



The Scottish Parliament  
Pàrlamaid na h-Alba

## INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

### AGENDA

11th Meeting, 2012 (Session 4)

Wednesday 23 May 2012

The Committee will meet at 10.00 am in Committee Room 6.

1. **Subordinate legislation:** The Committee will take evidence on the Property Factors (Code of Conduct) (Scotland) Order 2012 [draft] from—

Keith Brown, Minister for Housing and Transport, Gordon Paterson, Team Leader, Frances Murphy, Senior Policy Officer, Private Housing Services, and Annalee Murphy, Solicitor, Scottish Government.

2. **Subordinate legislation:** Keith Brown to move S4M-02940—

That the Infrastructure and Capital Investment Committee recommends that the Property Factors (Code of Conduct) (Scotland) Order 2012 [draft] be approved.

3. **Annual report 2011-12:** The Committee will consider a draft annual report for the parliamentary year from 11 May 2011 to 10 May 2012.

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The papers for this meeting are as follows—

**Agenda items 1 and 2**

Cover note

ICI/S4/12/11/1

[Property Factors \(Code of Conduct\) \(Scotland\) Order 2012  
\[draft\]](#)

[Code of Conduct](#)

**Agenda item 3**

Draft Annual Report

ICI/S4/12/11/2

## Infrastructure and Capital Investment Committee

7th Meeting, 2012 (Session 4), Wednesday, 23 May 2012

### Subordinate Legislation

<b>Title of Instrument</b>	Property Factors (Code of Conduct) (Scotland) Order 2012 [draft]
<b>Type of Instrument</b>	Affirmative
<b>Laid Date</b>	30 April 2012
<b>Minister to attend the meeting</b>	Yes
<b>SSI drawn to the Parliament's attention by Subordinate Legislation Committee</b>	No
<b>Reporting Deadline</b>	8 June 2012

#### Procedure

1. The Infrastructure and Capital Investment Committee has been designated as lead committee for this instrument and is required to report to the Parliament.
2. Under Rule 10.6.1 (b), this Order is subject to affirmative resolution before it can be made. It is for the Infrastructure and Capital Investment Committee to recommend to the Parliament whether the Order should be approved.
3. The Minister for Housing and Transport has, by motion S4M-02940 (set out in the agenda), proposed that the Committee should recommend the approval of this Order. The Minister will attend in order to speak to and move the motion. The formal debate may last for up to 90 minutes. Ahead of the formal debate (as part of an earlier agenda item), there will be an opportunity for members to ask questions of the Minister and his officials.
4. At the end of debate, the Committee must decide whether or not to agree the motion, and then report to Parliament accordingly. Such a report need only be a short statement of the Committee's recommendation.

#### **Property Factors (Code of Conduct) (Scotland) Order 2012 [draft]**

##### *Background*

5. The Committee considered the Property Factors (Scotland) Act 2011 as part of its work programme in September 2011 and agreed to monitor the implementation of the legislation, including the Code of Conduct.

##### *Purpose*

6. This Order brings into force, on 1 October 2012, a Code of Conduct setting out minimum standards of practice for registered property factors (the 2011 Act also establishes the Register). Broadly, a property factor is defined as a person, local authority or housing association that manages land which is owned by or is available for use by the owners of, two or more adjoining residential properties.

7. The Executive Note to the Order explains that transparency is a key principle underpinning the Code: “it is important that homeowners are clear about what they are paying for, how the charges are arrived at and the options available to them in the event that they wish to make a complaint”.

8. The Code would require a property factor to—

- provide homeowners with a written statement setting out the terms of service and delivery standards of the contract (Section 1);
- communicate clearly with the homeowner and respond promptly to enquiries (Section 2);
- ensure financial transparency (Section 3);
- make it clear to homeowners the implications of late payment and must have clear procedures to deal with debt recovery (Section 4);
- have adequate indemnity insurance (Section 5);
- ensure upkeep on land and properties (Section 6); and
- establish and maintain a procedure for dealing with complaints (Section 7).

9. The property factors who, in the view of the homeowner, do not comply with the Code, may be referred to the Homeowner Housing Panel and be ‘subject to a property factor enforcement order’, which will require them to make improvements or payments as applicable. In addition, failure to comply with the Code can result in the refusal or removal of a property factor on the register of property factors.

10. The Code has been subject to a 12-week public consultation, carried out in the autumn of 2011. Following the consultation, a revised draft of the Code was subject to further targeted review by the Association of Local Authority Chief Housing Officers (on behalf of COSLA) and the Scottish Housing Regulator (SHR).

#### *Financial implications*

11. It is not anticipated that the coming into force of the Code will have any direct financial implications other than the cost to the industry of providing the Written Statement of Services (Section 1 of the Code).

