Committee is invited to consider any issues which it wishes to raise in reporting to the Parliament on these instruments.**

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## ANNEXE A

Subordinate Legislation Committee 24<sup>th</sup> Report 2011**The Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2011 (SSI 2011/119)** (*Transport, Infrastructure and Climate Change Committee*)

These Regulations replace the Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2006. In general terms, they define the reasonable costs limit of extending Scottish Water's network, so as to enable a new connection to the public sewerage and public water supply systems. The Executive Note with the instrument explains that, again in general, the reasonable costs limit is the lower of—

- the costs reasonably incurred in making a connection, or
- a figure (calculated per the Schedule) which reflects an assessment of the future income that Scottish Water will receive from the connection in the medium term, due to the domestic water and sewerage demands. Different reasonable costs are specified for dwellings, and non-dwellings.

1. Correspondence between the Committee and the Scottish Government is reproduced in Appendix 4.

*Question 1*

2. Section 1(2) of the Sewerage (Scotland) Act 1968, and section 6(1) of the Water (Scotland) Act 1980 provide that it is the duty of Scottish Water to provide public sewers and a supply of wholesome water where that can be provided *at a reasonable cost*. What is a reasonable cost for the purposes of those sections shall be determined in accordance with regulations made by the Scottish Ministers. These regulations seek to provide for that determination.

3. The Committee asked for an explanation of how regulation 2 makes provision which determines a question as to what a reasonable cost is for the purposes of those sections. Regulation 2 states that the point at which connection by private owners is considered to be at "reasonable cost" is where connection to the public system involves only the construction of a drain or service pipe respectively. There is no distinction made with regard to the cost of construction of the drain or service pipe in any particular case.

4. There are two particular statements in the Government's reply which respond to the question. First, "*the fact that in an individual case all that a developer needs to do to connect premises to the public system is to construct a drain or service pipe is highly relevant to the question of whether that connection is possible at reasonable cost to the developer.*"

5. Second, "*regulation 2 simply provides that, where all a developer would be required to do to connect premises to the public system is to construct a drain or service pipe, that connection is possible at reasonable cost to the*



*developer (and Scottish Water is not required to extend the public network any further in order to accommodate the development)."*

6. The Committee takes the view that regulation 2 is not directly determining a question of what the reasonable cost is. What it is doing is specifying a condition, for premises or domestic buildings to be connected to the system at the reasonable cost to the owner or person seeking the connection, that the connection involves only the construction of a drain or service pipe. The effect appears to be that Scottish Water's reasonable costs of connection do not include whatever the reasonable costs of an owner (or other person connecting to the system as the case may be) are to connect by constructing a drain or service pipe.

7. As the response points out, such a connection requirement may be very relevant to the assessment of the reasonable cost, but this is not directly providing in regulation 2 for any actual question of what a reasonable cost is to be determined.

8. Accordingly, regulation 2 is not directly using the enabling powers to determine a question of what a reasonable cost is - whether by setting out matters to be regarded, certain criteria, or a method of calculation. On the other hand, the remainder of the Regulations prescribe for the purposes of other limitations on the duty to provide sewers and water supplies, how reasonable costs are to be calculated by reference to financial limits and calculations.

9. However the Committee does not consider that there is a clear doubt that regulation 2 is outwith the enabling powers in the 1968 and 1980 Acts (and so ultra vires). The condition in regulation 2 does appear to set a parameter for the calculation of "reasonable cost", for the purposes of determining the extent of the duties to provide the supply or system, because the regulation refers to a physical point in the supply or system network. No distinction is made as regards any maximum, or reasonable, costs to be incurred by individuals in constructing their own connection to the supply or system. Regulation 2 is therefore not determining a question as to what the reasonable cost is in financial terms.

10. The Committee therefore considers that regulation 2 is made by what appears to be an unusual or unexpected use of the powers conferred by the parent statutes.

