

Protocol for engagement between the Scottish Fiscal Commission and the Scottish Government

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Purpose

1. This Protocol fulfils the statutory obligation on the Scottish Fiscal Commission ('the Commission') and Scottish Ministers to agree and publish a Protocol for their engagement relating to the forecasting and assessment process. As defined in the Scottish Fiscal Commission Act 2016 ('SFCA'), the forecasting and assessment process refers to all of the Commission's duties on the production of forecasts and forecast evaluation.¹

2. This Protocol therefore covers the interactions between the Commission and the Scottish Government at any time during the formal periods of engagement required to deliver the Commission's statutory functions, as well as informal engagement outwith the formal periods of engagement.

Context

3. Section 6 of the SFCA requires the Commission and the Scottish Government to agree a Protocol for their engagement in relation to the forecasting and assessment process. The Protocol, which the Commission must publish, must set out:

- the arrangements for meetings and communications between the parties (and their staff);
- the expectations as to the information to be exchanged between the parties during the forecasting and assessment process including, in particular, in relation to draft reports prepared under section 2 of the SFCA; and,
- which (if any) documents relating to the forecasting and assessment process (other than reports prepared under section 2) are to be published and when.

4. It is the duty of the Commission to prepare forecasts at least twice a year to inform the Scottish budget. These forecasts should cover 5 years and include Scottish onshore GDP, Income Tax, devolved taxes, non-domestic rates, devolved social security payments. The Commission will also be responsible for preparing VAT forecasts (for the purposes of VAT Assignment). The Commission must also assess the reasonableness of Ministers' projections of borrowing. The Commission may also produce forecasts, assumptions and projections in relation to any other fiscal factors it considers appropriate.

5. The Commission is a Non-Ministerial Department, comprising Commissioners and staff, responsible for independent forecasting. The Commission develops and runs the forecasting models, producing the forecasts required to fulfil the Commission's statutory duties.

6. The Scottish Government is responsible for the development and modelling of policy options related to the Scottish budget, for advising and supporting Ministers in

¹ Scottish Fiscal Commission Act 2016 ([link](#))

their decisions on policy measures, and for informing the Commission of any budget policy measures which it considers will impact upon the forecasts that the Commission are responsible for producing. Where the judgement of the Commission may affect a policy costing, and those judgements are not currently contained in the models provided by the Commission to the Government, the Commission will look to provide further guidance and analysis to the Government on its judgements in particular instances.

7. This Protocol between the statutory Commission and the Scottish Government supersedes the previous version of the Protocol published in April 2017² and has been agreed within the context of the new Budget Process that was proposed in the Budget Process Review Group's report. As 2018-19 is the first year of the new Budget process, the process, and the Commission's role in it, is likely to evolve. Any changes to the Protocol must be jointly agreed by the Commission and the Scottish Government. All changes to the Protocol will be published on the Commission's website and shared with the Finance and Constitution Committee of the Scottish Parliament as soon as they come into effect. The process for revision is outlined below at paragraph 102.

Principles

8. The Commission and Scottish Government will adhere to the following shared principles:-

- In accordance with the OECD principles for independent fiscal institutions, the independence of the Commission, as enshrined in its founding legislation, will be respected at all times.
- The Commission is responsible for the independent production of forecasts and for all the assumptions and judgements informing those forecasts.
- The Commission will remain politically neutral and will avoid making political judgements.
- In carrying out its functions, the Commission must have regard to relevant Scottish Government policy and it will not consider what the effect of alternative policies would be. The Commission, may, however, consider the effect of alternative forecasting assumptions or methodologies on tax revenue, social security expenditure or GDP forecasts.
- The Commission will publish alongside its forecasts a detailed explanation of the methodology used and of factors that it has taken into account, in particular assumptions and risks.
- The Commission will carry out its functions with integrity and in such a way as to promote transparency.
- With a view to increasing the **transparency of interactions** between the Commission and the Scottish Government during formal fiscal events, both bodies will abide by this jointly agreed Protocol. The Commission has a statutory **right of access** at reasonable times to any relevant information held by the Scottish Government that the Commission may reasonably require for

² Protocol for engagement between the Scottish Fiscal Commission and the Scottish Government
Published April 2017 ([link](#))

the purpose of performing its functions. The timescales for requests are set out as part of this Protocol, at paragraph 90.

