Citizen Participation and Public Petitions Committee

7th Meeting, 2023 (Session 6), Wednesday 3 May 2023

PE2004: Abolish the use of Public Private Partnerships in Scotland

Petitioner	Line Kikkenborg Christensen on behalf of Jubilee Scotland
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to abolish the use of Public Private Partnerships (PPPs) and commit to a new model for financing and managing public infrastructure in Scotland which has safety, quality, value for money and accountability to the taxpayer at its heart.
Webpage	https://petitions.parliament.scot/petitions/PE2004

Introduction

1. This is a new petition that was lodged on 20 February 2023.

2. A full summary of this petition and its aims can be found at **Annexe A**.

3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B.**

4. While not a formal requirement, petitioners can collect signatures on their petition while it remains under consideration. At the time of writing, 447 signatures have been received on this petition.

5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government and is included at **Annexe C** of this paper.

6. A submission has been provided by the petitioner. This is included at **Annexe D**.

7. Members may wish to note that a written parliamentary question was lodged in March 2023 asking the Scottish Government what actions it is taking on the

recommendations made in Audit Scotland's 2020 review. The question and answer are available here.

Action

The Committee is invited to consider what action it wishes to take on this petition.

Clerk to the Committee

Annexe A

PE2004: Abolish the use of Public Private Partnerships in Scotland

Petitioner

Line Kikkenborg Christensen on behalf of Jubilee Scotland

Date lodged

20 February 2023

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to abolish the use of Public Private Partnerships (PPPs) and commit to a new model for financing and managing public infrastructure in Scotland which has safety, quality, value for money and accountability to the taxpayer at its heart.

Previous action

We met with Neil Findlay (MSP for Lothian at the time), who hosted the launch of our report "Rethinking Private Financing of Scottish Public Projects" at the Scottish Parliament.

We have also met with Ross Greer MSP, John Mason MSP, and staff from the Scottish Conservatives and Scottish Labour, as well as asking the Finance and Public Administration Committee to engage with the issue.

Background information

PPPs have saddled the Scottish public sector with high levels of debt, poor service provision, lack of accountability, and unsafe buildings.

Audit Scotland reviewed PPPs and found them expensive and in need of more oversight.

The UK Treasury has called the PPP model "inflexible and overly complex", and the Office for Budget Responsibility has called the scheme a "source of significant fiscal risk to government".

PPPs are not the right option for publicly financed projects because they result in:

1. Poor value for money: projects are highly lucrative for the private sector and limited public finances are poorly invested.
2. Declining service standards: taxpayers' money is spent on assuring a profit for company shareholders rather than the best possible service and quality for the public.
3. A loss of accountability: details of PPP deals are protected by corporate confidentiality which hinders scrutiny of how corporations use taxpayers' money.

It is for these reasons PPPs should be abolished.

Annexe B

Briefing for the Citizen Participation and Public Petitions Committee on petition PE2004: Abolish the use of Public Private Partnerships in Scotland, lodged by Line Kikkenborg Christensen on behalf of Jubilee Scotland

Brief overview of issues raised by the petition

The petitioner is calling on the Scottish Parliament to urge the Scottish Government to abolish the use of Public Private Partnerships (PPPs) and commit to “a new model for financing and managing public infrastructure in Scotland which has safety, quality, value for money and accountability to the taxpayer at its heart.”

What are PPPs?

Since the 1990s, public-private partnership (PPP) models have been used across the UK to finance infrastructure investment, including many schools and hospitals. Under these schemes, a private sector consortium provides upfront financing for the infrastructure project and the public sector then pays for the project once completed through regular payments over a period of 25-30 years, which include maintenance and service charges. The project is delivered and assets managed for the duration of the contract by a private company known as a Special Purpose Vehicle (SPV).

