



# Infrastructure Governance in Scotland

The added value of CoST in high-income countries: Scotland case study



July 2018



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The added value of CoST in high-income  
countries: Scotland case study

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## LIST OF ABBREVIATIONS

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AWPR	Aberdeen Western Peripheral Route / Balmedie to Tippetry
BDFM	Design, build, finance and maintain
CoST	CoST – the Infrastructure Transparency Initiative
EC	European Community
ECJ	European Court of Justice
EIA	Environmental impact assessment
EITI	Extractive Industry Transparency Initiative
EU	European Union
FOISA	Freedom of Information (Scotland) Act 2002
GDP	Gross domestic product
GIFT	Global Initiative on Fiscal Transparency
hubCo	Scottish regional public–private partnerships
IDS	CoST Infrastructure Data Standard
IIB	Infrastructure Investment Board
IIP	<i>Infrastructure Investment Plan</i>
IRM	Independent Reporting Mechanism
MPs	Members of Parliament
MSG	Multi-stakeholder group
MSP	Member of the Scottish Parliament
NPD	Non-Profit Distributing model
OCP	Open Contracting Partnership
OGP	Open Government Partnership
OJEU	<i>Official Journal of the European Union</i>
ONS	Office for National Statistics
PAS	Scottish planning charity
PFI	Private Finance Initiative
PPP	Public–private partnership
PPRB	Public Procurement Reform Board
SEA	Strategic environmental assessments
SEPA	Scottish Environment Protection Agency
SFT	Scottish Futures Trust
UK	United Kingdom of Great Britain and Northern Ireland
WTO	World Trade Organization







## EXECUTIVE SUMMARY

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**This case study by CoST – the Infrastructure Transparency Initiative (CoST) in partnership with BRE aims to provide an overview of existing policies and practices governing infrastructure planning and delivery in Scotland; to review the level to which institutional innovations embracing transparency, participation and accountability are in place; and to assess the potential added value of CoST.**

Scotland is the first administration of its kind to feature in a broader research programme that looks at infrastructure transparency in high-income countries. Sub-national governments play an increasingly important role in the planning and delivery of public infrastructure, and CoST is interested in learning from and contributing to increased transparency and accountability of infrastructure investments within such administrations.

Infrastructure development is a major priority for the Scottish Government. Its 20-year programme is published in the form of the Infrastructure Investment Plan (IIP),<sup>1</sup> which includes projects of more than £20 million (US\$27 million), is updated every three to four years. Over the lifetime of the current Parliament (2016-2021), the Government plans to spend £20 billion (US\$27 billion) on infrastructure, with £4 billion (US\$5.3 billion) pledged in its 2018–2019 budget.

The Scottish Government has made significant changes to policy, practice and culture in the procurement and delivery of publicly funded infrastructure projects in the last 15 years, resulting in increased accountability and transparency. Following John McClelland's 2006 Review of Public Procurement in Scotland,<sup>2</sup> the Government embarked on an extensive reform programme. This ranged from creating the Public Procurement Reform Board and Scottish Futures Trust to ongoing work emerging from the 2013 Review of Scottish Public Sector Procurement in Construction by Robin Crawford and Ken Lewandowski.<sup>3</sup>

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1 Scottish Government, *Infrastructure Investment Plan 2015*, 16 December 2015, available at: [www.gov.scot/Publications/2015/12/5962](http://www.gov.scot/Publications/2015/12/5962)

2 McClelland J, *Review of Public Procurement in Scotland – Report and Recommendations*, Scottish Executive, March 2006, available at: [www.gov.scot/Publications/2006/03/14105448/0](http://www.gov.scot/Publications/2006/03/14105448/0)

3 Crawford R and Lewandowski K, *Review of Scottish Public Sector Procurement in Construction*, Scottish Government, 22 October 2013, available at: [www.gov.scot/Publications/2013/10/2688/0](http://www.gov.scot/Publications/2013/10/2688/0)

Legislative drivers, including European procurement legislation and the Scottish Freedom of Information (Scotland) Act (2002),<sup>4</sup> have played a role in strengthening accountability and transparency in procuring and delivering major infrastructure projects. Scotland's membership of the Open Government Partnership (OGP) also demonstrates its commitment to transparency and participation in public policymaking.

Currently, the Scottish Government reports every six months to the Public Audit and Post-legislative Scrutiny Committee of Parliament on its progress on major infrastructure projects and a lot of this information is in the public domain. As a result, there is a high level of disclosure of data for projects over £20 million (US\$27 million). Through a combination of the IIP, the six-monthly progress reports, procuring-entity websites and environmental impact assessments, 95% of data points recommended by CoST for proactive disclosure are published. This is high by both UK and international standards, although the level of transparency is lower for projects below the £20 million (US\$27 million) threshold.

Infrastructure transparency could be further strengthened by ensuring 100% of the CoST recommended data points are published, as well as applying the current disclosure practice to projects of a lower threshold value. Publication of this data in the form of an online, geo-referenced platform would make it easier for stakeholders to access and compare the information.

In addition, Scotland's second OGP action plan is due for publication by September 2018. It provides an opportunity for the Government to specify its commitment to openness, transparency and accountability in infrastructure planning and delivery, and to incorporate CoST's core features into current practice to increase the specificity of the commitment.

As regards stakeholder participation, the Scottish Government has a strong commitment to giving a voice to stakeholders and citizens.

It has adopted a set of National Standards for Community Engagement,<sup>5</sup> which have been used in some infrastructure projects such as the Queensferry Crossing. Future planning reforms will require stakeholders to be involved at an earlier stage before local plans are set.

In practice, however, many stakeholders express the view that participation is more about keeping people informed, rather than

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4 Freedom of Information (Scotland) Act 2002, available at: [www.legislation.gov.uk/asp/2002/13/contents](http://www.legislation.gov.uk/asp/2002/13/contents)

5 Scottish Government and Scottish Community Development Centre, National Standards for Community Engagement, September 2016, available at: [www.voicescotland.org.uk](http://www.voicescotland.org.uk)

providing an opportunity to influence decisions. Indeed, the level of stakeholder involvement depends entirely on the commissioning body. In some cases this results in very participatory processes, but it is not systematic. Recent best-practice examples highlighted in this report include the Queensferry Crossing (Transport Scotland), the Millennium Link (Scottish Canals) and Dundee Waterfront (Dundee City Council).

There is an opportunity in Scotland to add value to current practices by including a broader range of stakeholders in infrastructure planning and oversight. This would entail adopting principles of multi-stakeholder working, an approach to institutionalise stakeholder engagement promoted by CoST. For example, the Infrastructure Investment Board, which oversees the governance and delivery of the infrastructure programme, is currently drawn exclusively from the Government and public bodies. Inclusion of stakeholders from civil society and the private sector would provide an opportunity to increase trust and buy-in, as well as improving transparency.

Multi-stakeholder working could also be used to strengthen participation of local stakeholders in specific projects at an earlier stage of the project cycle and promote constructive relationships with private-sector contractors, paving the way for more inclusive planning and efficient delivery of infrastructure projects.

The Scottish Government has a set of effective accountability measures in place. Two key channels are Audit Scotland and the Public Audit and Post-legislative Scrutiny Committee, both of which are highly regarded. In addition, independent bodies have been commissioned by the Scottish Government to report on individual projects or more generally on Scottish Government performance.

Further accountability is provided through public inquiries, such as *The Holyrood Inquiry*,<sup>6</sup> which reported on cost and time overruns on the Scottish Parliament Building, and the current *Edinburgh Tram Inquiry*,<sup>7</sup> which is investigating reasons for the increased costs, delays and reduction in scope of this key infrastructure project.

Accountability could be further strengthened by introducing a process of regular, independent validation and interpretation of disclosed infrastructure data, providing assurance to stakeholders that public infrastructure projects are well managed and on track. Experience from other countries has shown that, when data is disclosed, this is a cost-effective way to provide increased accountability on an ongoing basis.

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6 Fraser P, Scottish Parliament, 15 September 2004, available at: [www.parliament.scot/SPICeResources/HolyroodInquiry.pdf](http://www.parliament.scot/SPICeResources/HolyroodInquiry.pdf)

7 Edinburgh Tram Inquiry, 2017, available at: [www.edinburghtraminquiry.org](http://www.edinburghtraminquiry.org)

Given its high level of competence and independence this process could be led by an organisation such as Audit Scotland lending significant credibility to the outcome.

The report concludes that, while Scotland has made significant reforms in transparency and accountability of its infrastructure investments in the past decade, further strides could be made by adopting, adapting and improving CoST's core features of disclosure, assurance, multi-stakeholder working and social accountability.

CoST and its current members can certainly learn from the Scottish experience. By joining CoST, Scotland would have an opportunity to showcase and share lessons from its journey to a high level of infrastructure transparency and accountability on an international stage.

**The main recommendations of this report are as follows:**

1. Use the second Scottish OGP action plan to specify a commitment to openness, transparency and accountability of infrastructure planning and delivery, incorporating the CoST core features into current practice to increase the specificity of these commitments.
2. Strengthen accessibility of infrastructure data already in the public domain for projects over £20 million (US\$27 million) through a single online, geo-referenced platform, building on the current OGP action plan commitment to open and inter-operable data.
3. Expand the coverage of infrastructure projects for which data is systematically disclosed, first to projects above £5 million (US\$6.7 million), the definition applied by Audit Scotland to major projects, and second to projects above £2 million (US\$2.7 million), the threshold for advertising works contracts under the Procurement Reform (Scotland) Act of 2014.<sup>8</sup>
4. Adopt multi-stakeholder working as a concept to ensure systematic stakeholder engagement in infrastructure governance, both at high level in the Infrastructure Investment Board and as a principle for strengthening participatory approaches to infrastructure planning and delivery.
5. Explore ways in which Audit Scotland could lead a process of frequent, ongoing validation and interpretation of disclosed infrastructure data.
6. The Scottish Government consider CoST membership to expand its international profile for pioneering openness and transparency specifically in relation to infrastructure governance. ■

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<sup>8</sup> Procurement Reform (Scotland) Act 2014, available at: [www.legislation.gov.uk/asp/2014/12/contents](http://www.legislation.gov.uk/asp/2014/12/contents)

# 1. INTRODUCTION

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## AIMS AND OBJECTIVES OF THIS REPORT

This case study report was commissioned by CoST – the Infrastructure Transparency Initiative (CoST) to provide an overview of existing policies and practices governing infrastructure planning and delivery in Scotland and to review the extent to which institutional innovations embracing transparency, participation and accountability are in place.

The case study assesses the extent to which adopting CoST and its core features of disclosure, assurance and multi-stakeholder working could add value to existing practices in Scotland, with the end goal of getting better value for money from public infrastructure investments.

This is the second case study published as part of a research programme investigating the potential added value of CoST in high-income countries. The Scotland case study is special as it is the only sub-national administration that has been included in the research to date. This reflects the recognition that sub-national governments play an increasingly important role in the planning and delivery of public infrastructure, and that CoST is now open to this type of administration joining the initiative.

## METHODOLOGY

A desk review was carried out to provide a baseline of information on the infrastructure policy and planning system in Scotland and to assess the level of public availability of data on infrastructure projects. Items reviewed included:

- Scottish Government websites and published documentation and legislation
- proceedings of the Scottish Parliament and its committees, available online
- reviews of infrastructure delivery commissioned by the Scottish Government
- stakeholder websites and publicly available reports



- independent reports on infrastructure and procurement by expert bodies
- news reports from respected providers, such as the BBC and *The Telegraph*.

All sources used in this review are referenced within the text as footnotes and also appear in the Bibliography.

As part of the initial research, a stakeholder mapping exercise was carried out and key stakeholder groups identified. Individuals representative of these groups were selected and invited to participate in the research in a series of semi-structured interviews conducted either in person or by telephone. Questions identified during the desk review were posed during the interviews, which were also used to verify information uncovered during the research.

A full list of the stakeholders interviewed can be found in the Appendix.

To assess levels of transparency in Chapter 8, an initial scan of available data was conducted and mapped against the CoST IDS. The resulting quantitative measure reflects the number of data points publicly available in Scotland as a percentage of the 40 data points required by the CoST IDS. The data scan focused exclusively on projects with a capital value of over £20 million (US\$27 million), the threshold for inclusion in the Scottish Government's *Infrastructure Investment Plan*.<sup>1</sup> Some further sources of data were highlighted by interviewees. The resulting Tables 3 and 4 were then subject to further review.

The levels of stakeholder participation and accountability are measured qualitatively based on an analysis of examples of existing practices. The sources for these measures were semi-structured interviews and secondary data. ■

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1 Scottish Government, *Infrastructure Investment Plan 2015*, 16 December 2015, available at: [www.gov.scot/Publications/2015/12/5962](http://www.gov.scot/Publications/2015/12/5962)

## CoST — THE INFRASTRUCTURE TRANSPARENCY INITIATIVE

CoST works with government, industry and civil society to promote greater transparency and accountability in public infrastructure. This helps to inform and empower citizens, enabling them to hold decision makers to account. Informed citizens and responsive public institutions are mutually reinforcing, helping to drive reforms that reduce mismanagement, inefficiency, corruption and risks posed to the public from poor-quality infrastructure. This approach has the potential to reduce losses and, if successful, can increase productivity investment by up to a third without mobilising additional investment.

CoST's approach is based on four 'core features' – disclosure, assurance, multi-stakeholder working and social accountability. The first three are already well established and the fourth is now being introduced as part of refining and improving the CoST approach.

- Disclosure is the publication of data from infrastructure projects. Forty data points are disclosed by procuring entities at key stages throughout the entire project cycle in the CoST Infrastructure Data Standard (IDS) format.
- Assurance is an independent review that highlights the accuracy and completeness of the disclosed data and identifies issues of concern for the public.
- Multi-stakeholder working brings together government, industry and civil society in a concerted effort to pursue the common goal of improving transparency and accountability in public infrastructure. This is typically achieved through a multi-stakeholder group (MSG), where each stakeholder group has an equal voice in leading a CoST programme.
- Social accountability refers to efforts made to ensure that the disclosed data and assurance reports are used by stakeholders – especially civil society and the private sector – to strengthen accountability and deliver practical improvements.

CoST provides a flexible approach that supports implementation across diverse political, economic and social contexts. Its members at a national and sub-national level decide how this approach must be adjusted to meet their specific priorities.

## 2. BACKGROUND

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**This chapter provides an overview of Scotland, including its relationship to the UK and the extent of devolution. Figures on infrastructure investments are given, and policy, practice and culture related to transparency, stakeholder participation and accountability in public policy making are outlined.**

### OVERVIEW OF SCOTLAND

Scotland is a sub-national government of the United Kingdom of Great Britain and Northern Ireland. It has a population of 5,404,700 (8.2% of the total UK population)<sup>1</sup> and covers an area of 77,900 sq. km.<sup>2</sup>

The gross domestic product (GDP) for Scotland in 2016 was £149.8 billion (US\$200 billion), or £27,839 (US\$37,000) per person. This excludes offshore economic activity in the oil and gas industry, which is accounted for in overall UK figures.<sup>3</sup>

Scotland's economy grew by 0.8% in the first quarter of 2017 after contracting 0.2% in the previous quarter. Its construction sector fell 0.7% in the first quarter of 2017. Year on year, overall GDP rose 0.7% in the first quarter of 2017.<sup>4</sup>

The Scottish economy is advanced and is based on four main economic sectors: services (75%); production (18%); construction (6%); and agriculture, forestry and fishing (1%).<sup>5</sup>

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- 1 Office for National Statistics, Population Estimates for UK, England and Wales, Scotland and Northern Ireland: mid-2016, 2017, available at: [www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/bulletins/annualmidyearpopulationestimates/mid2016](http://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/bulletins/annualmidyearpopulationestimates/mid2016)
  - 2 Office for National Statistics, Country Profiles: Key Statistics — Scotland, August 2012, 2012, available at: [webarchive.nationalarchives.gov.uk/20150904131329/http://www.ons.gov.uk/ons/rel/regional-trends/region-and-country-profiles/key-statistics-and-profiles---august-2012/key-statistics---scotland--august-2012.html](http://webarchive.nationalarchives.gov.uk/20150904131329/http://www.ons.gov.uk/ons/rel/regional-trends/region-and-country-profiles/key-statistics-and-profiles---august-2012/key-statistics---scotland--august-2012.html)
  - 3 Scottish Government National Statistics, Scotland's Gross Domestic Product, Quarter 1 2017, 2017, available at: [www.gov.scot/Topics/Statistics/Browse/Economy/QNA2016Q4](http://www.gov.scot/Topics/Statistics/Browse/Economy/QNA2016Q4)
  - 4 Scottish Government National Statistics, Poverty and Income Inequality in Scotland: 2015/16 , 2017, available at: [www.gov.scot/Resource/0052/00522187.pdf](http://www.gov.scot/Resource/0052/00522187.pdf)
  - 5 Scottish Government National Statistics, National life tables, UK: 2013–2015, 2017, available at: [www.gov.scot/Resource/0052/00522199.pdf](http://www.gov.scot/Resource/0052/00522199.pdf)

In 2015/16, 17% of the Scottish population were living in relative poverty, measured before housing costs.<sup>6</sup> Life expectancy at birth (2013–2015) was 77.1 years for males and 81.1 years for females.<sup>7</sup>

Scotland is a democracy, with representatives elected at national (UK), sub-national (Scotland) and local level. There are 59 Members of Parliament (MPs), who each represent a Scottish constituency in the UK Parliament in London. There are also 129 Members of the Scottish Parliament (MSPs), 73 representing a constituency and 56 selected by proportional representation.

Decisions on ‘devolved’ matters, which include education, health, environment and aspects of transport, are made by the Scottish Parliament. Decisions on ‘reserved’ matters, including energy, defence, foreign affairs and national security, are taken by the UK Parliament.<sup>8,9</sup>

## INFRASTRUCTURE INVESTMENT IN SCOTLAND

Infrastructure development has been a major priority for the Scottish Government for more than a decade.