#### *Question 2*

11. The Committee asked whether, in relation to all the tables set out in Schedule 2 (Non-dwellings/reasonable costs), any provision is intended to cater for the possibility that facilities could have a number of employees greater than the maximum number stated at the end of each table, up to the year 2015.

12. The response clarifies that there is no intention that the tables should make such provision for such facilities. The Committee accepts this clarification.

**ANNEXE A**

13. **The Committee reports that it considers that regulation 2 is made by what appears to be an unusual or unexpected use of the powers conferred by the parent statutes (the Sewerage (Scotland) Act 1968 and the Water (Scotland) Act 1980).**

14. **This is in respect that the regulation does not directly provide under the enabling powers for the determination of a question as to what is a reasonable cost for the purposes of section 6 of that 1980 Act and section 1 of that 1968 Act, respectively. Regulation 2 appears to provide for a determination of the physical limit of the supply or system, without reference to the actual costs of this in any individual case, and whether that is “reasonable”.**

## APPENDIX 4

The Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2011 (SSI 2011/119)

On 24 February 2011 the Scottish Government was asked:

1. Can it be explained and clarified how regulation 2 makes provision by virtue of the powers in section 1(3C) of the 1968 Act and section 6(2D) of the 1980 Act to determine a question as to what a reasonable cost is for the purposes of those sections (given that the need for connection to the public sewerage system or water supply by only the construction of a drain or a service pipe (as the case may be) does not appear to involve an assessment of reasonable cost)?

2. In relation to all the tables set out in Schedule 2 (non-dwellings/reasonable costs) is any provision intended, to cater for the possibility that facilities could have a number of employees greater than the maximum number stated at the end of each table, up to the year 2015? Is the reasonable cost per the tables intended to be zero for such facilities, in the absence of provision?

The Scottish Government responds as follows:

1. The terms “drain” and “service pipe” are defined in section 59(1) of the 1968 Act and section 109(1) of the 1980 Act respectively. According to those definitions, a “drain” or “service pipe” is a piece of infrastructure serving an individual set of premises, as opposed to (for example) a “sewer” or “main”. It can be seen that, when considering the chain of connection between premises which constitute new development and the pre-existing public sewerage or water supply network, a “drain” or “service pipe” represents the final link in what can potentially be a much more substantial chain of new infrastructure needed to achieve connection of the development. Therefore, the fact that in an individual case all that a developer needs to do to connect premises to the public system is to construct a drain or service pipe is highly relevant to the question of whether that connection is possible at reasonable cost to the developer.

Section 1(3C) of the 1968 Act provides that any question as to what is a reasonable cost shall be determined in accordance with regulations. The Scottish Ministers have power by regulations to determine (in whole or in part-see response to question 2 below) what constitutes a reasonable cost. There is no requirement that this must be done by any form of arithmetical formula. Section 1(3D) provides that regulations may, in particular, specify criteria to be applied as well as (or instead of) method of calculation to be adopted in determining what is a reasonable cost. Section 6(2D) and (2E) of the 1980 Act are in corresponding terms. Regulation 2 simply provides that, where all a developer would be required to do to connect premises to the public system is to construct a drain or service pipe, that connection is possible at reasonable cost to the developer (and Scottish Water is not required to extend the public network any further in order to accommodate the development).

2. There is no intention that the regulations should make such provision. While sections 1(3C) of the 1968 Act and 6(2D) of the 1980 Act provide that any question as to what is a reasonable cost shall be determined in accordance with regulations, this does not mean that, in the absence of regulations dealing with any aspect of reasonable cost, the reasonable cost is zero. Section 1(4) of the 1968 Act states that “If any question arises...as to whether a reasonable cost has been properly determined in accordance with regulations...or anything is or is not practicable at a reasonable cost or as to the point or points to which a public sewer...must be taken...the Water Industry Commission for Scotland, if requested to do so by any person aggrieved, shall,...determine that question”. Section 6(3) of the 1980 Act is in similar terms. If it was mandatory for Ministers to make regulations which dealt comprehensively with all possible issues of reasonable cost, much of these two subsections would be redundant. Where regulations do not cover an aspect of reasonable cost and negotiations between Scottish Water and the developer fail to resolve the problem, the WIC will act as referee and will come up with its own determination, although in the case of enterprises with a greater number of employees than shown in the tables it is anticipated that the WIC will use the Regulations as an analogy.