The UK government’s Private Finance Initiative (PFI) was the first major PPP initiative. The PFI model, which was widely used to finance public sector investment in the 1990s, attracted considerable criticism around the profits made by the private sector partners and the costs to the public sector. In response to these criticisms, the Scottish Government developed an alternative PPP model, known as the Non-Profit Distributing (NPD) model which aimed to restrict the profits that could be made by the private sector through these arrangements.

Between them, PFI and NPD have funded over 100 projects in Scotland, with a combined capital value of almost £9 billion. This includes 58 school projects and 45 hospitals and other health facilities. [Note that an individual school PPP project can involve multiple school buildings within a single contract.] Details on the annual repayments associated with these projects are published by HM Treasury (for PFI projects) and the Scottish Government (for NPD projects). In 2023-24, repayment charges associated with existing PFI and NPD projects are expected to total £1.4 billion.

Audit Scotland published a report in January 2020 which looked at the use of privately financed infrastructure investment in Scotland (including the NPD model). This included recommendations for future management of privately financed investment.

Current and planned use of PPPs in Scotland

Changes to public sector accounting rules have affected the classification of PPP projects (such as PFI and NPD). As a result, the Scottish Government had to review this method of financing in order that projects financed in this way can continue to be classified as private sector projects. The classification of infrastructure projects matters because if they are classified as private sector projects, they have no upfront impact on the capital budget. Instead, they are paid for through annual payments from the revenue budget, leaving the capital budget free to spend on other projects.

In recent years, the Scottish Government has proposed introducing a modified version of the NPD model, known as the 'Mutual Investment Model' (MIM). This shares a number of features with NPD but is adjusted so that it meets the requirements for such investment to be treated as private sector investment and therefore paid for out of revenue budgets over a longer timeframe.

The Scottish Futures Trust (SFT), who act as a centre of expertise on infrastructure investment, undertook an options appraisal of private financing investment models and acknowledged that MIM projects would still be more expensive than projects funded through the capital budget or through borrowing. In its May 2019 Medium Term Financial Strategy, the Scottish Government subsequently stated that “the use of the MIM model will be reserved for central government assets where access to borrowing is more restricted. The intention would be to deploy other levers first, including the use of capital borrowing in line with our fiscal rules and principles.”

There do not appear to be any immediate plans to use revenue financing (which includes PPPs), for funding infrastructure investment. Although the Scottish Government’s May 2022 Medium Term Financial Strategy had identified that revenue financing would be used to support capital investment of £520 million in 2023-24, the more recent 2023-24 Budget published in December 2022 does not make any reference to the use of revenue financing.

Jubilee Scotland proposals

The petitioner represents Jubilee Scotland. Jubilee Scotland published a report in 2020 on the use of PPPs in Scotland. This report argued that PPPs represent poor value for money, result in declining standards and offer poor accountability. The report proposes that the Scottish Government should explore the costs and options for buying back existing PPP contracts and/or nationalising the Special Purpose Vehicles (SPVs) through which PPPs operate.

There have been a few examples of PPP contracts being bought out and returned to the public sector. The costs of such action are unclear and would depend on the conditions built into each individual contract and whether there are break clauses. There are some examples of PFI contracts being bought out in England (see NAO, p32), and a few examples in Scotland, such as the buy out of the Skye Bridge PFI contract in 2004. The Scottish Government considered in 2009 whether it could terminate the contracts for parking charges in three PFI hospitals in Scotland, but determined that this would costs “tens of millions” and opted not to pursue this.

Jubilee Scotland propose that PPPs should no longer be used to finance infrastructure projects and instead propose a local-national partnership model. In this model, a Scottish National Investment Company would support local authorities in finding the best solutions for designing, building, financing, operating and managing infrastructure projects. These would be financed through existing channels e.g. capital budgets or local authority borrowing or by allowing the Scottish National Investment Bank (SNIB) to lend to local authorities.

