

## **Memorandum of Understanding between the Scottish Fiscal Commission and HM Treasury**

### Background and responsibilities of both organisations

1. The main responsibilities of the Scottish Fiscal Commission (SFC) are set out in legislation, namely the Scottish Fiscal Commission Act 2016 and associated regulations. The SFC is a non-Ministerial Office in the Scottish Administration, consisting of Commissioners and staff, who develop and run the forecasting models and produce the forecasts required to fulfil the SFC statutory duties.
2. It is the duty of the Commission to prepare forecasts at least twice a year to inform the Scottish Budget. These forecasts should cover five years and include Scottish onshore GDP, non-savings non-dividend income tax, assigned VAT, fully devolved taxes and devolved social security revenues. The Commission must also assess the reasonableness of Ministers' projections as to their borrowing requirements and provides commentary on the overall Scottish Budget. The Commission may also at any time produce forecasts, assumptions and projections in relation to any other fiscal factors it considers appropriate. The SFC also has a central role in the Scottish Government's fiscal framework which determines funding for the Scottish Government.
3. The Treasury (HMT) is the UK Government's economic and finance ministry, responsible for overall fiscal and macroeconomic policy, and policy costings. It is also responsible for the UK Government's fiscal framework and responsible for meeting the fiscal rules as outlined in the Charter for Budget Responsibility.

### Purpose of this MoU

4. The arrangements set out in this document will support effective regular engagement and communication between SFC & HMT to facilitate:
  - a better shared understanding of the Scottish Government's fiscal framework and its effect on the Scottish Government's funding
  - improve SFC forecasts and commentary on Scottish fiscal issues
  - ensuring SFC has access to required information on UK Government policy changes which affect devolved revenues or spending.

### Principles

5. The MoU for engagement between the Commission and HMT is based on the following principles:
  - HMT recognises that the Commission is an independent, apolitical and impartial analytical organisation and understands its functions.
  - Any data or information shared by HMT with the Commission, and any broader collaboration and engagement with the Commission, will only be used by the Commission in delivering its functions as set out in the Scottish Fiscal Commission Act 2016. It is not within the Commission's functions to comment on HMT activities, publications or analysis or UK Government policy more generally. The Commission reserves the right to comment on

HMT publications and analysis in so far as they relate to the delivery of its functions.

- HMT and the Commission are committed to operating an open and transparent approach to sharing relevant information.
- HMT and the Commission will allow and encourage their officials to collaborate in a positive manner, maintaining effective communication.

### Working relationships

6. To facilitate collaboration HMT and the SFC will regularly share lists of officials for staff working in relevant areas. Staff working in these areas will be made aware of this MoU and in particular the respective roles of the SFC and HMT in these areas. They will also be made aware of each organisation's work cycles in relation to the Scottish and UK budgets.
7. The MoU is jointly owned by HMT and SFC. The MoU will have designated signatories who will sign on behalf of the respective parties.
8. The SFC and HMT will nominate main points of contact who will be responsible for ensuring efficient and effective communication between the SFC and HMT. There will be a contact in the HMT Devolution team and a contact in the Fiscal Statistics and Policy team.
9. The ongoing relationship between the SFC and the HMT Devolution team will generally support engagement on matters relating to the Scottish Government's funding arrangements.
10. The contact in the Fiscal Statistics and Policy team will be responsible for the process following UK fiscal events and ensuring the Scottish Fiscal Commission has access to the information required on UK Government policy changes affecting devolved revenues and spending.

### Roles in the Scottish Government's fiscal framework

11. Both HMT and the SFC play central roles in the operation of the Scottish Government's fiscal framework and are committed to working together to ensure smooth operation and clear communication of the Scottish Government's fiscal framework.
12. HMT is responsible for the Scottish Government's fiscal framework in the UK Government. SFC can approach HMT to ask questions about the implementation of the Scottish Government's fiscal framework, and any agreements reached between the Scottish Government and HMT.
13. The SFC's forecasts of GDP can trigger a Scotland-specific economic shock. The SFC is responsible for notifying HMT when a shock is triggered by its forecasts and will inform the Devolution team in HMT no less than 48-72 hours in advance of publication of its forecast.

14. SFC fiscal forecasts inform the operation of the Scottish Government's fiscal framework and HMT officials can discuss the SFC forecasts with SFC officials after publication of those forecasts.

#### Support for the Scottish Fiscal Commission with other departments

15. HMT are responsible for ensuring the relevant UK Government departments are aware of the SFC, their remit and responsibilities and that appropriate information-sharing arrangements are in place to enable the Scottish Fiscal Commission to undertake their responsibilities. These arrangements are supported by Memorandum's of Understanding between the SFC, the DWP and HMRC.<sup>1</sup>

16. SFC can call on the HMT point of contact to support engagement with other relevant parts of HMT and other UK departments, namely the DWP and HMRC. HMT will provide support identifying the correct individuals in those departments to speak to, and can support the Scottish Fiscal Commission in making requests for information held by those departments.

#### Information sharing

17. Under the 2016 agreement between the UK Government and Scottish Government on the Scottish Government's fiscal framework the SFC should be given access to the data and information necessary to fulfilling of its statutory duties.<sup>2</sup> The agreement specifies the SFC should have access to the necessary data, information and models held by the UK Government to support policy development and produce forecasts of a comparable quality to those produced by the Office of Budget Responsibility (OBR).

