

**From the Minister of Finance**

*Dr. Steve Aiken OBE MLA  
Chair of Finance Committee*

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Our reference: *EXEC-0055-2021*

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Dear Steve,

**FISCAL COUNCIL AND FISCAL COMMISSION**

I am writing to notify you of my intention to make a written statement via urgent procedure on the Fiscal Council and Fiscal Commission later today.

The written statement is appended to this letter.

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**CONOR MURPHY MLA MINISTER OF FINANCE**

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## FISCAL COUNCIL AND FISCAL COMMISSION

### WRITTEN MINISTERIAL STATEMENT

**CONOR MURPHY MLA**  
**MINISTER OF FINANCE**

**12<sup>TH</sup> MARCH 2021**

## Introduction

I wish to provide Members with an update on the arrangements I have taken to establish both a Fiscal Council and a Fiscal Commission.

## Background

New Decade New Approach (NDNA) included a commitment to establish an Independent Fiscal Council that would “*assess and report on the sustainability of the Executive’s finances and spending proposals*”.

Separately, no comprehensive formal review of all of our options for further fiscal devolution has ever been completed or published here and we have a very limited suite of fiscal levers in comparison to the other Devolved Administrations. As we seek to rebuild both our economy and wider society as we emerge from the COVID-19 pandemic, it is now more important that we consider what powers are needed here.

Officials within my Department had therefore begun work early 2020 in examining the options for establishing a Fiscal Council and a Fiscal Commission, but our focus on responding to COVID-19 meant that this work was paused. I am however now pleased to announce the arrangements that have been put in place for these two important bodies.

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## Fiscal Council Terms of Reference

The Fiscal Council will be a permanent, independent organisation which will bring transparency and scrutiny to the state of the Executive's finances.

The Terms of Reference for the Council are as outlined in the NDNA document and have been developed in line with the OECD's Principles for Independent Fiscal Institutions and taking account of the experience of other areas with similar bodies.

The initial Terms of Reference are attached to this statement and published on my Department's website. I expect that these Terms of Reference will develop over time.

## Fiscal Council Membership

As the OECD principles state, the right membership with the right leadership is essential if a fiscal institute is to be effective. All members should be independent of political influence, competent, and have a strong government or academic background in economics and public finances.

That is the requirement we set, and I am pleased to announce that Sir Robert Chote has agreed to act as the Chair of the Fiscal Council. Robert was previously Chairman of the OBR – the British Government's independent fiscal council – for ten years from October 2010 to October 2020. Robert is also the Chair of the external advisory group to the Irish Parliamentary Budget Office.

Robert has agreed to take up this role of Chair for the set up period. He is clearly an outstanding person to Chair the Commission and possesses all the qualities required by the OECD. His experience and expertise will enable the Council to hit the ground running. After the set up period Robert has also agreed to assist with the appointment of a permanent Chair going forward.

Alongside Robert, I am appointing three highly experienced individuals to act as Council members for a three year term. They are:

Dr Esmond Birnie, currently senior economist at Ulster University who will bring to the Council significant research experience on the local economy as well as in budgetary and fiscal matters.

Maureen O'Reilly, an independent economist and current advisor to a number of both private sector and public bodies, who will bring a wealth of experience in economic research and advice; and

Professor Alan Barrett, Chief Executive Officer of the Economic and Social Research Institute in Dublin and previously a member of the Irish Fiscal Advisory Council.

## Future development of the Fiscal Council

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The Council will now be able to begin its work. However going forward, and in line with best practice, I have instructed my officials to examine how the role and standing of the Council can be put into legislation. Other fiscal institutions across these islands have initially been established on a non-statutory basis, but over time evolved into non-ministerial departments or statutory arm's length bodies. I believe we should do the same here to demonstrate and safeguard its independence. Consideration should also be given to the appointment process for Members.

## Fiscal Commission Terms of Reference

Turning now to the Fiscal Commission, given the lead role I have in relation to fiscal devolution and liaison with Treasury on taxation and budgetary matters, I am also separately establishing an independent Fiscal Commission that will examine the tax varying powers available to the Executive.

A considerable amount of work has been taken forward on the possible devolution of Corporation Tax, Air Passenger Duty and also on smaller areas such as Aggregates Levy, Stamp Duty Land Tax and Landfill Tax.

However no comprehensive formal review of all of our options for further fiscal devolution has ever been completed or published here and we have a very limited suite of fiscal levers in comparison to the other Devolved Administrations. Both Scotland and Wales have each have assumed greater powers following the recommendations of independent Commissions which examined the case for greater devolution.

