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Dear Peter

FRASER OF ALLANDER INSTITUTE REPORT: A FISCAL COMMISSION OR COUNCIL - LESSONS LEARNED FROM ELSEWHERE IN THE UK AND IRELAND

The Department of Finance commissioned the Fraser of Allander Institute (FAI) to undertake a short piece of research to produce a report on lessons that could be learnt in establishing the Fiscal Council and Commission in Northern Ireland, which the Committee will be interested in.

The report will be published by FAI on 8th June on their web-site which will be available at www.fraserofallander.org/publications/a-fiscal-commission-or-council-for-northernireland.

I have also attached a copy for your convenience.

Yours sincerely

Andy Monaghan

ANDY MONAGHAN
DEPARTMENTAL ASSEMBLY LIAISON OFFICER

A Fiscal Commission or Council for Northern Ireland

Lessons Learned from elsewhere in the UK and Ireland

Mairi Spowage

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Executive Summary

In 2020, the New Decade New Approach (NDNA) agreement restored power sharing in Northern Ireland. It was designed to represent a fair and balanced basis upon which to restore the institutions that had been created by the Belfast (Good Friday) Agreement.

The period since power sharing collapsed has seen significant powers transferred to the Scottish and Welsh Parliaments, following comprehensive reviews of the devolution settlements for each country. No such comprehensive review has been carried out for Northern Ireland, where the purpose is to increase the financial accountability of the parliament.

The Commissions in Scotland and Wales are discussed in this document, with the lessons learned from these processes drawn out in detail. This includes a discussion of what devolution has meant in practice, what the wider infrastructure implications are, and what the impact has been on the budgets of devolved governments when these new powers were exercised.

Enhancing and improving fiscal management, credibility and planning is also a key part of NDNA. An explicit part of the agreement is to establish a Fiscal Council. We discuss the principles which should be considered in setting up such an institution, such as transparency, accountability, independence and look at examples of such bodies in the UK and Ireland.

The Fiscal Council for Northern Ireland can serve the purpose required of it by the Executive and Assembly to increase the confidence in fiscal responsibility. However, while it may have a different remit, there is much to learn from the other bodies in the UK and Ireland, particularly around remit, membership, resourcing, relationship with government and information sharing. We discuss these lessons and what they could mean for the new NI Fiscal Council.

Fraser of Allander Institute
February 2021

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1 Introduction

The Northern Ireland Department of Finance commissioned the Fraser of Allander Institute to carry out a lessons learned analysis on the establishment of Fiscal Councils and Commissions.

This has been motivated by two aims:

- To discuss the issues to consider in order to meet the commitment in the New Decade New Approach (NDNA) document to establish a permanent Fiscal Council; and
- To discuss the issues to consider if the NI Executive wished to establish a temporary Commission to consider new fiscal powers for NI, including the role of the permanent Fiscal Council in this, beyond the requirements as set out in the NDNA.

This document is set out as follows:

- The first section sets out the current situation as regards to devolution across the UK;
- The second section discusses the history of commissions to consider further powers in Scotland and Wales, and what can be learned from how devolution has worked in practice;
- The third section discusses the options for a Fiscal Council in Northern Ireland, drawing on experience across the OECD, elsewhere in the UK and in the Republic of Ireland.

1.1 About the Author

Mairi Spowage is a Principal Knowledge Exchange Fellow and the Interim Director of the Fraser of Allander Institute. Her areas of expertise include economic policy, economic statistics, national accounting, public sector finances, and economic and fiscal forecasting.

Previously, Mairi was the Deputy Chief Executive of the Scottish Fiscal Commission and the Head of National Accounts at the Scottish Government, and has over a decade of experience working in different areas of statistics and analysis, including transport, household surveys and performance measurement.

Mairi was in Government during the formation and operation of the Smith Commission in Scotland, following which she led the setup of the Scottish Fiscal Commission. This involved research on the experience of other countries in setting up and operation of Fiscal Councils in order to ensure the organisation was as effective as possible.

2 Current Devolution in the UK

Devolution in the UK is asymmetric and has evolved irregularly, with different levels of devolution to the three devolved nations, and to the city regions and local authorities of England. In broad terms, devolution of spending powers has happened more readily than powers over tax: but in recent years some major tax powers have been devolved, particularly to Wales and Scotland.
Tax devolution to the devolved parliaments in Scotland and Wales has been driven by the desire to increase the fiscal accountability of the parliaments, as well as to incentivise the Governments to

consider policies which can stimulate the economy and grow their tax base. Wider political events and changes have also driven devolution, such as the independence referendum in Scotland in 2014.

In Northern Ireland, the tax devolution debate has focussed on fiscal levers to grow the economy, a particular issue in Northern Ireland. In considering the implementation of such powers, comparisons to the tax regime in the Republic of Ireland have been considered (IFG, 2020b).

2.1 Devolved tax powers

Scotland

- Stamp Duty Land Tax (SDLT), Landfill Tax, and the power to set all rates and bands of Income Tax (except for the personal allowance) have been devolved and are now directly affecting the resources available to the Scottish Government. SDLT has been renamed Land and Buildings Transaction Tax (LBTT) and Landfill Tax had been renamed Scottish Landfill Tax (SLfT).
- Air Passenger Duty (APD) and the Aggregates Levy are due to be devolved at a future date. In both cases devolution has been held up by legal issues relating to state aid.
- Half of VAT receipts collected in Scotland are also due to be 'assigned' to the Scottish government, but the implementation of this change has been delayed until the UK and Scottish governments can agree upon a method to estimate Scottish VAT receipts. We discuss the issues around VAT assignment further in section 3.

Wales

- Stamp Duty Land Tax and Landfill Tax have been devolved and are now directly affecting the resources available to the Welsh Government. SDLT has been renamed to Land Transaction Tax, and Landfill Tax has been renamed Landfill Disposals Tax (LDT).
- Partial Income Tax powers are also devolved. UK Income Tax rates have been reduced by 10p in each band, on top of which the Welsh Government sets its own Welsh rate of Income Tax for each band.

Northern Ireland

- Long-haul Air Passenger Duty was devolved and subsequently abolished in 2012.
- Legislation was passed in 2015 to devolve Corporation Tax to Northern Ireland, so that tax rates could be reduced to the lower rates applying south of the Border. However, the plans to bring this reform into effect were postponed following the collapse of power-sharing and it remains uncertain whether this tax will eventually be devolved.

2.2 Devolved Spending Powers

As outlined above, the powers over spending tend to be much more extensive than the powers over taxation. Figure 1 below outlines the level of devolved responsibility covered by the different devolved administrations (IfG, 2020a).

Figure 1: Level of devolution in different policy areas

Percentage of UK Government departments' spending responsibility that is devolved IfG

Department	Scotland	Wales	Northern Ireland
Education	100%	100%	100%
Housing, Communities and Local Government	100%	100%	100%
Health and Social Care	100%	100%	100%
Environment, Food and Rural Affairs	97%	97%	97%
Transport	92%	37%	95%
Digital, Culture, Media, and Sport	68%	68%	70%
Justice	100%	1%	100%
Home Office	74%	2%	74%
Work and Pensions	20%	0%	98%
Business, Energy and Industrial Strategy	7%	7%	7%
HM Revenue and Customs	4%	4%	3%
HM Treasury	0%	0%	0%
Cabinet Office	0%	0%	0%
Defence	0%	0%	0%
Foreign, Commonwealth and Development Office	0%	0%	0%
International Trade	0%	0%	0%

Source: Institute for Government analysis of the HMT Funding Statement

The source for this is the HMT Statement of Funding Policy (HMT, 2020), which outlines in great detail the different spending lines and how “devolved” they are. These percentages also determine the level of funding that flows from devolved spending in England through the Barnett formula, which generates so-called Barnett consequentials.