The *Infrastructure Investment Plan* (IIP)<sup>10</sup> is the key government programme identifying Scotland’s long-term infrastructure investments for large value infrastructure projects, with a capital value of more than £20 million (US\$27 million). The most recent version (2015) divides investment into the following areas: early learning and childcare; Scotland’s Schools for the Future programme; further and higher education; housing; digital; health; transport; energy and energy efficiency; water; rural affairs, food and the environment; culture and heritage; and justice.

Capital expenditure represents the main source of funding for infrastructure projects such as hospitals, prisons, colleges, railways and roads in Scotland. However, it excludes investments made with alternative sources of financing, such as the Private Finance Initiative

6 Scottish Government National Statistics, Poverty and Income Inequality in Scotland: 2015/16, 2017, available at [www.gov.scot/Resource/0051/00515392.pdf](http://www.gov.scot/Resource/0051/00515392.pdf)

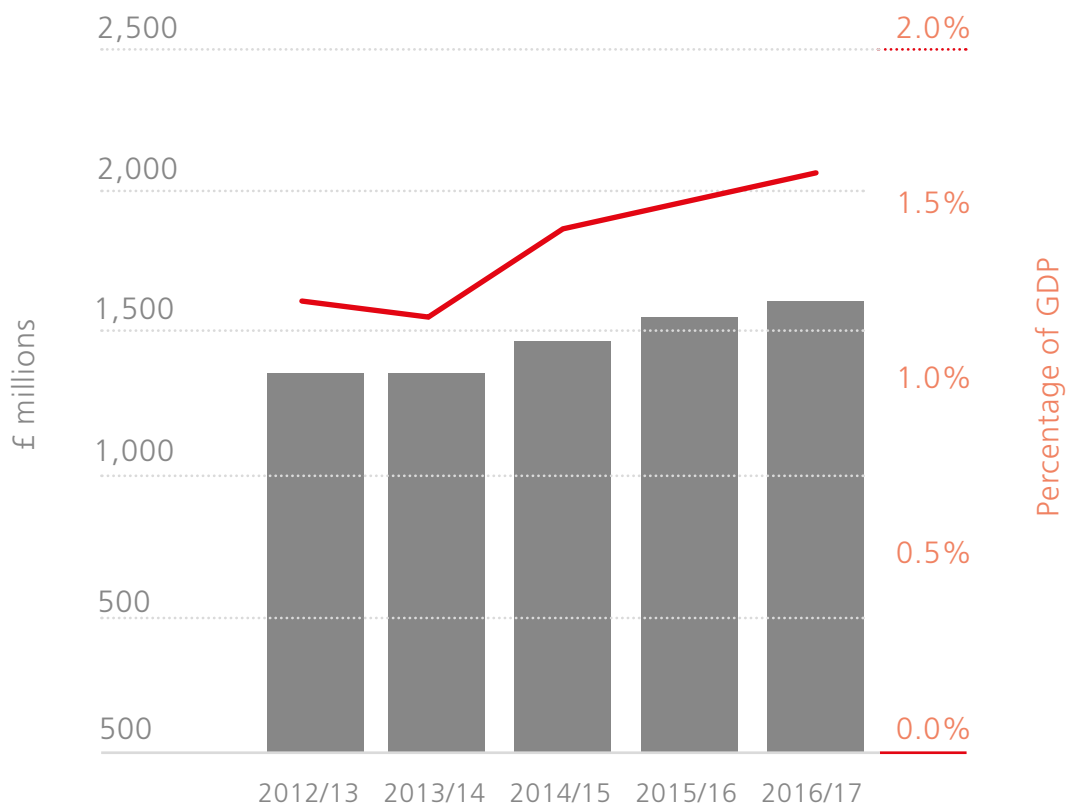
7 Office for National Statistics, National life tables, UK: 2013–2015, 2016, available at: [www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/lifeexpectancies/bulletins/nationallifetablesunitedkingdom/20132015](http://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/lifeexpectancies/bulletins/nationallifetablesunitedkingdom/20132015)

8 Scottish Government, Answers to frequently asked questions, 2015, available at: [www.gov.scot/About/Information/FAQs](http://www.gov.scot/About/Information/FAQs)

9 The Scottish Parliament, What are the powers of the Scottish Parliament?, 2017, available at: [www.parliament.scot/visitandlearn/12506.aspx](http://www.parliament.scot/visitandlearn/12506.aspx)

10 Scottish Government, *Infrastructure Investment Plan 2015*, 16 December 2015, available at: [www.gov.scot/Publications/2015/12/5962](http://www.gov.scot/Publications/2015/12/5962)

Figure 1. Scottish Government capital budget 2010/11 to 2016/17 (nominal terms) and percentage of GDP



(PFI) or Non-Profit Distributing (NPD) model, which is typically covered through the revenue budget.

Over the past four years, capital expenditure has been rising steadily, both in cash terms and as percentage of GDP. After rising substantially between 2003 and 2011,<sup>11</sup> it dropped to around £1.6 billion (US\$2.1 billion) in 2012/13 and 2013/14 and then rose again quickly to more than £2 billion (US\$2.7 billion) in 2016/17 (see Figure 1).<sup>12</sup>

Moreover, the Scottish Parliament has in the last five years been given increasing powers over taxation and borrowing.<sup>13</sup> From 2017, it has an overall capital borrowing limit of £3 billion (US\$4 billion) and control over income tax rates and bands worth over £11 billion (US\$14.7 billion).<sup>14</sup>

In the 2018/19 draft budget, unveiled in December 2017, the Government announced that it would access capital borrowing to the value of the annual cap of £450 million (US\$600 million), as well as confirming £4 billion (US\$5.3 billion) of spending on infrastructure as part of a £20 billion (US\$27 billion) plan over the lifetime of the Parliament.<sup>15</sup>

## ACCOUNTABILITY AND TRANSPARENCY

In 2011, Audit Scotland made a series of recommendations on the management of the Scottish Government's capital investment programme,<sup>16</sup> warning that funds available for capital spending would fall significantly in the 2010/11 to 2014/15 period, requiring the Government to make difficult decisions on priorities for this period and beyond.

Audit Scotland recommended that the Government, "extend its IIP to become an overarching investment strategy".<sup>17</sup> This would better inform decision-making and prioritisation. It would also help develop comprehensive information on the whole-life costs of capital projects, enabling affordability issues both for publicly and privately financed

11 Audit Scotland, *Management of the Scottish Government's capital investment programme*, January 2011, p. 8, available at: [www.audit-scotland.gov.uk/docs/central/2010/nr\\_110127\\_capital\\_investment.pdf](http://www.audit-scotland.gov.uk/docs/central/2010/nr_110127_capital_investment.pdf)

12 Data in Figure 1 are drawn from the Scottish Government's consolidated accounts reflecting actual expenditure in the years covered. It does not include local authority activity, or non-departmental public bodies or public corporations. The consolidated accounts may include grants distributed to other bodies, but not the investment activities of those bodies. The *Infrastructure Investment Plan* includes projects in the wider public sector.

13 BBC News, *What are Scotland's tax powers?* 2016, available at: [www.bbc.co.uk/news/uk-scotland-scotland-politics-35866776](http://www.bbc.co.uk/news/uk-scotland-scotland-politics-35866776)

14 Audit Scotland, *Scotland's new financial powers: Key issues for the Scottish public finances*, 2016, available from: [www.audit-scotland.gov.uk/uploads/docs/report/2016/briefing\\_160927\\_financial\\_powers.pdf](http://www.audit-scotland.gov.uk/uploads/docs/report/2016/briefing_160927_financial_powers.pdf)

15 Scottish Government, "Chapter 3 Infrastructure Investment", in *Scottish Budget: Draft Budget 2018–2019*, 2017, available at: [www.gov.scot/Publications/2017/12/8959/5](http://www.gov.scot/Publications/2017/12/8959/5)

16 Audit Scotland, *Management of the Scottish Government's capital investment programme*, January 2011, available at: [www.audit-scotland.gov.uk/docs/central/2010/nr\\_110127\\_capital\\_investment.pdf](http://www.audit-scotland.gov.uk/docs/central/2010/nr_110127_capital_investment.pdf)

17 *Ibid.*, p.4 and paragraph 75.



infrastructure to be more carefully assessed. Public reporting on all major capital projects against time, cost and quality to improve transparency was also proposed.

Since then, large changes have been made in the policy, practice and culture relating to transparency, stakeholder participation and accountability in Scotland, particularly as it relates to infrastructure projects. However, in all areas, this is variable and depends upon the commissioning body.

The Scottish Government is a pioneer member of the Open Government Partnership and has therefore made a public commitment to work towards, “openness, transparency and citizen participation.”<sup>18</sup> Although there is still resistance to publication of some open data, there have been strong moves towards transparency in this area, particularly through the publication of the IIP and the work of Scottish Transport.

There have also been significant improvements in accountability. The work of Audit Scotland and government committees provide a structured system of checks and balances. However, stakeholder engagement remains variable and entirely dependent on the commissioning body.

A more recent issue relating to the financing of infrastructure projects came to light at the beginning of 2017, when the Office for National Statistics (ONS) ruled that the Scottish Government had broken EU rules on public spending. The ONS found that four major infrastructure projects, which had been privately financed, should be counted as public projects.<sup>19</sup> This is expected to result in the Scottish Government being forced to reduce its projected infrastructure spend by around £900 million (US\$1.2 billion). ■

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18 Scottish Government, *Open Government Partnership Scottish Action Plan 2016–2017*, 2016, available at: [www.gov.scot/Resource/0051/00511323.pdf](http://www.gov.scot/Resource/0051/00511323.pdf)

19 Carrell S, “Scottish government pushed on which projects will bear brunt of £900m loss”, *The Guardian*, 27 January 2017, available at: [www.theguardian.com/uk-news/2017/jan/27/holyrood-urged-eu-spending-rules-breach-impact-projects-scotland](http://www.theguardian.com/uk-news/2017/jan/27/holyrood-urged-eu-spending-rules-breach-impact-projects-scotland)

### 3. INFRASTRUCTURE NEEDS AND PLANS

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**This chapter provides an overview of the needs and long-term plans for infrastructure in Scotland, drawing on the Scottish Government’s strategic vision, as well as documented plans and pipelines. Financial plans and funding models are also outlined.**

#### RESPONSIBILITY FOR SCOTLAND’S INFRASTRUCTURE

Responsibility for Scotland’s infrastructure is divided between devolved matters, which are the responsibility of the Scottish Government, and those controlled by the UK Government, as shown in Table 1.<sup>1,2</sup>

#### ASSESSMENT OF INFRASTRUCTURE NEEDS AND LONG-TERM PLANS

The Scottish Government’s assessment of infrastructure needs and long-terms plans are contained in the *Infrastructure Investment Plan (IIP)*.<sup>3</sup> The plan covers 20 years, is updated every three to four years and is subject to consultation.

In his introduction to the 2015 IIP, Keith Brown, MSP and Cabinet Secretary for Infrastructure, Investment and Cities, declared that the plan is, “directed towards the priorities of delivering sustainable economic growth through increasing competitiveness and tackling inequality, managing the transition to a lower carbon economy, enhancing public services, and supporting employment and opportunity across Scotland.”<sup>4</sup>

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1 Chartered Institution of Highways and Transportation (CIHT), *Transport in Scotland – A Guide to Members*, 2015, available at: [www.ciht.org.uk/en/document-summary/index.cfm/docid/7D72EE8A-2145-4B04-A73969249F2CB561](http://www.ciht.org.uk/en/document-summary/index.cfm/docid/7D72EE8A-2145-4B04-A73969249F2CB561)

2 Infrastructure and Projects Authority, *National Infrastructure Delivery Plan 2016–2021*, 2016, p. 82, available at: [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/520086/2904569\\_nidp\\_delivery-plan.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/520086/2904569_nidp_delivery-plan.pdf)

3 Scottish Government, *Infrastructure Investment Plan 2015*, 16 December 2015, available at: [www.gov.scot/Publications/2015/12/5962](http://www.gov.scot/Publications/2015/12/5962)

4 *Ibid.*, p.1.

**Table 1. Responsibility for infrastructure in Scotland**

<b>Devolved or responsibility of UK Government</b>	<b>Responsible body</b>
<b>Road</b>	
Devolved	Transport Scotland, a Scottish Government agency.
<b>Rail</b>	
The Scottish Government is responsible for internal services. The UK Government is responsible for cross-border daytime services.	Transport Scotland, a Scottish Government agency, and Network Rail, a not-for-profit company classified as a public-sector body and accountable to the UK Parliament.
<b>Airports</b>	
Devolved. The regulation of air services is a reserved matter.	The relevant local planning authority.
<b>Ports</b>	
Devolved responsibility with some minor exceptions.	Transport Scotland, a Scottish Government agency.
<b>Energy</b>	
Not devolved	
<b>Communications</b>	
Not devolved	
<b>Water</b>	
Devolved	Scottish Water, a publicly owned company accountable to the Scottish Parliament.
<b>Flood defence</b>	
Devolved	Scottish Environment Protection Agency (SEPA), a non-departmental public body of the Scottish Government.
<b>Waste</b>	
Devolved	Scottish Environment Protection Agency (SEPA), a non-departmental public body of the Scottish Government.
<b>Housing</b>	
Devolved	Councils, housing associations and private companies.

The key areas outlined in the plan are: transport, digital, energy and energy efficiency, water, waste, rural economy and communities, health, education and housing. The role of accountability in the decision-making process and the significance of the values of social justice and equality when developing the plan are highlighted.

In addition, the importance of factoring in the wider economic benefits of infrastructure projects is emphasised. Consideration is also given to the duty for sustainable procurement and how economic, social and environmental wellbeing are considered within the procurement process, for example, by ensuring that the remote communities are included in transport infrastructure plans.

Concrete plans, as well as those identified for future consideration, are provided in the Infrastructure Investment Plan 2015 Annex A. They include over 65 projects, funded by both revenue and capital means. Key transport plans include the following.

- **Queensferry Crossing** £1.35 billion (US\$1.8 billion) invested, completed in August 2017.
- **Aberdeen Western Peripheral Route / Balemédie to Tippetty** £745 million (US\$990 million) invested, currently under construction and funded under a mixture of revenue and capital funding.
- **Edinburgh Glasgow Rail Improvements Programme (EGIP)** £742 million (US\$990 million) project, currently under construction and funded through a combination of revenue and capital funding.

The IIP does not attempt to quantify an infrastructure gap and what would be needed in terms of investments to close it. Nor does it strategically assess the complex inter-relationship between needs, affordability, political priorities and implementation capacity. A partial exception is affordable housing, where the Government has committed to close the gap between supply and demand.

Needs are articulated more in terms of the role of infrastructure investments in stimulating growth and public service delivery. As mentioned in Chapter 2, Audit Scotland recommended in 2011 that the IIP should be upgraded to an overarching strategy identifying long-term needs and constraints for capital investment in Scotland.<sup>5</sup> ■

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<sup>5</sup> Audit Scotland, *Management of the Scottish Government's capital investment programme*, January 2011, available at: [www.audit-scotland.gov.uk/docs/central/2010/nr\\_110127\\_capital\\_investment.pdf](http://www.audit-scotland.gov.uk/docs/central/2010/nr_110127_capital_investment.pdf)

## FUNDING AND FINANCING MODELS

The Scottish Government has identified a range of funding and financing models to maximise infrastructure investment, including the following:

**Capital funding (the most common method of investing in infrastructure)** the costs of development and construction are paid from the capital budget.

**Capital borrowing** the costs are paid from money borrowed by the Scottish Government for infrastructure investment within the limitations of the cap on borrowing set in UK law.

### Revenue funding (using several models):

**Private Finance Initiative (PFI)** a form of public–private partnership (PPP) where a contract is established between the public sector and private sector to construct and maintain an asset for use by the public sector based on annual revenue payments from the public sector.

**Non-Profit Distributing model (NPD)** the Scottish Government forms a partnership with a private sector organisation, which then builds and maintains the asset. The Government pays an annual charge to the partner for a fixed period of time (usually 25 to 30 years). However, in this model there is a limit imposed on the profits that the private sector operator may retain. Additional profits have to be reinvested into the public sector.

**Hub Design, Build, Finance and Maintain model** using five geographical areas in Scotland, the hubs allow for community planning partners to join with private partners to deliver smaller-scale infrastructure projects.

**Innovative financing** other innovative models are being adopted including Tax Incremental Financing and the Growth Accelerator.

## 4. HISTORIC PERFORMANCE

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**This chapter provides an account of historic performance in delivering public infrastructure in Scotland and introduces the reforms and policies which have been adopted to improve practice in planning and delivery of infrastructure.**

### **HISTORIC PERFORMANCE IN DELIVERY OF PUBLIC INFRASTRUCTURE PROJECTS**

In its 2011 report on the management of the Scottish Government's capital investment programme,<sup>1</sup> Audit Scotland noted that the accuracy of cost and time estimates had improved in recent years although the assessment was affected by significant gaps in the availability of information.

The report used two key stages in the major capital projects implementation cycle as reference points: the initial approval stage and the pre-contract award stage. The study found that only a third of projects were completed on time compared to the time estimates made at both initial approval and pre-contract stages. However, delays did not always result in increased cost of the projects, as 59% met the estimates made at initial approval stage and 89% met the estimates made at the contract award stage.

A number of projects failed to produce cost estimates at the initial approval stage. In terms of performance, the report found that post-project evaluations were not always carried out as required: only 40 out of 55 projects had been subjected to this type of assessment. Interestingly, delays were sometimes related to unexpected time requirements for public consultations.