- The Commission is bound by the **confidentiality** requirements set out in the *Code of Conduct for Members of the Scottish Fiscal Commission*. In particular, the Commission and its staff will keep all **sensitive budget information** confidential, particularly in advance of publication of the Scottish Budget; while the Scottish Government will ensure that all documents provided to the Commission which contain sensitive budget information are marked as such.
- The Scottish Government will provide the Commission with **timely notice** of all Budget and other decisions which the Scottish Government considers may have an impact on the work of the Commission, with the Commission making a final judgement on whether or not and how to include the details in its forecasts. Examples of decisions the Commission should be informed of include proposed changes to: tax rates or bands; to social security expenditure; to public sector pay policy; to Government current and capital expenditure plans; to borrowing plans; and, to changes in economic policy, particularly those aimed at affecting economic growth.
- The Commission and the Scottish Ministers will both work in ways which support the best principles of **corporate governance** and **financial accountability** as set out in the Scottish Public Finance Manual.

9. The Commission also seeks to comply voluntarily with the Code of Practice for Official Statistics. The statement of voluntary compliance is set out on the Commission's website.³ Where possible, the Commission will announce the month of a publication in its monthly forthcoming publications notice as soon as practical and the exact date at least one month before publication.

10. The Scottish Government should inform the Commission of any relevant developments and legislative changes in areas which impact on the Commission's statutory forecasting functions in advance of the introduction of the legislation and as soon as reasonably practicable.

11. All reference to days should be taken to mean working days unless otherwise specified. For example, where 'five working days before the Draft Budget' is specified, this means the end of the day five whole working days before the Draft Budget: if the Draft Budget is on the Thursday, material should be provided by close on the previous Thursday.

Fiscal Events

12. Fiscal events are defined as the periods within which the Commission is preparing forecasts to inform Parliamentary milestones on the new full year Budget process. There are three such events in the year:

- Forecasts to inform the Scottish Budget and introduction of the Budget Bill (December);

³ See 'How we work' section of the Scottish Fiscal Commission website ([link](#))

- Updated policy costings if there are new Government policies in areas the Commission forecasts at Stages 1, 2 or 3 of the Budget Bill or for the Scottish Rate Resolution (typically January/February); and,
- Forecasts to inform the Medium-Term Financial Strategy (May).

13. In addition, there may be forecasts produced at other times to inform primary or secondary legislation on areas within the Commission's responsibilities. For Income Tax, this happens at the same time as the passage of the Budget Bill, through the Scottish Rate Resolution, and is covered in the section below. For legislation on other tax and social security spend areas which is not passing alongside the Budget Bill, we have set out a process in the "Fiscal Factor Forecasts" section from paragraph 64.

Timings & Provision of Information

14. This section sets out the broad approach to sharing of information during these periods, including deadlines for the provision of policy information and sharing of documents for fact checking.

15. The timings shown here are designed to be an agreed reasonable timetable for the exchange of information. However, subject to prior agreement of both parties, these timescales may be shortened if this can occur without affecting the quality of the forecasts produced. Any changes will be listed in the Commission's publication.

16. The timetable below proposes final deadlines for sharing policy measures, after which any policy changes will not be included in the forecast. To aid forecast development, the Scottish Government will endeavour to share policy insights as they are in development and policy design at an early stage. The Commission will always endeavour to include the impact of policy changes in its forecasts. However, the Commission may choose not to include large scale and complicated policy changes shared ahead of the final deadlines where it cannot robustly forecast the impact of the policy changes to sufficient quality, and this will be flagged in its report.

17. Throughout the process the Scottish Government may share indicative lead policy options with the Commission and may expect the Commission to provide an indication of its forecasts of the costs of the policy. In general, for policy changes submitted by the Scottish Government to the Commission before 10am, the Scottish Government may expect provisional costings returned the same working day. For policy changes submitted after 10am, the Scottish Government may expect provisional costings returned the next working day.