Nicola Hudson
Senior Analyst
16 February 2023

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Annexe C
Scottish Government submission of 23 February 2023

PE2004/A: Abolish the use of Public Private Partnerships in Scotland

In 2007, the Scottish Government moved away from the Private Finance Initiative (PFI) funding model and made clear that this approach used in the past had not delivered best value for the taxpayer and was no longer a feasible option for revenue-based finance. Instead, the Non-Profit Distributing (NPD) investment programme was announced in 2010 in response to the reduction in traditional capital budgets and to maximise funding for infrastructure and provide support for the wider capital programme.

A key feature of NPD projects was profit-capping and the model also transferred risk but without the excessive private sector profits associated with previous PFI projects. NPD projects attracted strong competition and achieved favourable financing rates and any future operational surpluses will be reinvested back into the public sector. NPD contracts provide greater transparency and are more flexible than PFI contracts and the associated payments are much less sensitive to inflation than PFI as most of the contracted payments are not indexed linked. The NPD programme allowed us to deliver much-needed new infrastructure such as schools, new NHS facilities, new colleges and other key infrastructure that would otherwise not have been possible. Audit Scotland reported in 2020, that NPD had supported £3.3 billion of additional investment in Scotland's infrastructure.

In 2019, the Scottish Government signalled a new approach to revenue finance due to the implication of classification changes to NPD projects and the NPD model has not been used since then. As part of the Scottish Government's National Infrastructure Mission commitment, a new approach to revenue finance was announced. This approach included the Mutual Investment Model (MIM) which will be used alongside financial innovations (e.g. Growth Accelerators) and capital borrowing to continue to support investment in infrastructure. The MIM model will help secure investment and the best value for the taxpayer by sharing profits between the public and private sector and will be reserved for central government and Non-Departmental Public Bodies where access to borrowing is more restricted.

The Scottish Government acknowledges the use of private finance is more expensive than conventional public borrowing but the Scottish Government's current borrowing powers are limited and insufficient to deliver the ambitions of our National Infrastructure Mission. If additional capital borrowing powers become available, we will examine all options to ensure the lowest-cost financing route is utilised.

The Scottish Government shares concerns around the flexibility and value for money offered by historic PFI contracts which are often complex and need active management by the public sector. The termination of a PFI contract is, however, a matter for the public sector body that awarded it. As a government, we are committed to ensuring that PFI contractual obligations are delivered and that contracts are affordable. That is why we have asked the Scottish Futures Trust to work with public bodies to realise PFI contract management improvements including re-scoping services, sharing in insurance cost savings, and optimising the risk transfer in contracts.

Annexe C
Petitioner submission of 30 March 2023

PE2004/B: Abolish the use of Public Private Partnerships in Scotland

Thank you to the Scottish Government for the response to our petition. We have the following comments to the response:

- <u>The Government response states that</u>: “A key feature of NPD projects was profit-capping and the model also transferred risk but without the excessive private sector profits associated with previous PFI projects.”

Jubilee Scotland’s comment: Audit Scotland’s 2020 report ‘Privately financed infrastructure investment: The Non-Profit Distributing (NPD) and hub models’ concludes that this profit-capping may have been ineffective, and uncertainty exists since the Government is not closely monitoring private sector activity on this: *“The structure of NPD removes the ability of the companies involved to obtain dividends. Nevertheless, companies can generate returns by selling their rights to future contract payments. The Scottish Government does not monitor the extent to which this is happening, making it more difficult to know how effective its policy of profit capping has been in limiting overall private sector returns.”*

Furthermore research has revealed that profit is hidden away in tax havens by Hub and PPP project companies (see briefing paper by Scottish think tank Common Weal). That companies based in tax secrecy jurisdictions can be involved with managing public infrastructure is unacceptable, and yet another problematic feature of PPPs.

- <u>The Government response states that</u>: “Audit Scotland reported in 2020, that NPD had supported £3.3 billion of additional investment in Scotland’s infrastructure”

Jubilee Scotland’s comment: The same Audit Scotland report also points out that (1) Private finance costs more than traditional forms of financing, affecting future budgets for many years; (2) it is not clear enough how decisions have been taken about which projects will use private finance, or (3) how well this is achieving the best balance of cost and benefits in practice.