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<sup>1</sup> Audit Scotland, *Management of the Scottish Government's capital investment programme*, January 2011, available at: [www.audit-scotland.gov.uk/docs/central/2010/nr\\_110127\\_capital\\_investment.pdf](http://www.audit-scotland.gov.uk/docs/central/2010/nr_110127_capital_investment.pdf)



Since then, a number of major capital infrastructure projects have been delivered, particularly in the transport sector through Transport Scotland. This is the most highly prioritised sector for capital expenditure, with notable projects including the Queensferry Crossing and the Borders Railway.

### Queensferry Crossing

The Queensferry Crossing provides an upgrade to transport links in the east of Scotland through construction of a 2.7 km bridge.<sup>2</sup> In 2013 the project had a budget of £1.46 billion (US\$2 billion) and was scheduled to be completed by October 2016.<sup>3</sup> The opening was delayed and took place in September 2017. However, the project has been delivered below the original budget at a cost of £1.35 billion (US\$1.8 billion).

Audit Scotland has praised Transport Scotland for having good practice governance in place, and for full and accurate reporting of costs, as well as its presentation of a strong business case.<sup>4</sup> The project has also been highlighted as being a good example of stakeholder engagement. Transport Scotland used the *National Standards for Community Engagement*<sup>5</sup> (see Section 9, Participation in public policy and multi-stakeholder initiatives) and provided opportunity for public involvement throughout the lifecycle of the project.

### Borders Railway

The Borders Railway project provides a new rail link connecting Scottish Borders and Midlothian to Edinburgh. The project was completed on time and within its budget of £284 million (US\$380 million).

Transport Scotland estimates that the link will remove 60,000 peak car trips per year from the region and bring increased economic and social benefits.<sup>6</sup>

### Scottish Parliament Building

One of the most well-known Scottish infrastructure projects for over-running time and budget substantially was the Scottish Parliament

2 Forth Bridges Forum, *Queensferry Crossing*, 2017, available at: [www.forth-bridges.co.uk/queensferry-crossing.html](http://www.forth-bridges.co.uk/queensferry-crossing.html)

3 Audit Scotland, *Scotland's key transport infrastructure projects*, 2013, available at: [www.audit-scotland.gov.uk/uploads/docs/report/2013/nr\\_130621\\_transport\\_projects.pdf](http://www.audit-scotland.gov.uk/uploads/docs/report/2013/nr_130621_transport_projects.pdf)

4 *Ibid.*

5 Scottish Government and Scottish Community Development Centre, *National Standards for Community Engagement*, September 2016, available at: [www.voicescotland.org.uk](http://www.voicescotland.org.uk)

6 Transport Scotland, *Borders Railway*, 2017, available at: [www.transport.gov.scot/projects/borders-railway/borders-railway/#overview](http://www.transport.gov.scot/projects/borders-railway/borders-railway/#overview)

Building complex at Holyrood in Edinburgh. The project was completed in 2004 at a cost of £414 million (US\$550 million),<sup>7</sup> 10 times over budget and three years late.

A public inquiry into the delivery of the project was commissioned and held in 2004 by Lord Fraser of Carmyllie QC. His inquiry report<sup>8</sup> identified failures in the project from its early days, highlighting among other issues the use of construction management. This is a form of procurement where a construction manager coordinates the design and construction, and where the construction itself is divided into packages, which are put out to a number of separate tenders. Although this would allow for speed and control over the project, Lord Fraser identified two key issues with the use of construction management: that it resulted in a lack of budget identified from the start of the project; and that the majority of the risk lay with the client, rather than the contractors.

In addition, Lord Fraser highlighted conflicts between quality and cost. Quality was considered more important than cost, and it should be noted that the Scottish Parliament debated the progress of the building on several occasions and voted to remove the cap on the budget in July 2001.<sup>23</sup> The report by Lord Fraser was made publicly available and the report openly debated by elected representatives in the Scottish Parliament.

Since the project's completion, concerns have also been raised about the rising costs of maintaining it. In the first 10 years of occupation, maintenance costs stood at a total of £11 million (US\$15 million), with several high-profile incidents, including a beam coming loose in the debating chamber.<sup>9</sup>

### Edinburgh Tram

A major infrastructure project that has faced difficulties more recently is the Edinburgh Tram project, which was run by the City of Edinburgh Council but financed predominantly by the Scottish Government via Transport Scotland. The project was delayed by three years, exceeded budget by over 40% and significantly reduced in scope.

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7 BBC News, £414m bill for Holyrood building, 21 February 2007, available at: [news.bbc.co.uk/1/hi/scotland/6382177.stm](http://news.bbc.co.uk/1/hi/scotland/6382177.stm)

8 Fraser P, *The Holyrood Inquiry*, Scottish Parliament, 15 September 2004, available at: [www.parliament.scot/SPICeResources/HolyroodInquiry.pdf](http://www.parliament.scot/SPICeResources/HolyroodInquiry.pdf)

9 Lambie D, "Cheaper to tear down Scottish parliament by 2020", *The Scotsman*, 13 January 2014, available at: [www.scotsman.com/news/politics/cheaper-to-tear-down-scottish-parliament-by-2020-1-3265721](http://www.scotsman.com/news/politics/cheaper-to-tear-down-scottish-parliament-by-2020-1-3265721)

Audit Scotland reviewed the project in 2007 and produced an interim report in 2011.<sup>10</sup> The key messages of the report covered progress and cost of the project at the time as well as the governance arrangements, but it did not make any specific recommendations.

Subsequently the project has been subjected to a public inquiry similar to that for the Scottish Parliament Building. It was commissioned by the Scottish Government in 2014<sup>11</sup> and has its own website but, as of May 2018, no date for reporting had been set. Public inquiries into major issues with infrastructure procurement and delivery are discussed in Chapter 10 on accountability measures.

### **Aberdeen Western Peripheral Route**

The most recent major issue concerning delivery of public infrastructure in Scotland occurred in January 2018, when the construction firm Carillion collapsed after running up large debts. Carillion was one of the consortium members delivering the Aberdeen Western Peripheral Route / Balmedie to Tippetty (AWPR).

While a number of factors contributed to the company's demise, factors highlighted have included the following:

- Cost overruns on three public-sector projects in the UK, including AWPR. The 58-km dual carriageway suffered a number of setbacks, including a legal challenge and delays on site on the initial earthworks.<sup>12</sup>
- Small financial margins driven by the competitive tendering process.<sup>13</sup>

The AWPR contract was awarded under the Non-Profit Distributing (NPD) model and the remaining two consortium members are continuing to fulfil Carillion's role in the project.

The company was also involved in work on the electrification of the central Scotland railway line and extension of platforms at Edinburgh's

10 Audit Scotland, *Edinburgh trams – Interim report*, February 2011, available at: [www.audit-scotland.gov.uk/uploads/docs/report/2011/nr\\_110202\\_trams.pdf](http://www.audit-scotland.gov.uk/uploads/docs/report/2011/nr_110202_trams.pdf)

11 Edinburgh Tram Inquiry, *Edinburgh Tram Inquiry*, 2017, available at: [www.edinburghtraminquiry.org](http://www.edinburghtraminquiry.org)

12 Wilmore J, "Why did Aberdeen's bypass hit Carillion so hard?", *Construction News*, 22 January 2018, available at: [www.constructionnews.co.uk/companies/contractors/carillion/why-did-aberdeens-bypass-hit-carillion-so-hard/10027216.article](http://www.constructionnews.co.uk/companies/contractors/carillion/why-did-aberdeens-bypass-hit-carillion-so-hard/10027216.article)

13 Curry R, "Analysis: Missed warning signs and huge debt — yet the Government kept on investing in Carillion", *The Telegraph*, available at: [www.telegraph.co.uk/business/2018/01/15/carillion-went-wrong](http://www.telegraph.co.uk/business/2018/01/15/carillion-went-wrong)

Waverley station. In addition, it held a number of other Scottish public-sector contracts at the time of its collapse.<sup>14</sup>

## EFFICIENCY OF INFRASTRUCTURE DELIVERY

Delivery of public infrastructure projects in Scotland is generally considered to be reasonably efficient. While there have been high-profile cases where projects have been over time and budget (including the Scottish Parliament and Edinburgh Tram project), many recent high-profile projects have been delivered as contracted.<sup>15</sup> This suggests that the progress identified in the 2011 Audit Scotland report in terms of delivering projects on time and budget has been continued, though there is still room for improvement in relation to undertaking post-project evaluations.<sup>16</sup>

The interviews conducted for this study confirmed there is a general lack of available and comparable data to allow for efficiency to be assessed. In addition, there are concerns that there is a lack of a systematic approach to capturing and transferring lessons learned between projects.

## REFORMS TO INFRASTRUCTURE DELIVERY

Several institutional reforms have been undertaken to improve the scrutiny, direction and oversight of infrastructure investments in Scotland.

In 2006, the Infrastructure Investment Group was formed to improve coordination of infrastructure investments. It was a broad cross-government committee and included representatives from main spending areas and other stakeholders, but it was too large to provide effective scrutiny or leadership of infrastructure investments in Scotland.

The role was taken over by the Infrastructure Investment Board (IIB) in September 2010 at the recommendation of Audit Scotland and the Public Audit Committee. The IIB has a narrower, senior level, corporate membership of eight permanent members and a secretariat function provided by the Infrastructure Investment Unit.

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14 BBC News, *Carillion collapse: Contingency plans 'in place' for Scottish projects*, 15 January 2018, available at: [www.bbc.co.uk/news/uk-scotland-scotland-business-42687014](http://www.bbc.co.uk/news/uk-scotland-scotland-business-42687014)

15 See above, note 13.

16 See above, note 1, p. 28.

Its purpose is to scrutinise development and delivery of the Scottish Government's capital programme, focusing on projects costing more than £100 million (US\$130 million). Its remit is to deliver the following outcomes:

- improved cost and time estimating for capital projects
- improved project and programme management and governance at portfolio level
- improved post project evaluation
- improved prioritisation process across the programme as a whole.<sup>17</sup>

The Scottish Futures Trust (SFT) was set up in 2008 as an arms-length company owned by the Scottish Government to deliver better value for taxpayers from public infrastructure projects. Its core areas of activities are to function as a centre of expertise, funding and (innovative) financing, aggregation and collaboration, delivery and validation.<sup>18</sup>

SFT facilitated the Scottish Schools for the Future programme based on an NPD model and applying standardisation of design and space allocation to deliver efficiency gains. It is also part-owner of the five regional 'hubCos', public private partnerships which deliver community infrastructure such as healthcare facilities and schools.

According to a study on rethinking infrastructure policies in Scotland, the SFT, through its proximity to the Scottish Government and its role in the hubs, has, "been able to provide the Scottish construction sector with a clear and more complete list of projects, priorities and timetables than was previously available."<sup>19</sup> Other publications have been more sceptical about the use of non-departmental public bodies such as the SFT, especially in relation to transparency and accountability towards parliamentary committees.<sup>20</sup>

17 Scottish Government, *Infrastructure Investment Board – Terms of Reference*, 2013, available at: [www.gov.scot/Topics/Government/Finance/18232/IIBTOR](http://www.gov.scot/Topics/Government/Finance/18232/IIBTOR)

18 Scottish Government, *Scottish Futures Trust*, 2017, available at: [www.gov.scot/Topics/Government/Finance/18232/scottish-futures-trust](http://www.gov.scot/Topics/Government/Finance/18232/scottish-futures-trust)

19 McClelland J, *Review of Public Procurement in Scotland — Report and Recommendations*, Scottish Executive, March 2006, p. 21, available at: [www.gov.scot/Publications/2006/03/14105448/0](http://www.gov.scot/Publications/2006/03/14105448/0)

20 Cuthbert M, *Public Procurement in Scotland — The case for scrutiny, accountability and transparency*, Common Weal Policy, 2017, available at: [www.allofusfirst.org/library/public-procurement-in-scotland-the-case-for-scrutiny-accountability-and-transparency](http://www.allofusfirst.org/library/public-procurement-in-scotland-the-case-for-scrutiny-accountability-and-transparency)

In addition to institutional reforms, the Scottish Government published its first Infrastructure Investment Plan (IIP) in 2008, which has since been followed up by new plans in 2011 and 2015.<sup>21</sup> The latter is currently under implementation and was updated in September 2017.

Following the development of the IIP, a web-based infrastructure projects database was created in 2009 and populated with data from 2010 onwards. The database is an internal management tool for the government containing data on estimated value, financing method, current status and the procuring body. ■

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<sup>21</sup> Scottish Government, *Infrastructure Investment Plan 2015*, 16 December 2015, available at: [www.gov.scot/Publications/2015/12/5962](http://www.gov.scot/Publications/2015/12/5962)



## 5. LEGAL FRAMEWORK

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**This chapter analyses the current legal framework for infrastructure investment in Scotland. It considers the role of UK, Scottish and international legislation, policies and administration governing infrastructure projects in Scotland, with a focus on disclosure, transparency, stakeholder participation and accountability. Infrastructure investment management throughout the stages of an infrastructure project's lifecycle is also discussed.**

### PLANNING

Infrastructure projects of all types are governed under various pieces of European Union (EU) and Scottish legislation. At the planning stages of infrastructure and other projects, the need for a planning application and/or environmental impact assessment (EIA) is one of the first opportunities for a project to be described, understood and evaluated in terms of options for construction, financial cost–benefit, environmental and community benefit, and impact.

#### EU legislation

Annexes I and II of the EU EIA Directive 2014/52/EU<sup>1</sup> identify a range of infrastructure projects that must be subject to an EIA. Infrastructure such as roads, railways, power stations, waste water treatment, extraction of natural gas and petroleum are covered.

The aim of the Directive is to ensure the consenting ('competent') authority makes its decisions in the full knowledge of any likely significant effects on the environment.<sup>2</sup> As such, it requires the proponent to undertake an assessment of the likely significant effects of certain projects on the environment before development consent can be granted.

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1 Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, available at: [eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32014L0052](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32014L0052)

2 The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, available at: [www.legislation.gov.uk/ssi/2017/102/contents/made](http://www.legislation.gov.uk/ssi/2017/102/contents/made)

The Directive amended the previous EIA Directive 2011/92/EU and member states were required to incorporate the changes into national legislation by 16 May 2017. In Scotland this involved Scottish Ministers consulting on the proposed changes. As stated in the Scottish Government's *Consultation Analysis Report*, "the overall approach by Scottish Ministers throughout the transposition has been to minimise additional regulatory burden whilst ensuring protection of the environment."<sup>3</sup>

The consultation occurred over 12 weeks and sought views on whether the Scottish Government's approach met the requirements as set out in the amended EIA Directive and what these changes could mean for practice across the following areas: assessment process, information to be assessed, screening, EIA report, scoping, assessment quality and expertise, consultation and publicity, monitoring, decision, conflict of interests, penalties and transitional arrangements.

In Scotland, EIAs are currently applied through 11 separate EIA regimes, each with their own competent authority/ies and legislation. To minimise duplication through the consultation, the Government sought views on changes to the eight regimes simultaneously:

- The Agriculture and Land Drainage (Environmental Impact Assessment) (Scotland) Regulations 2017
- The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017
- The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017
- The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017
- The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017
- The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017
- The Transport and Works (Scotland) Act 2007 (Environmental Impact Assessment) Regulations 2017

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<sup>3</sup> Scottish Government, *Environmental Impact Assessment Transposition of Directive 2014/52/EU* — *Consultation Analysis Report*, 2017, available at: [www.gov.scot/Publications/2017/01/1139/2](http://www.gov.scot/Publications/2017/01/1139/2)

- The Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Amendment Rules 2017.

### Community engagement

In terms of community engagement, the Scottish Government has a number of activities that drive action, as follows.

- The Community Empowerment (Scotland) Act 2015, which gives community bodies new rights, and public-sector authorities new duties, to boost community empowerment and engagement.<sup>4</sup> The Act, and the policy environment that surrounds it, presents a range of opportunities for communities around participation and planning, from initiating dialogue with public bodies on their own terms to the ownership, or use, of local assets. It also places a range of accompanying duties on public bodies.
- The *Scottish Community Empowerment Action Plan*, which was published in 2009 and developed jointly with COSLA, the voice of local government in Scotland, and third-sector organisations.<sup>5</sup>
- The Consultation Hub, which is a website run by Citizen Space that lists all Scottish Government consultations and is a repository for comment.<sup>6</sup>

## DESIGN AND CONSTRUCTION

### Procurement laws and regulations

The legal framework for public procurement in Scotland is governed by European Community (EC) and World Trade Organisation (WTO) procurement laws and regulations, including the EC Treaty and EC Procurement Directives (which are given effect in Scottish Regulations).

#### EC Treaty

The Treaty of Rome<sup>7</sup> (and subsequent amending treaties) that established the EC does not include any explicit provisions relating to public procurement; rather it establishes a number of fundamental principles underpinning the EU. The ones considered most relevant to public procurement are:

4 Community Empowerment (Scotland) Act 2015, available at: [www.legislation.gov.uk/asp/2015/6/contents/enacted](http://www.legislation.gov.uk/asp/2015/6/contents/enacted)

5 Scottish Government and COSLA, *Scottish Community Empowerment Action Plan*, 2009, available at: [www.gov.scot/Publications/2009/03/20155113/0](http://www.gov.scot/Publications/2009/03/20155113/0)

6 Scottish Government Consultation Hub, [consult.gov.scot](http://consult.gov.scot)

7 The Treaty of Rome 25 March 1957, available at: [ec.europa.eu/archives/emu\\_history/documents/treaties/rometreaty2.pdf](http://ec.europa.eu/archives/emu_history/documents/treaties/rometreaty2.pdf)

- prohibition against discrimination on grounds of nationality
- free movement of goods
- freedom to provide services
- freedom of establishment.

#### European Court of Justice case law

In addition to the EC Treaty, case law from the European Court of Justice (ECJ) has generated general principles of law that are frequently used in the context of public procurement:

- equality of treatment
- transparency
- mutual recognition
- proportionality.