Scottish Budget

18. **50 days (10 weeks) in advance:** Scottish Government gives the Commission notice of the week the Scottish Budget is expected to be published. Once the Scottish Government has notified the Commission a timetable will be drawn up and agreed by the named points of contacts in both the Commission and the Scottish Government with the deadlines for completion of each of the forecast rounds.

19. **45 days in advance:** Commission provides the Scottish Government with copies of the forecasting models to allow for further policy development in advance of the budget. The Commission retains the right to develop the models further over the budget process.

20. **The proposed number of forecast rounds for each area will be set out as part of the initial timetable.** However, the Commission may, in consultation with the Scottish Government, adjust the timing and number of rounds in order to focus on the highest priority areas. The Scottish Government may provide indicative policy details to the Commission at any stage of this process and the Commission will endeavour to provide indicative costings at the next round. The Commission will require at least one working day's notice of a policy change to include it in a forecast round.

21. **Roughly 22 days in advance:** Anticipated timing for the UK Government Autumn Budget based on previous experience. Prior to this, pre-measures forecasts for each area will be finalised with the exception of new information from the UK Autumn Budget and subsequent data releases. No modelling changes or developments will be made after this point to pre-measures forecasts, unless required because of UK Autumn Budget measures or data releases.

22. **17 days in advance:** Final deadline for Scottish Government to share policy measures that may affect the economic forecasts. These may include but are not limited to changes to: public sector pay policy; Government current and capital expenditure plans; borrowing plans or changes in economic policy, particularly those aimed at affecting economic growth. The Commission will make any final judgement on inclusion. This is also the deadline for the Scottish Government to share their borrowing projections to inform the Commission's assessment of reasonableness. This will include, but not be limited to: capital and resource borrowing plans, use of the Scotland Reserve and estimates of stock of debt. The Commission may request additional fiscal information that will help explain their forecasts, such as information on associated Block Grant Adjustments.

23. **10 days in advance:** Scottish Government shares finalised policy measures with the Commission. **No policy changes after this point will be costed or included.**

24. **7 days in advance:** Final Commission forecasts shared with the Scottish Government. Commission invites the Scottish Government to comment on the factual accuracy of the report.

25. **5 days in advance:** Scottish Government returns any comments on the factual accuracy of the Commission report. Commission to confirm the final forecast numbers with the Scottish Government for inclusion in the Draft Budget. Scottish Government provides Commission with extracts of the Draft Budget document containing Commission forecasts to comment on factual accuracy

26. **4 days in advance:** Commission shares near final copy of the report with the Cabinet Secretary for Finance and Constitution for information. The Commission will continue working on report presentation and quality assurance after the near final

report has been shared. The Scottish Government may share this report internally with relevant Ministers and officials on a restricted “for information” basis.

27. 1 day in advance: Commission shares pre-release version of the report with the Cabinet Secretary. Commission shares media release with the Scottish Government. Scottish Government shares extracts of Draft Budget media releases which reference the Commission’s forecasts. Government provides the Commission with extracts from the Budget speech that mention the Commission and refer to the Commission’s forecasts.

28. Day of Draft Budget: Commission report published on the Commission’s website after the Cabinet Secretary has presented the Draft Budget to Parliament. Commission report formally laid in the Parliament on the same day as publication.

Changes to the Budget Bill during its passage

29. As early as possible, the Scottish Government will advise the Commission of likely policy changes following the publication of the Budget Bill to enable further model development and forecasting. The Commission will make a judgement on whether different forms of announcement will constitute a formal change in government policy, in order to comply with the SFCA. These may include commitments made during a Ministerial statement, the lodging of a formal Scottish Government amendment to the Budget Bill, or the agreement of the Government to support an opposition amendment.

30. Scottish Government analysts and policy teams will have the opportunity to comment on the Commission’s amended forecasts and policy costings ahead of publication. The Commission reserves the right to prioritise particular forecast revisions and policy costings in the event of the package of amendments including multiple or complex changes which require analysis beyond what they consider feasible in the time available. The Commission will do this in consultation with the Clerk of the Finance and Constitution Committee and the Scottish Government.