It should be noted that the Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2006 (which are revoked by these Regulations) relate only to dwellings and do not cover commercial premises. Until now issues of reasonable cost for such premises have been dealt with in the absence of regulations by either negotiation or determination by WIC.



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## **Transport, Infrastructure and Climate Change Committee**

### **Draft Annual Report 2010-11**

The Committee reports to the Parliament as follows—

#### **Introduction**

1. This report covers the work of the Transport, Infrastructure and Climate Change Committee during the parliamentary year 9 May 2010 to 22 March 2011.
2. During the year, the Committee's work programme included an inquiry into Transport and Land Use Planning Policies and consideration of the Scottish Government's document Low Carbon Scotland: The Draft Reports on Proposals and Policies.

#### **Inquiries and reports**

##### *The Relationship between Transport and Land Use Planning Policies*

3. In July 2010, the Committee published the report of its inquiry into the relationship between transport and land use planning policies in Scotland. The inquiry examined current practices and the experiences of those involved in the planning system and considered the potential to improve levels of integration between transport and land use policy.
4. During this inquiry the Committee heard evidence from a variety of organisations, stakeholders and businesses with interests in the subject. The Committee received further written evidence in response to its call for views. These submissions centred around views on the pre-emptive thought given to the provision of integrated transport connections and sustainable public transport during plans for strategic and local developments; what methods could be employed to improve this; and how land use policies could help reduce greenhouse gas emissions.
5. Based on the evidence it received, the Committee recommended that, the Scottish Government research and consider the best practice examples of progressive and constructive communication between transport operators and planning professionals, some of which were cited in evidence during the inquiry. The Committee also recommended that the Scottish Government circulate these examples to local authorities, to ensure that more is done to integrate the two disciplines.

## Climate Change

### *Climate Change Annual Targets (Scotland) Order 2010*

6. In May 2010, the Committee considered a number of affirmative instruments, including the Climate Change (Annual Targets) (Scotland) Order 2010 (SSI 2010/draft), resulting from the 2009 Climate Change (Scotland) Act. The Annual Targets Order sought to implement the requirement imposed by section 4 of the 2009 Act, for the Scottish Ministers to make an order setting annual targets for the maximum amount of the net Scottish emissions account for each year in the period 2010-2022.

7. The Committee heard evidence from witnesses representing environmental NGOs at its meeting on 11 May 2010 and then from the Scottish Government on 18 May 2010. The Committee questioned the Minister on whether the proposed annual targets for 2010-2012 would allow Scotland to meet the 2020 and 2050 targets set out in the Climate Change (Scotland) Act 2009. During the subsequent debate on the Climate Change (Annual Targets) (Scotland) Order 2010, Committee members expressed different views on whether the annual targets were sufficiently ambitious to allow the 2020 and 2050 targets to be met and after a debate and division the motion was not passed by the Committee.

8. Further to the Committee's vote, the instrument was withdrawn and a revised version introduced to Parliament for consideration on 27 May 2010. The Parliament did not approve this revised instrument.

9. Subsequent to this decision, the Scottish Government established a short-life working group to look at the issues surrounding the Climate Change Annual Targets (Scotland) Order and review the possibilities for alteration to the instrument.

10. A further revised Climate Change (Annual Targets) (Scotland) Order 2010 was then drafted and laid in Parliament on 22 September 2010 and considered by the Committee on 5 October 2010. At this meeting the motion was agreed to.

### *Report on Proposals and Policies*

11. In December 2010, the Committee published its 9<sup>th</sup> report following consideration of the Scottish Government's Report on Low Carbon Scotland: The Draft Report on Proposals and Policies (RPP), required under section 35 of the Climate Change (Scotland) Act 2009. The RPP sets out the proposals and policies which the Scottish Government expect to aid it in meeting its annual targets for reductions in greenhouse gas emissions to 2022.