Each of the general principles apply independently of the EU Procurement Directives and, even if the Directives do not apply, the principles may still apply to the awarding of contracts. The Scottish Procurement Policy Handbook recognises the principles, as well as the fact that the EC Treaty applies to all public procurement activity regardless of value and including contracts which are exempt from application of the EC Procurement Directives.

#### EC Procurement Directives

The EC Procurement Directives are less concerned with what contracting authorities buy than how they buy it.<sup>8</sup> The Directives govern public procurement and are aimed at ensuring that the principles of non-discrimination and transparency are upheld by contracting authorities.

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<sup>8</sup> Client Earth, *Briefing No. 3: The guiding principles of public procurement transparency, equal treatment and proportionality*, 2011, available at: [www.clientearth.org/reports/procurement-briefing-no-3-guiding-principles-equal-treatment-transparency-proportionality.pdf](http://www.clientearth.org/reports/procurement-briefing-no-3-guiding-principles-equal-treatment-transparency-proportionality.pdf)

The three 2014 European Directives in relation to public procurement are:

- Directive 2014/24/EU on Public Procurement (replacing the 2004 Directive for Public Sector Contracts)<sup>9</sup>
- Directive 2014/25/EU on Procurement by Entities operating in the water, energy, transport and postal services sectors (replacing the 2004 Directive for Utilities Contracts)<sup>10</sup>
- Directive 2014/23/EU on the Award of Concession Contracts (which does not directly replace any previous Directive).<sup>11</sup>

### Implementation in Scottish Regulations

The EC Procurement Directives above are given effect in Scottish law by (respectively):

- The Public Contracts (Scotland) Regulations 2015
- The Utilities Contracts (Scotland) Regulations 2016
- The Concessions Contracts (Scotland) Regulations 2016.

### Procurement reform in Scotland

As a result of the McClelland Review in March 2006,<sup>12</sup> a public procurement reform programme began in Scotland involving a roll out of structures, capability and processes to improve procurement across the public sector.<sup>13</sup>

9 Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, available at: [eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0024](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0024)

10 Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC, available at: [eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0025](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0025)

11 Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, available at: [eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL\\_2014\\_094\\_R\\_0001\\_01](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL_2014_094_R_0001_01)

12 McClelland J, *Review of Public Procurement in Scotland – Report and Recommendations*, Scottish Executive, March 2006, available at: [www.gov.scot/Publications/2006/03/14105448/0](http://www.gov.scot/Publications/2006/03/14105448/0)

13 Scottish Government, *Public Procurement Reform – Background*, 2016, available at: [www.gov.scot/Topics/Government/Procurement/about/Review/Background](http://www.gov.scot/Topics/Government/Procurement/about/Review/Background)

Key activities that have occurred during the reform period between 2006 and 2016 include the following:

**2006** Public Procurement Reform Board (PPRB) was established. The Board promoted collaborative working across a wide range of procurement activities and practice across all public-sector procurement spend.

**June 2008** Audit Scotland produced its first review of major capital projects in Scotland.<sup>14</sup>

**2008** the Scottish Government published *The Scottish Procurement Policy Handbook*<sup>15</sup> in consultation with the Procurement Policy Forum and endorsed by the PPRB.

**July 2009** Audit Scotland published *Improving Public Sector Purchasing*,<sup>16</sup> which recognised the progress that had been made over the first three years of the reform programme. It estimated that, by the end of 2007/08, the reform programme had directly delivered £327 million (US\$440 million) worth of savings and benefits.

**January 2010** The PPRB endorsed the second phase of the public procurement reform programme called Transforming Procurement: Accelerating Delivery. This phase placed emphasis on quickening the pace of change and delivering benefits, and embedding initiatives into 'business as usual'. At its heart was the concept of value for money in procurement and an informed balance between cost, quality and sustainability.

**2011** Audit Scotland produced a follow-up on its 2008 review with an audit of the Scottish Government's management of the capital investment programme.<sup>17</sup>

14 Audit Scotland, *Review of major capital projects in Scotland*, June 2008, available at: [www.audit-scotland.gov.uk/docs/central/2008/nr\\_080624\\_major\\_capital\\_projects\\_km.pdf](http://www.audit-scotland.gov.uk/docs/central/2008/nr_080624_major_capital_projects_km.pdf)

15 Scottish Government, *Public Procurement Reform Programme – Scottish Procurement Policy Handbook*, 2008, available at: [www.gov.scot/Publications/2008/12/23151017/0](http://www.gov.scot/Publications/2008/12/23151017/0)

16 Audit Scotland, *Improving public sector purchasing*, 23 July 2009, available at: [www.audit-scotland.gov.uk/report/improving-public-sector-purchasing](http://www.audit-scotland.gov.uk/report/improving-public-sector-purchasing)

17 Audit Scotland, *Management of the Scottish Government's capital investment programme*, January 2011, available at: [www.audit-scotland.gov.uk/docs/central/2010/nr\\_110127\\_capital\\_investment.pdf](http://www.audit-scotland.gov.uk/docs/central/2010/nr_110127_capital_investment.pdf)

**October 2013** The *Review of Scottish Public Sector Procurement in Construction* was published.<sup>18</sup> This independent review by Robin Crawford and Ken Lewandowski provided a framework for changing practice in construction-related procurement to improve value for money. Following publication, a development group has been set up, meeting every six weeks, to review progress.

**2014** The Procurement Reform (Scotland) Act 2014 emerged.<sup>19</sup> The Act provides a national legislative framework for sustainable public procurement that supports Scotland's economic growth through improved procurement practice. The Act focuses on a small number of general duties on contracting authorities regarding their procurement activities. It includes some specific measures aimed at promoting good, transparent and consistent practice in procurement processes, providing guidance on the following topics:

- procurement strategies and annual procurement reports
- the sustainable procurement duty
- community benefit requirements in procurement
- selection of tenderers and award of contracts
- procurement for health or social care services.

**April 2015** *A Review of the Second Phase of Public Procurement Reform: 2010–2024* was published.<sup>20</sup>

**November 2016** the *Public Procurement Reform Programme Report* was published and provides a summary of the achievements and impact made in the 10 years of procurement reform.<sup>21</sup>

*The Scottish Model of Procurement* puts procurement at the heart of Scotland's economic recovery, as an integral part of policy development and service delivery.<sup>22</sup> The Value for Money triangle (shown in Figure 2) sums up the model; it is not just about cost and quality, but about the best balance of cost, quality and sustainability.

18 Crawford R and Lewandowski K, *Review of Scottish Public Sector Procurement in Construction*, Scottish Government, 22 October 2013, available at: [www.gov.scot/Publications/2013/10/2688/0](http://www.gov.scot/Publications/2013/10/2688/0)

19 Procurement Reform (Scotland) Act 2014, available at: [www.legislation.gov.uk/asp/2014/12/contents](http://www.legislation.gov.uk/asp/2014/12/contents)

20 Scottish Government, *Review of the Second Phase of Public Procurement Reform: 2010–2014*, November 2014, available at: [www.gov.scot/Topics/Government/Procurement/about/Review/Background/Phase2Report](http://www.gov.scot/Topics/Government/Procurement/about/Review/Background/Phase2Report)

21 Scottish Government, *The Public Procurement Reform Programme 2006–2016 Achievements and Impacts*, 9 November 2016, available at: [www.gov.scot/Publications/2016/11/9873](http://www.gov.scot/Publications/2016/11/9873)

22 Scottish Government, *The Scottish Model of Procurement*, 2013, available at: [www.gov.scot/Topics/Government/Procurement/about/spd-aims](http://www.gov.scot/Topics/Government/Procurement/about/spd-aims)

## FREEDOM OF INFORMATION

The Freedom of Information (Scotland) Act 2002, known as FOISA, came into force in 2005.<sup>23</sup> The Act allows individuals and organisations to request information from a public authority, subject to certain exemptions. The Scottish Government's stated aim with the law is not only to increase openness and transparency but also public participation. It is perceived as far-reaching and robust.

If the authority refuses a request for information under the Act, it has to provide a written explanation. The lifespan of key exemptions has been reduced from 30 to 15 years. However, the interpretation of the Act has been criticised by some for ruling out access to contracts for revenue-funded projects containing commercial and financial information even after the 15-year lifespan of most key exemptions would have been exceeded.<sup>24</sup>

The Act is being actively used, with numbers of requests rising, and the Government has a target to respond to 85% of information requests and requests for reviews within 20 days. From 2017, answers to requests are being published online.<sup>25</sup>

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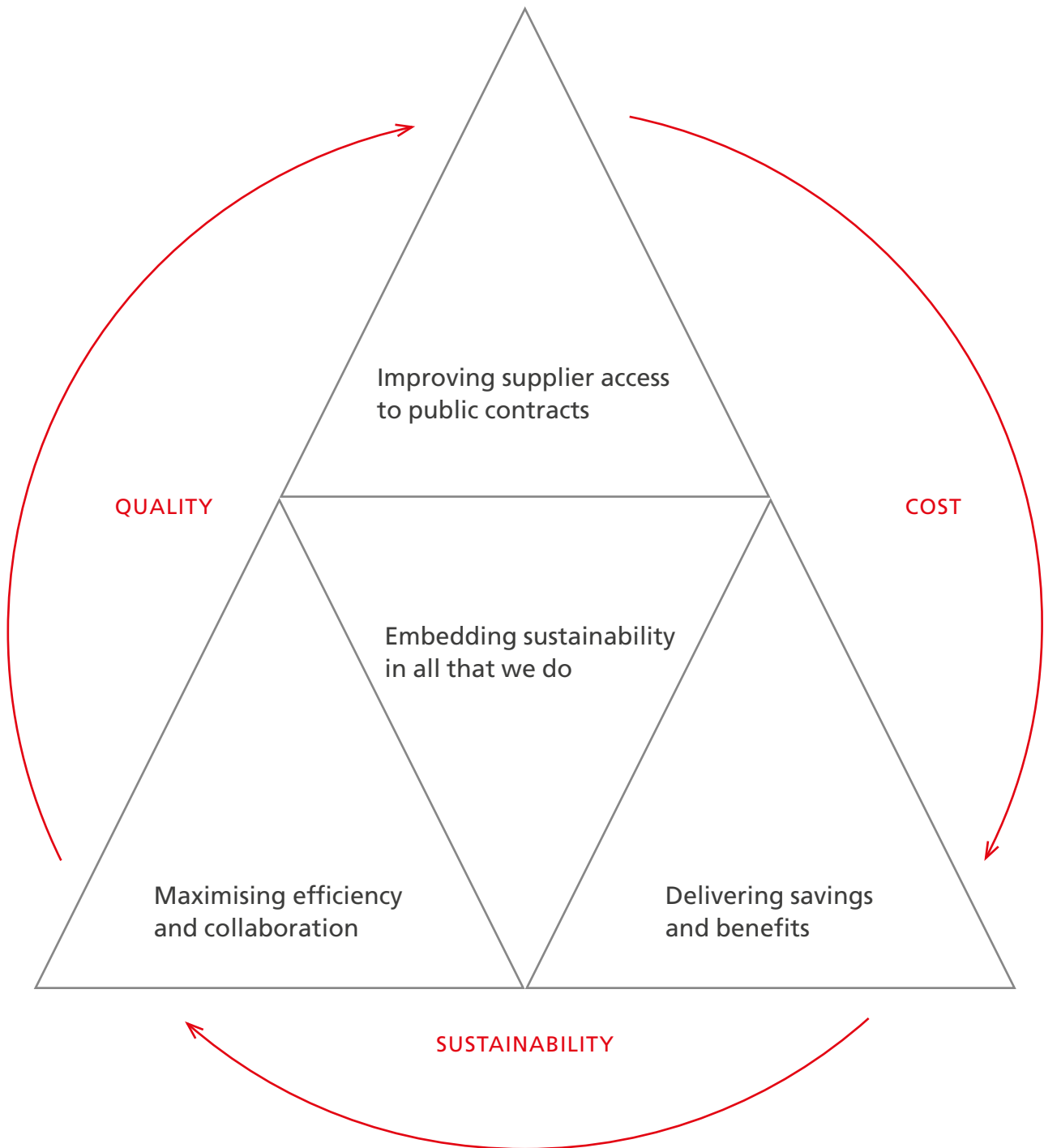
23 Freedom of Information (Scotland) Act 2002, available at: [www.legislation.gov.uk/asp/2002/13/contents](http://www.legislation.gov.uk/asp/2002/13/contents)

24 Cuthbert M, *Public Procurement in Scotland — The case for scrutiny, accountability and transparency*, Common Weal Policy, 2017, p. 4, available at: [www.allofusfirst.org/library/public-procurement-in-scotland-the-case-for-scrutiny-accountability-and-transparency](http://www.allofusfirst.org/library/public-procurement-in-scotland-the-case-for-scrutiny-accountability-and-transparency)

25 Scottish Government, *Publications (on FOI)*, 2018, available at: [beta.gov.scot/publications/?publicationTypes=foi](http://beta.gov.scot/publications/?publicationTypes=foi)



Figure 2. *Scottish Model of Procurement Value for money triangle*



## 6. INFRASTRUCTURE PROJECT CYCLE AND STAKEHOLDER MAPPING

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**This chapter describes the infrastructure project cycle in Scotland as well as contracting methods currently in use. Stakeholders in infrastructure policy are mapped, their role explained and their entry point for participation in the infrastructure policy-making cycle identified.**

### STAGES OF POLICY MAKING FOR INFRASTRUCTURE IN SCOTLAND

Policy making for large infrastructure projects is the responsibility of the Scottish Government, with ministers making decisions over projects in their portfolio area. The decisions are backed by advice and guidance from a range of bodies including: the Infrastructure Investment Board, the Infrastructure Investment Unit, the Scottish Government Procurement and Commercial Directorate and the Scottish Futures Trust. Additionally, for rail projects, the Office of Rail and Road, which is a United-Kingdom-wide body, provides advice and guidance.

Projects identified by Scottish ministers are taken forward to the Scottish Cabinet, which collectively approves the *Infrastructure Investment Plan*.<sup>1</sup> This is not separately debated by the Scottish Parliament but is scrutinised and approved as part of the overall spending plans in the annual budget. Plans for individual infrastructure projects are subject to public consultation and a strategic business case is required before project initiation. This is developed to an outline business case and a full business case, with regular gateway or key stage reviews.

### MANAGEMENT OF INFRASTRUCTURE PROJECT LIFECYCLE IN SCOTLAND

Audit Scotland shows the lifecycle of transport infrastructure projects in Scotland as flowing from policy formulation through inception, procurement, delivery and completion and operation, with a number

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<sup>1</sup> Scottish Government, *Infrastructure Investment Plan 2015*, 16 December 2015, available at: [www.gov.scot/Publications/2015/12/5962](http://www.gov.scot/Publications/2015/12/5962)

of more detailed actions throughout the process (see Figure 3).<sup>2</sup> It is important to note that public funds are only committed at the end of the procurement phase when contracts are approved. At this point in the process, both time and budget estimates tend to be more accurate.

The infrastructure project lifecycle happens within a broader policy context, which is subject to advice and guidance from the Infrastructure Investment Unit and Infrastructure Investment Board, as well as the Scottish Procurement and Commercial Directorate and the Scottish Futures Trust. Initial decisions are made by the relevant accountable officers, after which ministers take forward projects based on budget availability and fit within the *Infrastructure Investment Plan*.<sup>3</sup> Final decisions are made collectively by the Scottish Cabinet.

All projects with a value of £5 million (US\$6.7 million) or over are required to carry out a series of gateway reviews at decision points of the project lifecycle. The points at which these are to be completed are identified during an initial risk assessment.

## CONTRACTING METHODS

There are three main contracting methods used for infrastructure projects in Scotland. These are as follows.