31. The Scottish Rate Resolution (SRR) sets out the proposed rates and bands for Scottish Income Tax. The Scottish Government may withdraw and introduce a new SRR at any point up until the start of the tax year to which the rates would apply. The setting of the SRR is not part of the Budget Bill, but under Parliamentary standing orders Stage 3 of the Budget Bill process cannot commence until an SRR has been passed.

32. The Scottish Government would aim to lay amendments to policies which would require a revised forecast or assessment from the Commission prior to Stage 3. Stage 3 amendments could still be laid but the Scottish Government would seek to limit these to spending allocations which would not require Commission involvement.

33. The Commission anticipates that any changes announced by the Cabinet Secretary during the passage of the Budget Bill or Scottish Rate Resolution will be formal Government policy. The Commissioners retain the right not to produce a revised forecast or costing where they judge that this is not the case.

34. At whichever stage that new costings are produced and published, the Commission will lay the report in Parliament on the same day as publication.

Timings for changes at Stages 1, 2 & 3 of the Budget Bill, & Scottish Rate Resolution (SRR)

35. If the Cabinet Secretary for Finance and the Constitution intends to announce firm policy changes or lay formal amendments to policy in areas the Commission is responsible for forecasting, the Scottish Government would aim to advise the Commission of the final changes a minimum of four working days before the event, whether that is the Stage 1, 3 or SRR debate, or the Committee Meetings to discuss Stage 2 amendments.

36. The Commission will aim to provide the Government with draft forecasts and costings of the policies by 3pm two working days before the debate or Committee session and organise a forecast meeting one working day beforehand. In the cases where there will be a debate, the Commission will endeavour to provide the Government with a final version by 4pm on the day before the Debate for fact-checking with comments by 9am on the day of the debate. In the cases where this will inform a Committee session, the Commission will provide the Government with a final version by 1pm on the working day prior to the Committee session for fact-checking by 3pm.

37. When these costings have been produced to inform a Stage 1, 3 or SRR debate, the Commission will send the final version to the Cabinet Secretary by 11am on the day of the debate and will publish this on their website once the Cabinet Secretary completes his opening speech.

38. For Stage 2, the Commission will publish the amended forecast and policy costing annex on its website by 5pm of the working day before the Committee consideration of Stage 2 amendments.

39. The revised forecasts and policy costings will be sent to the Convener of the Finance and Constitution Committee at the time they are published online.

Medium Term Financial Strategy (MTFS)

40. **50 days (10 weeks) in advance:** Scottish Government gives the Commission notice of the week the MTFS is expected to be published. Once the Scottish Government has notified the Commission a timetable will be drawn up and agreed by the named points of contacts in both the Commission and the Scottish Government with the deadlines for completion of each of the forecast rounds.

41. **The UK Spring Statement** is anticipated to be generally in Mid-March, and in general may be expected to be outwith the 10 week period in the run up to the MTFS. However, this may not always be the case, and the timetable may have to be adjusted by mutual agreement to accommodate this timing.

42. **45 days in advance:** Commission provide the Scottish Government with copies of the forecasting models to allow for further policy development in advance of the MTFFS. The Commission retains the right to further develop the models over the process.

43. The proposed numbers of forecast rounds for each area will be set out as part of the initial timetable. However, the Commission may, in consultation with the Scottish Government, adjust the timing and number of rounds in order to focus on the highest priority areas. The Scottish Government may provide indicative policy details to the Commission at any stage of this process and the Commission will endeavour to provide indicative costings at the next round. The Commission will require at least one working day's notice of a policy change to include it in a forecast round. Should the Scottish Government choose to provide earlier notice of policies, or not to make any policy changes, then by agreement this timetable can be altered and the final forecasts provided earlier. Details of any changes to the timings will be published in the Commission's report.

44. **17 days in advance:** Final deadline for Scottish Government to share policy measures that may affect the economic forecasts. These may include but are not limited to changes to: public sector pay policy; Government current and capital expenditure plans; borrowing plans' or changes in economic policy, particularly those aimed at affecting economic growth. The Commission will make any final judgement on inclusion. This is also the deadline for the Scottish Government to share their borrowing projections to inform the Commission's assessment of reasonableness. This will include, but not be limited to: capital and resource borrowing plan; use of the Scotland Reserve; and estimates of stock of debt. The Commission may request additional fiscal information that will help explain their forecasts.

