

Submission from the Scottish Fiscal Commission to the Committee for Finance, Northern Ireland Assembly for inquiry into a Fiscal Council for Northern Ireland

Introduction

1. The Scottish Fiscal Commission (SFC) operated as a non-statutory body from June 2014 scrutinising the Scottish Government's forecasts for two taxes devolved under the Scotland Act 2012 along with the 'economic determinants' of an existing tax – non-domestic rates.

2. The SFC was formally established as an independent statutory body on 1 April 2017 by the [Scottish Fiscal Commission Act 2016](#). Under the powers of the Act the Commission became responsible for producing a range of fiscal forecasts that the Scottish Government was required to use when it presented its annual budget to the Scottish Parliament.

3. The Commission has been chaired by Dame Susan Rice since it was established in 2014 and it currently has three other Commissioners: Professors David Ulph, Francis Breedon and Alasdair Smith. The Commission employs 22 staff, most of whom are analysts and the budget for 2021-22 is £2.005 million. The Commission buys in some administrative support services from the Scottish Government, including IT support, human resources and financial services.

4. This briefing note provides more information on the Commission, its statutory duties and powers, our relationship with the Scottish Government and Parliament and how the Commission's role has evolved. The note also provides some reflections on our experience, including our founding legislation and the [OECD Principles](#).

Remit, publications and scrutiny

5. The Commission produces Scotland's official, independent economic and fiscal forecasts to accompany the Scottish Government's fiscal events. We forecast Scottish Government revenue from fully and partially devolved taxes and devolved social security spending.¹ The Commission is also required to forecast onshore Scottish GDP as the Scottish Government has access to additional borrowing powers if we were to forecast a "Scotland Specific Economic Shock". All of our forecasts are produced in-house by a team of analysts overseen by four Commissioners, appointed under the terms of the 2016 Act, who are personally and collectively responsible for the forecasts and other reports.

¹ Our forecasts of tax revenue cover Scottish Non-Savings Non-Dividend Income Tax, Land and Buildings Transaction Tax, Scottish Landfill Tax, Non-Domestic Rates and Air Passenger Duty. We will also forecast Aggregates Levy in the future. Our forecast of social security spending cover a wide range of benefits including ill health and disability benefits, carer's benefits, Discretionary Housing Payments, Best Start Grant and Best Start Foods, Funeral Support Payments, Cold Weather Payments, Winter Fuel Payments and Employability Services.

6. This operating model is relatively unusual in a wider international context where many fiscal councils are responsible for scrutinising the forecasts of the executive. The United Kingdom's Office for Budgetary Responsibility (OBR) has a similar model in that it is also responsible for producing official forecasts for UK fiscal events, although the OBR rely on HMRC and DWP to produce their tax and social security forecasts under the guidance of the members of the Budgetary Responsibility Committee (the equivalent of our Commissioners).

7. The Scottish Parliament adopted a new year long scrutiny process, following the report of the Budget Process Review Group in 2017. The Commission has aligned its work to this new process, meaning our work is now spread more evenly through the year. The principal forecast is published at the same time as the Scottish Government's Budget in the period between December and February. Our second forecast is usually published at the time of the Government's Medium Term Financial Strategy in May. The Government is required to use our economic, tax and social security forecasts in both of these publications – although there is a mechanism for Ministers to override our forecasts by the Finance Secretary making a statement to Parliament. This provision has not been used to date.

8. We are also required to provide an assessment of the reasonableness of the Government's borrowing projections and comment on the overall level of funding available to the Scottish Government as part of each forecast publications. The sophistication of this assessment has evolved since our first statutory report in December 2017.

9. The Commission will typically hold a media conference on the day of publication or the day after and will be expected to give evidence to the Scottish Parliament's Finance and Constitution Committee. In recent years, as the scale of the devolved social security payments has risen, we have also regularly given evidence to the Social Security Committee. The Commission has also given evidence on an occasional basis to the Economy, Energy and Fair Work Committee.

10. Our legislation also gives the Commissioners the right to publish, from time to time, reports relating to "fiscal factors" or the resources available to Ministers. We have used this power to publish costings to accompany legislation which changes the taxes and social security payments we forecast; to institute a new series of "Fiscal Updates" that provides commentary on budgetary developments including in-year management. In August this year we intend to use the "fiscal factor" power to publish our first full forecast not linked to a Government fiscal event following a request from the Parliament's Finance and Constitution Committee.

