

Working Party of Senior Budget Officials

Network of Parliamentary Budget Officials and Independent Fiscal Institutions

Briefing Note:

Access to information for Independent Fiscal Institutions (IFIs)

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Introduction

1. Timely access to relevant and reliable information is critical to the work of all independent fiscal institutions (IFIs) and specialised parliamentary research services.¹ It forms the basis of forecasting, costing, budgetary analysis and assessment. Without good information, the value and reliability of the assessments conducted by IFIs, and the information that they provide to parliamentarians, will be adversely affected. Out of date, insufficiently detailed or incomplete information can hinder the task of IFIs in fulfilling their functions and responsibilities or make their assessments less reliable, less helpful, incomplete or no longer valid.

2. Across the OECD, IFIs operate in a variety of political and legislative environments. The availability of published information varies widely, as do the formal and informal arrangements for access to unpublished information by IFIs from government and other bodies.

3. Some IFIs require regular updates of specific information; others more often seek information in response to *ad hoc* need, for instance requests from Members of Parliament. Others require both, as their work involves both routine, regular pieces of work and *ad hoc* requests.

4. Despite these undoubted differences, there are clearly also some common themes. This paper aims to:

- Assess the current situation in relation to access to information for IFIs across the OECD;
- Look at what works best;
- Consider the challenges which currently exist; and
- Look at how those challenges might best be overcome.

Background

What do we mean by “information”?

5. The information IFIs seek from government and other providers can take many forms. Common types sought or required include:

- Economic data: e.g. GNI, inflation, used to produce or assess economic forecasts;
- Fiscal data: e.g. tax revenues, spending plans, used to produce or assess spending or revenue forecasts;
- Other administrative data: e.g. tax, social security and other caseloads, volumes, demographic and demand factors;
- Costing assumptions, cost benefit analyses, impact assessments, government plans for implementation, etc.;
- Models: how government uses the data it has to produce forecasts and plans;
- Behavioural analyses: impacts of behaviour on economic and fiscal outcomes;
- Commentary: government may wish to offer observations or explanation alongside data or other information it provides.

¹ While focused on the situation of IFIs, this paper looked somewhat more broadly at access to information challenges for members of the OECD PBO Network to include specialised parliamentary research services that have similar access to information needs.

6. Not all IFIs require, or seek, all of these types of information, all of the time. Much depends on the core functions and responsibilities of the IFIs (such as to consider or produce economic forecasts) and the degree of interest in particular issues from parliamentarians (for instance in costings of particular policies).

7. Some of this information is already routinely published and in the public domain. But IFIs often also need access to detailed underlying data and assumptions, calculations and models even if the results are published.

8. The form in which information is provided (e.g., whether data is in spreadsheets of a certain format or open data) may also be critical to enable rapid assimilation, analysis, processing and presentation of information.

OECD Principles

9. The OECD refers to access to financial information by IFIs in a number of documents. Relevant references include:

*OECD Best Practices for Budget Transparency*² (2002):

“Parliament should have the opportunity and the resources to effectively examine any fiscal report that it deems necessary.” (para 3.4)

*OECD Council Recommendation on Principles for Independent Fiscal Institutions*³, (February 2014):

“...asymmetry of information between government and IFI....creates a special duty to guarantee in legislation – and if necessary to reaffirm through protocols or memoranda of understanding – that the IFI has full access to all relevant information in a timely manner, including methodology and assumptions underlying the budget and other fiscal proposals. Information should be provided at no cost...” (para 6.1)

“Any restrictions on access to information should also be clearly defined in legislation.” (para 6.2).

*OECD Council Recommendation on Principles of Budgetary Governance*⁴ (February 2015):

“Ensure that budget documents and data are open, transparent and accessible, through:
a) the availability of clear, factual budget reports which should inform the key stages of policy formulation, consideration and debate, as well as implementation and review.” (para 4)

Similar principles

10. Within Europe, the *Common principles on national fiscal correction mechanisms* (2012) call for independent bodies acting as monitoring institutions to “support the credibility and transparency of the correction mechanism” to have “appropriate access to information to carry out the given mandate” (para 7).⁵

11. European IFIs, through their independent network, have also set minimum standards and common principles similar to those of the OECD, starting with their position paper *Defining and Enforcing Minimum*

² <http://www.oecd.org/gov/budgeting/Best%20Practices%20Budget%20Transparency%20-%20complete%20with%20cover%20page.pdf>

³ <https://www.oecd.org/gov/budgeting/OECD-Recommendation-on-Principles-for-Independent-Fiscal-Institutions.pdf>

⁴ <http://www.oecd.org/gov/budgeting/Recommendation-of-the-Council-on-Budgetary-Governance.pdf>

⁵ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0342:FIN:En:PDF>

Standards for Independent Fiscal Institutions (February 2016)⁶, which addressed good and timely access to information. The proposals in that paper were taken further in a statement issued in January 2019⁷, which said that:

- “IFIs should have full and stable access to all relevant information to assess macro forecasts and fiscal trends (including methodologies and assumptions used in the budget) at no cost with reasonable time lags and readable formats.
- Ministries and statistical offices should provide all data available to them at no cost, auxiliary information included.
- IFIs should be able to require information directly from the relevant provider.
- IFIs should be given advanced sight to data on a confidential basis, eventually through the adoption of a Memorandum of Understanding between the IFIs and the other institutions involved.
- IFIs should have the same information access as MPs, ECAs, NCBs in those matters related with their activity.
- IFIs should be able to participate in committees dealing with accounting and statistical issues related to government fiscal data and budgetary procedures.
- Any restrictions on access to information should be clearly defined and motivated.
- In general, MOUs can be a good practice to regulate the specificities of the access of information needed by each IFI.”

State of play

Publicly available information

12. All IFIs use publicly available information. The extent to which information is publicly available however varies between countries, and within countries, between administrations and even ministries under the same administration. While Eurostat and other treaties require governments to establish independent, free standing, statistical bodies, information required or sought by IFIs often goes beyond what is routinely collected and published. In particular, administrative data, costing assumptions, models, behavioural analyses and commentary may not routinely be published. Nor is the information which is published necessarily provided in a suitable format, or to the timescales, sought by the IFI.