45. **10 days in advance:** Scottish Government shares finalised policy measures with the Commission. **No policy changes after this point will be costed or included.**

46. **7 days in advance:** final Commission forecasts shared with the Scottish Government. Commission invites the Scottish Government to comment on the factual accuracy of the report.

47. **5 days in advance:** Scottish Government returns any comments on the factual accuracy of the Commission report. Commission to confirm the final forecast numbers with the Scottish Government for inclusion in the MTFFS. Scottish Government provides Commission with extracts of the MTFFS document containing Commission forecasts to comment on factual accuracy.

48. **4 days in advance:** Commission shares near final of the report with the Cabinet Secretary for Finance and Constitution for information. The Commission will continue working on report presentation and quality assurance after the near final report has been shared.

49. **1 day in advance:** Commission shares pre-release version of the report with the Cabinet Secretary. Commission shares media release with the Scottish Government. Scottish Government shares extracts of MTFFS media releases which reference the Commission's forecasts. Government provides the Commission with extracts from

the MTFS speech that mention the Commission and refer to the Commission's forecasts

50. **Day of MTFS:** Commission report published on the Commission's website after the Cabinet Secretary has presented the MTFS to Parliament. Commission report formally laid in the Parliament on the same day as publication.

Meetings

51. During fiscal events, a series of forecast meetings will be held at a number of different stages with the likely timings set out above. There will be separate meetings for the economic forecasts and each tax and social security area at each round, with the following attendees at each:

- Commissioners (number & representation to be decided by the Commissioners)
- A named point of contact from the Commission and the Scottish Government
- Relevant Commission and Scottish Government staff
- Other individuals subject to approval by the Commission, and Scottish Government.

52. These meetings will be chaired by a member of the Commission. The Commission will endeavour to provide papers for each of these meetings to attendees at least two working days in advance of the meeting. The Government will endeavour to share any formal analysis planned for presentation at forecast meetings half a day prior to the meeting. As above, these timescales may be reviewed by mutual consent particularly later on in the fiscal event process.

53. In addition, for any meetings in a fiscal round to which the Commission invite any external stakeholders such as the OBR, these external stakeholders would not be privy to any privileged budget information, so they would only be involved in pre-measures discussions.

54. The timings of these meetings, and anonymised attendee information, will be published alongside the Commission's report at the conclusion of the fiscal event. To allow for a free and frank exchange of views and discussion of policy announcements, these meetings will not be minuted.

55. Once the final forecasts have been provided, the Commissioners would expect to meet the Cabinet Secretary to discuss these forecasts. This will be organised through the named point of contact in the Scottish Government. Details of all engagement and contact between Commissioners and Scottish Ministers during fiscal events will be published alongside the Commission's report at the conclusion of the fiscal event.

Final report

56. The Scottish Government will be invited to confirm the factual accuracy of the Commission's final reports insofar as the content relates to the presentation of

Scottish Government policy. The Scottish Government will not offer comment on anything other than points of factual accuracy. The timings of this review are set out above.

57. When the Commission shares reports with the Cabinet Secretary, they will be copied to DG Scottish Exchequer, the Chief Economist and to the named point of contact.

58. This report is embargoed until the time at which the fiscal event occurs and will not be released by the Commission or by the Scottish Government prior to this time.

59. The Commission will publish its report and final forecasts on its website at the same time as the fiscal event occurs. If required, the Commission will also formally lay documents in Parliament on the same day.

Points of contact

60. The Scottish Fiscal Commission and the Scottish Government will each name a point of contact responsible for ensuring efficient and effective communication between the Commission and the Scottish Government during fiscal events. All communications between the Commission and the Scottish Government regarding the formal meetings, as set out in the timetable above, during the fiscal event should normally be copied to these points of contact.

61. If issues cannot be resolved through the named points of contact or in exceptional cases because of the seriousness of the issue or because prompt senior management action is required, the Chair of the Scottish Fiscal Commission may directly approach DG Scottish Exchequer and the Director of Financial Strategy in the Scottish Government.