11. There is a statutory requirement that our forecasts must have regard to Scottish Government policy, but that we may not consider any alternative policies. This means that we cannot, for example, publish costings of alternative Scottish Government policies or policies developed by other political parties.

12. We are also required to evaluate our forecasts each year. We publish reports comparing our forecasts to the actual level of tax revenue and social security spending, recognising any ways our forecasts could be improved in the future. We give evidence to both the Finance and Constitution Committee and Social Security Committee on these reports.

Independence

13. In common with other fiscal councils the Commission has always seen its independence, and perceptions of its independence, as key to its successful operation. In 2014 the OECD published a set of [recommended principles for Independent Fiscal Institutions](#) that informed the drafting of our founding legislation. Subsequently our Framework and Protocol agreements with the Scottish Government, signed by the Cabinet Secretary for Finance and our chair, have added further safeguards. The Annex to this note contains an assessment by the OECD of the extent to which the Commission meets each of their principles showing that we fully met the majority, and partially met the remainder.

14. The SFC is a Non-Ministerial Office and is part of the Scottish Administration but not part of the Scottish Government. This means that the Commission is directly accountable to the Scottish Parliament for the delivery of its functions, and not through Scottish Ministers.

15. The Commission's funding is included as a separate line in the Government's annual budget and is approved by Parliament as part of the Budget Bill. Each year the Commission is asked to submit its funding requirements for the following three years. The Framework Agreement provides an additional safeguard adding a requirement for the Cabinet Secretary to provide a public indication of funding for the two years following the year covered by the budget. The Framework also provides an explicit escalation process in the event of a disagreement on funding.

16. The Commissioners are appointed by the Scottish Government's Cabinet Secretary for Finance following an open and competitive public appointments process overseen by the independent [Commissioner for Ethical Standards in Public Life in Scotland](#). The Cabinet Secretary is required to submit their recommendation to the Parliament which is then required to vote on their approval before final appointment. New Commissioners are expected to give evidence to the Finance and Constitution Committee before a recommendation is made to the Parliament. If a Commissioner is to be removed from office (on the grounds of non-attendance, inability to perform their functions or being otherwise unfit to continue being a Commissioner) Parliament is also required to approve the process.

17. The Commission's legal status also means that its employees are civil servants employed by the SFC and not the Scottish Government.² The Commission has the freedom to select and hire its staff through open recruitment – a practice that we have followed for practically every appointment since April 2017. The Civil Service

² The Commissioners themselves are not civil servants, but office holders.

Commission (a UK public body) provides assurance that civil servants are selected on merit on the basis of fair and open competition.

18. The Commission made an early decision to [voluntarily comply](#) with the UK Statistics Authority's Code of Practice. Although the Commission is not a producer of statistics we have found that several features of the Code have helped us with transparency and independence, particularly the requirement to pre-announce publications and develop a clear revisions policy.

Relationships

19. We have been fortunate in that our three principal sets of relationships, with the Scottish Parliament's Finance and Constitution Committee, the Scottish Government and the UK Office for Budget Responsibility have worked well and were characterised from the start by a strong desire to see the Commission operating effectively.

20. We developed written agreements with the Scottish Government and the OBR early on in our relationships that have subsequently been revised. Both sets have been revised in the light of experience, with the Protocol with the Government being revisited annually to reflect our joint experience in sharing the information that allows us to produce forecasts.

21. Relationships with Whitehall departments have developed more slowly as our need to interact with them has developed over the past four years. The earliest of the relationships was with HMRC who provided us with income tax and other data. We then worked to develop a relationship with DWP to provide information on the first social security payments that were to be devolved to Scotland. Again formal written agreements were developed with both these departments. We're currently working on formalising a developing relationship with the Treasury's devolution and OBR sponsorship teams.

22. The development of our relationships with data providers has been assisted by a recommendation from the Parliament's Economy, Energy and Fair Work Committee that we set out our statistical needs annual and that these needs should be a top priority. From 2018 we have published an [Annual Statement of Data Needs](#) that we have used to highlight gaps in the data we need for our work, and report back on the progress in meeting these needs.

Evolution of the Commission's work

23. The SFC was initially established as a non-statutory body in June 2014 to comment on the reasonableness of the Scottish Government's forecasts of two taxes devolved under the Scotland Act 2012 (Land and Buildings Transaction Tax and Scottish Landfill Tax) as well as the "economic determinants" of non-domestic rates.