Access to confidential information

13. Typically IFIs also have access to information that is not publically available in order to fulfil their mandates. In some cases they may even have direct access to information and databases held by other agencies.

The **Canadian** Parliamentary Budget Office (PBO) has access to numerous government databases, including the Government of Canada’s Central Financial Management and Reporting System and anonymised personal and corporate tax data, to help it undertake its costing function.

⁶ https://www.euifis.eu/download2/minimumstandards_final.pdf

⁷ https://www.euifis.eu/download/statement_reinforcing_and_protecting_ifi_s.pdf

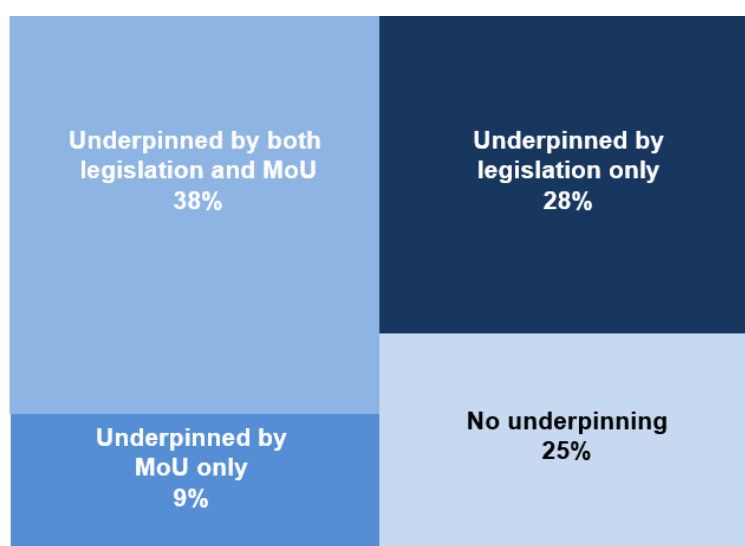
The **Slovak** Council for Budget Responsibility (CBR) has access to detailed micro/raw data from the State Treasury database in order to inform its fiscal forecasts and budget analysis.

The **United Kingdom** (UK) Office for Budget Responsibility (OBR) and the Treasury jointly own, maintain and develop the main macroeconomic model used to compile the economic forecast. The UK OBR also receives access to other Treasury models periodically. Furthermore, the UK OBR has sight of unpublished administrative and tax data in order for it to undertake its fiscal forecasts.

Formal arrangements for securing access to information

14. Where IFIs have been established through legislation, it is common for at least some reference to access to information to be enshrined within the founding or amending legislation. How specific the legislation is in this respect varies, and not all IFIs have such legislation, as demonstrated by this chart, based on information gathered by OECD.

Figure 1. Formal underpinning of access to information across OECD IFIs



Note: The data includes 32 national IFIs in OECD countries. The data includes two IFIs for Austria, Finland, Greece and Ireland, where there is more than one institution.

Source: OECD IFI Database 2019.

For example, the Parliament of Canada Act 2006, amended in 2017, which established the **Canadian** Parliamentary Budget Office, says that, “any information provided must be free of charge and timely” – without specifying what that information is.

In **Slovakia**, Article 4(2) of the enabling legislation gives the Council for Budget Responsibility the right to require government entities to provide data that are necessary to carry out its functions.

In **Portugal**, Article 8 of the Budget Framework Law (Law 54/11 as amended) establishing the Public Finance Council (CFB) states that “the Council shall have access to all the economic and financial information necessary for the accomplishment of its mission and all public entities are duty bound to supply this information in good time, as well as additional clarification in response to requests”.

In the **UK**, the Budget Responsibility and National Audit Act 2011 says of the UK's Office for Budget Responsibility that "The Office has a right of access (at any reasonable time) to all Government information which it may reasonably require for the purpose of the performance of its duty" and "The Office is entitled to require from any person holding or accountable for any Government information any assistance or explanation which the Office reasonably thinks necessary for that purpose".

In the **United States (US)**, the Congressional Budget Act 1974 says that the various departments, agencies, and establishments of the executive branch shall furnish any available information, data, estimates, and statistics which the Director of the Congressional Budget Office (CBO) determines to be necessary in the performance of the Director's duties and functions.

In **Victoria**, Australia, the Parliamentary Budget Officer Act 2017 allows the PBO to establish standing arrangements with public sector body heads for the supply of information. Where the PBO has been unsuccessful in doing so, it can request information and documents from the public sector body head directly. The legislators presumably recognised the importance of access to information without wishing either to define too closely what that might be, or what would happen if such information were not forthcoming. The existence of legislation is recognition of the need and the right of the IFI to information.

Some arrangements are far weaker. The **Knesset's** Department of Budget Control (part of the Research and Information Center) has a right, under a 2010 legislative amendment, to seek information from government but it is rarely invoked and, because it is unspecific about what should be provided, gives little leverage in practice.

Memoranda of Understanding (MOUs)

15. Sometimes legal arrangements are supplemented by a more specific agreement – usually a memorandum of understanding (MOU) with a particular part of government or information provider. Such an arrangement can also take the place of, rather than simply supplementing, formal legislation.

16. The advantage of a MOU is that it is more specific, sets expectations, is agreed between the parties (usually the IFI and the government department or ministry) concerned, and more flexible. It can be agreed without the need of legislation and can also be amended to take account of changing circumstances. While a MOU does not have the power of a piece of legislation, the nature of a joint agreement may make it more likely to be adhered to.

In **Slovakia**, the Council for Budget Responsibility has a number of "contracts" (similar to memoranda of understanding) with each of the institutions from which it seeks information. (Note: Despite having contracts with each institution, they do not cover all the areas of interest. The main deficiency is that there is no formal agreement with the Statistical Office on provision of data related to public finance. This is an important obstacle to CBR in performing its tasks. Also, agreement with the Ministry of Finance on provision of detailed information related to budget data (there is a contract on provision of data) would be beneficial to enable smooth exchange of information.