12. However, the 2011 Act will have the following wider financial implications—

**For the industry:** costs associated with payment of the registration fee; and any costs associated with the defence of cases taken to the Homeowner Housing Panel.

**For the homeowner:** the industry has indicated that the additional costs of complying with the Act are likely to be passed on to customers through an increase in management charges.

**For the Scottish Government:** setting up and running of the Homeowner Housing Panel (estimated in the region of £0.4m per annum).

*Consideration by the Subordinate Legislation Committee*

13. The SLC considered this instrument at its meeting on 8 May 2012 and agreed to raise no points relating to it.

14. **A copy of the Order and the accompanying documents, including the Code of Conduct, are contained within the papers.**

Steve Farrell  
Clerk to the Committee  
May 2012



The Scottish Parliament  
Pàrlamaid na h-Alba

## **Infrastructure and Capital Investment Committee**

### **Draft Annual Report**

The Committee reports to the Parliament as follows—

#### **Introduction**

1. This report covers the work of the Infrastructure and Capital Investment Committee during the parliamentary year between 11 May 2011 and 10 May 2012.

#### **Inquiries and Reports**

2. The Committee undertook the following key pieces of inquiry and scrutiny work in the parliamentary year.

##### *Broadband Infrastructure in Scotland*

3. In October 2011, the Committee agreed to undertake an inquiry to identify the key issues relating to broadband in Scotland. Its inquiry remit was to assess the coverage, availability and uptake of broadband across Scotland; to consider the ways in which different local areas are working to promote access to broadband in Scotland and how good practice might be shared; and to consider what work is required by the Scottish Government, infrastructure providers and others, to expand Scotland's digital infrastructure.

4. The Committee recommended that the Scottish Government's broadband targets for 2020 must be more ambitious in order to ensure that rural areas in Scotland are not left further behind. The Committee also considered that the targets should offer greater clarity to local communities and businesses about the level of broadband service that they can expect for their areas in the future. It also recommended that the 2020 target could usefully be enhanced to include the aspirational objective to deliver world-class digital infrastructure to 100% of the population. The Committee considered that efforts to increase broadband take-up should be targeted at those groups or geographical areas where take-up has, so far, been particularly low and that the chosen infrastructure solutions must be future-proofed.

5. The Committee agreed to monitor the progress of the Scottish Government's Scotland's Digital Future - Infrastructure Action Plan, including the development of the procurement strategy. In addition, the Committee submitted its report to the House of Lords Communication Committee for consideration and sought additional

information from Ofcom, the telecommunications regulator and from the UK Government department in charge of broadband roll-out in the UK.

*The 2012 Homelessness Commitment*

6. Currently, local authorities have to secure settled accommodation only for those homeless applicants who have been assessed as unintentionally homeless and in priority need. The Homelessness etc. (Scotland) Act 2003 stipulated that the priority need distinction must be abolished by 31 December 2012, therefore entitling all unintentionally homeless households to settled accommodation.

7. The Committee therefore agreed to conduct an inquiry into the progress towards the 2012 homelessness commitment in order that it could feed into the preparation for a legal requirement being placed on local authorities.

8. The Committee's evidence-taking highlighted progress made in homelessness services and in particular the positive impact of the housing options approach adopted by local authorities, where considerable prevention work had been undertaken. In its inquiry report, the Committee made a number of recommendations to support this approach and to ensure services were working effectively to support people affected by homelessness. These included further support and development of Housing Options Hubs, the development of a measurement tool for homelessness prevention work, ensuring consistency across Scotland and including debt advice in any support offered to those affected by homelessness. The Committee also recommended examination of current tenancy regimes to encourage partnerships with private sector landlords. A debate on the Committee's report took place in the Chamber of the Scottish Parliament in April 2011.

9. The Committee will monitor the implementation of the 2012 Commitment and a number of related policy areas, including the role of the Scottish Housing Regulator, throughout the rest of the Parliamentary session.

*Rail 2014: Renewal of Scottish Passenger Rail Franchise*

10. The ScotRail passenger rail franchise was awarded to FirstGroup plc in 2004 and, following an extension, runs to 2014. The Committee sought views on the future content and operation of the passenger rail franchise in order that it could input to the preparations for the tendering process for the next franchise period from 2014. The Committee's report containing several recommendations to be taken into account by the Scottish Government as part of the franchise development process was published in May 2011.

*Budget process*

11. In December 2011, the Committee reported to the Finance Committee on the Scottish Government's Draft Budget 2012/13 and Spending Review scrutiny. The main focus of the Committee's considerations was the transport spending plans contained in the budget. As part of its scrutiny it examined budgetary proposals in relation to active travel, the Future Transport fund, and the concessionary fares travel scheme/Bus Service Operators Grant.

