

FINANCE COMMITTEE

SCOTTISH FISCAL COMMISSION BILL

SUMBISSION FROM ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

Overview

Please find below the submission from the OECD in relation to the Scottish Fiscal Commission Bill. The views expressed in our submission are based on best practices drawn from OECD Member country experiences. Our submission is also informed by the OECD's long and extensive involvement in this area, including the annual meetings of the *OECD Network of Parliamentary Budget Officials and Independent Fiscal Institutions*. Many discussions at these meetings have specifically focused on the core issues involved with successfully establishing and operating such bodies and have been translated into [*OECD Principles for Independent Fiscal Institutions*](#) (also attached as a separate document) which we will refer to regularly in this submission. Since the publication of the *Principles* we also undertook case studies of institutions in 18 member countries which will be published later this year and will cover the economic and political context in which the institutions were established, as well as their relationship with the executive and the legislature; legal basis; mandate; functions; work programme; budget; leadership and staffing; access to information; transparency; and governance, advisory support, monitoring and evaluation mechanisms.

The OECD is pleased to see that the *Principles for Independent Fiscal Institutions* have influenced the development of the Scottish Fiscal Commission Bill, which will give the Scottish Fiscal Commission a basis in statute. In particular, the proposals for access to information and external evaluation to be enshrined within legislation and the clear articulation of the relationship with the legislature will serve to strengthen the Scottish Fiscal Commission as an independent fiscal institution. However, in the areas of independence & non-partisanship and resourcing, there remains some scope for the Bill to be more closely aligned with the *Principles*.

Forecasting tax revenues

The roles and responsibilities of each independent fiscal institution differ substantially across OECD countries due to varied local needs and local institutional environments (including, in some cases, capacity constraints). It may be useful to note that in our member countries' experience, independent fiscal institutions role in forecasting takes several forms. The Netherlands Bureau for Economic policy Advice

(CPB) and the United Kingdom's Office for Budget Responsibility (OBR) have been tasked with producing the official forecasts. Others produce alternative forecasts to those of the government (e.g. United States and Canada). While others provide an opinion on government forecasts (e.g. France, Ireland and Sweden).

Independent fiscal institutions which provide an opinion on government forecasts may benefit from having their own forecasting tools. This allows the IFI to develop in-house capacity and expertise for a more rigorous assessment of government forecasts. Specifically, it can help the institution develop a better understanding of the forecasting methodology and the sensitivity of the results to different methodological configurations and economic assumptions. A more informed opinion reduces reputational risk for the IFI. Although some institutions have chosen, or been obliged to outsource this function due to resource constraints, this risks limiting the development of in-house capacity and expertise, which may not be desirable in the longer-term.

Role of the SFC Prior to the Publication of the Scottish Government Forecasts

Some independent fiscal institutions carry out their assessments of government forecasts before publication, and some after. Regardless of the timing, the most important consideration is that the institution has access to information and the resources it needs in order to allow it to fulfil its remit in a credible and independent manner (see *OECD Principle 6.1*).

There are some examples of independent fiscal institutions that share reports with the government the day before they are released as a courtesy; however this is usually at the discretion of the institution. The provision in the Bill (4.3) which states that the Scottish Fiscal Commission should send a copy of its report on its assessment of the forecasts to Ministers prior to publication may be perceived as favouring the government. It is important for independent fiscal institutions to have strong working relationships with the government that enable it to liaise with relevant officials on the factual accuracy of their work. However, care must be taken to avoid the perception that the publication process favours the government or opposition parties. The *OECD Principles for Independent Fiscal Institutions* state that reports and analysis by independent fiscal institutions should be published and made freely available to all (see *OECD Principle 7.2*).