12. During consideration of the RPP the Committee heard evidence from a number of NGOs, academics, climate change experts and from the Cabinet Secretary for Finance and Sustainable Growth. Written evidence in response to a call for views was also received.

13. The Committee made a number of recommendations in its report, based on the evidence heard. In particular, the Committee stressed the importance of the next RPP being laid a time when it can be afforded maximum parliamentary

scrutiny and not be overshadowed by other work, for example, the Scottish Government's Draft Budget.

14. The Committee noted that the Draft Budget 2011-12 covers only one year and the RPP required funding throughout the next two decades. It therefore stressed the importance of alignment between the two Scottish Government documents in order to clarify the path to, and method of achieving, climate change targets.

15. The Committee recommended further that the Scottish Government should provide clarity on numerous issues including how it planned to take forward its proposals and policies for lowering carbon emissions, how it intended to work with other stakeholders to achieve this and to provide a timescale for the future laying of RPPs.

16. The Committee's report was debated by the parliament in the chamber on 12 January 2011. The Scottish Government laid the final RPP before parliament on 14 March 2011 and this was accompanied by a ministerial statement to the Parliament on 16 March 2011 outlining its response to the Committee's recommendations.

*Public Engagement Strategy*

17. As an outcome of the Climate Change (Scotland) Act 2009 the Scottish Government as required to publish a strategy setting out the method they intended to adopt to inform the Scotland public about the targets specified by this act, and encourage them to contribute to the achievement of those targets.

18. The Public Engagement Strategy was published on 30 December 2010, one day ahead of the deadline set out in the Climate Change (Scotland) Act 2009.

19. In January 2011, the Committee heard evidence from the Minister for Environment and Climate Change regarding the Public Engagement Strategy and raised questions on the development and publication of the Strategy, as well as the Scottish Government's consideration of the evidence it received and its Delivery Plan for 2011.

*The Low Carbon Economic Strategy and public bodies climate change duties*

20. The Low Carbon Economic Strategy (LCES) was published on 15 November 2010 and reaffirms the Scottish Government's targets for future decarbonisation of energy, transport and planning sectors of Scotland. The LCES refers to progress already being made in developing a low carbon economy.

21. The Committee took evidence from the Minister for Environment and Climate Change at its meeting on 22 February 2011. The Committee questioned the Minister on the Scottish Government's policies and proposals for monitoring and developing this Strategy and its plans for the support and scrutiny of public bodies climate change duties, as required under the 2009 Act and enforced from 1 January 2011.

## Budget process

### *Budget Strategy Phase*

22. In June 2010, the Committee reported to the Finance Committee with the outcomes of its consideration of the Budget Strategy Phase. The Committee examined how transport budgets are likely to be affected by constraints in public expenditure in future years. In addition, the Committee considered how future budget constraints might impact on the measures taken by public sector bodies to tackle climate change, in terms of both mitigation and adaptation.

### *Draft Budget Scrutiny 2011-12*

23. In January 2011, the Committee reported to the Finance Committee on its consideration of the Scottish Government's Draft Budget for 2011-12, which was published on 17 November 2010. The Committee focused on the impact of changes to specific budget lines within the transport budget, including expenditure on bus services, road maintenance, the freight facilities grant, and sustainable and active travel. The Committee also commented on the overall carbon impact of the budget and made recommendations to support the development and refinement of the carbon assessment tool to influence future budgets.

## Other evidence sessions

24. The Committee held a number of other evidence sessions. These included hearing from Scottish Water and the Water Industry Commission for Scotland, on their annual reports 2009-2010.

25. In September 2010, the Committee took evidence from the Cabinet Secretary for Finance and Sustainable Growth, questioning him on the progress of various transport and climate change initiatives and the reasoning behind recent decisions made in relation to these programmes.