Therefore, I am announcing today that a Fiscal Commission has been established to review the case for increasing fiscal powers to the Assembly. The terms of reference for the Commission are attached and available on the Department's website.

I envisage that it would take approximately 9 months for the Commission to complete its work. The report will be provided to me as Finance Minister and published before the end of this mandate.

## Fiscal Commission Membership

In terms of Membership, I am pleased to announce that like the Fiscal Council, the Fiscal Commission also has an eminent Chair. Paul Johnson, Director of the Institute for Fiscal Studies has agreed to Chair the Commission.

Paul has worked and published extensively on the economics of public policy, particularly on the areas of income distribution, public finances and tax. He is a high calibre economist who will bring the credibility, expertise and independence required for the important role he will play on the Commission. He will be supported by three other members:

Professor Iain McLean, a Professor of Politics at Oxford University with extensive research interests in public policy and devolution, including related issues in taxation and public expenditure such as the Barnett Formula.

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Professor Cathy Gormley-Heenan, currently Deputy Vice-Chancellor at University of Ulster and a serving board member for a number of organisations.

Dr Lisa Wilson, a Senior Economist at the Nevin Economic Research Institute whose research focuses on public expenditure, living standards, income distribution, poverty, and well-being.

## Resourcing and support

Both the Council and the Commission will need to be supported by a small secretariat. It will be able to undertake research but also to commission input from external expertise. Staff will initially be seconded from the Civil Service but as the Council moves to a permanent footing I envisage that it would have the ability to recruit its own staff.

It is estimated that the Commission will cost in the region of £400k during the 9 month period it will be set up for. This includes costs for remuneration of members, and its share of the staffing costs for the secretariat, as well as an external research budget.

On a similar basis, the cost of the Council is expected to be in the region of £350k in 2021/22, however, this may increase in subsequent years if the Council's remit is broadened. Costings for both the Council and the Commission are estimates at this stage until all the arrangements are finalised and the members can meet to agree their respective work programmes.

## Conclusion

The establishment of both the Fiscal Council and the Fiscal Commission represents a real step forward. We have secured very distinguished Chairs and members for these important pieces of work.

As we hopefully begin to emerge from the pandemic, rebuilding and restoring our economy and wider society is that task in front of us. If we are to deliver on our social and economic priorities, it is vital that we have all the levers we need at our disposal.

The work of the Fiscal Commission will inform that important discussion.

And with ever increasing demands on public spending, and in time, increased fiscal powers, the transparency and independent scrutiny of the Executive's finances that the Council will bring is something that I warmly welcome.

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## FISCAL COUNCIL – BRINGING TRANSPARENCY AND INDEPENDENT SCRUTINY TO PUBLIC FINANCES

# TERMS OF REFERENCE, MARCH 2021

### Mission Statement

1. The Fiscal Council is a permanent body which will bring greater transparency and independent scrutiny to the current and future state of Northern Ireland's public finances.

### Principles of Independent Fiscal Organisations

2. In 2014, the OECD set out nine broad recommendations' principles for Independent Fiscal Organisations, drawing on the work of the network of Independent Fiscal Institutions across the organisation's members. This piece of work was partly assessing the nature of these organisations across the world (and acknowledging their heterogeneity) but at the same time coming up with a set of recommendations that all these types of organisations could aspire to.
3. This Terms of Reference for the Fiscal Council has been developed in line with these principles, which are set out in the attached **Annex**.

### Remit

4. The Fiscal Council will have an immediate focus to take forward the New Decade New Approach (NDNA) commitments to:
  - prepare an annual assessment of the Executive's revenue streams and spending proposals and how these allow the Executive to balance their budget; and
  - prepare a further annual report on the sustainability of the Executive's public finances, including the implications of spending policy and the effectiveness of long-term efficiency measures.
5. As per NDNA the membership and terms of reference of the Fiscal Council will be agreed with the UK Government.

### Local Ownership

6. The commitment to a Fiscal Council was included in the New Decade New Approach document published alongside the restoration of the political institutions at that beginning of 2020. The Executive has agreed this Terms of Reference setting out the remit of Council on its establishment, and how it will be developed going forward. This has ensured local ownership and that local needs will be met by the functioning of the Council.