24. The next stage in the evolution of the Commission was linked to the further devolution of taxes and social security heralded in the [Smith Commission report](#) commissioned immediately after the 2014 independence referendum result. The

Scottish Government's intention to put the Commission onto a statutory basis was included in its November 2014 [Programme for Government](#) published the day after the Smith Commission report. Legislation was introduced into the Parliament in September 2015 following a public consultation. As the Bill passed through the Scottish Parliament the UK Parliament was considering the Scotland Bill to devolve new tax and social security powers. And at the same time the Scottish and UK Governments were negotiating on the funding arrangements – the Fiscal Framework. The negotiations on the fiscal framework resulted in the Scottish Government agreeing to change the Commission's role from the body responsible for scrutinising forecasts to the one responsible for producing the forecasts. The Scottish Fiscal Commission Bill was amended and passed at a similar time to the Scotland Act 2016.

25. By the time of its statutory establishment in April 2017, the Commission's role as the provider of the official and independent fiscal forecaster was enshrined in legislation. The Commissioners had decided upon their "operating" model that the forecasts should be produced in-house using models developed and maintained by its staff. In addition, the first set of regulations had been passed by Parliament that expanded our remit to include forecasts of "demand-led social security expenditure" and Scottish non-oil GDP.³ Since establishment a second set of regulations have added forecasting assigned VAT receipts to the remit.

26. It is clear then that the SFC was established to serve the needs of increased fiscal devolution. Indeed, the bulk of our efforts since we became a statutory body in April 2017 has been focussed on this task. Our external review in 2019 highlighted suggestions that we expand our activities beyond this relatively narrow focus. The reviewers noted a particular gap identified around long-term fiscal sustainability in Scotland – an issue that was picked up more recently in February this year by the Legacy Expert Panel set up by the Scottish Parliament's Finance and Constitution Committee.⁴

27. Since 2017 the Commission has been required to produce an assessment of the reasonableness of the Scottish Government's borrowing plans. Although these powers are modest (with annual limits of up to £600 million of resource borrowing to cover forecast errors and £450 million of capital borrowing) developing an assessment framework has meant looking across the whole range of funding and reserve mechanisms available to the Government. The sophistication of our work here – and the level of commentary we have been able to provide to the Parliament – has developed over time.

³ These responsibilities could not be added until after the Scotland Act 2016 has passed and responsibility for social security was devolved to the Scottish Parliament.

⁴ Para 78 of the [Report to the Finance and Constitution Committee](#) recommended that consideration is given to the SFC being invited to publish a long-term fiscal sustainability report at least once during each session of Parliament

28. In recent years the gradual implementation of devolved tax and social security in the 2012 and 2016 Scotland Acts has increased the need for greater attention to be paid to in-year budget management. In 2020-21 there were two further staging points.

29. A further £3 billion of social security payments were devolved to Scotland from April 2020 which increased the need for in-year budget management. Spending is determined by the number of eligible people who apply for support and the Scottish Government needs to fund this spending as it arises, even if it differs from the forecast used to set the Budget initially.

30. Secondly, the first income tax reconciliation correcting for SFC and OBR forecasts used to set the 2017-18 budget were applied to the 2020-21 budget. This correction reduced the budget by £204 million – a gap the Scottish Government intended to address by drawing on its borrowing powers.

31. By themselves these developments would have meant that there was a role for the Commission to provide more commentary on in-year budget issues and the implications for borrowing and reserves. Of course, in the event COVID-19 meant that there was significant additional in-year funding as the block grant from the UK Government increased in line with their additional spending, as well as the direct impacts on devolved tax revenues and social security payments.

32. In April 2020 the Commission published a “[Fiscal Update](#)” to bring together an analysis of the early stages of the COVID funding using an approach we had developed as part of our assessment of borrowing. Since then we have produced three updates that are now settling down into a regular series of updates on in-year budget management providing a systematic account of how the budget has changed since the introduction of the Budget to Parliament. The latest [update](#) published in March includes the COVID funding announced in the UK Budget and how the deal reached by the Scottish Government with the other political parties to allow passage of the Budget Bill was funded.