Forecast Evaluation Reports

62. The Commission is required by the SFCA 2016 to produce an annual evaluation report. This will generally be published in early September. As set out in paragraph 9 above, the exact date will be confirmed at least one month in advance and set out in the Commission's forthcoming publications notice.

63. The process for sharing the report with the Cabinet Secretary and Scottish Government will be the same as those for a fiscal event report, namely:

- **7 working days** prior to publication: Commission report shared for fact-checking by the Scottish Government.
- **3 working days** prior to publication: Commission report returned with comments from the Scottish Government.
- **2 working days** prior to publication: Commission report finalised.
- **1 working day** prior to publication: Pre-release version of the report shared with the Cabinet Secretary. Media release shared with the Scottish Government.

- **Publication day:** Commission report laid in Parliament and published on the Commission's website.

Fiscal Factor Forecasts

64. The Commission is able to produce forecasts on "other fiscal factors". Fiscal factors are defined in the Scottish Fiscal Commission Act as: "anything which the Scottish Ministers use to ascertain the amount of resources likely to be available for the purposes of sections 1 to 3 of the Public Finance and Accountability (Scotland) Act 2000".

65. This may happen as part of a fiscal event, and the Commission will make clear to the Scottish Government when this is the case.

66. The Commission may also choose to produce a forecast on 'other fiscal factors' when primary or secondary legislation is published in the Scottish Parliament which affects revenue raised from a tax or expenditure on social security payments within the Commission's remit. The Commission may produce these forecasts where the policy is considered by the Commission to have a non-negligible impact on receipts or expenditure. The Commission may judge a costing of the policy produced at a previous fiscal event is appropriate to be used to accompany the legislation. The Commission will make the final judgement on whether or not and how to include the policy in its forecasts. The Commission will aim to provide costings for inclusion in accompanying financial memoranda or for publication at the same time as the legislation is published, in order to aid parliamentary scrutiny.

67. If the Scottish Government plans to introduce primary or secondary legislation on an area which the Commission is responsible for forecasting, they will inform the Commission of the broad plans for introduction as early as possible, and no later than 25 working days in advance. The precise date of publication may be informed by the Scottish Government nearer the time, but no later than 15 working days in advance. The Commission will provide an early indication, but no later than 15 days in advance, as to whether it plans to produce a new forecast to accompany the publication of the legislation.

68. If the Commission plans to produce a forecast, then the process set out below will be followed. The timings shown here are designed to be an agreed reasonable timetable for the exchange of information. However, subject to prior agreement of both parties, these timescales may be shortened if this can occur without affecting the quality of the forecasts produced. Any changes will be listed in the Commission's publication.

69. Scottish Parliament Standing Orders require the Presiding Officer, on or before the Introduction of a Bill, to take a view on whether or not the provisions of the Bill would be within the legislative competence of the Parliament. The draft Bill and accompanying documents, including the Financial Memorandum, are submitted 3 weeks ahead of the intended introduction date. Given this, it may not be possible for the Scottish Government to confirm final policy in sufficient time for the Commission to prepare a robust forecast that could feed into the Financial Memorandum. In

these circumstances the Commission will publish its own forecast on the same day as the primary legislation is published and the process will be based on the timings below.

70. Final Scottish Government policy to be included in the legislation will be shared with the Commission, at the latest, ten working days in advance of publication. If possible, draft versions will be shared earlier to aid development of the costings.

71. The Commission will provide the Government with draft forecasts and costings six working days in advance of the introduction of the legislation. The Commission will organise a forecast meeting shortly after. A final version of the forecasts and costings will be provided to the Scottish Government four working days in advance for a fact check with comments provided the next day. The final forecasts will be provided two working days in advance and sent to the relevant Scottish ministers.

72. The Commission will publish the forecasts and policy costings on their website by 3pm of the working day when the legislation is published. The revised forecasts and policy costings will be sent to the Convenor of the relevant Scottish Parliament Committee(s) at the same time as they are published.