26. The Committee took evidence from the Sustainable Development Commission Scotland on its fourth annual assessment of progress by the Scottish Government in January 2011.

27. During this session the Committee raised its concerns around the discontinuation of the Sustainable Development Commission (SDC) and which organisation would now be responsible for the scrutiny the SDC undertakes currently. The Committee will continue to monitor the progress of scrutiny regarding the Scottish Government's sustainable development policies.

### *Transport issues in relation to severe weather*

28. Following the inclement weather experienced throughout Scotland during winter 2010, the Committee agreed to take evidence from the Cabinet Secretary and, in March 2011, from transport operators and the Minister for Transport and Infrastructure. The Committee questioned the witnesses on what strategies had been instigated to deal with the transport related outcomes of the severe weather and what proposals had been designed to mitigate future transport disruptions.

*Road safety and young drivers*

29. The Committee carried out a short, but focused piece of work on road safety amongst young drivers in Scotland, particularly concerning the disproportionately high number of accidents which occur on rural roads. The Committee heard from academics, road safety experts and organisations, local authorities and the Minister for Transport and Infrastructure. Following consideration of the evidence the Committee wrote to the Minister with its recommendations.

*Forth Replacement Crossing*

30. The Committee has been continually updated with the status of the Forth Replacement Crossing project. Throughout the session the Committee has worked closely with the Scottish Government, receiving oral and written evidence, so as to be aware of the latest progresses and developments with the project. At its final meeting of session on 15 March 2011, the Committee once more heard evidence from the Forth Replacement Crossing Team, so as to ensure successor Committee's would have relevant and updated information on the situation of the project.

**Subordinate legislation**

31. The Committee considered 23 Scottish statutory instruments of which 15 were negatives and 8 were affirmatives.

32. Amongst the affirmatives considered were four instruments resulting from the Climate Change (Scotland) Act, passed in 2009. Three of the instruments considered at the Committee's meeting on 18 May 2010 were agreed to, however the Climate Change (Annual Targets) (Scotland) Order 2010 was not agreed following a division (For 3, Against 5, Abstentions 0). A revised instrument was laid in the Parliament on 22 September 2010 and considered by the Committee at its meeting on 5 October 2010. After a debate and division the motion was agreed to (For 3, Against 0, Abstentions 4).

**Equalities**

33. At its meeting on 11 January 2011 the Committee took evidence from the Mobility and Access Committee for Scotland (MACS). The Committee discussed with MACS the progress made by the Scottish Government in meeting the transport needs of disabled passengers and how future budget constraints would be liable to affect the provision of accessible transport.

34. The Committee noted during the evidence session that one of the main issues raised by MACS concerned access for disabled people to transport systems. While buses and trains have been adapted for wheelchair use etc. the routes for reaching these vehicles are not necessarily accessible, particularly during the severe weather conditions experienced in December 2010.

35. The Committee continues to ensure that equalities issues are fully taken into account in all areas of its work. For example, during its scrutiny of road safety in relation to young people the Committee took evidence from the David Leitch, Vice-Chair of the Scottish Youth Parliament. The Committee considered it important to



hear from youth representatives when considering a subject that so closely concerned them.

36. At its meeting on 8 March 2011, the Committee commented on a negative instrument, the Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2011 (SSI 2011/89). The Committee raised concerns over a perceived disparity between the issues covered in the Scottish Government's Blue Badge Scheme consultation and the explanation of the eventual changes to the scheme set out in the negative instrument. The Committee agreed to report on the instrument and write to the Minister for Transport and Infrastructure to seek clarification on a number of points.

### **Meetings**

37. During the parliamentary year (9 May 2010 to 22 March 2011), the Committee met 21 times. Of these meetings, 2 were wholly in private and 11 were partly in private. The majority of the items taken in private were to consider draft reports. All meetings were held in Edinburgh.