Additional Functions

The functions of independent fiscal institutions across the OECD are extremely diverse. Common functions includes analysis of fiscal policy and budget proposals, a role in forecasting, monitoring compliance with fiscal rules, analysis of long-term fiscal sustainability, costing of policy proposals, and analytical studies on selected issues. In setting up any new institution it is important to consider the roles of existing institutions and the gaps that remain. The OECD notes the views expressed

by some stakeholders (ICAS, Taxpayer Scotland and CIPFA) that the Commission should have a wider role and look at other areas affecting the Scottish Budget including scrutinising consequential funding allocations from the UK budget under the Barnett Formula, assumptions used in the block grant settlement and monitoring the Scottish Government's performance against fiscal rules. The roles and responsibilities of any new IFI should be adapted to fit the local needs (see *OECD Principle 1.2*).

Right of Access to Information

The OECD is pleased to see guaranteed access to information within the Scottish Fiscal Commission Bill as this is closely aligned with the *OECD Principles for Independent Fiscal Institutions* (see *OECD Principle 6.1*). Accessing government information is crucial to the work of independent fiscal institutions. In this context, the OECD considers it very important for access to information to be guaranteed in legislation and, if possible, reaffirmed through memoranda of understanding. Memoranda of understanding can, in particular, help to clarify procedural aspects of sharing information (e.g. time for response to information requests) and the process of negotiating memorandum of understanding can help manage expectations and pinpoint potential difficulties in advance. A good example is provided by the [Memorandum of Understanding between the Australian Parliamentary Budget Officer and the Heads of Commonwealth Bodies in relation to the provision of information and documents](#). Just over sixty percent of independent fiscal institutions in OECD member countries have access to information underpinned by legislation, and at least half of these have access to information underpinned by both legislation and memoranda of understanding. Although institutions can experience challenges accessing information even with these formalities in place, guarantees in legislation and memoranda of understanding provide important backstops.

However, it is noted that the provision in relation to access to information covers the Scottish Government only. It is not clear how the Scottish Fiscal Commission might be guaranteed access to information it may need from the UK Government, e.g., for income tax forecasts.

Appointment of Members and Staff

The OECD is pleased to see that there must be parliamentary approval of appointments and dismissals as this is closely aligned with the *OECD Principles for Independent Fiscal Institutions* (see *OECD Principle 5.1*). The appointment process for members and staff underpins the independence and non-partisanship of an independent fiscal institution. The *OECD Principles for Independent Fiscal Institutions* state that “*the term lengths and the number of terms that the leadership of an IFI may serve should be clearly specified in legislation*” (see *OECD Principle 2.3*). To be aligned with the *OECD Principles*, the Scottish Fiscal Commission Bill should state the term length of the appointment of Fiscal Commission members. In

almost all of the independent fiscal institutions across OECD member countries leaders have clearly defined term lengths. Term lengths that are independent of the electoral cycle serve to reduce the potential for political interference in the appointment process and can help build trust in the institutions of government. Prior specification of term lengths also provides a degree of stability for the independent fiscal institution.

It is observed that a number of independent fiscal institutions allow the reappointment of members. This can be particularly important in smaller countries where the pool of experts who can fill such positions may be more limited. This was identified as a key issue in the [External Review of the OBR](#) which stated “*Finding successors to the current trio of senior leaders and continuing to secure high-quality staff will be crucial in fostering the long-term success and sustainability of the OBR. However, the size of the fiscal community, and the subsequently small pool of talent from which the OBR can draw its leadership and analysts, present challenges for the organisation*” (Page 2014). In this context, enabling reappointment of members, at least for one additional term, may provide increased long-term stability for the Scottish Fiscal Commission. These challenges can also be lessened by ensuring that legislation does not preclude the appointment of members who are non-nationals.

In some areas the provisions within the Bill are, in general, aligned with the *OECD Principles for Independent Fiscal Institutions*, but more details could provide additional guarantees. For example, it could be made clear that the leadership and other staff should have relevant expertise (see *OECD Principle 2.2*). The circumstances under which a member may be dismissed because they are “*unable to perform the member’s functions*” could also be made more explicit (see *OECD Principle 2.3*).

Resources

Given that independent fiscal institutions deal with fiscal matters, their own resourcing is often carefully scrutinised by the media and civil society. *OECD Principle 4.1* states that “*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*”. A number of institutions have it stated in legislation that their funding can only be reduced in duly justified exceptional circumstances (e.g. Portugal). This may help insulate the Scottish Fiscal Commission from political pressure and enhance its independence.