18. For the purposes of this MoU there is a distinction between personal data and information. Information is defined as any piece of documentation, statistical information, financial information, contracts and other information that does not contain personal data. Personal data would be considered as defined in Part 1 Section 3 of the Data Protection Act 2018 and Article 4.1 of the UK General Data Protection Regulations. Personal data will not be shared as part of this MoU.

19. Information will relate to policy or analysis affecting social security benefits, tax revenues or wider public finances. Information shared will support SFC to carry out their statutory functions. This information can relate to Scottish specific data as well as UK, Great Britain or England & Wales data.

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<sup>1</sup> Memorandum of Understanding between the Scottish Fiscal Commission and the Department for Work and Pensions ([link](#))

Memorandum of Understanding between the Scottish Fiscal Commission and HM Revenue and Customs ([link](#))

<sup>2</sup> The agreement between the Scottish Government and UK government on the Scottish Government's fiscal framework ([link](#))

## Handling of sensitive information and FOI

20. Where information is shared between HMT and the SFC, the organisation which shares the information will make it clear at the time it is shared whether the information is considered by that organisation to be sensitive or restricted.
21. If a request is made to the SFC for the disclosure of information received from HMT, or that concerns HMT information which might be sensitive or exempt under FOI legislation, the SFC will inform HMT before disclosing information in response to the request.
22. If a request is made to HMT for the disclosure of information received from SFC, or that concerns SFC information which might be sensitive or exempt under FOI legislation, HMT will inform the SFC before disclosing information in response to the request.

## Information on UK Government policy which affects Scottish Government tax revenues and social security spending

23. The SFC may require information on announced UK policy changes which have a material effect on Scottish devolved taxes and spending, in order to reflect the effects of these policy changes in their forecasts. HMT will support the SFC to understand UK Government policy changes at UK fiscal events and the effects on Scottish Government revenues and spending. This includes changes to policies which affect the NSND income tax base and changes to social security benefits which are devolved but administered by DWP based on UK Government policy.
24. For each UK Government fiscal event a working group will be established by the Fiscal Statistics and Policy team in HMT. This working group will consist of officials from the SFC, HMT, OBR and relevant UK Government departments as needed (DWP and HMRC principally). Prior to the fiscal event HMT and the SFC will agree the timing for the working group to meet. HMT recognise that the Scottish Budget can take place within three weeks of a UK fiscal event. Therefore the turnaround times for the SFC to produce its forecasts can be very short. In the event that the Scottish Budget follows the UK fiscal event in three weeks the working group will meet within three working days after the UK fiscal event. If in the event that the Scottish Budget occurs more than three weeks following the UK fiscal event, the working will meet in no more than eight working days after the UK fiscal event.
25. Immediately following any UK fiscal event HMT will contact SFC to agree the UK Government policy changes on which the SFC requires information. HMT will liaise with the relevant analysts and policy officials and agree attendance at the working group meeting. At the meeting it will be agreed whether any further pieces of information need to be shared, this may include data to support the costing or sections of policy costing notes provided to the OBR. Timelines for the return of any information requested following the meetings will be agreed by officials.

26. Separate meetings may be required for each policy change being discussed.

27. The SFC and HMT will not share policy information from either Government before the policies are publicly announced.

#### Fact-checking

28. Where SFC publications refer to UK Government funding arrangements or HMT policy, the SFC will provide HMT with pre-release copies of relevant sections of its reports 5 working days in advance of publication. HMT will be invited to comment on the factual accuracy of the reports insofar as the content relates to the presentation of HMT information and the operation of the Scottish Government's fiscal framework and return comments 3 working days in advance of publication.

29. Where HMT publications refer to SFC forecasts or operating arrangements, HMT will provide the SFC with pre-release copies of relevant sections of its reports 5 working days in advance of publication. The SFC will be invited to comment on the factual accuracy of the reports insofar as the content relates to the presentation of SFC forecasts and information and return comments 3 working days in advance of publication.

#### Escalation process

30. Both HMT and SFC are committed to working together in an environment of mutual trust and respect and promoting a culture of openness. Should disputes arise, they should be resolved informally between the staff concerned and failing that through the points of contact. If issues cannot be resolved through the points of contact or their line management chain, in exceptional cases due to the seriousness of the issue or because prompt senior management action is required, either organisation may approach the signatories of this MoU or their successors.

#### Further revisions

31. This MoU may be varied by mutual written agreement of each party at any time. Variations to this MoU will be agreed by each party in writing and form an amendment to this MoU.

32. The upcoming review of the Scottish Government's fiscal framework may require revisions to this MoU. This MoU will be formally reviewed no later than six months after the conclusion of that review. If revisions are required these will be agreed by both parties and a revised MoU will be published.

Signatories

**HM Treasury**

**REDACTED**

Date: 24 August 2022

Name: Ruth Curtice

Position: Director for Fiscal Group, HM Treasury

**Scottish Fiscal Commission**

**REDACTED**

Date: 23 August 2022

Name: John Ireland

Position: Chief Executive, Scottish Fiscal Commission