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### *Independence and non-partisanship and transparency*

7. It will act objectively, transparently and impartially, free from any political perspective, and on the basis of current NI Executive policy. It will examine the impact on the public finances of decisions made by the Executive and have a focus on the sustainability of public finances by considering the Executive's budget decisions in light of its ability to deliver on the Programme for Government. The Council should not however comment on the merits of individual policies, or examine alternative policy scenarios. This will protect the independence of the Fiscal Council and ensure a clear separation between analysis (which is the role of the Fiscal Council) and policy making (which is the responsibility of the ministers).
  
8. The Council will publish all the documents it produces in an accessible manner and should comply with the Code of Practice for Official Statistics in line with good practice.

### *Access to information*

9. For the Council to perform its duties accurately and efficiently, close working with the NI Executive and Departments will be essential, as will timely data / information sharing. Arrangements will be put in place to ensure this. Members will also be required to observe the standard confidentiality rules in relation to policy information and data sharing.

### *Communications*

10. Upon establishment, the Chair and members of the Fiscal Council will develop a communications plan to clearly articulate the remit of the Council and engage with relevant stakeholders. This will include a range of consultations with the Executive and MLAs, Government officials, economic commentators including the media, business and their representative bodies, although this is not exhaustive.

### *Mandate and relationship with the legislature*

11. It is expected that the role and Terms of Reference of the Fiscal Council will be expanded once the Council has been established and is delivering on the above requirements. Such a wider remit is anticipated to include economic / financial modelling for example. The expanding nature of Independent Fiscal Institutions can also be seen from experience elsewhere in the UK and internationally where their remit over time has not been static.
  
12. Like other similar bodies elsewhere, the Council will be initially set up as a nonstatutory body. Following its establishment, work will be undertaken to examine how the role and standing of the Council can be further formalised and legislated for on a statutory basis, so that its independence is safeguarded going forward.
  
13. This will include putting a competitive public appointments process in place to select future members that would maintain the required expertise and independence of the Council, and that would be conducted in line with the CPANI Code of Practice

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14. That legislation will need to include how the role of the Fiscal Council interacts with the Assembly and relevant Committees including the Finance Committee where relevant, including on the future appointments process.

#### *Resources - membership and staffing*

15. The Fiscal Council will comprise four individuals, including a chair, appointed by the Finance Minister. Robert Chote will become the Council's Chair for the set up period of around 6-9 months as we seek to formally establish the Council.

16. The other members, who will be appointed for a three year term will be:

- Dr Esmond Birnie, senior economist at Ulster University;
- Alan Barrett, Chief Executive Officer of the Economic and Social Research Institute; and
- Maureen O'Reilly, Independent Economist.

17. DoF will also put in place a full time permanent secretariat and support staff who will be recruited purposely to perform that function, headed by a G5 Chief of Staff, As well as supporting the Chair and members, the secretariat would have the capacity to undertake its own research and analysis and also contract out specialist pieces of work to external experts where required.

#### *External Evaluation*

18. In line with good practice an independent external evaluation will be conducted four to five years after the Council's establishment. This will include progress towards adhering towards the OECD principles and recommendations on way forward to further aspire to these. This evaluation could be undertaken by OECD or another independent Fiscal Institution which is now well established. Key stakeholders, in particular the Finance Committee, would be consulted on the process for appointing an external evaluator, and the Terms of Reference for the evaluation.

#### **Annex**

##### **OECD PRINCIPLES FOR INDEPENDENT FISCAL INSTITUTIONS (IFIs)**

Source: OECD, 2014, Recommendations on Principles for Independent Fiscal Institutions - <https://www.oecd.org/gov/budgeting/OECD-Recommendation-on-Principles-for-Independent-Fiscal-Institutions.pdf>

The twenty-two Principles for Independent Fiscal Institutions (fiscal councils and independent parliamentary budget offices) proposed below are grouped under nine broad headings: (1) local ownership; (2) independence and non-partisanship; (3) mandate; (4) resources; (5) relationship with the legislature; (6) access to information; (7) transparency; (8) communication; and (9) external evaluation.



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## **1. Local ownership**

- 1.1. To be effective and enduring, an IFI requires broad national ownership, commitment, and consensus across the political spectrum. While a country seeking to establish an IFI will benefit from the study of existing models and experiences in other countries, models from abroad should not be artificially copied or imposed. Regional or international authorities may provide valuable support and protection.
- 1.2. Local needs and the local institutional environment should determine options for the role and structure of the IFI. Design choices may also have to take into account capacity constraints, particularly in smaller countries. The basic characteristics of an IFI, including specific protections, should be informed by the country's legal framework, political system, and culture. Its functions should be determined by the country's fiscal framework and specific issues that need to be addressed.