**Public procurement under European Union (EU) rules using traditional design-bid-build, design-and-build or construction management.**<sup>4</sup> (Note construction management was used for Scottish Parliament Building. It allows for a great deal of flexibility but the risk is retained by the commissioning body. As each part of the construction is tendered separately, it can be challenging to control costs with this method, as identified by Lord Fraser of Carmyllie QC in his inquiry report).<sup>5</sup>

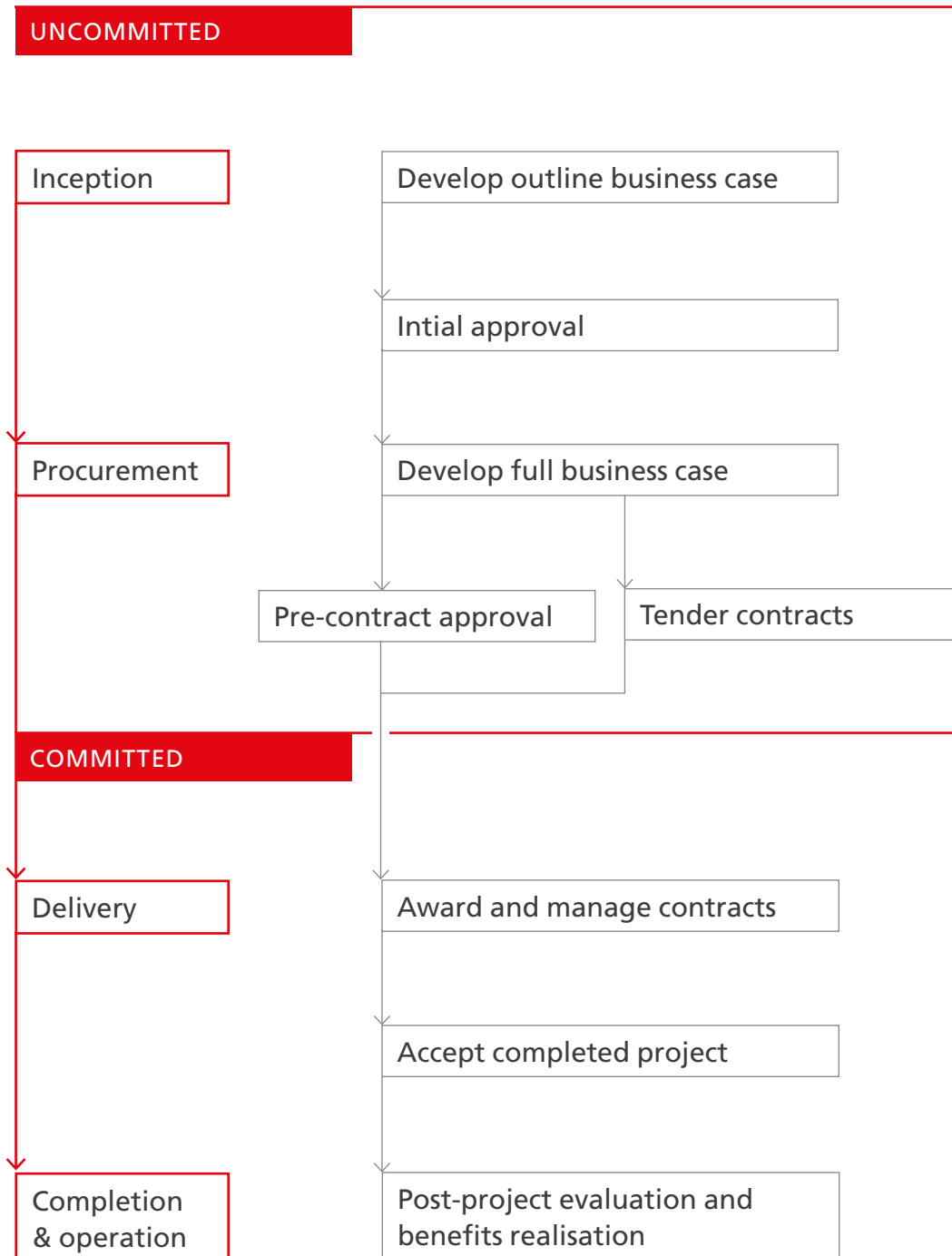
2 Adapted from Audit Scotland, *Management of the Scottish Government's capital investment programme*, January 2011, p.11, available at: [www.audit-scotland.gov.uk/docs/central/2010/nr\\_110127\\_capital\\_investment.pdf](http://www.audit-scotland.gov.uk/docs/central/2010/nr_110127_capital_investment.pdf)

3 See above, note 1

4 See Section 5, Procurement laws and regulations

5 Fraser P, *The Holyrood Inquiry*, Scottish Parliament, September 2004, available at: [www.parliament.scot/SPICeResources/HolyroodInquiry.pdf](http://www.parliament.scot/SPICeResources/HolyroodInquiry.pdf)

Figure 3. Lifecycle of transport infrastructure projects in Scotland



Public–private partnership (PPP) / Private Finance Initiative (PFI) formerly used for high-value infrastructure projects in Scotland. The Government pays an annual fee to a private company, which takes on the entire project from design to operation.<sup>6</sup>

**Non-Profit Distributing (NPD)** model is used as an alternative to PFI and currently in place for many infrastructure projects in Scotland. Requires benefits for the local community and economy).<sup>7</sup>

Public contracts are published on the Public Scotland Contracts website<sup>8</sup> and are required to be compliant with European procurement legislation.<sup>9</sup>

## DELIVERY, COMPLETION AND OPERATION

The latter phases of the infrastructure project cycle are subject to a great degree of decentralisation in Scotland. As such, significant degrees of responsibility are delegated to the portfolio level and bodies for the delivery of projects.

According to Audit Scotland in 2011,<sup>10</sup> each of the four principal capital spending areas of health, justice, transport, and further and higher education had, “well-established, but separate, systems for directing and controlling investment spending.” Although the systems were generally seen as effective, the devolution was seen as giving rise to some risks such as diverting standards. However, most delays were found to happen in the initial stages of the project cycle and overall cost and finance was well managed.

Upon completion, projects are supposed to be subject to a post-project evaluation. But, as mentioned above, there was significant room for improvement in the compliance with this requirement in 2011.

It was beyond the scope of this report to assess the extent to which there have been improvements in this area since the Audit Scotland report was published.

6 European PPP Expertise Centre, *United Kingdom – Scotland: PPP Units and Related Institutional Framework*, 2012, available at: [www.eib.org/attachments/epec/epec\\_uk\\_scotland\\_ppp\\_unit\\_and\\_related\\_institutional\\_framework\\_en.pdf](http://www.eib.org/attachments/epec/epec_uk_scotland_ppp_unit_and_related_institutional_framework_en.pdf)

7 Scottish Futures Trust, *Invest: Non-profit distributing*, 2017, available at: [www.scottishfuturestrust.org.uk/page/non-profit-distributing](http://www.scottishfuturestrust.org.uk/page/non-profit-distributing)

8 Scottish Government, *Public Contracts Scotland*, available at: [www.publiccontractsscotland.gov.uk](http://www.publiccontractsscotland.gov.uk)

9 Scottish Government, *Public Procurement in Scotland*, 2017, available at: [www.gov.scot/Topics/Government/Procurement/about/Review](http://www.gov.scot/Topics/Government/Procurement/about/Review)

10 Audit Scotland, *Management of the Scottish Government’s capital investment programme*, January 2011, available at: [www.audit-scotland.gov.uk/docs/central/2010/nr\\_110127\\_capital\\_investment.pdf](http://www.audit-scotland.gov.uk/docs/central/2010/nr_110127_capital_investment.pdf)

## KEY STAKEHOLDERS

The key stakeholders for public infrastructure projects fall into three main groups.

**Government and other public bodies** these include the bodies which make the decisions on how public money will be spent, including what infrastructure projects should be prioritised and what budgets are available for individual large-scale projects.

**Private sector bodies** including private companies delivering infrastructure projects and professional bodies with an interest in infrastructure construction, as well as those with an economic stake, such as Chambers of Commerce and investors.

**Civil society** ranging from individuals and communities to special interest groups (organised and ad hoc), these stakeholders tend to reflect social and environmental concerns about infrastructure planning and delivery, or community-specific issues with particular infrastructure projects.

The key stakeholders in each group are identified in Table 2. ■

## 7. INNOVATIVE GOVERNANCE MECHANISMS

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**This chapter identifies innovative practices for promoting transparency and open data in infrastructure planning and delivery, as well as stakeholder participation and accountability. The impact of recent governance improvements in Scotland are assessed and the country's membership of the Open Government Partnership (OGP) is explored. Best-practice examples of stakeholder engagement are also provided.**

### DEVELOPMENTS IN GOVERNANCE MECHANISMS IN SCOTLAND

The past decade has seen a range of new governance mechanisms for infrastructure planning and delivery in Scotland. These include policy and regulatory changes relating to planning, design and construction and project delivery.<sup>1</sup> The governance of infrastructure has also been transformed with the introduction of the Infrastructure Investment Board and the Scottish Futures Trust. Further changes are taking place, with the implementation of findings from recent reviews into procurement practice.

At a regional level, each local authority in Scotland now belongs to one of five 'hubCos'. These are regional groupings which function as public-private partnerships and which deliver community infrastructure. The hubCos were established in 2013 and are 10% owned by the Scottish Futures Trust.

Alongside the changes, the Scottish Government has made a commitment to transparency, as evidenced by its pioneer status in the OGP.

### IMPACT OF GOVERNANCE IMPROVEMENTS

A number of improvements have been highlighted by stakeholders as having a positive impact on the governance of projects through stronger oversight and greater accountability.

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<sup>1</sup> See Chapter 5: Legal framework.

Table 2. Key stakeholders for public infrastructure

Stakeholder	Role
<b>Government and other public bodies</b>	
<b>Scottish Government</b>	The Scottish Government has a collective responsibility for the planning and delivery of infrastructure projects under its remit.
<b>Scottish Directorates</b>	<p><b>Procurement and Commercial Directorate</b> a key directorate of the Scottish Government for infrastructure procurement; it issues guidance notes on procurement.</p> <p><b>Financial Strategy Directorate</b> its role includes advising on the infrastructure investment programme.</p> <p><b>Economic Development Directorate</b> has oversight of transport policy and Transport Scotland.</p> <p><b>Local Government and Communities Directorate</b> roles in the planning process, as well as promoting community involvement in planning matters.</p>
<b>Infrastructure Investment Unit</b>	Part of the Scottish Government Finance Directorate; the unit provides analysis and advice for the Government on infrastructure planning, as well as providing oversight and reporting for major projects.
<b>Infrastructure Investment Board</b>	Provides scrutiny and advice for strategic planning of infrastructure; review of strategic business case for major projects; review governance and delivery of overall IIP and large projects.
<b>Public Audit and Post-legislative Scrutiny Committee</b>	Committee of Members of the Scottish Parliament (MSPs) which undertakes public scrutiny of the IIP and six-monthly updates, as well as reviewing individual projects.
<b>Local authorities</b>	Elected local government bodies within Scotland which procure community infrastructure, such as schools.
<b>Scottish Futures Trust</b>	Owned by the Scottish Government, the Trust functions as an infrastructure delivery company, planning and delivering infrastructure investment. A key procuring entity through its interest in the hubCos.
<b>Transport Scotland</b>	Government agency, delivering transport infrastructure in Scotland. One of the key procuring entities for infrastructure.
<b>Audit Scotland</b>	Independent public body, which audits the Government, local authorities and other public bodies
<b>Scottish Natural Heritage</b>	Funded by the Scottish Government, Scottish Natural Heritage works to promote and care for the natural environment in Scotland



<b>Stakeholder</b>	<b>Role</b>
<b>Private sector bodies</b>	
<b>Contractors and consultants</b>	Private companies delivering infrastructure projects across Scotland (e.g. Forth Crossing Bridge Constructors comprised Hochtief (Germany), American Bridge (United States), Dragados (Spain) and Morrison (Scotland)).
<b>Institution of Civil Engineers</b>	Professional body representing the engineering profession. Its members are involved in delivery of infrastructure projects.
<b>Construction Scotland</b>	A partnership of businesses, trade bodies, further and higher education, and public sector involved in the construction sector.
<b>Chambers of Commerce</b>	Membership body of businesses with a geographic focus (e.g. Glasgow, Edinburgh).
<b>Investment Funds</b>	Pension and other funds which invest in infrastructure; provide funding but are not involved in delivery at a detailed level.
<b>Civil society</b>	
<b>Citizens</b>	Individuals with a stake in infrastructure planning and delivery, for economic, environmental, social or other reasons.
<b>The Scottish Council for Voluntary Organisations</b>	Membership organisation for Scotland's charities, voluntary organisations and social enterprises, with more than 1800 members. These range from individuals and grassroots groups, to Scotland-wide organisations and intermediary bodies.
<b>Advisory services such as Planning Aid for Scotland</b>	Educate and inform civil society on planning issues to allow an informed debate and stimulate citizen engagement.
<b>Community groups</b>	Groups of interested individuals, brought together on an ad hoc basis, usually around a single issue (e.g. the Forth Tunnel Action Group, which campaigned for a tunnel to be constructed under the River Forth rather than a bridge over).
<b>Interest groups</b>	Not-for-profit organisations, such as Greenpeace and Friends of the Earth, with a broad, usually environmental, focus.
<b>Centre for Scottish Public Policy</b>	Independent think-tank concerned with the impact of public policy on citizens.
<b>David Hume Institute</b>	Independent policy institute focusing on economic issues.
<b>Common Weal</b>	Common Weal is a think tank and advocacy group which campaigns for social and economic equality in Scotland.

During the research for this report, it was noted in interviews that the Infrastructure Investment Board is not considered to have had as strong an impact as would have been expected. Indeed, it has been identified that the Board has not improved the connectivity between projects in the way that was intended. However, the six-monthly review of the *Infrastructure Investment Plan 2* by the Public Audit and Post-legislative Scrutiny Committee is agreed to be a strong, formalised method for effecting change where weaknesses are uncovered.

The Scottish Futures Trust is broadly considered to have brought a level of competence to infrastructure procurement that was previously lacking. Its guidance on procurement is regarded as coherent and clear, and guidance on community benefits for infrastructure investment is noted as bringing good practice. The practice of placing directors on Non-Profit Distributing (NPD) model boards is also highlighted as a way of providing transparency and accountability. In addition, although the Trust is not directly accountable to Audit Scotland, there are plans by Audit Scotland to review the NPD model operated by the Scottish Futures Trust.

The five hubCos address a major problem in infrastructure procurement, which is the lack of specific experience in the construction sector within local authorities and housing associations. The presence of the hubCos is therefore viewed favourably, as a way of ensuring that best practice is shared as widely as possible and that value in infrastructure procurement is well understood and managed.

In addition, the *Review of Scottish Public Sector Procurement* in 2013, led by Robin Crawford,<sup>3</sup> recommended a series of improvements to process and practice which are being implemented through a Development Group. The group meets every six weeks to review progress and includes relevant Scottish Government spending departments, as well as Transport Scotland and the Scottish Futures Trust. A number of significant changes have been made since the publication of the report in 2013, most notably the recommendation to appoint a Chief Construction Advisor, a role which is being fulfilled by the Development Group itself.

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2 Scottish Government, *Infrastructure Investment Plan 2015*, 16 December 2015, available at: [www.gov.scot/Publications/2015/12/5962](http://www.gov.scot/Publications/2015/12/5962)

3 Crawford R and Lewandowski K, *Review of Scottish Public Sector Procurement in Construction*, Scottish Government, 22 October 2013, available at: [www.gov.scot/Publications/2013/10/2688/0](http://www.gov.scot/Publications/2013/10/2688/0)

## OPEN GOVERNMENT PARTNERSHIP

The Open Government Partnership (OGP) is a voluntary multilateral initiative. It promotes concrete commitments to strengthen transparency, empower citizens, fight corruption and strengthens governance through the harnessing of new technologies.<sup>4</sup>

OGP was created in 2011 and in 2016 it launched a pilot programme for local and sub-national governments. This has since been consolidated as “OGP Local”, with the number of governments participating targeted to increase from 15 to 20. Scotland is one of the initial 15, having participated in the pilot phase in 2017, and the Scottish Government has already committed to develop a follow-up action plan.

Scotland’s initial action plan<sup>5</sup> was developed through consultative process as required and it is now subject to an independent annual review known as the “Independent Reporting Mechanism” (IRM). The preliminary review was published for comment in November 2017<sup>6</sup> and the final review is due out in the first quarter of 2018.

The action plan included five commitments.

- **Financial Transparency** to clearly explain how public finances work, so people can understand how money flows into and out of the Scottish Government, to support public spending in Scotland
- **Measure Scotland’s progress** by making understandable information available through the National Performance Framework, which will be reviewed to reflect our commitments to Human Rights and the Sustainable Development Goals
- **Deliver a Fairer Scotland** through implementation of the Actions developed with civil society in the Fairer Scotland action plan
- **Participatory budgeting** to empower communities through direct action ensuring they have influence over setting budget priorities
- **Increasing participation** improving citizen participation in local democracy and developing skills to make sure public services are designed with input from users and with user needs to the fore.<sup>7</sup>

4 Open Government Partnership, *About OGP*, 2018, available at: [www.opengovpartnership.org/about/about-ogp](http://www.opengovpartnership.org/about/about-ogp)

5 Scottish Government, *Open Government Partnership Scottish National Action Plan 2016–2017*, 2016, available at: [www.gov.scot/Resource/0051/00511323.pdf](http://www.gov.scot/Resource/0051/00511323.pdf)

6 McDevitt A, *Independent Reporting Mechanism (IRM) Preliminary Review 2017: Scotland*, 2017, available at: [opengovpartnership.org/sites/default/files/Scotland\\_IRM-Preliminary-Review\\_2017\\_for-public-comment.pdf](http://opengovpartnership.org/sites/default/files/Scotland_IRM-Preliminary-Review_2017_for-public-comment.pdf)

7 See above, note 5, pp. 1–2.

Scotland's commitment to financial transparency under the partnership is the responsibility of a named team of three individuals from Scottish Government directorates. The commitment acknowledges that the content and format of financial information should be reviewed to enable it to be more easily understood by non-expert stakeholders, and that new financial reporting information may be required as a result of new powers being devolved to the Scottish Government.

It also includes a commitment to develop an open contracting strategy to support the publication of procurement and commercial information to make it more accessible.

Stakeholder participation is addressed in the commitment to increase participation. One named individual is given as responsible, along with "a number of delivery teams".<sup>8</sup> Three main commitments are identified:

- building an Open Government movement
- developing local government legislation
- increasing stakeholder involvement in the design of public services.<sup>9</sup>

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<sup>8</sup> Ibid, p. 25.

<sup>9</sup> Ibid, p. 26.

## 8. MEASURE OF TRANSPARENCY

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This chapter presents an analysis of Scottish Government standards for systematic disclosure of data on infrastructure projects in an open data format. Data points are mapped directly against the CoST Infrastructure Data Standard and disclosure and reporting mechanisms are examined.

### DATA DISCLOSURE AND REPORTING MECHANISMS

The Scottish Government reports every six months to the Public Audit and Post-legislative Scrutiny Committee on the progress of major infrastructure projects. The *Major Capital Projects Progress Update* report,<sup>1</sup> which is published on the Scottish Government website, provides information including: name, description, procurement body, total capital investment, funding source, procurement route, current status and key project milestones.

Additionally, the report contains an update on all infrastructure projects with a capital value of £20 million (US\$27 million) or more and for which the outline business case has been approved. It is noted that this report, along with the *Infrastructure Investment Plan*,<sup>2</sup> is visible and accessible but not comprehensive, and that information from bodies such as local authorities is not always complete.