The devolution of tax powers that has taken place in recent years has retained the Barnett formula, with adjustments to the resulting block grants made to reflect the revenue foregone by the UK Government in the devolution of the tax. Therefore Barnett still forms the basis of the funding settlements for the devolved administrations in the UK.

3 A Fiscal Commission on Further Devolution

Despite the series of Commissions and reports examining the package of powers devolved to the Scottish and Welsh parliaments, there has not been a comprehensive review of the settlement for the NI Assembly.

This section sets out the experience of such Commissions in other parts of the UK, what such a Commission could consider, and lessons that have been learned in practical terms from the devolution of powers to the Scottish and Welsh Parliaments.

3.1 Experience of Commissions in Scotland and Wales

3.1.1 Scotland: The Smith Commission

Following the Independence referendum in 2014, the Smith Commission was set up to explore new options for devolution in Scotland. This had followed the infamous “Vow” that had been made a few days in advance of the referendum by the Prime Minister, the Deputy Prime Minister and the Leader of the Opposition that if there was a “No” vote in the Referendum, there would be a significant new package of powers devolved to the Scottish Parliament.

Following the No Vote, David Cameron appointed the cross bench peer, Lord Smith of Kelvin, to lead the Commission on 19th September.

The members of the Commission were taken from all political parties in Scotland, and included the following:

- Annabel Goldie MSP, Scottish Conservative and Unionist Party
- Adam Tomkins, Scottish Conservative and Unionist Party
- Maggie Chapman, Scottish Green Party
- Patrick Harvie MSP, Scottish Green Party
- Gregg McClymont MP, Scottish Labour
- Iain Gray MSP, Scottish Labour
- Tavish Scott MSP, Scottish Liberal Democrats
- Michael Moore MP, Scottish Liberal Democrats
- John Swinney MSP, Scottish National Party
- Linda Fabiani MSP, Scottish National Party

The cross party nature of these talks was a particular strength; buy in from all political parties is essential to ensure the package proposed can be implemented successfully and is owned by the whole parliament.

A secretariat was also formed of officials from the Scottish Government, the Scottish Parliament and the UK Government. The role of the Secretariat was to work with the political representatives to ensure that the talks ran smoothly and were informed by evidence and analysis from the Scottish and UK Governments.

At the outset, the Commission set out a number of principles that the package of powers should:

- form a substantial and cohesive package of powers, enabling the delivery of outcomes that are meaningful to the people of Scotland.
- strengthen the Scottish devolution settlement and the Scottish Parliament within the UK (including the Parliament's levels of financial accountability).
- aim to bring about a durable but responsive democratic constitutional settlement, which maintains Scotland's place in the UK and enhances mutual cooperation and partnership working.
- not be conditional on the conclusion of other political negotiations elsewhere in the UK.
- not cause detriment to the UK as a whole nor to any of its constituent parts.
- cause neither the UK Government nor the Scottish Government to gain or lose financially simply as a consequence of devolving a specific power.
- be implementable; be compatible with Scotland's and the UK's international obligations, including EU law; and be agreed with a broad understanding of the potential associated costs.

The final agreement included a number of provisions, including ensuring the permanence of the Parliament and the Government, the Sewel convention and Inter-Governmental Cooperation. A large part of the package was the range of financial powers proposed to be devolved to the Scottish Parliament. A good overview of the recommendations was produced by the Scottish Parliament Information Centre (SPICe, 2015a).

This culminated in the Fiscal Framework negotiations and ultimately the agreement between the UK and Scottish Government that then underpinned the Scotland Act 2016. The Fiscal Framework (HMG & SG, 2016) set out how these new powers would operate in practice, particularly with reference to the retention of Barnett alongside the devolution of major taxes and social security powers. It also set out arrangements for administration and implementation costs, the principle of "no detriment", and a dispute resolution mechanism.

In summary then, the Scotland Act 2016 (Scotland Act, 2016):

- declared that the Scottish Parliament and the Scottish Government are considered permanent parts of the UK's constitutional arrangements and will not be abolished without a decision of the people of Scotland. It also recognises that the UK Parliament will not normally legislate in relation to devolved matters without the consent of the Scottish Parliament, whilst retaining the sovereignty to do so;

- gave increased autonomy to the Scottish Parliament and the Scottish Ministers in relation to the operation of Scottish Parliament and local government elections in Scotland;
- gave increased autonomy to the Scottish Parliament in relation to the power to amend sections of the Scotland Act 1998 which relate to the operation of the Scottish Parliament and the Scottish Government within the United Kingdom;
- increased the financial accountability of the Scottish Parliament through devolution of the rates and bands of Income Tax, Air Passenger Duty and Aggregates Levy, and assignment of VAT revenues;
- increased responsibility of welfare policy and delivery in Scotland through the devolution of welfare powers to the Scottish Parliament and / or the Scottish Ministers;
- gave significant responsibility to Scotland for areas such as road signs, speed limits, onshore oil and gas extraction, consumer advocacy and advice, amongst others by devolution of powers in relation to these fields to the Scottish Parliament and the Scottish Ministers; and

increased scrutiny for the Scottish Parliament of specific bodies and increased the ability of the Scottish Government to design schemes relating to energy efficiency and fuel poverty by the devolution of functions to the Scottish Ministers.

3.1.2 Previous Efforts in Scotland – the Calman Commission

The Smith Commission was prompted by the independence referendum, but the route to the referendum initiated the previous Commission to consider devolution in Scotland and ultimately recommended the devolution of powers (culminating in Scotland Act 2012).

The Calman Commission was proposed by the three opposition parties at Holyrood in response to the newly elected SNP Government's launch of "The National Conversation" (Scottish Government, 2007) in 2007. It was formally launched by the Secretary of State for Scotland in March 2008. The Commission was to consider options for further devolution to Scotland within the UK.

It was welcomed cautiously by the Scottish Government as a contribution to the National Conversation, but was criticised by them for explicitly ruling out independence as a possible future for Scotland (House of Commons Library, 2010).

The final report was published in 2009, and a response was published by the Secretary of State later in 2009 (Scotland Office, 2009). This led to the provisions in the Scotland Act 2012 which devolved new tax powers on Stamp Duty Land Tax and Landfill Tax to the Scottish Parliament.

The announcement of the devolution of these powers preceded the Holyrood election in 2011. This led to an unprecedented majority SNP Government being elected; so it is perhaps fair to say that these provisions did not whet the Scottish electorate's appetite for further powers for the Scottish Parliament. This led to the Edinburgh Agreement in 2011 and ultimately the Independence Referendum in 2014.

3.1.3 Wales – Silk I, Silk II and the St David's Day Agreement

The experience in Wales has followed in the wake of the processes in Scotland to a certain extent.

The Holtham Commission was established by the Welsh Executive in 2008, partly in response to the establishment of the Calman Commission in Scotland. The Holtham Commission was led by Gerald Holtham, Professor of Regional Economy of Cardiff Metropolitan University, and he was joined by Professor David Miles (an economist at Imperial College London) and Professor Paul Bernd Spahn (Professor of Public Finances at Goeth University in Frankfurt).

The Commission published 2 reports, with the final report published in July 2010 (Holtham

Commission, 2010). The report reaffirmed the first report's proposals for funding reform in Wales, as well as considering the limited devolution of tax powers and the Assembly Government's ability to borrow to fund capital expenditure. It concluded that the devolved government should be funded by a combination of a reformed block grant based on needs and revenue raised by increased powers of taxation.