In **Portugal**, the Public Finance Council (CFP) has a Memorandum of Understanding with the Ministry of Finance covering the drawing up of the Council's Opinion on the macroeconomic projections underlying the Stability Programme and the State Budget Proposal. There is also an Institutional Cooperation MOU in the field of General Government Statistics to which the CFP, Bank of Portugal, Statistics Portugal, the Directorate General for Treasury and Finance and others are signatory. The MOU aims to promote co-operation among the signatories in the field of General Government Statistics.

In **Canada**, agreements have been reached between the Parliamentary Budget Office and public service departments on access to information, which include indicative timelines for responding to information requests.

The **United Kingdom's** (UK) Office for Budget Responsibility has a MOU with the three government departments with which it interacts most closely in the forecast process - the Treasury, Revenue and Customs and the Department for Work and Pensions.

The **United States'** Congressional Budget Office has entered into approximately 40 MOUs with numerous executive branch agencies.

In **Scotland**, the Parliament has an MOU with the Scottish government going back to the establishment of the Parliament in 1999, with a follow up agreement specifically with the Scottish Parliament information Centre from 2009-10. The Scottish Fiscal Commission has MOUs with the UK Revenue & Customs and with the UK Department of Work and Pensions.

Informal arrangements only

17. Some institutions or Parliamentary bodies operate without specific legislation, MOUs or other agreements. Often this has arisen where bodies did not require specific legislation to be established and where institutions operate within or as part of Parliament itself.

In **Austria**, the Parliamentary Budget Office, set up in 2012, depends on past precedents and practice, good relations and informal networks for its access to information. If necessary, it could fall back on asking Members of Parliament to seek information from government through questions, but this would be a cumbersome, formal and slow process.

A similar landscape applies in the case of the **UK** Parliament's Scrutiny Unit, established by a resolution of the House of Commons in 2002, where the Unit relies on co-operation with Treasury and other government departments, the authority of Parliamentary committees and openly published information to conduct its work, without any previously agreed framework.

18. Simply having the authority to *ask* – with no obligation on the part of the government or other organisation to *provide* – leaves the power to refuse in the hands of the government, with in practice, little consequence other than potential questioning of motives for not being co-operative.

19. Culture and precedent may affect how open and helpful government and other information providers are. Where the culture is one of long-standing good co-operation, setting out what should be provided in a memorandum or other document could be seen as a retrograde step, potentially limiting previously unlimited access to information. But in most cases, it is seen as positive, giving the IFI recognition of its information needs and the responsibilities of providers.

In the **Netherlands** the lack of a formal arrangement with the government is seen by the Bureau for Economic Analysis (CPB) as a benefit. With a long- established tradition of wide access to information going back over 70 years, a formal agreement between the CPB and government is seen as more likely to limit, rather than widen, the CPB's access to information. Existing protracted efforts to agree a MOU on information access with the Statistical office, specifying detail of what information should be provided and when, have shown how difficult it can be to precisely define information requirements without limiting previously enjoyed access.

Why do arrangements differ?

20. Factors which may account for the wide-ranging differences in arrangements in access to information include:

- what the driver for the formation of the body was;
- whether or not the establishment of the body required legislation;
- what the functions of the body are;
- to what extent suitable information is already freely available and what advantage formal arrangements are seen to offer to both parties⁸;
- to what extent existing powers of the Parliament to seek information also apply to the body concerned (If linked to Parliament or for those institutions within Parliament);
- the nature of relations between government bodies and Parliament (e.g. co-operative, confrontational etc.) – these can differ widely even between different parts of government in the same country; and
- historical, cultural and legal traditions and differences.

What is most effective and why

Importance of relationship building

21. Universally, IFIs emphasise the importance of building and maintaining good relationships, particularly at a working level, with providers of information within government. Even where rights to access to information are codified in legislation or agreements, these relationships remain important.

22. The benefits of good and strong relationships are many and can have interests for both parties:

- For IFIs: enabling them to communicate to providers so that providers understand what information is sought, and why, and when it is needed; to obtain information swiftly and effectively;
- For government and other providers: Regular contact can minimise unexpected requests for information and enable the provider to explain the constraints of information availability; and
- For both: regular contact enables both sides to better understand each other's positions, agree on workable compromises on timescales, format and detail of information provision. Potential problems can be anticipated or highlighted early and possibly resolved before becoming an

⁸ OECD has surveyed member countries' availability of budget information in *Budgeting and Public Expenditure in OECD countries 2019* (see chapter 6) at https://read.oecd-ilibrary.org/governance/budgeting-and-public-expenditures-in-oecd-countries-2018_9789264307957-en#page1

issue. IFIs can highlight gaps or shortcomings in data provision and spot issues to the benefit of both parties.

23. The development of good informal relationships hinges on a number of factors, circumstances and efforts. These include:

- Mutual understanding (for instance recognition of the role and needs of the IFI by the information provider; and of the limitations of resources and information availability by the IFI);
- Shared interest, e.g. in independent reliable judgements;
- Trust on both sides, for instance in sharing embargoed information. Sometimes it is necessary to assure agency contacts that they will not be identified as a source of information;
- a willingness to co-operate – both in principle and in practical terms – by both parties accompanied by actual efforts to develop and maintain strong relationships (both through informal contact and regular working groups);
- Good communication (regular and frequent);
- Agreed boundaries of what information is to be provided and realistic timescales, both in terms of IFI requirements and providers' practicalities;
- Minimal high-level barriers/obstacles – for instance by ministers or political advisers;
- Avoidance, as far as possible, of blame culture, confrontation and resort to legal or other threats; and
- Flexibility – recognition that “give and take” is required e.g. not all requirements will be known a long way in advance.

24. Conversely, relationships tend to founder, work less effectively, or only partially, where there is:

- Political or personal antipathy, or a history or culture of confrontation;
- Fear (e.g. of disclosure, embarrassment, political cost, economic impact);
- Little perceived shared interest; or actual political advantage in being uncooperative;
- An institutional culture of secrecy or lack of transparency;
- Lack of previous track record of good effective relationships and appreciation of its benefits;
- Insufficient effort invested to build or maintain strong relationships;
- Lack of resources (either in the IFI or in the information provider responding to the IFI);
- Lack of clarity of roles and powers;
- Poor communication;
- Unresponsiveness and lack of flexibility; and
- Past relationships were founded only on individuals, risking their long-term continuance.

