

# Memorandum of Understanding between the Scottish Fiscal Commission and Revenue Scotland

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1. This document sets out the shared principles of engagement, and data and information sharing agreed by the Scottish Fiscal Commission (“The Commission”) and Revenue Scotland (“RS”) to guide the working arrangements between the two organisations.
2. The Commission and RS have already established a productive working relationship. There has been active co-operation and regular engagement between the two organisations to support the discharge of their functions. RS has provided crucial data to support the Commission’s non-statutory role as a scrutiny body, through previous ad-hoc Information Sharing Agreements. These previous agreements form the basis for this more wide-ranging Memorandum of Understanding (MoU), which also covers ways of working and wider information sharing.

## Main responsibilities and legislative background

3. The main responsibilities of the Commission are set out in legislation, namely the Scottish Fiscal Commission Act 2016 (SFCA)<sup>1</sup> and associated regulations.
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 demand-led social security payments. The Commission must also assess the reasonableness of Ministers’ projections of borrowing.
5. The Commission is a Non Ministerial Department, consisting of Commissioners and staff, employed to produce independent forecasts which involves developing and running the forecasting models and producing the forecasts required to fulfil the Commission’s statutory duties.
6. The SFCA gives the Commission a statutory right of access to relevant information reasonably required to discharge its duties. This includes information that is gathered and processed by RS.
7. Revenue Scotland was established as a Non-Ministerial Department on 1 January 2015 and is the tax authority responsible for the administration and collection of Scotland’s devolved taxes – currently Land and Buildings Transaction Tax (LBTT) and Scottish Landfill Tax (SLfT). These taxes came

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<sup>1</sup> Scottish Fiscal Commission Act 2016 <http://www.legislation.gov.uk/asp/2016/17/contents>

into effect on 1 April 2015, replacing their UK equivalents (Stamp Duty Land Tax and UK Landfill Tax respectively).

8. Revenue Scotland is required to adhere to strict requirements of confidentiality in relation to Protected Taxpayer Information as defined by the Revenue Scotland and Tax Powers Act 2014, with any breach of those requirements potentially triggering liability to a criminal offence. Information shared by Revenue Scotland with the Scottish Fiscal Commission will not disclose Protected Taxpayer Information.

## Purpose of this MoU

9. The purpose of this document is
  - To set out broad principles of engagement and ways of working between the two organisations;
  - To set out the terms of the statutory right of access of the Commission to relevant information held by RS; and
  - To specify regular data requests and the terms of ad-hoc provision of analysis.
10. This MoU is not a contract, nor is it legally binding, and it does not remove, alter or reduce the prevailing legal obligations of each party (for example, obligations under the Data Protection Act 1998 and the Human Rights Act 1998).
11. The Commission and RS will both publish this MoU on their websites.

## Ways of Working & Engagement

12. The Commission and RS will work together to further public and parliamentary understanding of the tax landscape in Scotland.

### *Points of contact*

13. The Commission and RS will each name a contact that will be responsible for ensuring efficient and effective communication between the Commission and RS. Staff in both the Commission and RS will liaise directly with their counterparts in each organisation and are not required to send all correspondence through the named contact.
14. If issues cannot be resolved through this named contact, or in exceptional cases due to the seriousness of the issue or because prompt senior management action is required, the Chief Executive of the Scottish Fiscal Commission may directly approach the Chief Executive of Revenue Scotland or vice versa. Where issues still cannot be resolved, the Chair of the Scottish



Fiscal Commission may raise the issue directly with the Chair of Revenue Scotland or vice versa.

### *Engagement*

15. The Commission and RS will agree to regular informal discussions between relevant analytical staff. At a more senior level, there will also be regular engagement between the Chair of RS and the Chair of the Commission, and the Chief Executives of both organisations.
16. The Commission and RS will agree to involve analytical staff from either organisation in relevant working and/or stakeholder groups, to help foster broader understanding of the Scottish devolved taxes landscape and the approach to forecasting these taxes in the stakeholder community and within both organisations.
17. The Commission will engage with RS and the Scottish Government around fiscal events. Where appropriate, the Commission may seek advice from RS around fiscal events and invite RS analysts to attend meetings. Neither organisation would be privy to any privileged Scottish Government budget information shared with the other organisation.
18. In the event of any changes, such as the introduction of a new devolved tax or changes to the existing devolved taxes, Revenue Scotland will engage with the Commission on its proposals to collect data for the purpose of administering the devolved taxes.

### *Publications*

19. The Commission will provide RS with as much notice as possible of their intention to include RS data in any publication.
20. RS will be invited to comment on the factual accuracy of the Commission's relevant publications in so far as it relates to the use and presentation of RS data. RS will be sent a copy of the report 7 working days in advance of publication, and the Commission will seek comments relating to the factual accuracy of the report 5 working days in advance of publication.
21. RS will aim to consult users of their statistics, including the Commission, on significant changes and updates to the range and presentation of statistics produced by RS on a monthly, quarterly and annual basis.
22. If requested, and if appropriate, the Commission will receive pre-release access to statistical publications produced by RS (where this meets the relevant conditions detailed in The Pre-release Access to Official Statistics (Scotland) Order 2008).

## *Press Releases*

23. The Commission and RS will share any press releases which relate to the functions of the other organisation at least one working day prior to issue. These will be shared with the named contact as well as with the relevant staff.