The recommendations were widely accepted across the political spectrum in Wales, and led to the establishment of the Silk Commission by the Secretary of State for Wales in 2012 (House of Commons Library, 2012). The Commission was named after the Chair, the now Sir Paul Silk.

The Commission published in two parts, the first in November 2012 (Commission on Welsh Devolution, 2012) and the second in March 2014 (Commission on Welsh Devolution, 2014). These reports have become known as Silk I and Silk II.

Silk I led to the Wales Act 2014 which devolved Stamp Duty Land Tax and Landfill Tax to the then Welsh Assembly, along with some limited Income Tax rate varying powers.

Silk II was much more comprehensive and wide ranging, and dealt with some of the fundamental issues with the model of Welsh devolution. One of the main recommendations was around the move to a "reserved powers model", like the Scottish Parliament, rather than the "conferred powers model" that currently existed. This means that instead of particular powers being given (or "conferred") to the devolved parliament, that the devolved government has responsibility for everything except those powers that are explicitly reserved.

This culminated in the document "Powers for a Purpose: Towards a Lasting Devolution Settlement for Wales", published by the Secretary of State for Wales, also known as the St David's Day Agreement (SoS for Wales, 2015). As well as accepting most of the recommendations in Silk I and Silk II, it also considered the recommendations of the Smith Commission in Scotland, to examine where it was possible for elements of this to be devolved to Wales.

A similar process to the new Scottish powers for agreeing the fiscal arrangements around new powers led to a fiscal framework agreement being produced in December 2016 (HM Government & WG, 2016). Importantly though, the agreement on the mechanism for adjusting the block grant to reflect devolution of tax to Wales was different from the Scottish model.

Following on from the recommendations of the Holtham Commission, this ensured the introduction of a reformed block grant for Wales, taking account of needs. This essentially introduced a funding floor, below which the level of funding for the now Welsh Government cannot go below: at 115% of the UK average level. This was to address the long-held belief that the Barnett formula had historically benefitted Scotland and Northern Ireland while disadvantaging Wales (see Trench, 2013, for a good discussion of this debate).

The Wales Act 2017 followed, with similar provisions around permanence of the Welsh Parliament and Government, and the Sewel Convention, as in the Scotland Act 2016.

3.2 Lessons for a future commission in Northern Ireland

3.2.1 Buy in, Commission Lead & Membership

The Commissions that have ultimately led to significant change in the devolved settlements in Scotland and Wales have been supported by both the devolved administrations and the UK Government. They also drew members from all political parties in the parliament.

Therefore, the first step could be for the Northern Ireland Assembly to agree with the UK Government that such a Commission should take place: and going by the experience of Smith and Silk, it could be formally established by the Secretary of State for Northern Ireland.

An ideal Commission lead could be a cross bench peer, as was the case for the Smith Commission. Lord Smith of Kelvin was also respected across the political spectrum in Scotland, and given he grew up and was educated in Glasgow he understood the political landscape and history.

The Members of the Commission could be drawn from all political parties in the parliament to ensure buy in to the ultimate agreement. In the case of the Smith Commission, this was from the five political parties in the chamber.

The party landscape in the NI Assembly is of course more complex, but it would be important to have all-party buy in to the process if it is to be seen as a parliament wide view.

There are of course, options for the first step to fiscal devolution to follow the route in Wales, whose recent devolution journey began with the Holtham Commission. Therefore, this would be a Commission led by a respected academic in Northern Ireland. It would be important to ensure that the lead of such a Commission would be respected across the political spectrum, and is seen as an expert on Northern Ireland's economic and fiscal arrangements.

Following the model in Wales, academic contributors can be drawn from international settings to draw lessons from other countries. It will be important if an academic Commission is established that there is expertise on the experience in Scotland and Wales.

While this could be the first step though, it is likely that it would set the foundation for a political Commission as discussed above, rather than replace it. The benefits were clear in Wales of having this as the foundation of their ultimate devolution settlement, with the reform of the block grant in the 2016 Fiscal Framework flowing from the recommendations of the Holtham Commission in 2010.

3.2.2 Secretariat & Advisors

A Secretariat formed of officials with backgrounds in public finances, taxation (including policy costing and tax practitioners), constitutional law, economics, economic measurement and analysis of the UK and NI economy is likely to be required to ensure the smooth operation of the Commission. This secretariat will have an important role to provide analysis and intelligence to the Commission to allow it to consider options in an informed way. Depending on the constitution of the Commission this may be officials sourced from NI Executive departments, and perhaps the UK Government if appropriate.

To some extent, of course, the make-up of the Secretariat depends on the scope of the Commission, and the Commission should have the freedom to bring in others to provide analysis on particular issues as their discussion evolves. The Secretariat will require this flexibility to ensure that decisions are evidence based and keep in mind the practicality of implementation of particular options.

The Commission may wish to draw on advisors as part of their work, whether this is through a period of consultation on initial proposals, to commissioning pieces of work on particular issues. It will be important to draw on those who were involved in the Commissions in Scotland and Wales to help the Commission learn from these experiences, to ultimately deliver the principles that will be set out.

3.2.3 Principles and terms of reference

The principles and terms of reference will and should be a matter for the members of the Commission. In the establishment of the Commission, it should not be limited in the comprehensive review of options for the reform of devolution in Northern Ireland. In this section, we provide the terms of reference that have been used in previous commissions: The Holtham Commission in Wales and the Smith Commission in Scotland.

The Holtham Commission's terms of reference were to:

i) look at the pros and cons of the present formula-based approach to the distribution of public expenditure resources to the Welsh Assembly Government; and

ii) identify possible alternative funding mechanisms including the scope for the Welsh Assembly Government to have tax varying powers as well as greater powers to borrow.

The Smith Commission's principles were to:

- Form a substantial and cohesive package of powers, enabling the delivery of outcomes that are meaningful to the people of Scotland.
- Strengthen the Scottish devolution settlement and the Scottish Parliament within the UK (including the Parliament's levels of financial accountability).
- Aim to bring about a durable but responsive democratic constitutional settlement, which maintains Scotland's place in the UK and enhances mutual cooperation and partnership working.
- Not be conditional on the conclusion of other political negotiations elsewhere in the UK.
- Not cause detriment to the UK as a whole nor to any of its constituent parts.
- Cause neither the UK Government nor the Scottish Government to gain or lose financially simply as a consequence of devolving a specific power.
- Be implementable; be compatible with Scotland's and the UK's international obligations, including EU law; and be agreed with a broad understanding of the potential associated costs.

Whatever the scope of the Commission, and however it is constituted, it is likely that there will be an explicit undertaking to review the devolution settlements in Wales and Scotland: to see what can be learned and where equivalent powers may make sense for Northern Ireland.

3.3 Wider infrastructure Considerations

There would be a number of considerations for the wider infrastructure in Northern Ireland if similar taxes were devolved as has happened in Scotland and Wales. The costs that have been incurred and the issues raised can be used to inform the work of a Commission in Northern Ireland to ensure these are set up in the most effective way possible.

It is important that these issues are considered alongside any package of new powers to ensure that realistic timescales and costs can be set out for devolution of further powers.

3.3.1 Revenue Authority for Collection

The experience in both Scotland and Wales has led to the establishment of tax collection authorities, Revenue Scotland and Revenue Wales respectively. In this section, we discuss the experience of Revenue Scotland specifically and the lessons it may hold for the establishment of an equivalent body in Northern Ireland.

Revenue Scotland was first established following the enactment of the Scotland Act 2012, which fully devolved two minor taxes (Stamp Duty Land Tax and Landfill Tax) to Scotland. These were first collected by Scotland in the financial year 2015-16.