Reflections from the Scottish Fiscal Commission

33. We take the view that the [Scottish Fiscal Commission Act 2016](#) has served us well in establishing a sustainable and effective fiscal council. Crucially, the Commission’s independence is enshrined in the legislation and is backed up by a number of provisions that reinforce independence including the Commissioners’ appointments being subject to Parliament’s approval. Our OECD reviewers reached a similar conclusion saying that the legislation “serves as a potential model for other countries that wish to establish an IFI.”⁵

34. The Act’s requirement that the Scottish Government uses the Commission’s forecasts in setting the Scottish Budget provides a strong incentive to the Government to co-operate with the Commission to produce accurate forecasts. This incentive is

⁵ OECD Independent Fiscal Institutions Review, OECD Review of the Scottish Fiscal Commission (SFC), para 108 ([link](#))

backed up with a clear statutory duty on the Government and other public bodies in Scotland to provide information to the Commission, although there is no statutory right of access to data held by public bodies elsewhere in the UK.

35. The Act is very clear about the Commission's remit and its functions. As well as producing regular forecasts and assessing the accuracy of our forecasts, the Commission can also, from time to time, produce forecasts, assumptions or projections in relation to any fiscal factors we consider appropriate. The Act defines a 'fiscal factor' as anything which affects the resources available to Scottish Ministers. This broad definition has allowed the Commission to comment on a range of areas and most specifically on the overall position of the Scottish Budget and the Scottish Government's fiscal framework. It also means that as we can produce forecasts that are not linked to fiscal events. We have been able to publish costings when the Government introduces new legislation or regulations for taxes or social security payments. We will use this provision to produce our first full forecast not linked to a fiscal event this August following a request from the Parliament's Finance and Constitution Committee.

36. Our legislation also states that forecasts must have regard to Scottish Government policy, but that we may not consider any alternative policies. This means that we cannot, for example, cost alternative Scottish Government policies or policies developed by other political parties.

37. The legislative provision for regular external evaluation is another positive reinforcement of the Commission's independence – but also the culture of continuous improvement and reflection prompted by the statutory requirement to produce annual forecast evaluations and undergo regular external reviews. In particular we found the obligation for an early external evaluation after 2 years of operation was incredibly helpful. The Commissioners took the decision to work with the OECD, inviting them to conduct a full review with an independent panel of experts. The review followed the standard OECD format including a technical assessment of our modelling approach, interviews with our key stakeholders, an evaluation of our publications and communications. We were encouraged by the review's very positive assessment of our reputation and the perception of independence. The review's recommendations, particularly on expanding the range of our outputs, have as we discussed above helped us take a wider perspective on our role and how we can assist Parliamentary scrutiny.

Annex – OECD assessment of Scottish Fiscal Commission against OECD principles.

Key: ●=yes; ◐=partial; ○= no

OECD Principle	Assessment	Notes
1. LOCAL OWNERSHIP		
1.1 Broad national ownership, commitment, and consensus across the political spectrum. Models from abroad should not be artificially copied or imposed.	●	The SFC enabling legislation was passed with broad support from all parties.
1.2 Local needs and the local institutional environment should determine options for the role and structure of the IFI.	●	The SFC was set up to meet the needs of a new fiscal framework in Scotland following increased devolution of tax and spend powers to the Scottish Parliament.
2. INDEPENDENCE AND NON-PARTISANSHIP		
2.1 Does not present its analysis from a political perspective; strives to demonstrate objectivity and professional excellence, and serves all parties. IFIs should be precluded from any normative policy-making responsibilities to avoid even the perception of partisanship.	●	The SFC does not provide normative advice or make policy recommendations.
2.2 The leadership of an IFI should be selected on the basis of merit and technical competence, without reference to political affiliation. The qualifications should be made explicit.	●	The qualifications in the Act (Section 16) relate to eligibility rather than merit or technical competence. However, the Framework Document and the public appointments process ensures that Commissioners are selected on merit and technical competence.
2.3 Term lengths & number of terms that the leadership of the IFI may serve should be clearly specified in legislation along with dismissal criteria & process.	●	The Act states that Commissioners may be appointed for a period not exceeding five years as determined by Scottish Ministers, renewable only once. It also provides for grounds for disqualification and specifies the ad-hoc removal process.
2.3 The leadership's term should optimally be independent of the electoral cycle.	●	The leadership's term is usually independent of the electoral cycle, as the typical term of the Scottish Parliament is five years.
2.4 The position of head of the IFI should be a remunerated and preferably full-time position. Strict conflict-of-interest standards should be applied.	◐	Commissioners work part time, but are remunerated. Ministers must approve the rates of remuneration and expenses for Commissioners and Committee members who are not Commissioners.