12. The Committee also conducted an examination of the housing elements of the draft budget, focussing on capital spending, affordable housing, home

insulation and energy efficiency and the National Strategy on Housing for Older People. The Committee highlighted the considerable potential for preventative spending across the housing budget.

### **Other evidence sessions**

#### *Scottish Water*

13. The Committee heard from Scottish Water and the Water Industry Commission for Scotland following the publication of their annual reports for 2010-11. Members of the Committee also visited Scottish Water's Glencorse Water Treatment Works in October 2011 just prior to the plant becoming fully operational.

#### *Forth Replacement Crossing*

14. The Committee received updates in September 2011 and March 2012 on the status of the Forth replacement crossing project to maintain its awareness of the progress and development of this major infrastructure project.

#### *Welfare Reform Bill LCM*

15. The Committee took evidence on the housing-related elements of the UK Welfare Reform Bill in October 2011 and on the Legislative Consent Memorandum on the Bill in November 2011. It produced a report to the Health and Sport Committee setting out its concerns in respect of under-occupancy payments, direct payments to claimants, the benefit cap and how housing costs will be calculated. It also highlighted concerns in relation to the delivery of the 2012 homelessness target in the light of these legislative changes.

#### *Winter resilience of transport infrastructure*

16. Following publication of the Government's review of the winter resilience of transport systems, the Committee took evidence from the Minister for Housing and Transport in November 2011. At the meeting, the Committee discussed the Government's plans to mitigate the effects of severe weather on the country's transport infrastructure. The Committee will continue to monitor the Scottish Government's management of weather-related transport issues throughout the session.

#### *Evidence taking on Infrastructure Investment Plan*

17. The Scottish Government published its latest Infrastructure Investment Plan (IIP) in December 2011. This Plan includes the Government's key capital spending priorities until 2020. The Committee took evidence from the Scottish Government on its capital investment policy in the context of the updated IIP, on 18 January 2012 and will continue to monitor the development and implementation of the Government's IIP commitments.

#### *Scottish Ferry Services Draft Plan*

18. The Draft Ferries Plan set out the Scottish Government's proposals for the provision and support of Scotland's ferry services over the next decade and posed questions where issues were still to be resolved. The Committee took evidence from the Minister for Housing and Transport on the Plan in January 2012, in order to examine the key issues for Scottish Government consideration. The Committee will consider the final Ferries Plan when it is published later in 2012.



### *Scottish Social Housing Charter*

19. As part of the modernised regulatory regime for social landlords introduced by the Housing (Scotland) Act 2010, section 31 of the Act provides that Scottish Ministers must set out the standards and outcomes which social landlords should aim to achieve when performing housing activities in a “Scottish Social Housing Charter”. The Act requires Scottish Ministers to consult on the Charter and it can only take effect once it has been laid before, and approved by a resolution of, the Scottish Parliament.

20. The Committee took evidence from stakeholders and the Minister for Housing and Transport in respect of the Charter and communicated its findings to the Scottish Government. It also formally considered the Charter and recommended its approval to Parliament.

21. The Committee’s consideration of the charter identified potential future scrutiny, specifically in relation to the work of the Scottish Housing Regulator.

### **European Issues**

22. The Committee considered subsidiarity issues in respect of two European legislative proposals in February 2012 on water, energy, transport and postal services sectors (COM(2011) 895); and public procurement (COM(2011) 896). The Committee outlined its concerns to the House of Lords EU Committee on Internal Market, Energy and Transport in advance of its consideration of the proposals and highlighted the relevant issues with Scotland’s MEPs. The Committee’s work contributed to the UK Parliament adopting a reasoned opinion and calling for the European Commission to re-think its proposals.

23. Also in February 2012, the Committee considered the European Commission’s work programme and identified its own strategic priorities for scrutiny. It reported these to the European and External Relations Committee in advance of the Scottish Parliament’s Chamber debate on the topic.

24. Due to a Committee membership change, in March 2012 the Committee welcomed Aileen McLeod MSP as its new EU reporter and thanked Jamie Hepburn MSP for his valuable contribution in the role.

### **Equalities**

25. The Committee mainstreamed equalities issues throughout its work in the parliamentary year. In particular, the Committee took evidence from Mobility and Access Committee for Scotland (MACS) in respect of the Rail 2014 franchise, ensured a range of stakeholders were invited to give evidence on the Scottish Social Housing Charter and considered the impact of homelessness and housing issues on a range of groups.

### **Subordinate Legislation**

26. The Committee considered 31 statutory instruments of which 18 were negative, 5 were affirmative and 13 were not subject to parliamentary procedure.

The Committee also considered a draft Social Housing Charter which was subject to affirmative procedure.

### **Meetings**

27. During the parliamentary year, the Committee met 22 times. Of these meetings, none were wholly in private and 15 were partly in private. All meetings were held in Edinburgh.