The imperative for the new tax collection authority was to be a credible and competent tax collection authority, demonstrating to taxpayers that they would charge the right amount of tax and collect it safely, whilst closely protecting confidential taxpayer information. With this in mind, the legislative basis for Revenue Scotland took a very risk averse view of use of taxpayer information, and set themselves up very much in the same way as HMRC.

At the same time, the investment in an internal statistical analysis function was fairly limited initially, although this has grown to around 3 FTE in more recent years. This limits the amount of use that can be made of taxpayer information to inform policy costing and outlook.

Of course, in terms of budgetary importance, these taxes are dwarfed by the partial devolution of Non-Savings Non-Dividend (NSND) income tax. Given the partial nature of devolution, it was agreed by the Scottish and UK Governments that HMRC would continue to collect the tax on behalf of the Scottish Government. Whilst again understandable from a tax collection point of view, this has had serious implications for the access of data, which has knock on effects for both the Scottish Government and the Scottish Fiscal Commission in policy making, policy costing and forecasting.

We discuss further the implications this has had for the operating model for the Scottish Fiscal Commission in section 4 below.

3.3.2 Fiscal Councils & Parliamentary Budget Offices

Of course, another consideration in the devolution of any powers is the Independent Fiscal Institution infrastructure within Northern Ireland. Within the UK, different models have been adopted: with a statutory body being set up in Scotland, and the Welsh Parliament choosing to draw on the OBR for this advice.

It was initially envisaged that the Scottish Fiscal Commission would be closer in remit to the model adopted by the Irish Fiscal Council, continuing the non-statutory role they had had since 2014 on a statutory basis to challenge and certify the Scottish Government's economic and tax forecasts. However, during the passage of the Scottish Fiscal Commission Act 2016 (SFCA, 2016), the remit was changed to give the organisation responsibility for producing their own forecasts.

More discussion about the role of a fiscal council can be found in section 4 below.

3.3.3 Capacity within Government and Parliament & Data Availability

The capacity of Government and Parliament needs to be examined in deciding how implementable the devolution of certain powers are: and, if implementable, how much capacity may need to be built and what that may cost. This can also have a knock on effect to data availability, the production of statistics, and the development of modelling capability in particular areas.

For example, one of the borrowing powers proposed through the Smith Commission and enacted in the Scotland Act 2016 was an additional resource borrowing function in the event of a "Scotlandspecific economic shock", as measured by the Scottish Government's National Statistics GDP series, and/or forecast by the Scottish Fiscal Commission.

This has many consequences:

- Firstly, there is for the first time a legislative imperative to produce and invest in the economic statistics for Scotland, and in this measure in particular;
- The requirement to model and forecast the Scottish economy, both for this purpose and for forecasting Income Tax, drives particular requirements for the production of economic statistics in Scotland. We were somewhat lucky in Scotland that the production of Quarterly National Accounts was already in place, which form the basis for the data which feeds in to economic models.
- Given the SFC's requirement to model and forecast the Scottish economy, these tools had to be developed. Again, there was already a Scottish Government model of the Scottish Economy that could be used initially (although it was not perfectly designed for this purpose). After a few years the SFC have now built their own model to use: but this is after 4 years of operation.
- The overall capacity for Government officials and the staff in the new fiscal council to be comfortable modelling and forecasting for these purposes takes time to build up. Similarly, there have been challenges in the capacity of parliament to be comfortable with the uncertainties inherent in economic and fiscal forecasting.

This is just one example, but illustrates the knock-on effects that the devolution of new powers can have, and of the true implementation challenges and costs that must be considered.

3.4 Key Lessons from devolution experience in the UK

A Commission on Northern Ireland, as discussed above, is likely to consider the experience of devolution in Scotland and Wales, and how applicable these provisions are to the situation in Northern Ireland.

In particular, Northern Ireland can benefit from many of the lessons that have been learned, and – frankly – the areas that have not worked so well.

The practicality of any new package, and the implications in reality are important factors to be considered by a Commission on a new package of powers.

3.4.1 Devolution – theory vs reality

The experience of devolution may not of course, always match the level of autonomy or level of responsibility that is sometimes envisaged. For example, after the Smith Commission and Scotland Act 2016, the then Prime Minister David Cameron suggested that the Scottish Parliament would be one of the most powerful devolved parliaments in the world.

Of course, this depends on how much power the parliament actually has, and how “devolved” the powers in question actually are. Generally, the measure of fiscal decentralisation that is used is devolved revenue as a proportion of devolved spending. For the Scottish Parliament this was around 50% if Income Tax and VAT are included in the calculation. But should they be?

What is actually devolved is the power over Income Tax rates and bands, for Non-Savings NonDividend Income Tax only. So the parliament has no control over the personal allowance, the tax base, or tax which is raised from savings or dividend income. This has meant that despite the tax changes that have happened in the rates and bands in recent years, for most earners these are completely outweighed by the impact of personal allowance changes by the UK Government. In addition, there are real issues around tax motivated incorporation taking people out of the devolved tax space altogether.

Therefore, it is more correct to call Income Tax a partially devolved tax.

The proposal for VAT was also not giving responsibilities to the Scottish Parliament: rather, it was attempting to link a proportion of the Scottish Budget to the performance of the Scottish economy. The practical problems of this assignment have been well discussed (see below) but it does not seem sensible to make out that it increases the fiscal responsibilities of the parliament.

VAT Assignment has also, it seems, failed the implementability test after many years of investigation. We have written on this on many occasions (FAI, 2018). It was always the case that measuring VAT raised in Scotland with enough precision to allow a portion of the Scottish budget to be determined by it was going to be challenging. This has now been paused due to the concerns about the reliability on such an estimate. This will now be discussed as part of the Fiscal Framework review, due to take place later in 2021. It is likely that this could lead to the idea of VAT Assignment being scrapped.

As discussed in section 2, much of the responsibility for Social Security in Northern Ireland lies with the Northern Ireland Executive. However, the approach to social security has broadly been to ensure parity between GB and NI. There are some exceptions to that, such as some of the provisions around Universal Credit and a mitigation package to soften some of the provisions in the Welfare Reform Act. But in reality the Executive is limited in changes that can be made to the social security system without the means to raise revenue to fund different choices.

3.4.2 Overall revenue implications

The Scottish Government has used the powers devolved on Income Tax to create a new 5 band income tax system. This has been designed to ensure that those who earn less than £27,000 (around the median income) pay less tax than they would in the rest of the UK (although the maximum benefit is around £20), whereas those who earn more than that pay more, in some cases significantly more.

