

**Memorandum of Understanding
between the Scottish Fiscal Commission
and the Department for Work & Pensions**

Published 29 May 2019

1. Background

Scottish Fiscal Commission

- 1.1 The main responsibilities of the Scottish Fiscal Commission (SFC) are set out in legislation, namely the Scottish Fiscal Commission Act 2016¹ 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.
- 1.2 It is the duty of the SFC to prepare forecasts at least twice a year to inform the Scottish budget, accompanying the Scottish Government's Budget and Medium-Term Financial Strategy in the summer. These forecasts must cover five years and include Scottish onshore GDP, non-savings non-dividend income tax receipts, assigned VAT receipts, revenue from fully devolved taxes and devolved social security expenditure. The SFC must also assess the reasonableness of Ministers' projections of their borrowing requirements. Each year, the SFC must prepare a report on the accuracy of its forecasts, as well as a statement of its data needs which outlines the data required to create forecasts, which organisations the SFC rely on for data provision, and areas for improvement in data provision. From time to time, the SFC may be required to publish policy costings to accompany the introduction of secondary legislation out with the Budget. The SFC plays no role in assessing the administration or implementation costs of social security.
- 1.3 The Scotland Act 2016 devolved a number of social security benefits to Scotland. The SFC is responsible for producing forecasts of expenditure on devolved social security benefits² for Scottish Government (SG) (including those which will be delivered by DWP on behalf of the Scottish Government under an Agency Arrangement) as they take on responsibility using their devolved welfare powers.
- 1.4 In addition, employment support programmes were devolved to Scotland providing assistance to those with disabilities or long-term health conditions and those at risk of long-term unemployment. The SFC forecasts expenditure on the devolved programmes.
- 1.5 Furthermore, the SFC is also responsible for forecasting expenditure on the Scottish Parliament's additional powers around social security, including the powers to:
 - Vary the housing cost element of Universal Credit
 - Change the payment arrangements for Universal Credit
 - Top up reserved benefits
 - Create new benefits (other than pensions)

¹ [Scottish Fiscal Commission Act 2016](#)

² Social Security Benefits: Disability Living Allowance, Personal Independence Payment, Attendance Allowance, Industrial Injuries Disablement Benefit, Severe Disablement Allowance, Carer's Allowance, Sure Start Maternity Grant, Funeral Payments, Discretionary Housing Payments, Cold Weather Payments, Winter Fuel Payments.

- 1.6 These additional powers around social security may result in additional information requirements from the SFC in respect of certain reserved benefits such as Universal Credit.

Department for Work and Pensions

- 1.7 The Department for Work and Pensions (DWP) is responsible for welfare, pensions and child maintenance policy. As the UK's biggest public service department it administers the State Pension and a range of working age, disability and ill health benefits to around 20 million claimants and customers.
- 1.8 DWP holds data and information which the SFC requires access to in order to fulfil its duty to produce independent forecasts of devolved social security expenditure, and to evaluate those forecasts. Under the agreement between the UK Government and SG on the fiscal framework³ the SFC should be given access to this data and information to assist in fulfilling of its statutory duties. 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).

Working relationships

- 1.9 An existing MoU between Scottish Ministers and DWP allows for SG officials to share information with SFC that SG officials have received from DWP in order to enable the SFC to deliver its duties in preparing independent forecasts on devolved social security expenditure in Scotland. SFC are permitted to publish this information to the extent that it directly supports its forecasts, with due consideration for restricted information. In general, where beneficial to their related functions, information and analysis shared between the DWP and the SFC may also be shared with SG and vice versa (for information shared between DWP and SG), where it relates to the SFC's functions.
- 1.10 The SFC and OBR have a statutory duty to co-operate with each other. A formal MoU exists between the SFC and the OBR⁴ that guides how the two organisations work together. Where beneficial and appropriate to their related functions, information and analysis shared between the DWP and the OBR may also be shared with the SFC and vice versa (for information shared between DWP and the SFC), where it relates to the SFC's functions. Information detailed in section 6.5 will be shared directly with SFC by DWP. DWP and the SFC will not share sensitive budget information directly in relation to UK Government or SG fiscal events.