2.5 The leadership of the IFI should have full freedom to hire and dismiss staff in accordance with applicable labour laws.	☐	The Commission employs staff directly and has freedom to hire and dismiss, subject to civil service rules, but Ministers must approve the terms of employment of the Chief Executive and staff.
2.6 Staff should be selected through open competition based on merit & technical competence, without reference to political affiliation, in line with civil service conditions.	●	Employees are civil servants. The Civil Service Commission (a UK public body) provides assurance that civil servants are selected on merit on the basis of fair and open competition.
3. MANDATE		
3.1 The mandate should be defined in legislation, including types of reports and analysis they are to produce, who may request them and timelines for release.	●	
3.2 IFIs should have the scope to produce reports and analysis at their own initiative and autonomy to determine their own work programme within their mandate.	●	The SFC's enabling legislation states that the SFC can produce reports on a discretionary basis in relation to any "fiscal factors" it considers appropriate.
3.3. Clear links to the budget process should be established within the mandate.	●	
4. RESOURCES		
4.1 The resources allocated to IFIs must be commensurate with their mandate.	●	
4.1 The appropriations for IFIs should be published and treated in the same manner as the budgets of other independent bodies.	☐	The SFC has its own budget line within the Scottish Government's annual Budget, which is subject to the approval of the Scottish Parliament. The SFC's budget is decided by Ministers and approved by the Scottish Parliament as part of the Budget Bill. By contrast, the budget for the independent Audit Scotland is set by the Scottish Commission for Public Audit and then approved by the Scottish Parliament.
4.1 Multiannual funding commitments may further enhance IFIs independence and provide additional protection from political pressure.	●	The SFC's budget is set on an annual basis, with indicative funding amounts for the following two years.
5. RELATIONSHIP WITH THE LEGISLATURE		
5.1 Mechanisms should be put in place to encourage appropriate accountability to the legislature.	●	
5.1 The budgetary calendar should allow sufficient time for the IFI to carry out analysis necessary for parliamentary work.	☐	The Scottish Government has limited time in which to develop its Budget before it is presented to Parliament, particularly when

		there is a late UK Budget. This may hamper the ability of the SFC to deliver good quality and accurate forecasts.
5.2 The role of the IFI vis-a-vis the parliament's budget committee (or equivalent), other committees, and individual members in terms of requests for analysis should be clearly established in legislation.	●	The Act states that the Parliament has the power to require any Commissioner or Commission staff member to attend a Parliamentary Committee. Individual MSPs cannot request analysis.
6. ACCESS TO INFORMATION		
6.1 IFI should have full access to all relevant information in a timely manner.	●	The SFC has statutory right to access to information held by the Scottish Government and a subset of devolved public bodies, but not the UK Government and its public bodies.
6.2 Any restrictions on access to government information should be clearly defined in legislation.	●	
7. TRANSPARENCY		
7.1 IFI should act as transparently as possible, including full transparency in their work and operations.	●	The SFC publishes a multi-year Corporate plan, an annual Business Plan and an Annual Report and Accounts.
7.2 IFI reports and analysis (including underlying data and methodology) should be published, made freely available to all and sent to parliament.	●	
7.3 The release dates of major reports and analysis should be formally established, especially in order to coordinate them with the release of relevant government reports and analysis.	●	The SFC's enabling legislation prescribes for specific reports to be published alongside the Scottish Budget and the Medium Term Financial Strategy.
7.4 IFIs should release their reports and analysis, on matters relating to their core mandate on economic and fiscal issues, in their own name.	●	The SFC's enabling legislation requires the SFC to publish its reports in its own name.
8. COMMUNICATIONS		
8.1 IFIs should develop effective communication channels from the outset.	●	
9. EXTERNAL EVALUATION		
9.1 IFIs should develop a mechanism for external evaluation of their work.	●	The SFC Act requires the SFC to undertake external review. This first review covers the two years from 1 April 2017, with subsequent reviews planned every five years. The SFC does not have an external advisory panel.

Source: OECD Independent Fiscal Institutions Review, OECD Review of the Scottish Fiscal Commission (SFC), Table 1.1 ([link](#))