In **Scotland**, the Scottish Parliament information Centre (SPICe) sits on a number of working groups with the Scottish Government, including one for the fiscal framework, which sets out the financial arrangements governing relations between the UK and Scottish governments. SPICe also makes an effort to meet new directors in the Scottish Government e.g. for tax and local government. The dialogue aids the smooth operation and provision of responses for requests and helps build trust and understanding. Where problems arise, which is rare, the head of SPICe's Financial Scrutiny Unit may talk to the relevant government director. Usually after a phone call or email, the matter is resolved without the need to escalate further.

In the **Netherlands**, there is no formal law or memorandum of understanding between the Bureau for Economic Policy Analysis (CPB) and the government on access to information. The CPB obtains fiscal data from the Ministry of Finance and in order to make official forecasts the CPB is provided with some confidential information. Relations are good and essentially the CPB obtains all of the information it seeks. For major departments like the Ministry of Finance and the Department of Social Affairs there are regular contacts at working level and interaction is frequent. There are negotiations at the margins around dates for provision of information. A time is agreed for the forecast and both parties agree informally on a date for provision for information, with a small degree of flexibility if required.

In the **United States**, individual analysts at the Congressional Budget Office have frequent informal contacts with staff of executive branch agencies to obtain information relevant to budget projections and legislative costings. An important responsibility of analysts is to identify reliable informal sources of information.

Benefits of formal arrangements

25. Formal or legal arrangements can only provide a framework and often act as a safeguard or, in extremis, a threat. The existence of formal arrangements for securing information is no guarantor of good information flows and good relations. A determined or obstructive government can still find ways of resisting information provision even when there is a formal arrangement. But such an arrangement can help by:

- giving IFIs clarity and consistency over what they are entitled to ask for, particularly when first established or when functions are extended;
- putting the onus on government information providers to defend any non-provision of information and its impact;
- reinforcing understanding on both sides; and
- specifying resolution or escalation routes.

26. The most common impetus for a new formal legal arrangement or MOU tends to be when an IFI is first established, or is given additional functions.

27. How any such a law or agreement defines access to information, and how that definition is interpreted, can be crucial. Too narrow a definition may limit future access by excluding certain items; a broader definition encompassing what is considered necessary to fulfil a function can be open to interpretation by the different parties.

28. As well as the scope of the coverage, other parameters which may warrant inclusion in any agreement or law may include:

- The timescale for provision of the information, and the frequency of its provision;
- The granularity of information provision (i.e. the level of detail provided);
- The format for production of the information (e.g. layout, software);
- The body, department or officer responsible for providing the information;
- Details of dispute resolution arrangements; and
- Any exclusions (e.g. personal or confidential information).

29. Formal arrangements may be easier to agree and most beneficial to IFIs with specific remits, outputs and timetables, such as to produce or validate forecasts, to cost election platforms or to analyse or interpret budget proposals within fixed timetables. In these cases, what information is necessary, and to what timescale, may also be easier to define.

In **Canada**, the Parliamentary Budget Office requests for information are formal, logged and usually given a two-week deadline. Requests and responses are recorded online. Departments monitor their own performance.

Following the new election costings mandate, the Canadian PBO has agreed five memoranda of understanding with different public service departments for the supply of information. Methodologies with departments have been agreed in advance. There are formal and informal meetings and single points of contact in each political party. Anonymity of parties is maintained in discussion with government.

While in the early years of the PBO there was some confrontation with government, the PBO has since been established under legislation as an officer of Parliament, rather than being appointed by the Prime Minister. This has helped bolster the independence of the PBO role. Regular meetings take place between the PBO and the Leader of the House, which can be used to iron out any difficulties.

In **Slovakia**, there are “contracts” between the Council for Budget Responsibility and the Ministry of Finance, and between the Council and certain other institutions supplying information, although these do not specify timescales. There have however been some difficulties in obtaining information from the Statistical Office, with the Office declaring some information confidential. In a recent review, the OECD has recommended a MOU be agreed between the parties to underpin arrangements for sharing data.

The **Austrian** Parliamentary Budget Office was set up in 2012 without legislation by agreement between the parties and statement of the Budget committee. The absence of any formal agreements, legislation or framework can mean getting information can take time, particularly written information is provided rather reluctantly. While informal arrangements work well most of the time, there are occasions when written recognition of the rights and responsibilities of the respective players could help the PBO in its work.

In **Victoria, Australia**, MoUs that the Victorian Parliamentary Budget Office has signed with public sector bodies under legislation provide more time to respond, depending on the complexity and urgency of the PBO request for information and documents. Where no standing arrangements exist, its legislation dictates three business days for a response or a written statement declining the request.

Challenges in relation to access to information

Where things go wrong

30. Despite best efforts of IFIs, and to varying degrees, information providers in government and elsewhere, IFIs will not always obtain all the information they seek or require, in the form they seek it, to the timescale they request.

31. Problems when they do arise have varying degrees of impact, and may not apply consistently or comprehensively; or the problems may be restricted to particular types of information or manifest in particular ways.