³[The agreement between the Scottish government and the United Kingdom government on the Scottish government's fiscal framework](#)

⁴[Memorandum of Understanding between the Scottish Fiscal Commission and the Office for Budget Responsibility](#)

2. Purpose

- 2.1 This Memorandum of Understanding sets out how the DWP and the SFC will cooperate to ensure the SFC has the information required to fulfil its statutory duties whilst minimising the burden to DWP. It sets out the respective roles and responsibilities and how they will work together to foster mutual understanding and effective working relations.
- 2.2 The longer term solution for SFC to have direct access to DWP data so they can self-serve their analysis relating to Scottish Devolution is not covered by this MoU. This MoU does not include the sharing of any personal data. Such a proposal would require a separate and distinct agreement and be aligned to this MoU.
- 2.3 DWP and SFC agree to adhere to the principles in this MoU and show proper regard for each other's activities. This MoU does not in itself create lawful means for the provision of information. The agreement should not be interpreted as removing or reducing existing legal obligations or responsibilities on each party, for example as data controllers under the General Data Protection Regulations (GDPR).

3. Roles and Responsibilities

- 3.1 The DWP and SFC are committed to:
 - sharing relevant readily available information with SFC, subject to any legal constraints
 - respecting confidentiality of shared information
 - maintaining effective communication and liaison
 - operating an open and transparent approach to sharing relevant information
- 3.2 DWP and the SFC will allow and encourage their analysts to collaborate in a positive manner where there is a shared interest. To facilitate collaboration DWP and the SFC will regularly share lists of analytical leads including contact details for staff working on all of the areas listed in paragraphs 1.3, 1.4 and 1.5. Staff working in these areas will be made aware of this MoU and in particular the respective roles of the SFC and DWP in these areas. They will also be made aware of each organisation's work cycles in relation to the Scottish and UK budgets.
- 3.3 The MoU is jointly owned by DWP and SFC. The MoU will have designated signatories who will sign on behalf of the respective parties.
- 3.4 The SFC and DWP will nominate a single point of contact (SPoC) who will be responsible for ensuring efficient and effective communication between the SFC and DWP.

- 3.5 Requests for information or analytical collaboration should normally be made via email. Any oral requests should be followed up by email. Requests should be made directly to the person in DWP or the SFC who is in the best position to respond. The SPoCs should be copied in to these requests. Interim detailed or technical exchanges may not necessarily need to include the SPoC and can be judged on a case by case basis.
- 3.6 The role of this SPoC will extend to:
- Day to day management, review and update of this MoU;
 - Acting as the first (informal) point of escalation and dispute resolution;
 - Ensuring all requests for information, including disclosure of the information, are actioned in accordance with this MoU.

DWP	SFC
[REDACTED]	[REDACTED]

4. Duration and Review

- 4.1. This MoU will commence from the date of signature, 16 April 2019.
- 4.2. 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.
- 4.3. The MoU will be formally reviewed no later than Summer 2021 or earlier if deemed necessary by the named SPoCs.

5. Information Sharing

- 5.1 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 (EU) ref 2016/679 of the General Data Protection Regulations. Personal data will not be shared as part of this MoU.
- 5.2 Information will relate to the benefits and employment programmes devolved to SG, and certain reserved benefits as appropriate. It can include information for those benefits and employment programmes prior to the point of devolution.
- 5.3 DWP will use the legal basis for sharing information in order to support SFC in their legitimate function as the law allows as stated in paragraph 1.9. This information can relate to Scottish specific data as well as Great Britain or England & Wales data.