Informal engagement throughout the year

73. Outwith fiscal event periods the Commission will continue to develop and improve modelling and forecasting approaches. Throughout these development periods, the Commission will be engaging continuously and informally with a range of stakeholders to inform the modelling approach, continue to develop analysis and undertake activities to better inform the Scottish Parliament and the general public. This will ensure that the methods the Commission uses have the capability to adapt to different approaches and policy scenarios. The Commission remains responsible for the production of independent forecasts and will retain control over all models and forecast methodologies.

74. A key part of this engagement will be with policy and analytical staff in the Scottish Government. This engagement will take many forms:

- Working groups on particular tax and social security areas or on particular modelling developments. These may include other bodies, such as Revenue Scotland.
- Informal bilateral engagement between policy and analytical staff in the Commission and Scottish Government.

75. Information on working group activity will be published as part of the Commission's annual report.

76. The Commission will commit to sharing, as required by the Scottish Government, relevant models, data (if possible) and plans for the development of approaches, to ensure that Scottish Government analysts are as well informed as possible.

Other reports and publications, including information or analysis provided to Scottish Parliament committees

77. The Commission may, from time to time, publish working or occasional papers. The Commission will share these for fact-checking purposes if there are relevant areas for the Scottish Government to check, such as use of Scottish Government data or references to policy measures. These may be shared with other organisations also for this purpose (e.g. OBR, HMRC). These papers will be shared in their final form with Scottish Government officials and the Cabinet Secretary for Finance and the Constitution one day in advance of publication.

78. The Commission will send a copy of any other analysis which it prepares in relation to its forecasts, such as responses to Parliamentary Committees, to the Cabinet Secretary for Finance and Constitution and to the named point of contact no later than the time of general publication or submission to committees of the Scottish Parliament.

79. The Scottish Government will likewise undertake to provide the Commission with a copy of any reports or publications which refer to the work of the Scottish Fiscal Commission no later than the time of general publication.

Parliamentary Questions

80. The approach to Parliamentary Questions (PQs) is set out briefly in the Framework Document, paragraphs 5.2-5.6.⁴ The Commission may be asked to provide information to enable the Scottish Government to draft answers and briefing for written and oral PQs relating to the Scottish Budget or Scottish Public Finances.

81. For PQs which concern operational matters, the general principle is that it is not appropriate for Ministers to answer on behalf of the Commission. If it is appropriate for information to be provided, the Commission's Chief Executive will be asked to prepare the substance of the answer and it will be clearly identified as the Chief Executive's response. Where the matter is purely operational, the Scottish Government will refer the PQ to the Chief Executive, the answer will note that it is a matter for the Commission and the Commission may be asked to write to the relevant MSP directly.

82. If a contribution is requested from the Commission, the deadlines may be quite demanding. For Oral PQs in particular, the Scottish Government will endeavour to make the Commission aware of PQs which may require a contribution as soon as Scottish Government becomes aware of them. The Scottish Government will then provide detail of deadlines when this information is available so as to maximise the time available to the Commission to prepare its contribution. For written PQs, provided appropriate notice has been given, the Commission will provide their contribution seven working days before the deadline.

⁴ Scottish Fiscal Commission Framework Document (September 2017) ([link](#))

83. For PQs where the Scottish Government quotes directly or indirectly from the Commission's work in its answer, the Scottish Government should inform the Commission in advance and provide a copy of the response for fact checking in advance of issue.

Ministerial Correspondence

84. If correspondence sent to Scottish Ministers relating to the Scottish Budget or Scottish Public Finances requires a contribution from the Commission, the Scottish Government will endeavour to inform the Commission of this within three working days of receipt, and set out deadlines for the provision of a contribution. In normal circumstances, the Commission will supply that contribution two working days before the deadline. Where appropriate, Ministers will invite the Commission to respond directly on operational matters. The Scottish Government will normally share replies with the Commission via the Chief Executive.

Freedom of Information, Environmental Information Regulations and Data Protection Act subject Access Requests

85. The Commission and the Scottish Government will make the other organisations aware of requests which relate to our respective roles. The Scottish Government will make the Commission aware of any request which relates to the Commission's forecasting and assessment work. Similarly the Commission will make the Scottish Government aware of any requests which relate to tax or social security policy, or the process followed around fiscal events.