Audit Scotland's 2020 report furthermore points out that *"by focusing on affordability, it is not clear how public sector organisations have assessed the value for money of using private finance, or whether the implications of entering into these contracts have been fully considered."*

The Government should also note that an article in The Herald on the 26th of February revealed that Public Private Partnerships will lead to Scotland paying £8.5bn for £2.9bn of infrastructure projects.

- The Government response states that: "The MIM model will help secure investment and the best value for the taxpayer by sharing profits between the public and private sector"

Jubilee Scotland's comment: Audit Scotland's 2020 report 'Privately financed infrastructure investment: The Non-Profit Distributing (NPD) and hub models' makes several important points about the MIM model and how challenging it will be for this model to deliver good value for the Scottish taxpayer: (1) *"MIM is designed to maintain additionality, but exposes the public sector to a greater risk of project losses than NPD";* (2) *"The financing costs associated with MIM are likely to be more expensive than alternative options for capital investment, such as capital grants, borrowing and some forms of innovative financing"*; (3) *"The MIM scheme reintroduces some features of the PFI scheme that were removed under NPD. This is required to achieve a private sector classification and additionality. The public sector will be unable to veto decisions made by the SPV, including those around refinancing. It will not provide the public sector with as much control over the level of profit that the private sector can make as the NPD model does. Instead, through the shared equity structure, the public sector will share any profits generated and, equally, any losses suffered"*; and (4) *"The Scottish Government needs to learn from the use of NPD and hub programmes when introducing these new financing and funding models. It should also further develop its public reporting on the use of public finance. Better information would enhance transparency and scrutiny of how value for money is considered as part of decision making, the costs and benefits of using private finance, and the management of risks and outcomes delivered."*

It is essential that the Government acts on the recommendations from Audit Scotland, and learns from past mistakes.

- The Government response states that: "If additional capital borrowing powers become available, we will examine all options to ensure the lowest-cost financing route is utilised."

Jubilee Scotland's comment: Additional capital borrowing powers will not become available unless pursued. We urge the Scottish Government to actively seek to expand capital borrowing powers. We also urge the Scottish Government to examine what alternatives to private finance are currently available and would recommend that the Government engages in a meaningful way with the proposal for an alternative to Public Private Partnerships put forward by the Scotland Against PPPs task force (headed by Jubilee Scotland).

Concluding comments

Jubilee Scotland has found that there is a remarkable degree of cross-party support for finding an alternative to PPPs in Scotland. There is also an appetite amongst trade unions, civil society and the public to address the problems around PPPs.

In December 2022, a poll showed significant support among the Scottish population for the PPP issue to be addressed (full set of polling data available on request):

- 62% of Scots believe that public buildings such as schools and hospitals should be fully publicly owned.
- 67% think that it is important to address that the Government uses a scheme where private companies can make large profits from designing, building and managing public infrastructure.

The poll also showed that there is a lack of trust in the private sector among respondents:

- Only 13% trust the private sector more than the public sector to provide good services to users.
- Only 16% trust the private sector more than the public sector to provide good value for money.
- Only 15% trust the private sector more than the public sector to offer fair working conditions and salaries to maintenance staff and cleaners.

- Only 15% trust the private sector more than the public sector to offer accountability and transparency.
- Only 12% believe that private companies should be responsible for financing infrastructure if that means higher overall costs.

The Government should take the public opinion into account. It is time for a new approach, and a break with the mistakes of the past. The Government needs to rethink the way infrastructure is managed and financed in Scotland.

Jubilee Scotland suggests that the issue of Public Private Partnerships could be meaningfully addressed in the Local Government, Housing and Planning Committee or the Public Audit Committee, with the involvement of a broad range of stakeholders on the issue including civil society and trade unions.