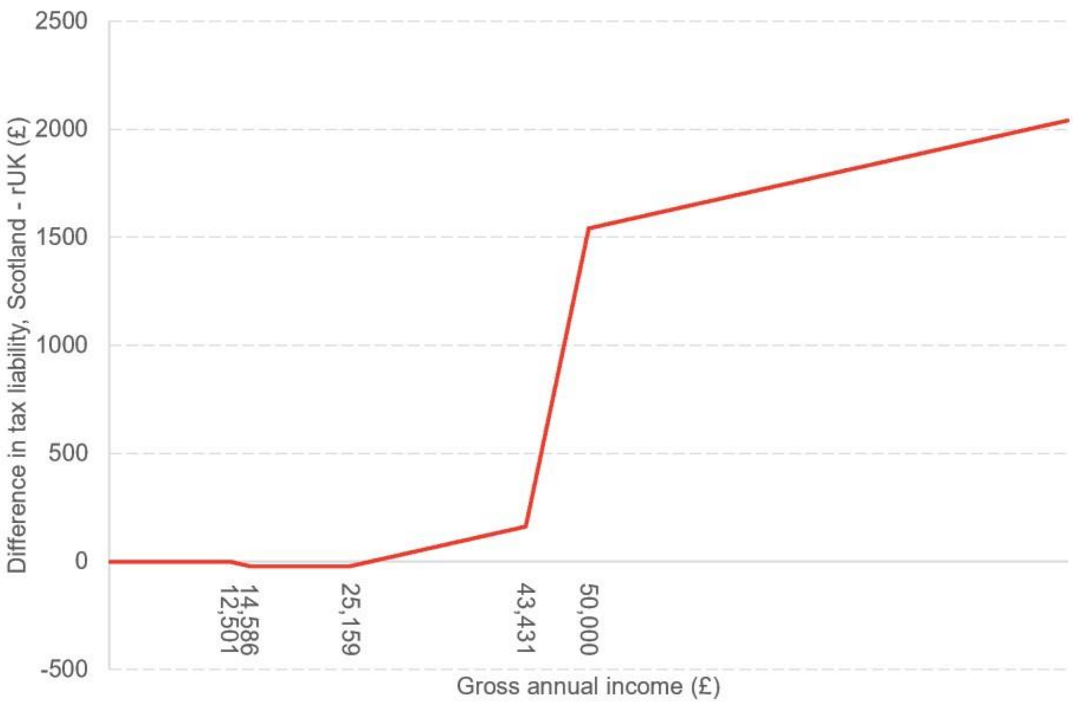
Table 1: The Scottish 5 band income tax system

Bands	Band name	Rate
Over £12,500* - £14,585	Starter Rate	19%
Over £14,585 - £25,158	Scottish Basic Rate	20%
Over £25,158 - £43,430	Intermediate Rate	21%
Over £43,430 - £150,000**	Higher Rate	41%
Over £150,000**	Top Rate	46%

* assumes individuals are in receipt of the Standard UK Personal Allowance.
** those earning more than £100,000 will see their Personal Allowance reduced by £1 for every £2 earned over £100,000.

This leads to the following differences in liability for earners in Scotland, compared to the levels seen in the rest of the UK.

Figure 2: Tax policy divergence: Difference in liability, Scotland - rUK



Source: FAI calculations

This policy was introduced in order to make the income tax system more progressive, and to raise more revenue to fund services in Scotland.

To reflect the revenue the UK Government has foregone due to devolution of the tax to Scotland, a deduction is made from the block grant. This is done on the basis of the increase in tax rates per head in the rest of the UK (or, properly, after devolution to Wales, in England and Northern Ireland).

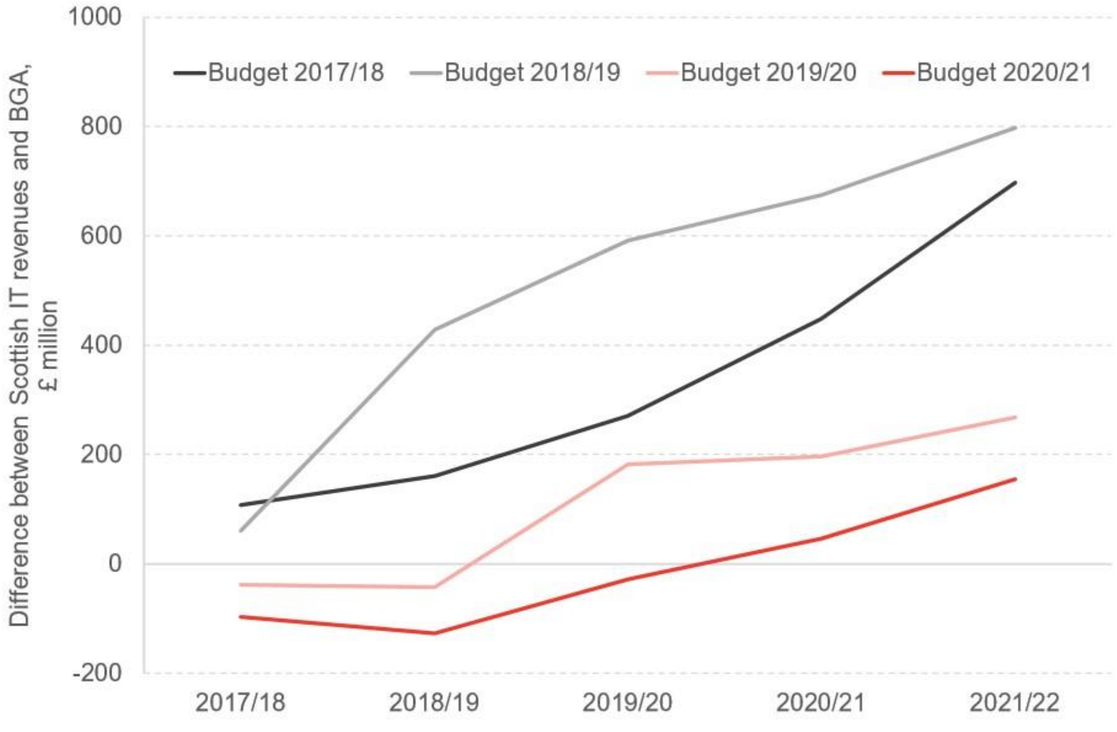
So broadly, all else being equal:

- If Scottish tax receipts per head grow more quickly than those in the rest of the UK, the Scottish budget will be better off;
- If Scottish tax receipts per head grow more slowly than those in the rest of the UK, the Scottish budget will be worse off.

This is before taking account of policy differences: which in this case are designed to raise additional revenues to spend on services.

So, what has the overall impact on the budget been? The chart below shows the difference between the forecast for revenues raised compared to the forecast for the block grant deduction. So, a positive number means that the Scottish budget is better off than if the tax had never been devolved.

Figure 3: Net impact on the Scottish budget



Source: FAI calculations

Looking at the dark red line, we can see that despite the higher tax rates in Scotland for high earners raising more revenue, the Scottish budget is barely any better off. This is due to a poorer outlook for Scottish wages than was assumed in previous years, particularly compared to the rest of the UK. So essentially, the Scottish tax base is growing more slowly, and is less tax rich than the rest of the UK.

There are a number of data challenges which have exacerbated the uncertainty of the outlook prior to outturn data being available for Scottish taxpayers.

So despite the higher tax rates, the Scottish Budget in 2020-21 was essentially no better off than if the tax had not been devolved. This situation changed in Budget 21-22, which showed the budget was around £300 million better off due to Income Tax policy in Scotland – but this was still much lower than had been originally forecasted.

Now, the overall impact on the budget is not the only consideration when examining the desirability of a particular power being devolved. Wider considerations of accountability to their electorate are obviously a big part of it. However, it is worth flagging the Scottish experience given the desire to make more revenue available has not been realised.

3.4.3 Devolved Budgeting

The devolution of fiscal powers is designed to increase power and accountability of the devolved parliaments. Instead of the vast majority of their budget being determined by the block grant from Westminster, larger portions of their budget are determined by taxes raised in their jurisdiction, drawing a more solid link between actions to support the economy and country and the resources available to spend.

However, in reality the devolution of significant powers has increased the interdependencies between fiscal events at the UK and devolved level.

As well as the outlook for the block grant, which is generally fairly predictable, resources are now determined by revenues raised in the area (determined by the official forecaster, e.g. the Scottish Fiscal Commission) and the block grant adjustments (determined by the UK official forecaster, e.g. the OBR). Devolved processes are generally less flexible than at the UK level, with a number of bills having to be passed before the start of the financial year in order to collect revenue.