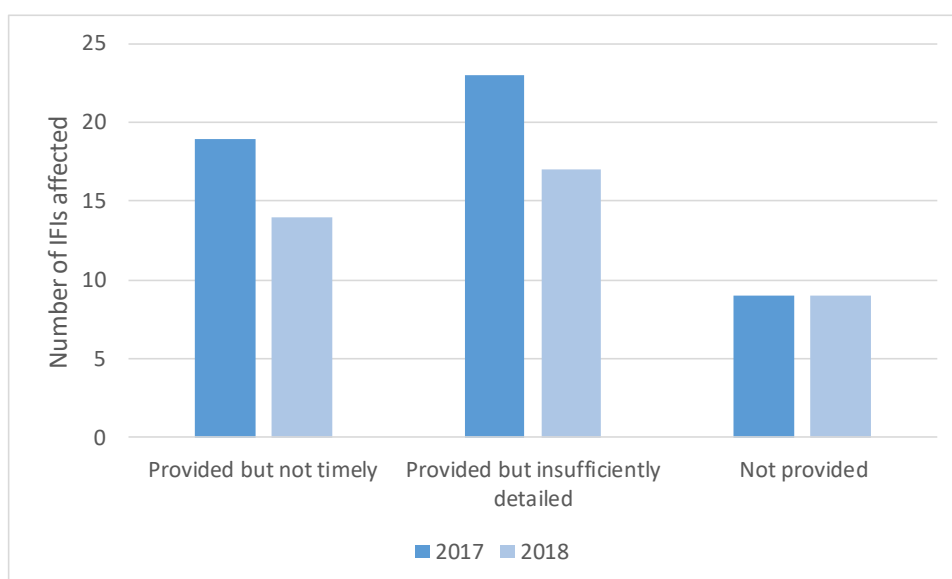
32. Amongst European IFIs, there is evidence of some improvements in access to information. Regular surveys of the EU Network of IFIs (EUNIFIs) show common issues, although the picture appears to be improving.

33. Within the EU, IFI access to information problems appear to lie in the areas of statistics/administrative data and planned policy measures.⁹ IFIs appear least likely to have access to information problems in relation to macroeconomic forecasts.

34. The two most common types of problem with access to information reported through the EU survey of IFIs were that information provided was not provided to the timescale sought; or that information was not provided in sufficient detail, as the chart below illustrates. Between 2017 and 2018, some improvement was reported in both these areas.

35. Not surprisingly, given the large degree of overlap between EU and OECD IFIs, and similar functions, the OECD network reports similar types of difficulties with access to information.

Figure 2. IFI access to information issues in the EU



Source: Surveys of EU Network of IFIs (EUNIFIs) carried out by the Fiscal Governance Unit, Directorate-General for Economic and Financial Affairs (DG ECFIN), European Commission.

Delays in providing information

36. Late information or delays in providing information can mean that the IFI has to estimate what the missing information would show or is unable to do its job fully.

37. Delays may be caused for a number of reasons including:

- Lack of resources or willingness by the provider to consider providing information is a priority;
- Dependency on third parties to provide input information to the provider;
- Complexity of gathering or analysing information;
- Time taken to consider, produce and obtain approval for accompanying narrative; and
- Difficulty in knowing how long it will take to gather information that is not collected regularly.

⁹ 55% of IFIs in the EU reported problems with administrative or statistical data on central government in 2018 (compared to 69% in 2017); and 36% reported problems with costing measures (compared with 44% in 2017)

38. Some of this can be mitigated by providing early warning of needs where possible. Realistic timescales need to take account of both needs of the IFI and practicalities of obtaining and processing information. Provisional information may be available in some cases as a stopgap.

Austria's Parliamentary Budget Office has encountered delays in obtaining information, particularly where this is detailed and requires some commentary.

Victoria's (Australia) Parliamentary Budget Office recorded that only 43% of information requests were responded to on time.

By contrast, the federal **Australian** Parliamentary Budget Office receives over 95% of information requested on time or early.

In **Israel**, the Knesset's Department of Budget Control has found that the government can sometimes take a very long time to respond to requests, and there is little that can be done to hasten responses.

Lack of detail or redactions

39. Economic and behavioural models may depend on having detailed information.

40. Sometimes the data may not be available or be provided to a suitable level of granularity, for instance because the models are not sufficiently refined, information is not collected at a lower level or decisions on the detail is taken later.

41. Sometimes the provider may cite confidentiality or personal data protection issues as a reason for withholding detail of data. Sometimes confidentiality clauses are arguably abused. While the IFI may be willing to give undertakings on confidentiality, legal barriers or lack of trust may prevent the provider from allowing access to the detailed data.

42. Some information may be confidential for other reasons, for instance national security or commercial reasons.

43. There can also be disagreement between the provider and the IFI over what constitutes confidential information.

In **Israel**, the Knesset Department of Budget Control encounters difficulties since the government supplies only three levels of budget detail during a given fiscal year, instead of the usual four levels published regarding previous years. According to the government, the detailed information is internal and sometimes not accurate enough for publication during the year.

The **Austrian** Parliamentary Budget Office has found the government sometimes reluctant to supply the necessary level of detail, possibly because envisaged analysis this would require separate data evaluations or commentaries.

The **Slovak** Council for Budget Responsibility has encountered some differences of view with the Slovak Statistical office over whether information can be provided. The Statistical Office has argued that this information cannot be provided for reasons of confidentiality.

In **Portugal**, the Public Finance Council has encountered difficulties in obtaining social security information from the Ministry of Labour and Social Security. After some dialogue and criticism from the CFB some, although not all, of this information is now being provided.

In the **UK**, the House of Commons Scrutiny Unit has been seeking, through revised requirements for Estimates memoranda, more consistent levels of programme and project level detail of government

budget proposals. While the moves have been largely successful, there remain cases where the government claims decisions on detail have not been taken, or the detailed information can only be very roughly estimated.

Information may not exist

44. Sometimes the information simply may not be collected. The government may not need to collect it; or it may be something that is difficult to measure. There may be high cost involved in collecting or analysing the data, with little benefit to the government or provider.

45. In such cases, the IFI may have to explore with the information provider what options are available for the future, reconsider information needs or see if alternative information can be provided from elsewhere.

46. It could be that the government simply does not see the release of information sought as important, so does not devote the energy, attention or importance to it that the IFI seeks. In this situation, regular and frequent dialogue with the provider is likely to help in order to explain the rationale for seeking the information and the consequences of not providing it.

Scotland's Fiscal Commission publishes an annually updated "statement of data needs". This stems from a recommendation of a parliamentary committee that highlighted gaps in data provision. Government data providers have responded to the annual statements by making improvements to data collection and recognising where new data needs arise, due to new policies or powers. The most recent version of the statement showed an improving situation i.e. the government and statistical bodies have begun to respond to the gaps in need identified.