For transport infrastructure projects, details of monthly expenditure itemised over £25,000 (US\$33,000) are published by Transport Scotland online and are publicly available and proactively disclosed.<sup>3</sup>

The Scottish Futures Trust collects and collates data on current and completed public-sector infrastructure construction projects across the Scottish regions in the Community Infrastructure Benchmark Database.<sup>4</sup> The data is not public but is available internally to all public bodies in Scotland. It includes the following information:

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- 1 Scottish Government, *Infrastructure Investment – Major Capital Projects Progress Update*, 31 March 2017, available at: [www.parliament.scot/S5\\_Public\\_Audit/General%20Documents/Major\\_Capital\\_Pro....pdf](http://www.parliament.scot/S5_Public_Audit/General%20Documents/Major_Capital_Pro....pdf)
  - 2 Scottish Government, *Infrastructure Investment Plan 2015*, 16 December 2015, available at: [www.gov.scot/Publications/2015/12/5962](http://www.gov.scot/Publications/2015/12/5962)
  - 3 Transport Scotland, *Expenditure*, 2018, [www.transport.gov.scot/about/expenditure](http://www.transport.gov.scot/about/expenditure)
  - 4 Scottish Futures Trust, *Welcome to the Community Infrastructure Benchmark Database*, 2018, [benchmarkdata.scottishfuturestrust.org.uk](http://benchmarkdata.scottishfuturestrust.org.uk)

- detailed construction costs
- detailed design summary
- design benchmarks
- plans and elevations of the project
- community benefits delivered
- supply chain members.

The database allows for benchmarking and comparison between projects, with the aim of ensuring better value for money in infrastructure investment.

Data is also available reactively through the Freedom of Information (Scotland) Act (FOISA),<sup>5</sup> which allows members of the public to request access to information held by public bodies. There is general agreement amongst interviewees that the Act provides a level of transparency of data, not previously available (except for information deemed commercially confidential).

However, it is also observed that interested parties need to know, with a level of precision, what data they are looking for, both for that already published and for FOISA requests, and that this makes it difficult for non-expert stakeholders to access relevant data. Additionally, lack of education of the general public around planning issues, and the complexity of infrastructure projects, result in the system being less transparent for non-expert stakeholders than it should be.

However, some stakeholders expressed concern that there are dangers with publication of detailed data, either through FOISA or other avenues. It is considered that, by being able to access high levels of information on previous contracts, businesses in the construction industry will seek to drive costs down to artificially low levels to win work.

As part of the Open Government Partnership, the Scottish Government has made a commitment to open interoperable data.<sup>6</sup> An open contracting strategy is being developed and will shortly be published. The strategy will ensure that procurement and commercial reporting data will be presented in an accessible and clear manner.

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5 Freedom of Information (Scotland) Act 2002, available at: [www.legislation.gov.uk/asp/2002/13/contents](http://www.legislation.gov.uk/asp/2002/13/contents)

6 Scottish Government, *Open Government Partnership Scottish National Action Plan 2016–2017*, 2016, available at: [www.gov.scot/Resource/0051/00511323.pdf](http://www.gov.scot/Resource/0051/00511323.pdf)

## COMPARISON OF DATA DISCLOSURE STANDARDS IN SCOTLAND TO THE COST INFRASTRUCTURE DATA STANDARD

The Infrastructure Projects Database held by the Scottish Infrastructure Investment Unit is not published, therefore there is no publicly available evidence that there is a standard way of capturing data on infrastructure projects in Scotland in an open data format. However, through a combination of the *Infrastructure Investment Plan*,<sup>7</sup> the six-monthly major capital projects report,<sup>8</sup> procuring entity websites and environmental impact assessments, a range of data on projects with a value of over £20 million (US\$27 million) is publicly accessible.

The available data and its sources are shown mapped to the CoST Infrastructure Data Standard (IDS): Proactive Disclosure in Table 3 and on the CoST IDS: Reactive Disclosure in Table 4.

As can be seen from Table 3, of the 40 data points recommended by CoST for proactive disclosure, 38 (95%) are commonly disclosed in Scotland for projects of a value of £20 million (US\$27 million) or over. Of these, 18 (45%) are required by legislation. The two not commonly disclosed are the project reference number and the project budget approval date, both of which are held by the procuring public body and can be accessed by the public through freedom of information requests using FOISA.<sup>9</sup>

Of the 26 data points recommended by CoST for reactive disclosure, 10 (38%) are disclosed proactively in Scotland for projects of a value of £20 million (US\$27 million) or over. Of these, four (15%) are required to be published by regulation. The 16 data points not commonly disclosed can be accessed by the public through freedom of information requests.

Proactive disclosure is made through three main routes:

- the *Infrastructure Investment Plan*, published by the Scottish Government on its website<sup>10</sup>
- the six-monthly *Major Capital Projects Progress Update* report, prepared by the Scottish Government and published on the website of the Public Audit and Post-legislative Scrutiny Committee of the Scottish Parliament<sup>11</sup>

7 See above, note 2.

8 See above, note 1.

9 See above, note 6.

10 See above, note 2.

11 See above, note 1.

- the procuring entity website (along with the OJEU<sup>12</sup> and Public Contracts Scotland<sup>13</sup> websites for information required by procurement law).

The level of proactive disclosure is high both by UK and international standards. In 2010, the CoST Pilot Baseline Study for the UK<sup>14</sup> found that there was a legal requirement to disclose 16 out of 31 or 52% of the data points for projects above £3,927,260 (US\$5.2 million), representing the EU threshold above which public contracts had to be advertised through the OJEU.

Based on a sample of four procuring entities, the study found that on average 44% of the 31 data points were disclosed in practice, with minor variation across the procuring entities. Data disclosed was principally associated with the requirements of the EU Procurement Directives and focused on project identification, planning and procurement, and not actual contract price, total payments made, actual scope and programme.

Since publication of the UK study, the number of data points required by the IDS has increased to 40. In Scotland, there is a legal requirement to publish 45% of those. Notably, the level of actual disclosure is much higher, although this figure only relates to major projects with a value above £20 million (US\$27 million) compared to a lower threshold in the UK baseline study.

Other countries that have been benchmarked against the CoST IDS also struggle to reach the levels of Scotland for proactive disclosure, although it is not unusual that actual disclosure is higher than what is legally required. In Argentina, for example, the most transparent procuring entities disclose around 60% of the data required by the IDS. The level of infrastructure transparency resonates well with the Scottish Government's stated commitment to transparency, which is often referred to as being anchored in the process of Scottish devolution and the objective of bringing government closer to the people.

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12 See above, note 10.

13 Scottish Government, Public Contracts Scotland, available at: [www.publiccontractsscotland.gov.uk](http://www.publiccontractsscotland.gov.uk)

14 CoST, *Report on baseline studies: International comparison*, January 2011, available at: [www.constructiontransparency.org/documentdownload.axd?documentresourceid=42](http://www.constructiontransparency.org/documentdownload.axd?documentresourceid=42)



Given the impressive levels of transparency for major infrastructure projects in Scotland, the next steps could be to broaden the scope of contracts covered (including those under £20 million [US\$27 million]),<sup>15</sup> strengthen the legal requirements for disclosure and expand reactive disclosure of information such as financial agreements, project design reports and lists of variations, changes and amendments. Improvements could also be made in terms of making the data more easily accessible by collecting all the information in one digital portal. ■

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<sup>15</sup> While systematic disclosure is lower for projects with a value below the £20 million threshold, a significant quantity of data is shared between public procurement organisations through the hubCo system.

**Table 3. Data disclosure in Scotland mapped to the CoST IDS: Proactive Disclosure (OJEU is the *Official Journal of the European Union*)<sup>16</sup>**

CoST IDS – proactive disclosure	Legal requirement to disclose	Commonly disclosed	Accessible through FOISA	Location of data
<b>PROJECT PHASE</b>				
<b>Project identification</b>				
Project reference number	No	No	Yes	Only within procuring entity
Project owner	No	Yes	Disclosed	Infrastructure Investment Plan
Sector, subsector	No	Yes	Disclosed	
Project name	No	Yes	Disclosed	
Project Location	No	Yes	Disclosed	
Purpose	No	Yes	Disclosed	
Project description	No	Yes	Disclosed	
<b>Project preparation</b>				
Project scope (main output)	No	Yes	Disclosed	Infrastructure Investment Plan
Environmental impact	Yes*	Yes	Disclosed	Procuring body/ project website
Land and settlement impact	Yes*	Yes	Disclosed	
Contact details	Yes*	Yes	Disclosed	
Funding sources	No	Yes	Disclosed	Infrastructure investment plan
Project Budget	No	Yes	Disclosed	Infrastructure Investment Plan <sup>‡</sup>
Project budget approval date	No	No	Yes	Only within procuring entity

<sup>16</sup> European Union, *Official Journal of the European Union*, available at: [eur-lex.europa.eu/oj/direct-access.html](http://eur-lex.europa.eu/oj/direct-access.html)

CoST IDS – proactive disclosure	Legal requirement to disclose	Commonly disclosed	Accessible through FOISA	Location of data
<b>Project completion</b>				
Project status (current)	No	Yes	Disclosed	Infrastructure Investment Plan and six-monthly major capital projects report
Completion cost (projected)	No	Yes	Disclosed	
Completion date (projected)	No	Yes	Disclosed	
Completion scope (projected)	No	Yes	Disclosed	Six-monthly major capital projects report
Reasons for project changes	No	Yes	Disclosed	
Reference to audit and evaluation reports	No	Yes	Disclosed	Audit Scotland (where project has been audited)
<b>CONTRACT PHASE</b>				
<b>Contract procurement</b>				
Procuring entity	Yes <sup>†</sup>	Yes	Disclosed	OJEU/ Public Contracts Scotland/ Procuring entity website
Procuring entity contact details	Yes <sup>†</sup>	Yes	Disclosed	
Contract administration entity	Yes <sup>†</sup>	Yes	Disclosed	

CoST IDS – proactive disclosure	Legal requirement to disclose	Commonly disclosed	Accessible through FOISA	Location of data
Contract status	No	Yes	Disclosed	Six-monthly major capital projects report
Procurement process	Yes <sup>†</sup>	Yes	Disclosed	OJEU/ Public Contracts Scotland/ Procuring entity website
Contract type	No	Yes	Disclosed	Six-monthly major capital projects report
Number of firms tendering	Yes <sup>†</sup>	Yes	Disclosed	OJEU/ Public Contracts Scotland/ Procuring entity website
Cost estimate	No	Yes	Disclosed	Six-monthly major capital projects report
Contract title	Yes <sup>†</sup>	Yes	Disclosed	OJEU/ Public Contracts Scotland/ Procuring entity website
Contract firm(s)	Yes <sup>†</sup>	Yes	Disclosed	
Contract price	Yes <sup>†</sup>	Yes	Disclosed	
Contract scope of work	Yes <sup>†</sup>	Yes	Disclosed	
Contract start date	Yes <sup>†</sup>	Yes	Disclosed	
Contract duration	Yes <sup>†</sup>	Yes	Disclosed	Procuring entity website

CoST IDS – proactive disclosure	Legal requirement to disclose	Commonly disclosed	Accessible through FOISA	Location of data
<b>Contract implementation</b>				
Variation to contract price	Yes <sup>†</sup>	Yes	Disclosed	Six-monthly major capital projects report
Escalation of contract price	Yes <sup>†</sup>	Yes	Disclosed	
Variation to contract duration	No	Yes	Disclosed	
Variation to contract scope	Yes <sup>†</sup>	Yes	Disclosed	
Reasons for price changes	No	Yes	Disclosed	
Reasons for scope and duration changes	Yes <sup>†</sup>	Yes	Disclosed	

\* EIA Legislation

† European Procurement Legislation through the Public Contracts

‡ In the form of total estimated capital investment and six-monthly major capital projects report

**Table 4. Data disclosure in Scotland mapped to the CoST IDS: Reactive Disclosure (OJEU is the *Official Journal of the European Union*)<sup>17</sup>**

CoST IDS – reactive disclosure	Legal requirement to disclose	Commonly disclosed	Accessible through FOISA	Location of data
<b>PROJECT PHASE</b>				
<b>Project identification and preparation</b>				
Multi-year programme and budget	No	Yes	Disclosed	Procuring entity website
Project brief or feasibility study	No	Yes	Disclosed	OJEU/Public Contracts Scotland/procuring entity website
Environmental and social impact assessment	Yes*	Yes	Disclosed	Procuring entity/Project website
Resettlement & compensation plan	No	No	Yes	Procuring entity website
Project officials and roles	No	No	Yes	
Financial agreement	No	No	Yes	Only within public body
Procurement plan	No	No	Yes	
Project approval decision	No	Yes	Disclosed	Procuring entity website

CoST IDS – reactive disclosure	Legal requirement to disclose	Commonly disclosed	Accessible through FOISA	Location of data
<b>Completion</b>				
Implementation progress reports	No	Yes	Disclosed	Infrastructure Investment Plan and six- monthly major capital projects report
Budget amendment decision	No	No	Yes	Only within public body
Project completion report	No	No	Yes	
Project evaluation report	No	No	Yes	
Technical audit reports	No	No	Yes	
<b>CONTRACT PHASE</b>				
<b>Procurement</b>				
Contract officials and roles	No	No	Yes	Only within public body
Procurement method	Yes <sup>†</sup>	Yes	Disclosed	OJEU/Public Contracts Scotland/ procuring entity website
Tender documents	Yes <sup>†</sup>	Yes	Disclosed	
Tender evaluation results	No	No	Yes	Only within public body
Project design report	No	No	Yes	

CoST IDS – reactive disclosure	Legal requirement to disclose	Commonly disclosed	Accessible through FOISA	Location of data
<b>Contract</b>				
Contract agreement and conditions	No	Yes	Disclosed	Procuring entity website
Registration and ownership of firms	No	No	Yes	Only within public body
Specifications and drawings	No	No	Yes	
<b>Implementation</b>				
List of variations, changes and amendments	No	No	Yes	Only within public body
List of escalation approvals	No	No	Yes	
Quality assurance reports	No	No	Yes	
Disbursement records or payment certificates	No	Yes	Disclosed	Procuring entity website
Contract amendments	Yes <sup>†</sup>	Yes	Disclosed	OJEU/Public Contracts Scotland/ procuring entity website

\* EIA Legislation

<sup>†</sup> Public Contracts (Scotland) Regulations 2015



## 9. MEASURE OF STAKEHOLDER PARTICIPATION

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**This chapter looks at the use of stakeholder participation in the planning and delivery of infrastructure projects in Scotland. It explains the Scottish Government's policies for stakeholder engagement, explores the extent to which participatory approaches are used in a systematic way and identifies examples of best practice for stakeholder participation in infrastructure planning and delivery.**

### **PARTICIPATION IN PUBLIC POLICY AND MULTI-STAKEHOLDER INITIATIVES**

There is increasing evidence that strong participatory approaches and deep public engagement in infrastructure planning and decision-making have multiple benefits, including strengthening the process of project selection, making investment more attractive by lowering policy risk and uncertainty, and reducing costs incurred through opposition to individual projects.<sup>1</sup>

One of the key risks associated with failing to engage the public in infrastructure project planning from an early stage and through a proper process is that it can easily create local opposition, leading to delays and even abandonment of projects. In the age of social media, such opposition is even easier to mobilise. However, evidence suggests that opposition can be reduced if the public has a real say in policy and planning, and if it happens early, consistently and provides genuine opportunities for influencing decisions.<sup>2</sup>

There is a growing number of international multi-stakeholder initiatives to promote a more collective approach to governance and strengthen transparency and accountability. All aim to bring different stakeholder groups together around the decision-making table early on in the policy-making process.

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1 Coelho M and Ratnoo V, *The Political Economy of Infrastructure in the UK*, Institute for Government, 2014, available at: [www.instituteforgovernment.org.uk/publications/political-economy-infrastructure-uk](http://www.instituteforgovernment.org.uk/publications/political-economy-infrastructure-uk)

2 Davies N, Atkins G and Slade D, *How to transform infrastructure decision making in the UK*, Institute for Government, February 2018, p. 9, available at: [www.instituteforgovernment.org.uk/sites/default/files/publications/IfG\\_infrastructure\\_decision\\_making\\_WEB.pdf](http://www.instituteforgovernment.org.uk/sites/default/files/publications/IfG_infrastructure_decision_making_WEB.pdf) (2018, p. 9).

These initiatives include:

- Extractive Industry Transparency Initiative (EITI)
- Open Government Partnership (OGP)
- Global Initiative on Fiscal Transparency (GIFT)
- Open Contracting Partnership (OCP)
- CoST – the Infrastructure Transparency Initiative.

EITI and CoST are the initiatives that insist on not only bringing civic organisations to the table but also private sector. One of CoST's key features is the establishment of a multi-stakeholder group (MSG) overseeing the implementation of the initiative. The MSG comprises representatives from government, private sector and civil society. This differs from conventional practice in that it brings the range of stakeholders together in active participation, rather than the more usual format in which the sectors are represented separately and civil society is generally limited to a consultation role.

## SCOTTISH GOVERNMENT POLICY AND REGULATION ON STAKEHOLDER ENGAGEMENT

The Scottish Government is strongly committed to giving a voice to stakeholders and citizens with the bold aim of turning the engagement of stakeholders into a routine way to inform policy development.

Scotland has also assumed a pioneering role in OGP and put commitments into practice through development and implementation of its first action plan.<sup>3</sup> Some teething issues have been identified in the OGP process where, for example, the level of participation in the development of the action plan was found to be modest.<sup>4</sup> While significant progress has been made specifically related to infrastructure, there is still room for improvement.