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## **Transport, Infrastructure and Climate Change Committee**

### **Draft Legacy Paper**

The Committee reports to the Parliament as follows—

1. This legacy paper is addressed to the Transport, Infrastructure and Climate Change Committee's successor committee(s) in the hope that it may prove useful as part of the consideration of forward work programmes for session 4 and the conduct of committee business.
2. The paper records the main pieces of work which the Committee undertook during session 3. The paper then identifies some work which will be required to be carried out in session 4 for statutory or other reasons, as well as some outstanding or ongoing work which the Committee believes its successor committee(s) might wish to consider undertaking. Finally the paper discusses the Committee's working practices in session 3 and highlights possible approaches for the future.

### **ACTIVITY DURING THE THIRD SESSION**

3. The Committee has had a full programme of work during the third session of the Parliament. The Committee's main pieces of work are recorded below—

#### **Legislation**

4. The Committee was the lead committee in respect of the following two bills introduced by the Scottish Government—
  - Abolition of Bridge Tolls (Scotland) Bill
  - Climate Change (Scotland) Bill
5. In addition, the Committee scrutinised the public transport elements of the Forth Crossing Bill, and reported to the Forth Crossing Bill Committee.

#### **Inquiries**

6. The Committee carried out inquiries on the following subjects—
  - Ferry services in Scotland
  - High speed rail

- Active travel
- Transport and land use planning

7. In addition, the Committee carried out a short focused piece of work on road safety and young people.

### **Other work**

8. The Committee has undertaken work in a number of other areas during the course of the session. These pieces of work have included—

- Annual scrutiny of the Scottish Government budget
- Annual evidence sessions with the Cabinet Secretary for Finance and Sustainable Growth on key developments within his portfolio
- Scrutiny of the National Planning Framework 2 (NPF2) document as a secondary committee
- Scrutiny of the Report on Proposals and Policies (RPP) document brought forward by the Scottish Government under the Climate Change (Scotland) Act 2009
- Regular evidence sessions with the project team on the Forth replacement crossing to monitor progress on the project
- Regular evidence sessions with key organisations in the Scottish water industry to scrutinise the functions of Scottish Water and its regulatory regime
- Scrutiny of the Scottish Government's performance in relation to sustainable development at evidence sessions with the Sustainable Development Commission Scotland
- Various pieces of subordinate legislation, including instruments arising from the Climate Change (Scotland) Act 2009, and
- Scrutiny of public petitions

9. A full account of this work can be found in the four annual reports published by the Committee in session 3. In addition, a number of these pieces of work led to the publication of committee reports, which provide full details of the remit and outcomes of particular inquiries.

### **OUTSTANDING ISSUES**

10. The Committee recognises that its successor committee will have complete autonomy to consider and agree its own work programme.

11. The Committee has, however, identified some outstanding or ongoing areas of work from session 3, certain of which will require to be followed up in session 4. The Committee draws these pieces of work to the attention of its successor

committee, in order that it can consider how to incorporate them into its work programme.

### **Climate Change legislation**

12. The Climate Change (Scotland) Act sets out a statutory framework to reduce Scotland's greenhouse gas emissions by the year 2050. This framework provides for various pieces of secondary legislation and reports to be brought forward by the Scottish Government during the course of session 4. In the early months of session 4, these will include scrutiny of a new set of climate change targets, for the period 2023 to 2027, an order on the limits on the use of carbon units, and consideration of the second RPP document on the Scottish Government's proposals and policies for meeting climate change targets.

13. The Committee draws this upcoming work to the attention of its successor committee. The experience of the Committee suggests that it will be necessary to allocate a reasonable amount of time to this scrutiny, particularly the consideration of the second RPP document. The Committee made some comments and recommendations on the format and arrangements for the scrutiny of the first RPP in 2010, which its successor committee may wish to refer to when planning its consideration of the second RPP later in 2011. The secondary legislation on climate change targets attracts significant stakeholder interest and consideration should be given as to how to gather evidence in relation to these important instruments.