- 5.4 Where information is publicly available the SFC will seek to use this information in the first instance. Stat-Xplore provides publicly available information on eligible claimants and benefit amounts with the ability to split this information by gender, age and location. Information is also publicly available from statistics published by DWP such as the statistics for Winter Fuel Payments.⁵
- 5.5 Where information required by the SFC to fulfil its statutory duties is not publicly available, SFC may request information from DWP. Out with publicly available information DWP has agreed to share:
- Spreadsheets detailing key updates to DWP expenditure forecasts and accompanying narrative which is shared with OBR. This will enable SFC to see how DWP have updated forecasting models and to understand DWP methods.
 - One-off analysis providing Scotland level breakdowns from the Social Fund Report, to be shared in 2019 and 2020.
 - Statistical Information produced by DWP as part of Business as Usual (BAU), where such information is explicitly identified as supporting SFC to meet their function.
 - Where appropriate, background and methodological information around the forecasting models used by DWP, which is also shared with OBR/SG.
- 5.6 DWP will share relevant readily available information with the SFC in a timely manner as soon as practicably possible. Following the autumn budget, DWP will share the agreed information to time scales agreed by the SPoCs named in paragraph 3.6 to ensure provision in sufficient time ahead of the Scottish Budget. SFC and DWP will as far as possible ensure that shared information is of the quality necessary for each body to meet its responsibilities.
- 5.7 DWP will consider the views of the SFC and engage with it when developing information that is related to the SFC's function.
- 5.8 Any information shared by DWP with the SFC, and any broader collaboration and engagement with the SFC, will only be used by the SFC in delivering its functions set out in the Scottish Fiscal Commission Act 2016 and associated regulations. It is not within the SFC's functions to comment on DWP activities, publications or analysis or UK Government policy more generally.
- 5.9 Each party should inform the other of any planned publication of any research pertaining to the benefits being devolved.

⁵ [Winter Fuel Payment: recipient and household figures](#)

- 5.10 SFC may publish any information provided by DWP in an aggregate form where this is required in order to discharge its duties and operate in a transparent manner unless explicitly noted by DWP at the time the information is provided. SFC will act with due consideration for restricted information highlighted by DWP. Where appropriate the SFC will provide the DWP with pre-release copies of relevant sections of its reports and invite DWP to comment on the factual accuracy of the reports insofar as the content relates to the presentation of DWP data and information.
- 5.11 It will be the responsibility of the SFC to respond to external queries on the data, analysis and judgements published by the SFC. The SFC will consult DWP if required.

6. Information Handling and Security

- 6.1 The DWP and SFC will develop a process for sharing information. All information received will be stored securely and managed appropriately, in accordance with all applicable data protection legislation and principles. It is the responsibility of the receiving organisation to manage the appropriate access to all information provided under this MoU and to ensure that it is used in line with the terms of this MoU.
- 6.2 For all information received which is not already in the public domain, the receiving party has a responsibility to keep audit records of the location of and access provided to all information.
- 6.3 In managing the information provided, all parties will:
- Use the information only for the purposes described in this MoU;
 - Continue to hold the information only as long as there is a business need to keep it;
 - Ensure that only SFC analysts and Commissioners who have a genuine business need to see the information will have access to it and use it appropriately; and
 - Report any information losses.

7. Handling of sensitive information and FOI

- 7.1. Where information is shared between DWP 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.
- 7.2. If a request is made to the SFC for the disclosure of information received from DWP, or that concerns DWP information which might be sensitive or exempt under FOI legislation, the SFC will inform the DWP SPoC before disclosing information in response to the request.
- 7.3. If a request is made to DWP for the disclosure of information received from SFC, or that concerns SFC information which might be sensitive or exempt

under FOI legislation, DWP will inform the SFC SPoC before disclosing information in response to the request.

8. Financial Arrangements

8.1. DWP will not charge the SFC for information covered in this MoU that is readily available in a standard format. Where the provision of information not detailed in this MoU would involve bespoke analysis, and DWP consider the request from SFC reasonable and DWP has the capacity to provide such information, DWP shall notify SFC of the costs and time period involved. If SFC authorises the work and agrees to pay DWP then DWP will undertake this work, subject to other limitations on the resources available.

9. Audit

9.1. Either party may be requested to provide, at any time, audit information about access to documentation and storage for documentation as deemed reasonable. This should be provided within 5 working days of the request.

9.2. Both parties must have in place appropriate information handling policies that detail the methods in which information handling is achieved. Appropriate sections of the policies must be shared at the request of either party.

10. Disputes

10.1. Both DWP 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 SPoCs. If issues cannot be resolved through the SPoCs 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.

Signatories

DWP

[REDACTED]

Date: 16-4-19

Name: Paul Mooney

Position: Deputy Director and Lead Analyst for Disability Analysis Division

Scottish Fiscal Commission

[REDACTED]

Date: 16 April 2019

Name: J Ireland

Position: Chief Executive, Scottish Fiscal Commission