In 2005, the Scottish Government adopted a set of seven *National Standards for Community Engagement* and these were reviewed and

<sup>3</sup> Scottish Government, *Open Government Partnership Scottish National Action Plan 2016–2017*, 2016, available at: [www.gov.scot/Resource/0051/00511323.pdf](http://www.gov.scot/Resource/0051/00511323.pdf)

<sup>4</sup> The OGP Independent Reporting Mechanism establishes six levels of participation: no consultation, inform, consult, involve, collaborate and empower. In the preliminary review of Scotland's first action plan (see Section 7, Open Government Partnership), the level was consult.

revised in 2015/2016 (Figure 4).<sup>5</sup> The standards have been used by some large infrastructure projects, including the Queensferry Crossing.<sup>6</sup> However, they are not compulsory and there is no standard procedure for stakeholder engagement beyond that set out in the National Planning Framework.<sup>7</sup> Each procuring body therefore follows its own procedures and engages to a greater or lesser extent.

The standards are considered best practice for public bodies engaging with communities and are endorsed by a wide range of organisations including Audit Scotland, Poverty Alliance and Scottish Communities for Health and Wellbeing.

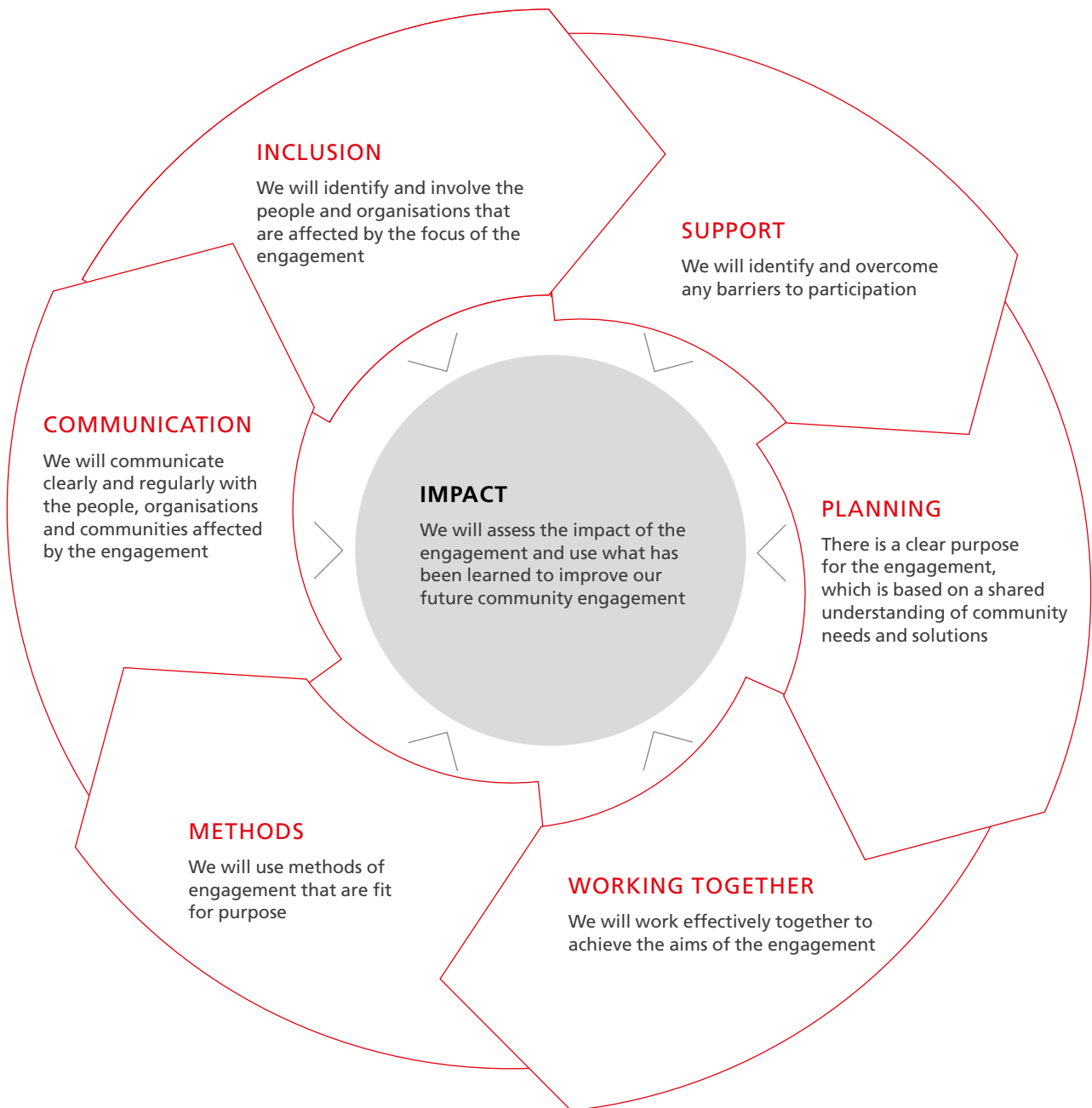
A number of forums for consultation are available to stakeholders. Consultations on transport infrastructure plans are made through the Transport Scotland website.<sup>8</sup> If sufficient objections are made, a scheme is subject to a public inquiry, where evidence would be independently assessed and a recommendation made to the Scottish Government.<sup>9</sup>

Environmental impact assessments (EIA) and strategic environmental assessments (SEA) also provide for stakeholder input into the planning process. The SEA in particular allows for citizen involvement at a strategic planning stage, albeit with a focus on environmental impact. A review of the SEA process identified a key perceived strength as, “improving transparency of decision making in respect of environmental issues.”<sup>10</sup>

The Scottish Government is currently developing planning reforms which would require earlier stakeholder engagement for projects, particularly aimed at encouraging local communities to become involved at a point before plans are set. This aims to reduce potential areas of disagreement and to increase community buy-in. The Government is also considering a gateway system for local plans which would involve multi-stakeholder reviews.

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- 5 Scottish Government and Scottish Community Development Centre, *National Standards for Community Engagement*, September 2016, available at: [www.voicescotland.org.uk](http://www.voicescotland.org.uk)
  - 6 Transport Scotland, *Engaging with Communities: Construction*, June 2017, available at: [www.transport.gov.scot/media/7819/2transport-scotland-frc-engaging-with-communities-construction-20-june\\_0.pdf](http://www.transport.gov.scot/media/7819/2transport-scotland-frc-engaging-with-communities-construction-20-june_0.pdf)
  - 7 Scottish Government, *National Planning Framework 3*, 23 June 2014, available at: [beta.gov.scot/publications/national-planning-framework-3](http://beta.gov.scot/publications/national-planning-framework-3)
  - 8 Transport Scotland, *Consultations*, 2017, available at: [www.transport.gov.scot/consultations](http://www.transport.gov.scot/consultations)
  - 9 Transport Scotland, *Promoting new trunk roads: Public Local Inquiry*, 2017, available at: [www.transport.gov.scot/transport-network/roads/promoting-new-trunk-roads/#45109](http://www.transport.gov.scot/transport-network/roads/promoting-new-trunk-roads/#45109)
  - 10 Scottish Environment Protection Agency, *The Scottish Strategic Environmental Assessment Review*, 2011, p. 6, available at: [www.gov.scot/Resource/Doc/921/0119892.pdf](http://www.gov.scot/Resource/Doc/921/0119892.pdf)

**Figure 4. Scotland's seven National Standards for Community Engagement**



During the research for this report, it was noted in interviews that stakeholder participation at all levels is currently considered to be more about keeping people informed, rather than being a genuine engagement with the opportunity to influence decisions. It was also considered that earlier involvement of stakeholders, particularly public sector and civil society, would be beneficial.

## **PAS**

PAS is an Edinburgh-based charity with the objective to educate the public to participate in the Scottish town and county planning system. It provides a service which allows best practice stakeholder engagement processes to be implemented through the local planning process. This includes the development and application of toolkits for community engagement skills development, engaging the community and local authority planning departments in local place planning, and training for elected members and councillors.

The existence of a charity like PAS illustrates that participatory approaches are already being embraced and practiced at the local level even if not directly related to infrastructure planning and delivery. This suggests that there are experiences and expertise that could inform increased stakeholder engagement specifically in infrastructure projects. ■

## EXAMPLES OF BEST PRACTICE IN STAKEHOLDER ENGAGEMENT IN INFRASTRUCTURE PLANNING AND DELIVERY

### QUEENSFERRY CROSSING

The Queensferry Crossing is a new 2.7 km long road bridge across the Firth of Forth estuary. The £1.35 billion (US\$1.8 billion) bridge and associated access roads, which were built to replace the 1964 Forth Road Bridge, opened to traffic in August 2017.

A strong business case was developed for the bridge and associated access roads, with stakeholder engagement being part of the process from an early stage of the project. Transport Scotland conducted a series of stakeholder consultations across the project period, with four separate programmes: communities (interested parties and general public), EIA, engineering and design, and landowners.<sup>11</sup> In addition, Transport Scotland and the contractors were represented at regular public events and exhibitions.<sup>12</sup> Transport Scotland has identified a number of changes which were made as a result of the consultation. This project is highlighted as a good example of stakeholder engagement in Scotland.

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11 Transport Scotland, *Forth Replacement Crossing: Community engagement history*, 2017, available at: [www.transport.gov.scot/projects/forth-replacement-crossing/forth-replacement-crossing/#1327](http://www.transport.gov.scot/projects/forth-replacement-crossing/forth-replacement-crossing/#1327)

12 Transport Scotland, *Forth Replacement Crossing: Engaging with the FRC*, 2017, available at: [www.transport.gov.scot/projects/forth-replacement-crossing/forth-replacement-crossing/#1321](http://www.transport.gov.scot/projects/forth-replacement-crossing/forth-replacement-crossing/#1321)

## THE MILLENNIUM LINK

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Completed in 2002, the £85 million (US\$110 million) Millennium Link project linked the Union Canal with the Forth and Clyde Canal and restored a navigable waterway between Glasgow and Edinburgh for the first time in 35 years. The project involved restoration of existing canals, development of a new stretch of canal and construction of the Falkirk Wheel, the world's only rotating boat lift.<sup>13</sup>

Citizens were consulted widely on the project, which has provided an economic stimulus to the area. By 2006, it was estimated to have attracted investment to the canal corridor of £178 million (US\$240 million) and predicted to create 12,500 jobs.<sup>14</sup>

Scottish Canals is widely held as having the strongest approach to stakeholder engagement of all the public procuring bodies in Scotland. Its corporate plan includes as one of three equal themes "empowering and motivating people", with a strong emphasis on partnership working both with private companies and with communities. This builds in part on the strong relationship which Scottish Canals already holds with third-sector organisations.<sup>15</sup>

## DUNDEE WATERFRONT

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Dundee Waterfront is a £1 billion (US\$1.3 billion) regeneration project covering 240 hectares along the River Tay in the city of Dundee. The mixed development is expected to create 7,000 jobs by the time it is completed in 2031.

Led by Dundee City Council, the project has won awards for community involvement in the planning process, as well as for placemaking.<sup>16</sup>

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13 Scottish Canals, *Falkirk Wheel*, 2018, available at: [www.falkirk-wheel.com](http://www.falkirk-wheel.com)

14 City of Edinburgh Council, *Economic Development Committee: The Millennium Link and Canal Development Strategy — Progress Report*, 2007, available at: [www.edinburgh.gov.uk/download/meetings/id/14630/the\\_millennium\\_link\\_and\\_canal\\_development\\_strategy\\_-\\_progress\\_report](http://www.edinburgh.gov.uk/download/meetings/id/14630/the_millennium_link_and_canal_development_strategy_-_progress_report)

15 Scottish Canals, *Scottish Canals Corporate Plan 2017 – 2020*, 2017, available at: [www.scottishcanals.co.uk/corporate/wp-content/uploads/sites/2/2017/03/Scottish-Canals-Corporate-Plan-2017-20-Final-version-14-March-2017....pdf](http://www.scottishcanals.co.uk/corporate/wp-content/uploads/sites/2/2017/03/Scottish-Canals-Corporate-Plan-2017-20-Final-version-14-March-2017....pdf)

16 Dundee Waterfront, *About the Waterfront*, 2018, available at: [www.dundeewaterfront.com/about](http://www.dundeewaterfront.com/about)

## 10. MEASURE OF ACCOUNTABILITY

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**This chapter provides an assessment of the level of scrutiny and accountability applied towards public and private sector in the delivery of infrastructure projects in Scotland. It considers mechanisms and practices for oversight, supervision and control of public infrastructure projects, and assesses the strengths and weaknesses of accountability bodies.**

### MECHANISMS AND PRACTICES FOR OVERSIGHT, SUPERVISION AND CONTROL OF PUBLIC INFRASTRUCTURE PROJECTS

As a high-level functioning democracy, Scotland has in place a range of mechanisms and practices for oversight, supervision and control of public infrastructure projects. Scotland has a good track record for delivery of infrastructure projects and the efficiency has improved, with the implementation of reforms following the McClelland review in 2006<sup>1</sup> and following attention from Audit Scotland in 2008,<sup>2</sup> 2011<sup>3</sup> and 2013.<sup>4</sup>

Statutory guidance for the conduct of major finance projects is laid out by the Scottish Government as part of its *Public Finance Manual*.<sup>5</sup> It includes instructions on: how governance is to be conducted, identifying key roles for projects and the responsibilities of those individuals in those positions; how delivery should be assured, including risk assessment and gateway/key stage review procedures; and guidance on funding and procuring.

In addition, the *Construction Procurement Manual* is intended to provide a set of mandatory requirements specifically for the sector to ensure best practice. Last published in 2005, the manual was withdrawn in 2017 for updating.

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- 1 McClelland J, *Review of Public Procurement in Scotland – Report and Recommendations*, Scottish Executive, March 2006, available at: [www.gov.scot/Publications/2006/03/14105448/0](http://www.gov.scot/Publications/2006/03/14105448/0)
  - 2 Audit Scotland, *Review of major capital projects in Scotland*, June 2008, available at: [www.audit-scotland.gov.uk/docs/central/2008/nr\\_080624\\_major\\_capital\\_projects\\_km.pdf](http://www.audit-scotland.gov.uk/docs/central/2008/nr_080624_major_capital_projects_km.pdf)
  - 3 Audit Scotland, *Management of the Scottish Government's capital investment programme*, January 2011, available at: [www.audit-scotland.gov.uk/docs/central/2010/nr\\_110127\\_capital\\_investment.pdf](http://www.audit-scotland.gov.uk/docs/central/2010/nr_110127_capital_investment.pdf)
  - 4 Audit Scotland, *Scotland's key transport infrastructure projects*, June 2013, available at: [www.audit-scotland.gov.uk/uploads/docs/report/2013/nr\\_130621\\_transport\\_projects.pdf](http://www.audit-scotland.gov.uk/uploads/docs/report/2013/nr_130621_transport_projects.pdf)
  - 5 Scottish Government, *Scottish Public Finance Manual*, June 2011, available at: [www.gov.scot/Topics/Government/Finance/spfm/Intro](http://www.gov.scot/Topics/Government/Finance/spfm/Intro)



Accountability is delivered through a number of channels, the key ones being Audit Scotland and the Public Audit and Post-legislative Scrutiny Committee. In addition, Members of the Scottish Parliament (MSP) have the ability to raise concerns in Parliament, as well as debating the Scottish Government spending plans on an annual basis.

In addition, independent bodies have been commissioned by the Scottish Government and other bodies to report on individual projects, and more generally on Scottish Government performance in infrastructure investment. Key reports include:

- Fraser: *The Holyrood Inquiry*, 2004<sup>6</sup>
- McClelland: *Review of Public Procurement in Scotland*, 2006<sup>7</sup>
- Audit Scotland: *Management of the Scottish Government's capital investment programme*, 2011<sup>8</sup>
- Audit Scotland: *Scotland's key transport Infrastructure Projects*, 2013<sup>9</sup>
- MacLennan: *Constructing Future Scotland: Rethinking Infrastructure Policies*, 2015.<sup>10</sup>

Section 5 provides an overview of the procurement reform programme in Scotland arising from the independent reviews.

A further system of accountability is available through public inquiries, which can be called by the Government where serious concerns have been raised and form an integral part of the British system of accountability. As referenced in Chapter 4, the Scottish Parliament Building project was subject to a public inquiry led by Lord Fraser,<sup>11</sup> and the Edinburgh Tram project is currently being scrutinised through this mechanism. The latter has its own dedicated website and is ongoing with no date specified for its conclusion.<sup>12</sup>

The use of the public inquiry mechanism is interesting as it indicates how seriously the Government takes the scale of budget and time overruns in

6 Fraser P, *The Holyrood Inquiry*, Scottish Parliament, 15 September 2004, available at: [www.parliament.scot/SPICeResources/HolyroodInquiry.pdf](http://www.parliament.scot/SPICeResources/HolyroodInquiry.pdf)

7 McClelland J, *Review of Public Procurement in Scotland – Report and Recommendations*, Scottish Executive, March 2006, available at: [www.gov.scot/Publications/2006/03/14105448/0](http://www.gov.scot/Publications/2006/03/14105448/0)

8 See above, note 3.

9 See above, note 4.

10 MacLennan D, *Constructing Future Scotland: Rethinking Infrastructure Policies*, The David Hume Institute, 17 November 2015, available at: [www.davidhumeinstitute.com/s/MacLennan-Constructing-Future-Scotland.pdf](http://www.davidhumeinstitute.com/s/MacLennan-Constructing-Future-Scotland.pdf)

11 See above, note 6.

12 Edinburgh Tram Inquiry, *Edinburgh Tram Inquiry*, 2017, available at: [www.edinburghtraminquiry.org](http://www.edinburghtraminquiry.org)

these cases. However, there might be more cost-effective ways of dealing with them, for example by introducing mechanisms such as systematic, independent reviews of major infrastructure projects in the pipeline and through to delivery and operation.

## STRENGTHS AND WEAKNESSES OF ACCOUNTABILITY BODIES

There are two main bodies providing accountability for major infrastructure projects in Scotland: Audit Scotland, and the Public Audit and Post-legislative Scrutiny Committee of the Scottish Government.