In addition, *OECD Principle 2.4* states that “*The position of head of the IFI should be a remunerated and preferably full-time position.*” The OECD notes that the Scottish Fiscal Commission members, including the chair, currently contribute on a part-time basis and that this may be reasonable due to local circumstances. However, as the

mandate of the Commission grows, full-time positions may bolster its credibility and enable it to fulfil its workload more effectively.

The Scottish Fiscal Commission Bill has a provision relating to a periodic review of the Commission's performance. This is a welcome provision and in line with *OECD Principle 9.1*. The Bill (9.1) states that the Commission must be reviewed at least once in every 5-year period. This time-frame also aligns with best practice identified in the forthcoming OECD paper "*Evaluating the Performance of Independent Fiscal Institutions*" which proposes a framework for evaluating these institutions. However, it is not clear that the financial provisions in the Financial Memorandum accompanying the Bill include the resources that this is likely to require.

**Public Governance and Territorial Development Directorate
OECD Senior Budget Officials (SBO)**

OECD Network of Parliamentary Budget Officials
and Independent Fiscal Institutions (PBO)

Recommendation of the Council on Principles for Independent Fiscal Institutions

February 2014



**Recommendation of the Council on
Principles for Independent Fiscal Institutions**

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Recommendation of the Council on Principles for Independent Fiscal Institutions

INTRODUCTION

On 13 February 2014, the OECD Council adopted the *Recommendation of the Council on Principles for Independent Fiscal Institutions*. Geared towards Member countries that have established or are considering establishing an independent fiscal institution (IFI), the *Principles* codify lessons learned and good practices that are firmly grounded in the experience of IFIs to date. The *Principles* seek to reinforce the core values that IFIs both promote and operate under – independence, non-partisanship, transparency, and accountability – while demonstrating technical competence and producing relevant work of the highest quality that stands up to public scrutiny and informs the public debate. As such, they aim to assist countries to design an enabling environment conducive to the good performance of an IFI and to ensuring its long-run viability.

The *Principles* come at a critical time. With commitments to sustainable public finances under close scrutiny since the crisis, policymakers are searching for new ways to safeguard fiscal discipline and rebuild public trust in their capacity to manage public budgets prudently and transparently. While fiscal decision-making is ultimately the responsibility of democratically elected officials, IFIs, often in complement with credible fiscal rules, are seen as a mechanism to help address bias towards spending and deficits and more generally enhance fiscal discipline; promote greater fiscal transparency and accountability; and raise the quality of public debate on fiscal policy.

Independent fiscal institutions (commonly referred to as independent parliamentary budget offices or fiscal councils) are publicly funded, independent bodies under the statutory authority of the executive or the legislature which provide non-partisan oversight and analysis of, and in some cases advice on, fiscal policy and performance. Although relatively few and novel world-wide, diverse examples of IFIs have existed for decades in countries such as Belgium (1936), the Netherlands (1945), Denmark (1962), Austria (1970), and the United States (1974). Today, IFIs are considered among the most important innovations in the emerging architecture of public financial management. A clear trend towards establishing IFIs is evident in Member countries. Just over half of Member countries have an IFI - and just over half of those were established in the past five years. The number of IFIs (of all shapes and sizes) is likely to continue to rise in the foreseeable future.

The *Principles*, which originated in the OECD Network of Parliamentary Budget Officials and Independent Fiscal Institutions (PBO), are the culmination of over two years of intensive consultation within the PBO, the Working Party of Senior Budget Officials (SBO), and the Public Governance Committee (PGC). Other inputs to the process include an in-depth study of IFIs in 18 OECD member countries and informal consultation with colleagues within the OECD and with other international organizations such as the European Commission, International Monetary Fund, and the World Bank.

For further information on the *Recommendation of the Council on Principles for Independent Fiscal Institutions*, please contact Lisa von Trapp at lisa.vontrapp@oecd.org.