Essentially, devolution of major taxes has meant that it is more important than ever that the UK budget is done in a timely manner, in order for the Governments to have a good understanding of the spending envelope available to them.

This is particularly true given the very limited borrowing powers the devolved administrations have to cover any funding uncertainties.

3.4.4 Wider than just fiscal issues….

We have focussed particularly on the packages of fiscal powers that have been devolved. But the Scotland Act 2016 and the Wales Act 2017 also included wider measures that could be considered in a Commission for Northern Ireland.

3.4.4.1 Permanence

Both of the Acts established the Scottish and Welsh Parliaments (and their respective Governments) as permanent parts of the UK constitutional arrangements. Given the sovereignty that the UK retains over its institutions however, this was described as "legally vacuous" by one Scottish legal expert (SPICe, 2015b).

3.4.4.2 Sewel Convention

The Sewel Convention was enshrined in statute in both the Scotland Act 2016 and the Wales Act 2017. This states that:

> "…it is recognised that the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the [Scottish/Welsh] Parliament"

Despite this, the UK Government has passed legislation recently in devolved areas without the consent of the Scottish and Welsh Parliaments (an example would be the Internal Market Bill). The important clause here is **normally**. The thought behind the inclusion of this in the acts was of course to put the Sewel Convention on a more formal footing, but in reality the UK Government can and does legislate in devolved areas without consent.

This is likely to continue to be an area of controversy as we go forward, with the continued fall out from Brexit in devolved areas, including how spending is carried out through the UK Shared Prosperity Fund.

4 A new Fiscal Council for NI

4.1 Background

The "New Decade New Approach" agreement set out, in the Section on Transparency, accountability and the functioning of the Executive:

> "Ministers and civil servants, including special advisers, each have a part to play in rebuilding the trust of citizens in the operation of a future administration. The parties reaffirm their commitment to greater transparency and improved governance arrangements that are aimed at securing and maintaining public confidence. This is particularly important in light of the public inquiry into the RHI [Renewable Heat Incentive] scheme."

The measures to do this included the "establishment of a fiscal council which would assess and report on the sustainability of the Executive's finances and spending proposals".

This document set out that the Council would have the following role:

> "This will provide scrutiny and expert advice to the Executive and the Assembly on fiscal and budgetary matters, with a particular focus on sustainability. The Fiscal Council will also provide independent monitoring and reporting on the Executive's performance in delivering the Programme for Government."

This section discusses the issues to consider when setting up a Fiscal Council for Northern Ireland, drawing on principles set out by the OECD and experience across the UK and Ireland.

4.2 Principles for Independent Fiscal Institutions

The first point to make is a Fiscal Council for Northern Ireland can carry out whichever functions the Assembly and Executive feel are necessary to improve fiscal scrutiny and accountability (limited of course by resources that are available). While there are principles that should be generally followed for the nature of their operation, the remit must be tailored to local circumstances.

Firstly though, we examine Independent Fiscal Institutions across the world. In 2014, the OECD set out a number of Recommendations on Principles for Independent Fiscal Organisations (OECD, 2014). This was part of the work of the network of Independent Fiscal Institutions (IFIs) across the organisation's members, many of which had grown up in the aftermath of the financial crisis in 2008/09.

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. The full set of 22 principles are set out in the report, but these are summarised below under the nine broad headings with the most relevant issues highlighted for application to Northern Ireland:

- **Local Ownership** – 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. 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*.

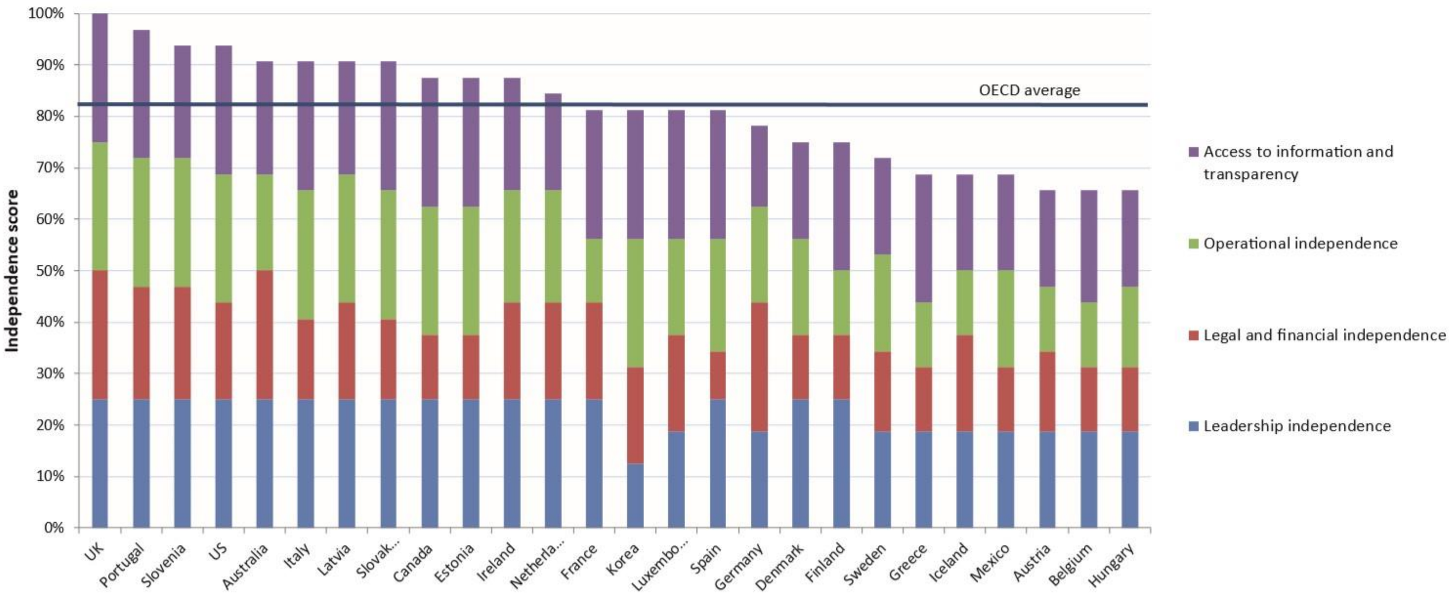
- **Independence and non-partisanship** – Non-partisanship and independence are prerequisites for a successful IFI. This favours that IFIs should be precluded from any normative policy-making responsibilities to avoid even the perception of partisanship. The position of head of the IFI (in the UK, this is generally referred to as the "Chair", Dame Susan Rice for the SFC, for example) should be a remunerated and preferably full-time position.
- **Mandate** - 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. 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.
- **Resources** - The resources allocated to IFIs must be commensurate with their mandate in order for them to fulfil it in a credible manner. Multiannual funding commitments may further enhance the IFI's independence and provide additional protection from political pressure.
- **Relationship with the legislature** - 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.
- **Access to information** - 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.
- **Transparency** - 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.
- **Communications** - IFIs should develop effective communication channels from the outset, especially with the media, civil society, and other stakeholders.
- **External Evaluation** - IFIs should develop a mechanism for external evaluation of their work to be conducted by local or international experts.

4.3 Fiscal Councils and PBOs across the world

The OECD maintains a database on 36 national and sub-national IFIs across the OECD (and Brazil) (OECD, 2019). This includes the most recently established IFI in the UK, the Scottish Fiscal Commission. As touched upon above, the heterogeneity of these institutions is very stark, with the organisations meeting the needs of the fiscal landscape in their own countries, and perhaps to particular political or financial events.

In 2018, the OECD assessed the current database of IFIs against the principles we have discussed, to give each institution an independence "score".