## **2. Independence and non-partisanship**

- 2.1. Non-partisanship and independence are pre-requisites for a successful IFI. A truly nonpartisan body does not present its analysis from a political perspective; it always strives to demonstrate objectivity and professional excellence, and serves all parties. This favours that IFIs should be precluded from any normative policy-making responsibilities to avoid even the perception of partisanship.
- 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 – including professional standing and relevant government or academic experience. Qualifications should include proven competence in economics and public finances and familiarity with the budget process.
- 2.3. Term lengths and the number of terms that the number of terms that the leadership of the IFI may serve should be clearly specified in legislation as should be the criteria and process for dismissal for cause. The leadership's term should optimally be independent of the electoral cycle. Independence may be enhanced by defining the term span beyond the electoral cycle.
- 2.4. The position of head of the IFI should be a remunerated and preferably full-time position. Strict conflict-of-interest standards, particularly for institutions with council members employed on a part-time basis, should be applied equally vis-à-vis other employment in the public or private sector.
- 2.5. The leadership of the IFI should have full freedom to hire and dismiss staff in accordance with applicable labour laws.
- 2.6. Staff should be selected through open competition based on merit and technical competence and without reference to political affiliation. Conditions of employment should be along the lines of that of the civil (or parliamentary) service.

## **3. Mandate**

- 3.1. The mandate of IFIs should be clearly defined in higher-level legislation, including the general types of reports and analysis they are to produce, who may request reports and analysis, and, if appropriate, associated timelines for their release.

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- 3.2. IFIs should have the scope to produce reports and analysis at their own initiative, provided that these are consistent with their mandate. Similarly, they should have the autonomy to determine their own work programme within the bounds of their mandate.
- 3.3. Clear links to the budget process should be established within the mandate. Typical tasks carried out by IFIs might include (but are not limited to): economic and fiscal projections (with a short to medium-term horizon, or long-term scenarios); baseline projections (assuming unchanged policies); analysis of the executive's budget proposals; monitoring compliance with fiscal rules or official targets; costing of major legislative proposals; and analytical studies on selected issues.

#### **4. Resources**

- 4.1. The resources allocated to IFIs must be commensurate with their mandate in order for them to fulfil it in a credible manner. This includes the resources for remuneration of all staff and, where applicable, council members. The appropriations for IFIs should be published and treated in the same manner as the budgets of other independent bodies, such as audit offices, in order to ensure their independence. Multiannual funding commitments may further enhance IFIs independence and provide additional protection from political pressure.

#### **5. Relationship with the legislature**

- 5.1. Legislatures perform critical accountability functions in country budget processes and the budgetary calendar should allow sufficient time for the IFI to carry out analysis necessary for parliamentary work. Regardless whether an independent fiscal institution is under the statutory authority of the legislative or the executive branch, mechanisms should be put in place to encourage appropriate accountability to the legislature. These may include (but are not limited to):

1) submission of IFI reports to parliament in time to contribute to relevant legislative debate; 2) appearance of IFI leadership or senior staff before the budget committee (or equivalent) to provide responses to parliamentary questions; 3) parliamentary scrutiny of the IFI budget; and 4) a role for parliament's budget committee (or equivalent) in IFI leadership appointments and dismissals.

- 5.2. The role of the IFI vis-à-vis parliament's budget committee (or equivalent), other committees, and individual members in terms of requests for analysis should be clearly established in legislation. Preferably, the IFI should consider requests from committees and sub-committees

rather than individual members or political parties. This is particularly relevant for those IFIs established under the jurisdiction of the legislature.

#### **6. Access to information**

- 6.1. There is often asymmetry of information between the government and the IFI – no matter how well an IFI is resourced. This 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

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provided at no cost or, if appropriate, sufficient resources should be provided in the IFI budget to cover analysis obtained through government actuarial services.

- 6.2. Any restrictions on access to government information should also be clearly defined in legislation. Appropriate safeguards may be put in place as regards protection of privacy (for example, taxpayer confidentiality) and of sensitive information in the areas of national defence and security.

