FINANCE COMMITTEE CALL FOR EVIDENCE

SCOTTISH FISCAL COMMISSION BILL

SUBMISSION FROM AUDIT SCOTLAND

1. Audit Scotland is the independent public sector audit agency undertaking the external audit of the majority of public sector bodies in Scotland. We do this on behalf of the Auditor General for Scotland (for the NHS and central government) and the Accounts Commission (for local government).

2. The Finance Committee has requested views on the Scottish Fiscal Commission Bill. Audit Scotland welcomes the opportunity to comment. We also provided evidence to the Committee’s inquiry into proposals for an independent fiscal body in early 2014, and responded to the Scottish Government’s consultation on the draft bill in September 2015.

3. Audit Scotland, the Auditor General for Scotland and the Accounts Commission have all been set up in ways that establish their independence from the Parliament and the Government in the selection of audit work to be undertaken, the conduct of the work and reporting the results in public. We believe that this independence is essential to the creation and maintenance of long term public confidence in our work and the same considerations should apply to the Scottish Fiscal Commission.

Overall comments

4. Our report on Preparations for the implementation of the Scotland Act 2012 in December 2014 commented that “The Scottish Fiscal Commission is an important part of the scrutiny process and it is essential that it remains independent of the Scottish Government and has the capacity and budget to fulfil its role.”

5. Overall the proposals in the Bill appear to provide a significant degree of independence for the Scottish Fiscal Commission. This could be further increased by moving the balance of influence on appointments and financing further towards the Parliament.

6. The proposals in the Bill provide for a number of individual functions for the Scottish Fiscal Commission. We consider that it is also important that the Commission is able to provide an overall commentary bringing together the

results of each of its individual assessments and commenting on their overall effect.

7. The Bill provides for the initial statutory functions of the Commission and provides a mechanism for future expansion to reflect the proposals in the 2015 Scotland Bill. It is important that the Commission’s remit is sufficiently wide to cover all of the key areas of fiscal estimation within future Scottish budgets. We suggest that assessing the mechanisms for applying the Barnett formula, adjusting the block grant and achieving the “no detriment” principle may be important additional areas for the Scottish Fiscal Commission to be involved in.

**Forecasting tax revenues**

8. Fiscal institutions such as the Scottish Fiscal Commission provide independent assurance on forecasts and estimates which Parliament and Government use. The remit of such bodies is for Parliament to determine, but its operation should conform to best practice guidance. We consider that the OECD principles\(^2\) provide a very useful reference point for the principles to be adopted by the Scottish Fiscal Commission.

9. A primary role for the Scottish Fiscal Commission is to provide independent, comprehensive, timely, high quality professional information and advice to both the Parliament and the Government to enable them to fulfil their functions in setting tax levels and budgets. This will involve producing forward looking reports on the sustainability of public finances. Information on past performance will also help decision making and accountability and build confidence in Scotland’s ability to manage its finances in the new environment. The Commission requires the capacity and resources to undertake this work in the manner that it considers most appropriate.

10. Effective scrutiny of budget proposals will require information on the sensitivity of variations in proposals on income or expenditure. The Scottish Fiscal Commission will be well placed to conduct such analysis or report views on the Government’s own analysis.

**Role of the SFC prior to the publication of the Scottish Government forecasts**

11. The Scottish Fiscal Commission should have the ability to produce reports at its own initiative and also to respond to requests from parliamentary committees and the Scottish Government. It should have access to all information held by

\(^2\) [http://www.oecd.org/gov/budgeting/recommendation-on-principles-for-independent-fiscal-institutions.htm](http://www.oecd.org/gov/budgeting/recommendation-on-principles-for-independent-fiscal-institutions.htm)
government that it needs for its work and have the power to publish its reports and underlying analysis at no cost to users.

12. This is likely to require the Commission to engage with the Scottish Government throughout the year about its methodologies and to report on these in public as it considers appropriate. This would enable the Commission to help the Government to improve its approach over time, while at the same time protecting its independence.