### **Forth replacement crossing project**

14. The Committee notes that the Forth replacement crossing will be the most significant transport infrastructure project in Scotland in the next decade. In session 3, the Committee undertook to keep a watching brief on the project in order to scrutinise its progress and ensure that key milestones and cost estimates were met. The Committee heard from officials on the project team in June 2009, February 2010, September 2010 and March 2011. The Committee has also begun to receive written updates from the project team in between these regular oral evidence sessions.

15. The Committee believes that these biannual evidence sessions have been a useful means of monitoring progress on the project. Given the significance of this project, the Committee suggests that ongoing, regular parliamentary scrutiny by its successor committee would be desirable, to aid transparency and hold Transport Scotland and Ministers to account for progress made. It would of course be for its successor committee to consider the most appropriate format for this scrutiny, but the Committee would commend the model of biannual update evidence sessions with the project team, aligned to regular written briefings in between these sessions.

### **Road maintenance and winter resilience**

16. In session 3 the Committee had an ongoing interest in the condition and maintenance of Scotland's roads and pavements, and referred to this issue during reports on its active travel inquiry and budget scrutiny. The Committee notes that

the Scottish Government has now launched a roads review to examine how the road network is managed and maintained, which is due to report in autumn 2011. The Committee's successor committee may wish to monitor the progress and outcome of this review.

17. The Committee has also recently taken evidence on the resilience of Scotland's transport network during severe winter conditions. The Minister for Transport and Infrastructure told the Committee that the Scottish Government intends to conduct a review of the action taken following the recent severe weather, to assess how prepared the transport network is for any reoccurrence of these conditions. The Committee suggests that its successor committee may wish to consider holding an evidence session to consider the outcomes of the Scottish Government's review of winter resilience, when it has been completed in the autumn.

### **High speed rail**

18. The Committee has taken a close interest in the issue of high speed rail during session 3. A UK Government consultation is currently underway on the route of the first phase of the proposed new UK high speed rail network. The Committee has invited the relevant UK transport minister to give evidence to the Committee on the UK Government's plans as they relate to Scotland. The Committee has not received a response to this invitation at the time of writing.

19. The Committee suggests that its successor committee should pursue this invitation with the UK Government, as well as continuing to monitor how the Scottish Government is promoting the cause of high speed rail in Scotland.

### **Ferry services in Scotland**

20. The Committee's inquiry into ferry services in Scotland made wide ranging recommendation on the future of ferries. The Scottish Government is currently conducting a major ferries review, the results of which are expected in the next few months. The Committee considers that the outcome of this review could have a significant impact on the future approach to the provision of ferry services in Scotland. The Committee therefore considers that its successor committee may wish to question the relevant Scottish Government minister on the outcome of the review. The Committee also notes that a tendering exercise is currently underway for the operation of the Gourock-Dunoon route. The Committee's successor committee may wish to monitor the outcome of this tendering exercise.

### **Road safety and young people**

21. The Committee conducted a short piece of work on road safety and young people early in 2011. Following this work, the Committee wrote to the Minister for Transport and Infrastructure highlighting a number of conclusions and recommendations, on issues including the upcoming 'public debate' on young driver issues, graduated driver licensing, and the effectiveness of road safety education campaigns and local enforcement policies.

22. The Committee suggests that its successor committee may wish to consider the response to this letter, when it has been received, and determine whether it wishes to take any further action on this issue.

### **Post legislative scrutiny**

23. The Conveners Group recommended in its legacy paper that committees should identify in their legacy papers the subject areas which would benefit from post legislative scrutiny. In light of this request, the Committee has considered whether the two pieces of primary legislation considered by the Committee as lead committee this session warrant post legislative scrutiny.

24. The Committee considers that it may be too soon to conduct useful post legislative scrutiny on the Abolition of Bridge Tolls (Scotland) Act and the Climate Change (Scotland) Act, as this legislation has come into force comparatively recently.

25. However, as discussed above, it is likely that the Committee's successor committee will be engaged with the provisions of the Climate Change (Scotland) Act in session 4 due to the requirements for regular scrutiny of statutory instruments and reports on meeting Scotland's climate change targets. In addition, the Committee suggests that later during session 4 its successor committee may wish to consider whether there are any elements of previous transport legislation which might warrant post-legislative scrutiny.