Figure 4: Index of IFI Independence



Source: OECD

The OBR in the UK was seen to meet all 22 principles that had been set out, and therefore was the only institution which received a score of 100%.

Incidentally, the model of the OBR is quite unusual across the world. That it produces its own forecasts that must be used by Government in determining its fiscal position and assessment of its fiscal rules, rather than certifying government forecasts or producing alternatives, this is quite an unusual set up. Given this is what we are used to in the UK, this has flowed through to the Scottish Fiscal Commission's role. The wider infrastructure does mean that the OBR and SFC operate in different ways, which we discuss below.

This makes both the OBR and SFC very powerful organisations by international standards.

4.4 The Fiscal Councils and Parliamentary Budget Offices in UK and Ireland

The most relevant examples for Northern Ireland to consider are those in the UK and Ireland. In this section, we focus in particular on:

- The Office for Budget Responsibility (OBR)
- The Scottish Fiscal Commission (SFC)
- The Irish Fiscal Council
- The Houses of the Oireachtas Parliamentary Budget Office

We will also briefly discuss the role of Financial Scrutiny Units in the Westminster, Scottish and Welsh Parliaments and in the NI Assembly.

4.4.1 Office for Budget Responsibility

The Office for Budget Responsibility (OBR) was created in 2010 to provide independent and authoritative analysis of the UK's public finances. They have 5 main roles:

- Economic and fiscal forecasting to accompany the Autumn Budget and Spring Statement;
- evaluate the Government's performance against its fiscal targets;
- assess the long-term sustainability of the public finances and analyse the public sector's balance sheet;
- evaluate fiscal risks from 2017; and
- scrutinise tax and welfare policy costings at each Budget.

Importantly, the OBR provides its forecasts on the basis of government policy, and cannot produce alternative costings which deviate from this.

In practical terms, the OBR draw heavily upon analysts in HMRC Knowledge, Analysis and Intelligence (KAI) Directorate for tax policy costing and forecasting, and the OBR's role is to interrogate and challenge these costings and forecasts, until they are happy that they can be certified. Similar processes are followed for Social Security Forecasting with the Department for Work and Pensions (DWP).

Economic forecasting is carried out by the OBR in various rounds and the determinants provided to HMRC to inform the forecasts.

4.4.2 The Scottish Fiscal Commission

The Scottish Fiscal Commission (SFC) was set up as a non-statutory body in 2014 to support the scrutiny of the Scottish Government's forecasts of the taxes that were devolved through the Scotland Act 2012. Following the Smith Commission and the Scotland Act 2016, the SFC was established on a statutory basis in April 2017.

The SFC has the following roles:

- Forecasting Scottish Government revenue from fully and partially devolved taxes and devolved social security spending;
- Forecasting onshore Scottish GDP;
- Providing an assessment of the reasonableness of the Government's borrowing projections.

The forecasts are used to inform the Scottish Budget, and the policy costings produced by the SFC must be used to determine how much changes to tax will actually raise or cost.

It is quite common to describe the SFC as "the Scottish OBR". It is true that they have the same provisions that their forecasts are directly used to inform the resources available, and that they have the same restrictions in terms of costing the policy of the Scottish Government and not alternative policies.

However, as discussed in section 3, there is not the same infrastructure in terms of the HMRC analytical function in Scotland, and so the SFC carry out the modelling and costing themselves, which requires more internal resources, and also poses some challenges around sharing of information with Government during fiscal events. On the upside, it does give the SFC more control over the content and development of tax and social security forecasting models.

In more recent times, the SFC have attempted to publish more information (SFC, 2020c) about the overall budget situation to inform the broader debate about Scottish finances, to some extent to enhance transparency where the Government's information can be lacking.

4.4.3 The Irish Fiscal Advisory Council

The Irish Fiscal Advisory Council (IFAC) was established on an interim basis in 2011 and put on a statutory footing in 2012 by the Fiscal Responsibility Act, which legislated for the implementation of national and EU Fiscal Rules.

Further EU regulations resulted in the Council being assigned the role of the independent body that would endorse the macroeconomic forecasts that underpin the budgetary outlook.

The IFAC has the following roles:

- To endorse, as they consider appropriate, the macroeconomic forecasts prepared by the Department of Finance on which the Budget and Stability Programme Update are based.
- To assess the official forecasts produced by the Department of Finance. These are the macroeconomic and budgetary forecasts published by the Department twice a year—in the Stability Programme Update in the spring and in the Budget in the autumn.
- To assess whether the fiscal stance of the Government is conducive to prudent economic and budgetary management, with reference to the EU Stability and Growth Pact (SGP). The SGP is a rule-based framework that aims to coordinate national fiscal policies in the economic and monetary union.
- To monitor and assess compliance with the budgetary rule as set out in the Fiscal Responsibility Act. The budgetary rule requires that the Government's budget is in surplus or in balance, or is moving at a satisfactory pace towards that position.
- In relation to the budgetary rule, to assess whether any non-compliance is a result of "exceptional circumstances". This could mean a severe economic downturn and/or an unusual event outside the control of Government which may have a major impact on the budgetary position.

The IFAC operates in a different way to the SFC and the OBR. The SFC and the OBR have a small number of members (3 or 4 – albeit the OBR members have a much larger time commitment than the SFC) with a significant staff (25 for the SFC, 36 for the OBR) supporting the members with advice, analysis and modelling.

The IFAC has a Council of 5, with a secretariat of 6 supporting them.

4.4.4 The Houses of the Oireachtas Parliamentary Budget Office

In 2016, the OECD carried out a Review of Budget Oversight by Parliament in Ireland (OECD, 2016). A key recommendation is for the creation of an Irish Parliamentary Budget Office to provide specialist analytical support to parliamentarians so that they can carry out a more effective oversight and scrutiny role.

The key objective of the Parliamentary Budget Office (PBO) is to support the Houses of the Oireachtas and its committees in relation to fiscal issues and the management of the public finances. The PBO provides regular publications on the following issues:

- The EU fiscal rules including the Stability and Growth Pact (SGP), the Expenditure Benchmark
  (EB), the Medium Term Objective (MTO), and the EU Semester process;
- Irish and international macro-economic developments;
- The national budgetary process and rules including the Medium Term Expenditure Framework (MTEF);
- The composition and sustainability of the revenue base; and
- The efficiency, effectiveness and value for money of public services especially in the context of voted expenditure.

4.4.5 Fiscal Scrutiny units in the Westminster Parliament, Devolved Parliaments and Assemblies

As well as the bodies set out above, there are to different degrees units in the UK and devolved parliaments/assemblies who are there to support the Budget or Finance related Committees and the wider base of representatives in holding the Government to account on fiscal matters.

The support that these units provide gets more important as new powers are devolved to countries and regions in the UK, and fiscal arrangements get more complex. As the experience in Ireland has shown, in order for parliamentary scrutiny to be effective, appropriate resources must be made available to support this.

The proposals in the NDNA document have a mixture of roles that might be traditionally thought of as Fiscal Council or PBO roles. Despite this, it will be important to consider the overlap between this new body and the unit in the Assembly.

4.5 Key Considerations for a Northern Ireland Fiscal Council

4.5.1 Remit

As has already been discussed, the remit of the Fiscal Council should be driven by the needs locally to support fiscal responsibility and management. In the first instance, it will be important that the Fiscal Council fulfils the requirements in the NDNA agreement.