The information provider may have other difficulties in providing

47. Lack of resource, capacity, skills or other practical problems may cause problems for the information provider. There could be lack of money, staff, or systems to provide the information in an effective and timely manner. New data may need to be collected which involves new costs.

48. The IFI may be able to mitigate some of the impact of this by planning and communicating the information requirements to the government in advance, considering ways in which requests for information can be designed to reduce unnecessary effort on the part of the provider.

49. Some types of information or data may be more difficult to provide than others. For instance, routinely provided information for forecasts is likely to be easier to plan for and produce than ad hoc requests for forward costings, which may require collection and some element of estimation or analysis by the provider, themselves.

Other reasons

50. Some governments and information providers guard information extremely zealously. There may be a culture of caution or lack of transparency.

51. Some agencies may have concerns about sharing information because they are charged with its protection. In this case the IFI must show the agency that it will protect information as well as the agency would. Similarly, statistical agencies may not want to share private information because certain uses could threaten those agencies' ability to get information —survey response rates would drop. The IFI must demonstrate that it will use the information for statistical purposes and will present results that are sufficiently aggregated.

For the **United States** Congressional Budget Office, the ability to get information is closely tied with its ability to protect it. Security is incredibly important as a breach would harm both the individuals and businesses who were directly affected and the agency's ability to obtain data in the future. The Congress has provided the CBO with the resources necessary to protect information and members may assert legislative privilege to further protect disclosure if necessary.

The Congressional Budget Act 1974 provides that CBO must provide the same level of confidentiality as the agency from which CBO receives the information. That provision imposes a duty on CBO to protect information. It also is an exception to what must be publicly disclosed under freedom of information requirements. As a consequence, outside groups generally do not try to get confidential executive branch data from CBO. This gives executive branch agencies the confidence that they can provide information to CBO.

52. Security issues have also been raised recently in regards to remote access to information – which has been necessary for some IFIs working remotely during the COVID-19 crisis. IFIs may negotiate the ability to move information to the cloud; to remotely access data systems of other agencies; or to conduct analysis in dedicated enclaves on those systems. The latter option also has implications for the IFI in terms of disclosure as the agency could discern what question the IFI is trying to answer based on the analysis performed.

53. Generally, the entire impetus to create an IFI is to increase transparency, and to provide impartial, non-partisan economic or fiscal expertise and advice. Inevitably, this means an IFI's analysis may be used against a government by its opponents. Fear of this happening can explain why governments can on occasion prove reluctant to relinquish information to enable the IFI to do its work.

54. Information can reveal embarrassing trends or have political consequences for instance if a policy is seen not to be working. There may be no perceived incentive for the government to provide the information, particularly if it is likely to be used by political opponents. The short-term impact of release of information may be viewed as more damaging to the government than a continued good relationship with the IFI.

55. Information may be withheld, perhaps without good reason. The Government may argue information is not required and see no advantage in releasing it, particularly if holding suspicions that such information could form the basis of assumptions or analysis that could be used against the government. Or other reasons may be cited, when the primary motivator for non-release is the government does not want to share the information.

56. In extreme cases if the IFI is prevented from fulfilling its statutory function effectively or the government is in breach of a legal requirement to supply information, the government body could be subject to legal sanctions. Whether such a route is advisable or likely to be effective would have to be weighed up against the difficulties caused to the IFI by not having access to the information.

Overcoming obstacles.

Building and developing good informal relations with information providers

57. The relationships between IFI and information providers are critical. Fostering those relationships and developing sound and trusted lines of communication can make the difference between confrontation and collaboration, and degrees of co-operation in between.

58. Well-developed relationships and frequent and regular contact between information providers are also more likely to enable those providers to understand the needs of IFI, and for the IFI to understand the constraints (of timing, resource and politics) within which information providers operate.

59. Many different communication and liaison arrangements have developed over time between different IFIs and information providers. Some of these are described below, but this is by no means an exhaustive list. Some are variations on others and there is necessarily some overlap between them.

- **Frequent informal liaison meetings.** Some IFIs meet weekly, monthly or, during critical times, more frequently, to discuss arrangements and timing of information provision. Informal meetings of this type may have fluid membership, be in response to specific needs, or be regular fixtures that provide opportunity to raise multiple issues.
- **Working groups.** A working group may be established and tasked with developing an agreed approach to a particular output or resolving a particular difficulty. (For example, both Portugal's CFB and the UK's OBR participate in such groups, alongside the providers of information.) Once an arrangement is agreed, progress and implementation could also be monitored through such a group.
- **Designated contact points.** Designated contact points can help both parties to deal with issues more rapidly and allow for those contact points to build up knowledge and to put opposite numbers in touch with particular experts. They may also allow for a route for informal, or even formal, escalation. They need to be at a suitable level of seniority to allow for decision-making and to have clout within the organisation they represent.
- **Informal working level contacts** are important complements to the more formally designated contact points and allow for quick resolution or discussion of particular issues, perhaps deciding where to raise with the more senior staff. Many IFIs view good informal working level contacts as even more vital than more formal arrangements.
- **Networks.** Informal and professional networks can allow for development of connections and contacts between those working in similar fields, and in similar areas of expertise, sharing of information and joint resolution of problems.
- **Joint planning for events.** Even where arrangements and contacts are well developed it can be beneficial to meet more intensively and plan specifically for particular fiscal events and outputs, such as the production of a forecast or the costing of a manifesto platform.
- **Meeting new appointees when they arrive.** Investing in developing relationships at an early stage will help prevent misconceptions and misunderstandings developing.
- **Secondments and staff exchanges.** Exchange of staff could be a way of building understanding and knowledge of the others' perspectives and of working together, although the individual needs to be protected from conflicts of interest. While there are some IFIs who employ or have employed staff on loan from, or after having worked in, government or for supreme audit institutions, it is not clear whether many government finance departments have reciprocal arrangements for loan of IFI staff, even though such arrangements might offer benefits in raising awareness of IFI needs within government.
- **Seminars and training events:** joint events can be used to boost understanding and help to share problems and their resolution. They can also enable contacts to be established and help break down barriers.'