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

24. The Commission and RS will, where relevant, make the other organisation aware of requests to the other organisation which may attract significant media or public interest, contain potentially sensitive information, or relate to high profile issues.
25. Where information is shared between RS 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.
26. If a request is made to RS for the disclosure of information received from, or that concerns information which might be sensitive or exempt under FOI legislation, RS will inform the Commission before disclosing information in response to the request where the request is relevant to the Commission.
27. If a request is made to the Commission for the disclosure of information received from, or that concerns information which might be sensitive for RS or exempt under FOI legislation, the Commission will inform RS before disclosing information in response to the request where the request is relevant to RS.
28. All information between RS and the Commission on FOI/EIRs should be via the named contact.

## *Access to information*

29. The Commission has a right of access to any relevant information held by RS that the Commission may reasonably require for the purpose of performing its functions. When requesting the information it reasonably requires, the Commission will consider the burden placed on RS by the data request in relation to the benefits to the Commission of receiving these data. All requests for information from RS will be made in such a way that respects the confidentiality of information that the Commission holds from other sources.
30. The Commission will endeavour to set out requirements as far in advance as possible, although this may not always be possible. The Commission will consider alternative sources of information when making a request to RS for



information, and will only ask RS for information where RS is the most appropriate source.

31. Regular and anticipated requests will be set out in the Annexes to this MoU, and may be updated regularly as needs change and the range of statistics produced as a matter of course by RS changes.
32. The Commission will also require additional information at other points in the year, for example to allow the Commission to respond to a request for analysis from the Finance and Constitution Committee in the Scottish Parliament.
33. In the case of an ad-hoc request requiring new analysis by RS, the request will be communicated to RS copied to the named contact. A turnaround time of 15 working days (earlier if possible) to respond to the request 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 by the named contacts.
34. 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.
35. There is a presumption that data and information provided to the Commission will be shared with the Scottish Government. Similarly there is a presumption that, where relevant to the Commission's functions, information provided to the Scottish Government and other public bodies is shared with the Commission unless otherwise specified.
36. In addition, RS and the Commission will work together to facilitate access to information, where possible, from other organisations.

## Future Developments

37. RS and the Commission will continue to work closely to ensure that the data provided and the format of the data is fit for purpose and meeting user needs. Both organisations will seek to consult the other organisation on all appropriate matters.
38. RS and the Commission will work together to consider possible future options for allowing Commission analysts access to case-level data in a secure setting.

## Revisions to this MoU

39. The MoU can be revised as and when appropriate. Should either the Commission or RS deem a material need for a review of the protocol this will be

considered by both parties. Any revisions to the MoU requires the joint agreement of both parties. The Commission and RS will publish the MoU on their websites and this will be updated following any revisions.

## Signatories

Organisation:	<b>Scottish Fiscal Commission</b>
Name:	J. M. IRELAND
Signature:	JM Ireland
Date:	9th October 2017.

Organisation:	<b>Revenue Scotland</b>
Name:	ELAINE CHRISTINA LORIMER
Signature:	Elaine C. Lorimer
Date:	4 <sup>th</sup> October 2017

Document version:	1
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# Annex A – Data required for Forecast Evaluation Report

The Commission has a statutory duty to produce a report for each financial year containing an assessment of the accuracy of forecasts produced. Revenue Scotland collect receipts from the devolved taxes and the Commission require data on these taxes to assess the accuracy of its forecasts.

The text below sets out the data required by the Commission. Additional data may be provided following agreement with RS. The data requirements will be reviewed following the commencement of Air Departure Tax.

**Provisional date of publication: September**

**Required Date for provision of data: mid-June**

## Land and Building Transactions Tax

**Item 1:** Tables 1- 5 from regular monthly statistical publications on an effective date basis, at monthly resolution, for all complete previous financial years.

**Item 2:** Mean and Median prices and numbers of transactions on a monthly basis (by month of receipt of return and on an effective date basis) for all complete previous financial years, for:

- Total Residential
- Residential excluding ADS
- ADS
- ADS transactions which have not been refunded
- Non-residential

**Item 3:** Full financial year distributional data on tax declared due and volumes of transactions at appropriate granularity for all previous financial years (by month of receipt of return and on an effective date basis).



## Annex B – Data required for Reports containing the Commission’s 5-year forecasts

The Commission has a statutory duty to prepare 5-year forecasts of receipts from the devolved taxes to inform the Scottish budget. RS holds data and information on receipts collected from these taxes which informs the Commission’s forecasts.

The Commission will receive ten weeks’ notice from the Scottish Government of the week of a fiscal event where the Commission is required to prepare a report containing its 5-year forecasts of receipts. Once the Scottish Government has notified the Commission of the week of the fiscal event a timetable will be drawn up and agreed between RS and the Commission to agree the information to be provided and the date for provision of the information. Best endeavours will be made to provide the information required within 15 working days of the notification of the fiscal event.

The text below sets out the data required by the Commission. Additional data may be provided following agreement with RS; this will be determined once the Commission has received notification of the week of the fiscal event.

The data requirements will be reviewed following the commencement of Air Departure Tax.

### **Provisional timing: Autumn and Winter**

#### Land and Building Transactions Tax

**Item 1:** Tables 1- 5 from regular monthly statistical publications on an effective date basis, at monthly resolution, for all financial years available including analysis from the current financial year.

**Item 2:** Mean and Median prices and number of transactions on a monthly basis (by month of receipt of return and on an effective date basis) for all financial years available, including from the current financial year, for:

- Total Residential
- Residential excluding ADS
- ADS
- ADS excluding transactions which have not been refunded
- Non-residential

**Item 3:** Full financial year distributional data on tax declared due and volumes of transactions at appropriate granularity for all previous financial years (by month of receipt of return and on an effective date basis).

**Item 4:** (If available) Full financial year regional distributional data on tax declared due and volumes by tax band for all previous financial years (by month of receipt of return and on an effective date basis).

**Item 5:** (if possible) Unrounded data for published tables 1-5