### Audit Scotland

Audit Scotland is an independent body set up to, “give independent assurance to the people of Scotland that public money is spent properly, efficiently and effectively”.<sup>13</sup> The body works to a planned series of audits, but is also able to respond on an ad hoc basis to examine individual projects when required.

Audit Scotland sets up advisory groups for each audit to ensure that specialist expertise is available. As part of its process, all reports on national issues are presented to the Public Audit and Post-legislative Scrutiny Committee for debate and discussion, providing a further level of public scrutiny of infrastructure spending.

Audit Scotland also reviews major capital spending projects by Scotland’s councils. The body has no power to call local authorities to account, but it does conduct follow-up investigations and report on progress. An example is the *Major Capital Investment in Councils: Follow-up*,<sup>14</sup> which it presented to individual council audit committees.

All Audit Scotland reports are in the public domain and are published on the Audit Scotland website. However, as in all Westminster-model public finance systems, it reports to Parliament and hence the impact of its findings is intrinsically linked to the system of parliamentary accountability. Although parliamentary accountability in Scotland is strong, publicity can be used as a tool to draw further attention, add public scrutiny to findings and recommendations, and ultimately strengthen the accountability of infrastructure governance.

<sup>13</sup> Audit Scotland, *Audit Scotland: About us*, 2018, available at: [www.audit-scotland.gov.uk/about-us/audit-scotland](http://www.audit-scotland.gov.uk/about-us/audit-scotland)

<sup>14</sup> Audit Scotland, *Major capital investment in councils: follow-up*, Accounts Commission, January 2016, available at: [www.audit-scotland.gov.uk/report/major-capital-investment-in-councils-follow-up](http://www.audit-scotland.gov.uk/report/major-capital-investment-in-councils-follow-up)

In 2018, Audit Scotland will conduct a review of the Non-Profit Distributing (NPD) procurement model.<sup>15</sup> The Aberdeen West Peripheral Route will be used as a case study to determine whether NPD is providing value for money, as well as considering the implications of the re-classification of the project as under public sector control, and therefore subject to EU public spending rules. With the recent high-profile collapse of contractor Carillion, one of the three companies forming the consortium, it is anticipated that there will be additional interest in the outcomes of this audit.

### **Public Audit and Post-legislative Scrutiny Committee**

A specific Infrastructure and Capital Investment Committee existed under the fourth session of the Scottish Parliament (2011–2015), but it was discontinued. The primary route for accountability over public spending in Scotland now resides with the Public Audit and Post-legislative Scrutiny Committee.

The Committee consists of elected MSPs and meets weekly while Parliament is sitting. Its role is to provide scrutiny of public spending plans, budgets and matters arising from audits. It has the power to call officers of public bodies to give evidence.

The Committee reviews the Scottish Government's progress on the *Infrastructure Investment Plan*<sup>16</sup> major capital projects twice a year. It scrutinises the programme of projects over a value of £20 million (US\$27 million), including progress against the projected plans, and allows for the questioning of officers from public bodies by Committee members in a public forum. Transcripts of the hearings are made publicly available on the Scottish Government website, along with video recordings.

All Audit Scotland reports are also reviewed by the Committee and aural hearings held. The Committee is considered to be a strong formal mechanism for effecting change at a national level. It has an established published programme of review and is highly transparent in its workings.

## **ACCOUNTABILITY THROUGH THE MEDIA**

Scotland has an active press and media, with channels ranging from newspapers (including Scottish editions of UK publications), television and radio (BBC and independent) to online platforms such as

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15 Scottish Futures Trust, *Invest: Non-profit distributing*, 2017, available at: [www.scottishfuturestrust.org.uk/page/non-profit-distributing](http://www.scottishfuturestrust.org.uk/page/non-profit-distributing)

16 Scottish Government, *Infrastructure Investment Plan 2015*, 16 December 2015, available at: [www.gov.scot/Publications/2015/12/5962](http://www.gov.scot/Publications/2015/12/5962)

CommonSpace ([www.commonspace.scot](http://www.commonspace.scot)) owned by Scottish thinktank Common Weal, which campaigns for social and economic equality.

Television and radio broadcasters are legally obliged to be politically neutral while the printed press and on-line media are not required to provide balance in their reporting.

Media channels regularly report on government procedure and provide coverage of Scottish Parliament proceedings. Both traditional and new media are able to hold the Government to account with investigations and reports which can be freely published. ■

## 11. POTENTIAL ADDED VALUE OF COST

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**This chapter assesses the extent to which the CoST core features of disclosure, assurance and multi-stakeholder working are already in place in Scotland and considers how they could potentially added value through adoption or adaptation.**

### DISCLOSURE

As Chapter 8 highlights, the Scottish Government commonly discloses 95% of the data requested by the CoST Infrastructure Data Standard (IDS) and 38% of the data recommended for reactive disclosure for projects of a value of £20 million (US\$27 million) or over. By international standards this represents a high level of infrastructure transparency, which would allow the Scottish Government to assume the role of a leader, not only among sub-national members of CoST but for all members. CoST provides a platform for Scotland to showcase its level of transparency and provide guidance on how this can be achieved to a global community.

Stepping into this role would complement Scotland's pioneering status within the Open Government Partnership (OGP). A number of OGP countries have used CoST to firm up their action plans, which is relevant to Scotland as the low specificity of commitments in its first OGP action plan has been identified as an area for improvement.<sup>1</sup> CoST can hence add value to infrastructure transparency in Scotland by providing a robust and proven set of tools and standards, such as IDS, assurance and multi-stakeholder working, to increase the specificity of the next action plan.

CoST could support the Scottish Government in further strengthening infrastructure transparency. Currently data is located in a number of different documents, which makes it difficult to access. Better accessibility could be ensured by making the data available through a single digital platform. CoST has experience in supporting the development of online platforms providing easy access to infrastructure project data through a single source.

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<sup>1</sup> McDevitt A, *Independent Reporting Mechanism (IRM) Preliminary Review 2017: Scotland*, 2017, p. 8, available at: [www.opengovpartnership.org/sites/default/files/Scotland\\_IRM-Preliminary-Review\\_2017\\_for-public-comment.pdf](http://www.opengovpartnership.org/sites/default/files/Scotland_IRM-Preliminary-Review_2017_for-public-comment.pdf)

Using IDS as a benchmark, CoST could support the Scottish Government in moving towards 100% compliance for projects above £20 million (US\$27 million) and strengthen the disclosure of reactive data. Coverage of infrastructure projects could be substantially expanded by including projects with a lower value of for example £2 million (US\$2.7 million), which is currently the threshold for advertising works contracts under the Procurement Reform (Scotland) Act of 2014.<sup>2</sup>

## MULTI-STAKEHOLDER WORKING

Although significant progress has been made, systematic stakeholder engagement in the entire infrastructure project cycle that happens early, consistently and provides genuine opportunities for influencing decisions is not yet reality in Scotland.

Indeed, stakeholder engagement for infrastructure projects is generally considered to be an area in which there could be improvement, particularly with regards to consultation at a sufficiently early stage to influence strategic planning outcomes.

The CoST key feature of multi-stakeholder working can add substantial value in making further progress towards making stakeholder engagement a routine way to inform infrastructure policy, planning and delivery in Scotland.

The Scottish context does not lend itself to the establishment of a new multi-stakeholder group (MSG) as has been typical in current CoST member countries. However, there is an opportunity in Scotland to add value to existing forums by introducing multi-stakeholder working as part of the changes to the planning process, which are currently being developed by the Scottish Government.

An easy win, building on existing institutions, would be to reform the current membership of the Infrastructure Investment Board from being drawn exclusively from the Government and public bodies to include stakeholders from civil society and private sector. This in effect would make the Board a multi-stakeholder body through an adaptation of the CoST model.

It would provide an opportunity for earlier engagement in the policy-making process, benefit infrastructure delivery by increasing trust between and buy-in from stakeholder groups, and increase levels of transparency around the development of strategic planning. Additionally, the inclusion of representatives from civil society and the private sector

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<sup>2</sup> Procurement Reform (Scotland) Act 2014, available at: [www.legislation.gov.uk/asp/2014/12/contents](http://www.legislation.gov.uk/asp/2014/12/contents)

on the Board would allow for alternative views to be systematically explored, thus reducing the risks from dissent later in the process.

In addition to introducing multi-stakeholder working at national and strategic levels, it has the potential of being adopted as a principle for strengthening participatory approaches to infrastructure planning and delivery in Scotland more broadly. With high and increasing levels of transparency and a strong commitment to giving citizens and stakeholders a voice, reflected in concrete plans for reforms to require earlier stakeholder engagement in projects and multi-stakeholder reviews at the local level, there seems to be political will to deepen and broaden stakeholder engagement in infrastructure projects.

Multi-stakeholder working offers the potential of being adopted as a template for ensuring stakeholder engagement in all infrastructure projects. The PAS charity, for example, is well placed to act as a competent and trustworthy partner to facilitate this type of participatory process. It would include discussing different policy options for tackling the need an infrastructure project aims to meet at an early stage, and bringing contractors into the discussions as soon as a contract has been awarded.

It is likely that a structured approach could reduce the unforeseen time requirements for consultation exercises involving local residents and other stakeholders, which in the past have sometimes run for years. The inception stage might overall take a bit longer but the result with be more sustainable projects and more efficient delivery stages.

## **ASSURANCE**

Scotland has strong established models for accountability of public spending, especially where infrastructure is concerned. Although in the past there have been issues with infrastructure being delivered on time and on budget, and with evaluations documenting post-project outcomes, there has been a focused process towards resolving these issues.

The public inquiries and the Infrastructure and Capital Investment Committee formed under the fourth session of the Scottish Parliament bear witness to the commitment to improvement. Currently issues are closely monitored by two highly competent institutions: Audit Scotland and the Public Audit and Post-Legislative Scrutiny Committee.

The potential of CoST's assurance process to add value in this context rests predominantly with increasing the visibility and public awareness of the validation and interpretation of infrastructure data already done principally through Audit Scotland reports, and with reinforcing key

messages specifically related to infrastructure to the public. This is a concept that is reinforced by the multi-stakeholder nature of CoST, which reduces the risk of potential political bias and subjectivity related to certain projects or issues identified.

Audit Scotland does not currently have the resources to examine the Scottish Government's infrastructure investments on a frequent basis. The latest comprehensive review looking at targets for cost, time and quality dates back to 2011 (and sector specific for transport in 2013). While the CoST assurance process should not be confused with an audit, it is designed to validate and interpret data disclosed in line with the IDS for a sample of all the projects for which data has been disclosed (typically 15–30 projects). As such it will review issues such as variations to contract price, duration and scope.

The CoST assurance process is cost — and time-effective, typically lasting four to six months. It can therefore be done on a regular basis, rather than every five years or when the issue attracts political attention.<sup>3</sup> Given the significant interest in, and commitment to, improved accountability in infrastructure and capital investments in Scotland, this kind of process seems to have the potential to add value by providing regular, systematic, arms-length scrutiny of major infrastructure projects in a more cost-effective manner than through public inquiries or other major exercises.

Ideally, the assurance process is conducted by an audit body and, to enhance trust, endorsed by stakeholders beyond government, usually a multi-stakeholder group. As an independent, objective and politically neutral institution, Audit Scotland is clearly very well placed to lead such a process. If the Infrastructure Investment Board was to assume a multi-stakeholder nature, its endorsement would add further value. Alternatively, broader endorsement could be sought in other ways.

Given the experience and existence of high quality retrospective audits of infrastructure projects and the public capital investment programme in Scotland, there is a persuasive argument for expanding the focus to different types of public–private partnership arrangements, including value-for-money audits scrutinising the financial models used to finance public infrastructure with private capital.

Two recent events increase the need for such audits: the collapse of Carillion and a recent report by the UK National Audit Office,<sup>4</sup> which found that the future charges of Private Finance Initiative deals will continue until the 2040s amount to £199 billion (US\$270 billion).

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3 The norm in CoST member countries tend to be annual assurance processes.

4 National Audit Office, PFI and PF2, 18 January 2018, available at: [www.nao.org.uk/wp-content/uploads/2018/01/PFI-and-PF2.pdf](http://www.nao.org.uk/wp-content/uploads/2018/01/PFI-and-PF2.pdf)



In very few countries has it been possible for CoST to carry out assurance at the pre-project stage, but this would be easier in an advanced economy like Scotland and add value to existing ex-post audits.

Finally, a further long-term added value of CoST in terms of assurance is that, given it recommends a broad endorsement of the process, it has the potential to defuse politicisation in infrastructure projects.

It is inevitable that politics will play a role, as indeed it should in a well-functioning democracy, but increased independence and multi-stakeholder engagement will also raise the level of scrutiny of politically sensitive issues. It should be emphasised this does not relate to any current issue in Scotland identified by this report. As already stated, the relationship between Audit Scotland and the Public Audit and Post-Legislative Scrutiny Committee seems to provide a high level of accountability. ■

## 12. CONCLUSION AND RECOMMENDATIONS

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**As evidenced in this report, the Scottish Government has been on an extraordinary journey to increase transparency and accountability of its infrastructure investments following a dedicated reform process initiated in the mid-2000s.**

Scotland publishes an impressive 95% of the data required for proactive disclosure by CoST's Infrastructure Data Standard on projects over £20 million (US\$27 million). This is important in a time when the volume of investments is on the rise, and both borrowing and the revenue budget are being used to finance new infrastructure.

Audit Scotland has recommended in the past that the Scottish Government upgrades its *Infrastructure Investment Plan*<sup>1</sup> to an infrastructure strategy. This would better inform decision-making on issues such as the complex interrelationship between needs, affordability, political priorities and implementation capacity. Such a strategy would benefit from being subject to public participation.

Overall, infrastructure is delivered reasonably efficiently in Scotland, with a tendency to run over time but stay within budget. This was, for example, the case for the Queensferry Crossing mega-project completed in 2017, and it resonates with earlier findings on infrastructure delivery in Scotland. One area that has historically warranted improvement is post-project evaluation of the outcome of infrastructure projects.

Scotland has innovated its approach to infrastructure planning and delivery through numerous reforms, most of which have been highly successful. In joining the Open Government Partnership (OGP) as one of the first sub-national governments in the world, Scotland has been a pioneer in promoting transparency and citizen empowerment. Having completed its first OGP annual action plan, a second plan is being prepared for publication by September 2018, potentially with more specific commitments.

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<sup>1</sup> Scottish Government, *Infrastructure Investment Plan 2015*, 16 December 2015, available at: [www.gov.scot/Publications/2015/12/5962](http://www.gov.scot/Publications/2015/12/5962)

While disclosure of infrastructure data in Scotland is high by international standards, stakeholder engagement in infrastructure planning and delivery is not systematic and depends entirely on the commissioning body. Importantly, the Scottish Government is looking into ways of making stakeholder engagement happen earlier and more consistently.

While strong and competent institutions such as Audit Scotland and the Public Audit and Post-legislative Scrutiny Committee provide a high level of control and oversight of infrastructure projects in Scotland, their impact could be strengthened through increased civic and media engagement in publicising findings and recommendations.

This case study report finds that CoST, as an international infrastructure transparency initiative, can learn from various aspects of the Scottish experience, and that Scotland could showcase its high level of infrastructure transparency and accountability on the international stage through membership to CoST. It is also apparent that CoST has the potential to add value to infrastructure governance in Scotland in a number of ways.

**The main recommendations of this report are as follows:**

1. Use the second Scottish OGP action plan to specify a commitment to openness, transparency and accountability of infrastructure planning and delivery, incorporating the CoST core features into current practice to increase the specificity of these commitments.
2. Strengthen accessibility of infrastructure data already in the public domain for projects over £20 million (US\$27 million) through a single online, geo-referenced platform, building on the current OGP action plan commitment to open and inter-operable data.
3. Expand the coverage of infrastructure projects for which data is systematically disclosed, first to projects above £5 million (US\$6.7 million), the definition applied by Audit Scotland to major projects, and second to projects above £2 million (US\$2.7 million), the threshold for advertising works contracts under the Procurement Reform (Scotland) Act of 2014.<sup>2</sup>
4. Adopt multi-stakeholder working as a concept to ensure systematic stakeholder engagement in infrastructure governance, both at high level in the Infrastructure Investment Board and as a principle for strengthening participatory approaches to infrastructure planning and delivery.

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<sup>2</sup> Procurement Reform (Scotland) Act 2014, available at: [www.legislation.gov.uk/asp/2014/12/contents](http://www.legislation.gov.uk/asp/2014/12/contents)

5. Explore ways in which Audit Scotland could lead a process of frequent, ongoing validation and interpretation of disclosed infrastructure data.
6. The Scottish Government consider CoST membership to expand its international profile for pioneering openness and transparency specifically in relation to infrastructure governance. ■

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## APPENDIX: FULL LIST OF INTERVIEWEES

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<b>Jeremy Allcock</b>	Head of Infrastructure Debt, Aberdeen Standard Investments
<b>Robin Crawford</b>	Chair, Review of Scottish Public Sector Procurement in Construction
<b>Kelly Forbes</b>	Policy Manager, Institution of Civil Engineers, Scotland
<b>Graeme Greenhill</b>	Portfolio Manager, Audit Scotland
<b>Doreen Grove</b>	Head of Open Government, Scottish Government
<b>Colin Judge</b>	Principal Advisor, Construction Procurement Policy, Scottish Government
<b>Prof Duncan MacLennan</b>	Professor in Public Policy, Policy Scotland, University of Glasgow
<b>Fraser McKinlay</b>	Director of Performance Audit and Best Value, Audit Scotland
<b>Peter Reekie</b>	Deputy Chief Executive and Director of Investments, Scottish Futures Trust
<b>Sara Thiam</b>	Regional Director, Institution of Civil Engineers Scotland
<b>Gareth Williams</b>	Head of Policy. Scottish Council for Development and Industry (SCDI)
<b>David Wood</b>	Manager, Planning and Policy, Planning Aid for Scotland (PAS)







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