**Additional functions**

13. If the Commission is to provide independent assessments of Scottish Government forecasts that will help Parliament in its scrutiny of budgets, then it is important that the Commission’s remit is sufficiently wide that it covers all of the key areas of fiscal estimation within the budget.

14. The proposed statutory functions in the Bill appear to cover the principal areas of fiscal estimation based on existing powers, but it is not clear that the Commission will have the ability to comment on the overall effect of the combined forecasts. It is also important that the Commission should have the ability to bring together its views of the individual components to provide an overall assessment of the combined estimations within the budget. In the event that all the individual components were within acceptable ranges but were all towards one end of the ranges the Commission would then be able to bring such information to the attention of Parliament.

15. One of the proposed future functions of the Commission set out in the Scottish Government’s consultation on the draft bill was the assessment of the mechanisms for adjusting the block grant. Given that mechanisms are required to be in place under the existing Scotland Act 2012 fiscal devolution arrangements, it may be appropriate to incorporate this function in the current Bill. It was not clear from the consultation paper whether an assessment of mechanisms for adjusting the block grant would include the operation of the Barnett formula. We suggest that this should be explicitly included in the remit of the Commission.

16. The Smith Commission made a number of proposals about “no detriment” when fiscal changes are made by the UK or Scottish Governments. This is likely to be difficult to implement in practice, and the Commission could play a useful role in reporting on the mechanisms for achieving no detriment.

17. A medium term budgetary framework is important in order to show the medium term effect of policy and budgetary decisions and to demonstrate the sustainability of public finances. The Commission could consider any such
framework prepared by the Government, reporting views on the robustness of the framework and the extent to which key aspects are being adhered to.

18. Possible additional objectives could include providing economic reports for Scotland where existing UK information is not disaggregated or where there is good reason, in the view of the SFC, to use different assumptions from those adopted by either the OBR or Scottish Government. The SFC could be required to co-operate with the equivalent UK body and we consider it should be required to publish explanations where it uses different assumptions.

Rights of access to information

19. In accordance with the OECD principles the Scottish Fiscal Commission should have the power to produce reports at its own initiative, have access to all information held by government that it needs for its work and have the power to publish its reports and underlying analysis.

20. In our view the provisions of the Bill provide sufficient rights of access to devolved bodies based on current fiscal arrangements that reflect the provisions of the 2012 Scotland Act. While it may be helpful for the parties involved to set out detailed working arrangements in a memorandum of understanding there is no requirement to provide for this directly in the legislation. Clearly any such arrangement should not have the effect of limiting the Commission’s right of access in practice.

21. A memorandum of understanding is likely to be helpful in providing an agreed framework for the Commission’s engagement with relevant UK Government bodies, particularly the OBR.

Appointment of members and staff

22. The Bill’s proposal that members of the Commission are appointed for a single term with no reappointment appears appropriate. The Bill proposes that appointments would be made by Scottish Ministers with the approval of Parliament. This approach ensures that both Government and Parliament are content with the proposed appointments. It may increase the public perception of independence further if the members of the Commission were appointed by Parliament with the agreement of Ministers.

23. The Scottish Government’s consultation on the draft bill made reference to the appointment period being no longer than five years. This restriction does not appear in the Bill, which provides only that “A member is appointed for such period as the Scottish Ministers may determine”. The OECD principles make the point that if appointment terms are independent of the electoral cycle this will
help reinforce the public perception of independence. In our view it is important to enshrine this principle directly in the legislation.

Resources

24. It is important that the Scottish Fiscal Commission has sufficient staff and budget to carry out its role effectively. The independence and impartiality of the Commission would be enhanced if it were funded through the Scottish Parliament’s budget rather than the Scottish Government’s budget.

Further information

25. We hope that you find our comments helpful. Should you require any further information please contact Mark Taylor, Assistant Director, 110 George Street, Edinburgh EH2 4LH or e-mail mtaylor@audit-scotland.gov.uk.