Recommendation of the Council on Principles for Independent Fiscal Institutions

13 February 2014 - [C\(2014\)17](#)

13 February 2014 - [C\(2014\)17/CORR1](#)

HAVING REGARD to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

NOTING the growth of independent fiscal institutions within Member countries and the diversity of existing institutions;

HAVING AGREED that, for the purpose of the present Recommendation, independent fiscal institutions are publicly funded, independent bodies under the statutory authority of the executive or the legislature which provide non-partisan oversight and analysis of, and in some cases advice on, fiscal policy and performance, and that these institutions have a forward-looking *ex ante* diagnostic task;

RECOGNISING that independent fiscal institutions have the potential to enhance fiscal discipline, promote greater budget transparency and accountability and raise the quality of public debate on fiscal policy, while recognising also that alternative institutional arrangements may serve some countries equally well;

RECOGNISING that budget transparency is a key element of good governance and that the OECD has played a leading role in the international community in promoting budget transparency through the OECD Best Practices for Budget Transparency (OECD, 2002);

On the proposal of the **Public Governance Committee**;

I. RECOMMENDS that Members which have chosen to establish or are considering establishing an independent fiscal institution take into account the Principles for Independent Fiscal Institutions which are set out in the Annex to this Recommendation of which it forms an integral part.

II. INVITES Members and the Secretary-General to disseminate this Recommendation.

III. INVITES non-Members who have chosen to establish or are considering establishing an independent fiscal institution to take account of and to adhere to this Recommendation.

IV. INVITES relevant international organisations to take account of this Recommendation and to collaborate with the OECD to exchange good practices and data on independent fiscal institutions.

V. INSTRUCTS the Public Governance Committee to monitor the implementation of this Recommendation and to report thereon to the Council no later than three years following its adoption and regularly thereafter.

ANNEX

PRINCIPLES FOR INDEPENDENT FISCAL INSTITUTIONS (IFIs)

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.

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 countries¹. 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-partisanship² and independence are pre-requisites for a successful IFI. A truly non-partisan 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 leadership³ 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 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 position⁴. 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.

¹ Several countries (e.g. Ireland, Portugal, and Sweden) allow for non-nationals to serve as council members, thus increasing the pool of qualified candidates and reducing the risk of "groupthink". As such, this design choice may also serve to bolster independence.

² Non-partisanship should not be confused with bi-partisanship. Whereas bi-partisanship suggests a balance between political parties, non-partisanship necessitates an absence of political influence.

³ The title may differ – director, president, or chair – depending on its design. The institution may be under individual or collective (council) leadership.

⁴ There are exceptional cases in which a part-time position may be considered sufficient, for example if the IFI has a strictly defined and limited work programme or if another institution provides complementary functions which impact on the workload of the IFI. In Sweden, the Fiscal Policy Council can use the macro-fiscal forecasts prepared by another well-established independent agency, the National Institute of Economic Research.

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) service⁵.

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.

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 issues⁶.

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

⁵ Given the small size of the majority of IFIs, staff may be provided with career mobility within the broader civil service. However, care should be taken to avoid conflict of interest.

⁶ Other functions are carried out by well-established IFIs, such as costing of election platforms by the Netherlands Bureau for Economic Policy Analysis, or programme evaluation by the Korean National Assembly Budget Office.

6.2. Any restrictions on access to government information should also be clearly defined in legislation. Appropriate safeguards may be put in place⁷ 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 debate⁸ 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 analysis⁹.

7.4. IFIs should release their reports and analysis, on matters relating to their core on-going 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.

Relevant body: [Public Governance Committee](#)

⁷ For example, security clearance for IFI staff.

⁸ There may be cases where an IFI provides confidential estimates as part of the legislative process. For example, the U.S. Congressional Budget Office provides estimates early in the legislative process – kept confidential only until the legislative proposal becomes public – in order to help craft legislative proposals.

⁹ Care must be taken to avoid the perception that the timing of the release of the IFI reports favours the government or the opposition parties.