## **7. Transparency**

- 7.1. Given that promoting transparency in public finances is a key goal of IFIs, they have a special duty to act as transparently as possible. Full transparency in their work and operations provides the greatest protection of IFI independence and allows them to build credibility with the public.
- 7.2. IFI reports and analysis (including a full account of the underlying data and methodology) should be published and made freely available to all. As noted in 5.1, all IFI reports and analysis should be sent to parliament in time for legislative debate and the leadership of the IFI should be given the opportunity to testify before parliamentary committees.
- 7.3. The release dates of major reports and analysis should be formally established, especially in order to co-ordinate them with the release of relevant government reports and analysis.
- 7.4. IFIs should release their reports and analysis, on matters relating to their core ongoing mandate on economic and fiscal issues, in their own name.

## **8. Communications**

- 8.1. IFIs should develop effective communication channels from the outset, especially with the media, civil society, and other stakeholders. Given that the influence of IFIs in fiscal policy making is persuasive (rather than coercive by means of legal sanctions or other punitive measures), media coverage of their work assists in fostering informed constituencies that may then exercise timely pressure on the government to behave transparently and responsibly in fiscal matters.

## **9. External evaluation**

- 9.1. IFIs should develop a mechanism for external evaluation of their work – to be conducted by local or international experts. This may take several forms: review of selected pieces of work; annual evaluation of the quality of analysis; a permanent advisory panel or board; or peer review by an IFI in another country.

## **FISCAL COMMISSION – OPTIONS FOR THE DEVOLUTION OF TAXES**

# **TERMS OF REFERENCE, MARCH 2021**

### **Context**

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1. The Department of Finance has a long standing role to lead the work to consider the opportunities and proposals for further fiscal devolution. A considerable amount of work was taken forward on the possible devolution of Corporation Tax, Air Passenger Duty and also on smaller areas such as Aggregates Levy, Stamp Duty Land Tax and Landfill Tax. However no comprehensive formal review of all of our options for further fiscal devolution has ever been completed and published and we have a very limited suite of fiscal levers in comparison to the other Devolved Administrations.
  2. Therefore as we seek to rebuild both our economy and wider society as we emerge from the COVID-19 pandemic, it is now more important that we consider what powers are needed here. This need has been highlighted again as Budget 2021 has made a significant increase in the rate of corporation tax and led to many calls for our work to devolve corporation tax to be revisited. A review of Air Passenger Duty has also been announced as a means of improving regional connectivity. The Minister of Finance is therefore establishing an independent Fiscal Commission given the lead role he has in relation to fiscal devolution and liaison with Treasury on taxation and budgetary matters.
  3. The role of the Commission will be to carry out research and provide independent advice to the Finance Minister on options for the devolution of taxes from Westminster, as well as other revenue raising measures.
  4. This will inform the recommendations / proposals the Minister, or future Finance Minister in the next Assembly mandate, could put to the Executive in relation to developing fiscal policy.

## Remit

5. The Fiscal Commission should:

*“Review the case for increasing the fiscal powers to the NI Assembly, advising the Finance Minister on powers which could enhance the Assembly’s fiscal responsibilities, increase its ability to raise revenues to sustainably fund public services, and provide additional policy instruments. As part of this, the Commission should consider the need for additional budgetary tools to manage any increased financial responsibility.*

*The Commission should carry out research and put forward recommendations to the Minister of Finance that are realistically implementable within the NI context and drawing from the experience of Scotland and Wales, including what has worked well, and where challenges have been encountered in those administrations. This should include the potential costs incurred and realistic timescales of any of any new powers proposed.*

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*In addition, the Commission should also consider how the spending power of the NI Block can be protected if more powers are devolved.”*

6. The Fiscal Commission will be set up for a period of 9 months and will prepare a report with recommendations to be presented to the Minister of Finance within that timeframe. Any recommendations which the Minister of Finance wishes to progress will be brought to the Executive for discussion and agreement as necessary.

### **Membership and staffing**

7. The Fiscal Commission will comprise 4 individuals, including a Chair, appointed by the Finance Minister. Paul Johnson, Director of the Institute for Fiscal Studies (IFS), has agreed to chair the Commission, which will also comprise:
  - a. Professor Iain McLean, Professor of Politics at Oxford University.
  - b. Professor Cathy Gormley-Heenan, Deputy Vice-Chancellor, University of Ulster.
  - c. Dr Lisa Wilson, Senior Economist at the Nevin Economic Research Institute (NERI)
8. DoF will also put in place a secretariat and support staff which as well as supporting the Chair and members, would have the capacity to undertake its own research and analysis and also contract out specialist pieces of work to external experts where required.