86. Where information is shared between the Scottish Government and the Commission, the organisation which shares the information will, where reasonably practicable, make it clear at the time it is shared whether the information is considered by that organisation to be sensitive.

87. If a request is made to the Scottish Government for the disclosure of information received from the Commission, or that concerns information which might be sensitive or exempt under FOI legislation, the Scottish Government will inform the Commission before responding to the request, whether or not information is disclosed.

88. If a request is made to the Commission for the disclosure of information received from the Scottish Government, or that concerns information which might be sensitive for the Scottish Government or exempt under FOI legislation, the Commission will inform the Scottish Government before responding to the request, whether or not information is disclosed.

89. All information between the Scottish Government and the Commission on FOI/EIRs should be via the named points of contact.

Access to information

90. The Commission has a right of access to any relevant information held by the Scottish Government that the Commission may reasonably require for the purpose of

performing its functions. The Commission will endeavour to set out requirements as far in advance as possible, although this may not always be possible. In the case of a request requiring new analysis by the Scottish Government, a turnaround time of ten working days will generally be expected outwith fiscal event periods, although this can be adjusted by agreement if the request is particularly onerous or difficult. During fiscal events shorter timescales are likely to be appropriate and will be agreed on a case by case basis.

91. Staff working in the relevant areas of the Scottish Government will be made aware of this Protocol and the role of the Commission. They will be made aware of the Commission's rights of access to information and of the fiscal events in which the Commission is involved.

92. This right of access is subject to any enactment or rule of law that prohibits or restricts the disclosure of any information or the giving of assistance or explanation.

93. In addition, the Scottish Government will facilitate access to information, where possible, from other organisations, by providing key contacts and assisting the Commission.

Confidentiality / commercial in confidence

94. As set out in the Framework Document, the Commission is bound by the confidentiality requirements set out in the Code of Conduct for Members of the Scottish Fiscal Commission. The staff of the Commission are bound by the Civil Service Code.

95. The Commission must keep all sensitive budget information confidential particularly in advance of publication of forecasts. Sensitive budget information will include tax policy decisions which the Scottish Government intends to announce. This applies both to the members of the Commission and to all staff employed by the Commission. The Scottish Government will ensure that all documents provided to the Commission which contain privileged budget information are marked as such.

96. The Commission must also protect all information which is commercial in confidence. The Scottish Government will ensure that any information which it passes to the Commission which may be regarded as commercial in confidence is marked as such.

97. Sensitive budget information and information which is marked as commercial in confidence must not be shared with external parties.

Scottish Government Statements to Parliament under section 7 of the SFCA

98. Section 7 of the SFCA creates the presumption that the Scottish Ministers will use the forecasts prepared by the Commission in preparing a Scottish Budget or a Bill for a Budget Act. If – exceptionally – they do not do so, then Ministers must provide a statement to the Parliament explaining why they are not using the

Commission's forecast and they must lay this statement before the Parliament at the same time as the Budget documentation. This issue is covered briefly in the Framework Document, at paragraph 4.4.

99. The Scottish Government will inform the Commission three working days, in advance of the publication of a Scottish Budget or Budget Bill if a statement under Section 7 is planned.

Consulting the Commission under section 8 of the SFCA on Regulations to modify the Commission's functions

100. The Scottish Government will consult the Commission formally if there is any proposal to modify the Commission's functions. In the first instance, Ministers will write to the Chair of the Commission to provide details of such a proposal, and a meeting will then be held between the Scottish Government and the Commission to discuss the process for consultation (including whether a formal public consultation exercise will be required).

Publication of the Protocol

101. The Commission will publish the Protocol on their website and will send a copy to the Scottish Parliament Finance and Constitution Committee Convener copied to the Cabinet Secretary for Finance and Constitution.

Revisions to the Protocol

102. The Protocol can be revised as and when appropriate to ensure effective and transparent engagement between the Scottish Government and the Commission around fiscal events. Should either the Commission or the Scottish Government deem a material need for a review of the Protocol this will be considered by both parties. Any revisions to the Protocol require the joint agreement of both parties.

103. As set out in paragraph 7 any revisions to the Protocol will be published and shared with the Finance and Constitution Committee of the Scottish Parliament as soon as they come into effect.