60. In addition to the above, at times IFIs may find it useful to request the same information from another independent agency such as the supreme audit institution. If they have already received similar information, many of the objections to sharing information will have already been overcome.

Developing a new MOU or obtaining changes to the legal framework

61. Many IFIs already operate within a clear legal framework, specifying the purposes, circumstances or types of information the IFIs has a right of access to.

62. Conversely, some IFIs operate without any such framework.

63. Where such a framework or MOU does not currently exist and is felt to offer benefits to the IFI, the sort of questions which need to be considered before and during the development of any formal framework arrangements include:

- What is the issue that the change is seeking to address?
- How could the change proposed improve the situation?
- What vehicle (e.g. legal or MOU) would best serve this objective?
- What objections could information providers potentially have to the change?
- How can these objections be addressed?
- How will what information is covered be defined?
- Who would need to agree the change?
- What is the process for getting the change agreed?
- What arrangements does the change include for dealing with disputes?
- Is the arrangement flexible enough to deal with changes in the remit or function of the IFI?

64. It is important that any arrangement goes into sufficient detail so as to set realistic expectations on access to information and avoid any potential ambiguity or misunderstanding.

What should be covered by a model MoU?

Where an MoU covers access to information, matters which it could cover include:

- What information the arrangement covers;
- Timescales for provision of information;
- The form in which information is provided;
- Who the arrangement applies to;
- Respective responsibilities;
- Dispute resolution; and
- How the arrangement can be amended or revoked.

65. What information is covered under any such an arrangement is most critical. Defining the coverage too specifically could mean that it is also defined too narrowly and interpreted inflexibly. Conversely, too broad a definition could also mean that its scope is open to interpretation. Any definition needs to strike the right balance and manage expectations.

In **Spain**, legislation provides that all public administrations should co-operate with the Independent Authority for Fiscal Responsibility (AIReF). But there are no specific MOUs defining a right to access to information although AIReF has been trying to develop some.

Slovakia's Council for Budget Responsibility has contracts with each institution from which it seeks information, but they do not specify timescales.

The **Canadian** Parliamentary Budget Office has agreed five MOUs with ministries for the new election costings mandate.

The **UK's** Office for Budget Responsibility has a multi-layered approach to agreed information provision: legislation; a "framework" document; and a joint MOU with three government departments - Treasury, Revenue & Customs and Work & Pensions.

The **United States'** Congressional Budget Office has a multi-layered approach to obtaining information. It has statutory rights to data; it obtains information from federal agencies informally; and it has entered

more than 65 data use agreements (MOUs and contracts) with federal agencies and private entities.

Scotland's Fiscal Commission updates and publishes an annual statement of data needs. This stems from a recommendation of a Scottish Parliamentary Committee highlighting gaps in data provision. The statement has proved successful in identifying and addressing gaps in data provision.

What should be covered in a MoU?

- What information the arrangement covers;
- Timescales for provision of information;
- The form in which information is provided;
- Who the arrangement applies to;
- Respective responsibilities (including for example, security arrangements for confidential information);
- Dispute resolution; and
- How the arrangement can be amended or revoked.

Dispute resolution and escalation processes

66. Whether there is a formal requirement to provide information or not, there may be instances where action is deemed necessary to obtain information that is not forthcoming.

Informal processes

67. Some IFIs have arrangements – either developed through custom and practice or set out in an MOU – to escalate an issue of non- provision of information.

68. Often this will take the form of raising the issue at a more senior level (initially between higher-level officials of the IFI and information provider, or ultimately through the Speaker to the Leader of the House). This may involve no more than a telephone conversation, agenda item or informal word.

69. In many cases, it appears that such an approach may remove the blockage or holdup. Informality does run the risk that the provider does not face public embarrassment or sanction where it fails to provide such information.

A more specific agreed process, with stages

70. Alternatively, a MOU may set out clearly what the steps to be taken to resolve a dispute over lack of provision of information. This offers the benefit of clarity on the part of both sides over what to do in such circumstances where information is not provided.

71. Like any method, it does not guarantee success- and there is unlikely to be a neutral third party to mediate, but it does allow for openness about where there are issues and consistency in the way they are dealt with.

In the **Netherlands** the Bureau for Economic Policy Analysis has informal channels enabling escalation through via a director, helped by the CPB's own director being part of the executive.

In **Scotland**, requests by staff in the Scottish Parliament Information Centre (SPICE) may have to be escalated by the head of SPICE's FSU talking to the relevant director in the government.

Victoria's Parliamentary Budget Office) has a robust follow up process, with the PBO contacting the public sector body head according to an internal escalation process.

Israel's Research and Information Centre found that they had some problems getting information from one ministry, which they had to raise with the Speaker.

The **UK's** Office for Budget Responsibility contains a provision in its MOU which states that "if neither bilateral nor Forecast Liaison Group resolution procedures succeed, dispute resolution will be the responsibility of the Chair of the OBR and Permanent Secretaries." (para 2.7).

Parliamentary powers

72. Depending on the relationship between the IFI and the Parliament and its committees, it may be possible, with willing members, to put pressure on the government through Parliamentary channels.

In the **UK**, the House of Commons Scrutiny Unit can invite the appropriate select committee to write, but there is no guarantee of success.

Similarly, in **Austria**, the Parliamentary Budget Office can inform the Budget Committee that information has not been forthcoming and invite the committee to write.

In **Israel**, a 2008 amendment to the law required Government Ministries and other relevant bodies to provide information needed for parliamentary work to the Knesset's Research and Information Center without delay.

A more formal option available in some jurisdictions is to table a report in Parliament, or a censure of the government in Parliament, such as arose in **Canada** in the early days of the Parliamentary Budget Office. More recently, tensions have lifted, and it would be more normal for the PBO to raise the matter at a regular weekly meeting with the Leader of the House.

Formal objections

73. Where legislation governs an IFI's rights to access to information, there is the option to take more formal action, through the courts or otherwise. IFIs in Canada and Spain chose to bring legal challenges which ultimately led to improvements to their access. Although generally viewed as an option of last resort, the knowledge that legal mechanisms are in place, and have been deployed by IFIs successfully, may help foster better cooperation. More often, legal provisions provide a foundation for the IFI to publicly state that an information provider has breached its obligations and put the onus on that provider to justify its action. This may provide a lever to put pressure upon the information provider to relent or to offer a compromise.