Translating this into a remit, the Fiscal Council could initially have responsibility for:

- Fiscal sustainability analysis, including sustainability of the tax base and an analysis of longterm pressures on the budget;
- Endorsement of and commentary on the outlook for currently devolved tax and social security payments, flagging potential fiscal risks;
- A role in the monitoring of the Programme for Government (PfG). This is the most tricky (and in terms of a Fiscal Council, unusual) of the roles, and it would have to be specified what the scope, frequency and nature of this would be. The NDNA sets out that the “Council

  will also provide independent monitoring and reporting on the Executive’s performance in delivering the Programme for Government”. It would be more usual for an organisation of this type to comment on how budgetary decisions could exacerbate or ameliorate fiscal risks, whether in the short, medium or long-term, and to assess the performance vis-à-vis fiscal rules. However, a Fiscal Council would not usually assess performance of every commitment in a PfG. It may be difficult for it to do this without straying into the detail of policy debates, potentially violating the principle of independence and non-partisanship.

In time, and perhaps alongside further devolution to the Assembly following a Commission, the role could evolve to include:

- Production and/or certification of economic forecasts for Northern Ireland; Production and/or certification of fiscal forecasts for the new powers; Monitoring of fiscal rules as determined by the NI Executive.

The experience in the UK and internationally is that the remit of an Independent Fiscal Institution is not static, and is likely to expand over time as the benefits of independently provided analysis is felt by those across the system.

4.5.2 Status of body & operating model

The recommendations from the OECD clearly set out that the role of the IFI should be set out in legislation, and that the body should be established as clearly independent from Government. Accountability and a statutory relationship to parliament is also an important factor.

With that in mind, the OBR and the SFC have been set up as Non-Ministerial Departments. This importantly gives the bodies the public status, which comes with obligations as it should for public reporting, without making them beholden to Ministers.

A key issue to decide upon is the operating model of the Fiscal Council. This may be (as it was in Scotland) driven by the will of the parliament in fulfilling the spirit of the remit of the body. So, the SFC moved from being a certifier of forecasts to a producer of forecasts during this process. This operating model determines the relationship and interaction with Government, and also influences the number, and the type of staff required by the Council in discharging its duties.

4.5.3 Membership and Appointments Process

The membership of the Fiscal Council depends of course on the remit of the Council. In the early years, it is of course preferable that the Chair or Leader of the Fiscal Council should be experienced in the working and operation of a Fiscal Council, so as to quickly establish its credibility. This could be considered as an interim appointment whilst the permanent Council is set up, and perhaps while the Council is being put on a statutory footing. This was the experience in Scotland, with credible appointments made quickly to the non-statutory Commission, before open competitions for new Commissioners since then.

However, it is important in general to consider those who are experienced in the field of assessment or forecasting which makes up the remit of the Council *specifically*. So, this often means in the field of public sector finances and public sector budgeting. For example, if the Council has the remit to either produce or to certify economic forecasts for Northern Ireland, it is important that the members have expertise in forecasting for the purposes of practical use for public sector budgeting, rather than for academic endeavour.

In line with the principles set out by the OECD, the appointments process should be open and transparent. This would point to using the public appointments process, as is used by the OBR and the SFC. It is worth saying, as touched on above, that initial appointments for the SFC were not openly advertised, and the original Chair (Dame Susan Rice) has been appointed for a second term (which must end in 2022). However, this reappointment was approved by parliament, as all Commissioner appointments must be.

The commitment of members must also be determined. The OBR's Budget Responsibility Committee (BRC) has a full time chair, with the other two members being 0.6 FTE. In contrast, the SFC's Commissioners are 0.3 FTE. Obviously, both the 0.6 & 0.3 time commitment is not spread out evenly over the year, with the majority of time being used in the run up to fiscal events.

This decision has a number of implications, including the role of the head of the staff in the Council, and also the diversity of members of the Council. In the 2019 OECD Review of the Scottish Fiscal Commission (OECD, 2019b), the OECD set out that:

> *"The Commissioners work part-time and have a time commitment of 78 days a year (approximately 0.3 FTE). Given that the SFC's mandate and functions are likely to grow, the possibility of having a full-time Chair (or Commissioner) should be considered. This can be done under the current legislation. Part-time positions may be more attractive to certain candidates, for example, those towards the end of their career or academics. The option for the Commissioners or Chair to be part or full time could help widen the diversity of candidates in the future. In addition, some stakeholders expressed that they would like to have more interaction with the Chair and Commissioners but that this was difficult due to the part-time nature of their positions and the fact that they are not necessarily based locally."*

4.5.4 Transparency

It is essential that the new body must both be seen to be, and actually be, transparent in its operation. Part of this is to publish all documents that the IFI produces in an accessible manner.

To demonstrate transparency, the SFC proactively sought to voluntarily comply with the Code of Practice for Official Statistics, despite not being an official statistics producer (SFC, 2018). These principles are very much in line with the principles for IFIs, but provide a practical framework for making information accessible and engaging with users in an open and transparent manner.

4.5.5 Resourcing

The resourcing of the Fiscal Council must be in line with the scope of its responsibilities – as set out by the OECD, "commensurate with their mandate in order for them to fulfil it in a credible manner". As already discussed, the numbers of members and staff vary markedly between different bodies depending on their remit and how this is discharged.
The budget for the OBR in 2020-21 is £2.775m, and the budget for the SFC is £2.048m. The cost of the IFAC in 2019 was approximately EUR 815,000.

4.5.6 Interlinkages with Government & Access to Information

Relationships with many parts of Government are key to the effective operation of an IFI. These relationships should be put on a formal footing to ensure they are appropriate, through documents such as a Memorandum of Understanding (MoU).

The OBR has a MoU with HM Treasury, the Department for Work and Pensions and HM Revenue & Customs (OBR, 2011). As they put it on their website, this sets out the formal "rules of the game" for working with them as they seek to produce their forecasts.

Likewise, the Scottish Fiscal Commission sets out a statutory Framework Document, which governs the formal relationship between the SFC, the Scottish Government and the Scottish Parliament (SFC, 2019a). A much more detailed Protocol sets out the engagement between the SFC and the Scottish Government, especially during forecast periods, and covers things like notice periods, timescales for sharing information, and the mutual expectations they have for each other (SFC, 2020a).

In addition, the SFC have agreed MoU with the DWP (SFC 2019b), HMRC (SFC 2019c), the OBR (2019d) and Revenue Scotland (2019e).

One of the issues that is central to these MoUs discussed above is of course the access to information. The OBR has a statutory right of access (to reasonably carry out their duties) to all bodies in the UK: one of the gaps in the rights of the SFC is while it has a statutory right of access to Scottish public bodies, it has no statutory right of access to information from UK bodies.

The principles for IFIs state that the right of access to information should be enshrined in law. However, agreements like MoUs will always be required to supplement these to set out mutual expectations. For example, even though the OBR has a statutory right of access to information from HMRC, that does not mean that HMRC have unlimited resources to devote to OBR requests.

The OECD reviewed the situation across IFIs in terms of access to information (OECD, 2020). It concluded:

> *"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."*

This informal engagement and relationship building is essential to ensure that relationships are constructive and helpful and not just functional and transactional.

In the early days of its operation, the SFC found some challenges in getting access to the data that they required. Following an inquiry by the Scottish Parliament's Economy Committee into Economic Data in Scotland, they began to publish an Annual Statement of Data Needs, which allows progress in accessing data to be highlighted, along with existing or new areas of concern (SFC, 2020b).

4.5.7 Review

The OECD Principles set out that an IFI should submit itself for review – and indeed, it is often the OECD that carries out such reviews to provide an assessment of how well organisations are meeting the principles, and recommendations about improving adherence.

In the SFCA 2016 which set up the SFC, it committed to the first review after two years, and a review every 5 years thereafter. We would recommend that longer than 2 years should generally elapse before a review should be carried out.

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