### **European issues**

26. The European and External Relations Committee has requested that the Committee includes within its legacy paper a section on its priorities in relation to EU scrutiny, in order to inform its successor committee.

27. The Committee has identified as a priority area of interest the European climate change agenda, given the importance of the EU framework on climate change to Scotland's ability to meet the targets within the Climate Change (Scotland) Act 2009. The Committee notes that the European Commission plans to advance international efforts to achieve global agreement on climate change in 2011, particularly with regard to maritime transport emissions.

28. The Committee notes that a number of other initiatives will be launched at an EU level in 2011, including the overarching Energy Roadmap 2050, an Energy Efficiency Action Plan and a White Paper on the future of transport policy which will outline a vision for a low carbon European infrastructure.

29. The Committee draws these EU initiatives to the attention of its successor committee.

## **METHODS OF WORKING**

30. The Committee notes that it will be for its successor committee to determine its own methods of working. The Committee considers, however, that it may be helpful to record some of its experiences in handling its work programme this session.

## **Inquiry work**

31. The Committee has given some thought to how to manage inquiry work in order to conduct effective pieces of work. The Committee makes the following observations.

### *Focused inquiries*

32. First, although the Committee acknowledges that whilst committees will often need to undertake lengthy inquiries should the subject matter merit this, generally speaking inquiries are effective when they have a clear and focused remit, with a relatively short number of oral evidence taking sessions. The Committee believes that this approach helps keep inquiry work focused and topical, avoiding the loss of momentum which can arise if evidence sessions are stretched over many weeks.

### *Scoping of inquiries*

33. Second, there are merits in scoping potential topics in the early stages of planning an inquiry, to ensure that any inquiry undertaken by the Committee is timed in such a way that it has the opportunity to make meaningful recommendations which could influence policy development. For example, the Committee's high speed rail inquiry was particularly well-timed, coming just ahead of important policy shifts at a UK level on this subject.

### *Types of evidence*

34. Third the Committee has reflected on the use of oral evidence and written evidence during committee inquiries. The Committee believes that written evidence is a valuable source of information which should be drawn upon to a greater extent during inquiries. The Committee considers that oral evidence sessions are most useful when they involve exploring the positions taken by witnesses and teasing out new lines of argument, rather than involving witnesses restating lines of argument already set out in written submissions.

## **One-off evidence sessions**

35. The Committee commends to its successor committee its practice of holding annual one-off evidence taking sessions with the relevant Cabinet Secretary on a range of topical matters within his remit. The Committee has normally scheduled these sessions immediately following summer recess each year. In the view of the Committee, they provide a useful opportunity to examine progress on key aspects of the Scottish Government's policy and project work and to scrutinise a wider range of topics than might be possible during the Committee's normal scrutiny work.

## **Varied methods of engagement**

36. The Committee has adopted varied methods of engagement during session 3, and has made efforts to hear the views of harder-to-reach sections of the community. The Committee has also held several formal meetings outwith Edinburgh and conducted a number of useful fact-finding visits as part of inquiries. In relation to scrutiny of the Climate Change (Scotland) Bill, the Committee a successful event in the Chamber.

37. The Committee encourages its successor committee to pursue a variety of methods of engagement during session 4, whilst working within the budgetary constraints currently faced by the Parliament. The Committee also commends the use of innovative methods of engagement. In session 3, for example, the Committee used online surveys and a leafleting campaign to raise awareness of its inquiry into ferry services in Scotland.

### **Away day**

38. The Committee held two useful away days during session 3, one at the start of the session and one during the mid-way point of the session. The Committee received presentations from experts in the fields of transport and climate change and discussed its work programme.

39. The Committee encourages its successor committee to hold an information-gathering event early in session 4. The Committee notes that the Conveners Group has agreed to the principle that in the future events of this nature should normally take place at the Parliament in Edinburgh.