In **Spain**, the Ministry of Finance sought to more closely define – and hence restrict – research and access to information through secondary legislation. In May 2016, AIReF took the hard decision to file a legal challenge against the central government. The legal challenge sought to repeal or amend the provisions in two pieces of secondary legislation as violating the access to information provisions in its

Organic Law 6/2013. In response to this legal challenge, Ministerial Order HEP/1287/2015 was partially repealed by a further Ministerial Order in March 2014 and access to information has improved.

In **Portugal** the Public Finance Council can post a notice on its website stating the nature of the information not supplied and the parties involved. It can also formally advise the President of the Court of Audit, the Governor of the Bank of Portugal, the Parliament and the President of the Republic as a last resort. To date the CFP has invoked the first step, in relation to information sought from the Ministry of Labour and Social Security but not the second. Some of the social security information sought is now being provided.

Other possible remedies

74. Any escalation process may take time or may ultimately be unsuccessful.

75. IFIs may need to consider alternative ways in which they can carry out their functions in the absence of the information they are seeking.

Seeking alternative sources of information or greater use of estimation

76. This could include seeking the same information via another source or similar information, for example, from another jurisdiction, which could be used to provide a reasonable estimate.

77. Most likely, this is used when other techniques fail. In many cases, an alternative source of reliable information will not be readily available.

78. Using a greater degree of estimation or drawing on similar information to draw conclusions is likely to introduce greater inaccuracy into the IFI's output. In such cases, the IFI is likely to want to draw attention to the shortcomings of the estimate. The likelihood is that regardless of this, the output is attributed to the IFI, perhaps without such qualification, so such a step does carry reputational risk.

In **Spain**, AIReF has the option of approaching regional governments if the federal government is uncooperative or slow in responding. So far, these have always complied with requests.

In **Canada**, in the early days of its existence, the Parliamentary Budget Office sought information on the costs of Canadian military involvement in the Middle East. In the absence of full information being provided by the government, the PBO made use of comparable costings available from other countries within the coalition to produce estimated costings.

Decision not to include or assess

79. Another alternative in some situations may be that failure to provide information by a certain date leads to its non- inclusion in the relevant assessment. This may impact the quality, completeness, of the IFI's work- for instance its ability to provide a reliable estimate or forecast.

80. Where the overriding requirement is to provide an output, such as an overall assessment or forecast, by a certain date, the assessment or forecast may simply have to state that it takes account of all information provided by a certain point.

The UK's Office for Budget Responsibility sets a deadline of the Friday before the Chancellor's Budget for inclusion of policy costings within its scorecard and the economic forecast. Anything that misses this date is not included in the Budget forecast, and the OBR makes this clear upon publication. The costing is picked up in a subsequent forecast instead.

Recommendations and Conclusions

81. There is a wide range of different experiences in relation to access to information by IFIs across OECD members. What works best in one set of circumstances may not work best in another.

82. For instance, while the Austrian Parliamentary Budget Office feels the lack of formal powers is a handicap and would welcome a legal provision guaranteeing access to the information it requires; the Netherlands CPB feels that the absence of a codified arrangement is a benefit and fears that any attempt to introduce one would risk reducing its currently enjoyed access.

83. Nevertheless, there are some general conclusions that can be drawn from experiences to date:

- IFIs need to establish early on what their information needs are, who the providers will be and the timescales, format and frequency required, as well as security arrangements. This should be communicated to the information providers, with, where necessary, an explanation of why the information is needed. Where needs change, providers need to be alerted at an early stage and any issues resolved.
- Informal, frequent, two-way contact at all levels between the IFI and information provider is hugely important. Good working relations foster better understanding of needs and practicalities and avoid unnecessary bureaucracy and delay. Working groups, contact points, agreed timescales and formats for delivery of information all help.
- IFIs' rights of access to information are likely to be supported and stabilised by recognition in law and/or a Memorandum of Understanding. This is easiest to achieve at the outset, when a body is first established. Where changes are proposed, the benefits and costs need to be considered carefully. An MOU can clarify the rights of access to information of the IFI, rather than leaving it dependent on past practice, individuals and relationships.
- Any law or MOU should define information needs according to the remit of the IFI, allowing for both regular and *ad hoc* needs. Care needs to be taken to avoid either defining the needs too narrowly, risking excluding what is needed, or too vaguely, allowing scope for avoidance.
- Tracking the timeliness and quality of responses to requests for information can help to identify information supply problems. This may provide evidence that can be used in dialogue with the information provider to address common weaknesses or problems. Making such information public may be helpful for IFIs with persistent access to information problems.
- A well-understood channel for communicating and escalating issues relating to the non- or late supply of information to the IFI is helpful, particularly if informal and proportionate. This could be set out in any MOU. Where issues around access cannot be resolved informally, it is also useful to have a more formal process to fall back on.
- Parliament may need to be involved if informal efforts prove unsuccessful and escalation is necessary. This could mean involving Parliamentary committees, the Leader of the House or equivalent, or seeking a motion of censure drawing attention to the failure.

- Alternative sources of information may need to be sought if delays and difficulties persist. These may be less than optimal, but better than delaying or not providing the necessary output at all. IFIs will probably want to highlight any inaccuracies or reputational risks that result.

84. In conclusion, good access to information is vital to the work of IFIs. Relations between information providers and IFIs are generally good on a day-to-day basis, but can encounter practical or political problems from time to time. New institutions need to consider how access to information should be defined at the outset and whether it needs to be formally set out in legislation. Established IFIs will often benefit from MOUs or other agreements governing their information access, and thought should be given to informal, and if necessary, formal escalation procedures should information not be forthcoming.

85. More than anything else, effort needs to be invested continuously in building and maintaining relationships and channels of communication between IFIs and information providers, to maximise the likelihood of any issues being avoided or resolved quickly. Not all information access problems will be resolved by good relations, but the chances of such problems being resolved promptly are clearly enhanced the more good relations are developed.

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