Annex C: Operation and Governance of the Scottish Government's Fiscal Framework

C.1. This annex forms part of the fiscal framework[1] agreement between the UK government and the Scottish Government. It describes how the key elements of the framework will be implemented and will operate. This ensures that the effective operation of the fiscal framework should not require ongoing negotiation.

C.2. This annex sets out the arrangements for:

- Part 1 - initial baseline adjustments;
- Part 2 – indexation methodologies;
- Part 3 - process for calculating the resource block grant and tax revenues;
- Part 4 – resource borrowing;
- Part 5 – implementation and administration costs;
- Part 6 - memorandums of understanding;
- Part 7 - data and information sharing arrangements; and,
- Part 8 - governance arrangements.

C.3. Further annexes set out the terms of reference for the Joint Exchequer Committee (JEC) and the Joint Exchequer Committee (Officials) (JEC(O)).

Part 1: Initial Baseline Adjustments

C.4. An initial baseline adjustment will be made to the Scottish Government's Resource Block Grant for each of the functions and powers being devolved to the Scottish Parliament. For new spending powers this will be an addition to the Block Grant, whilst for new revenue raising powers this will be a deduction from the Block Grant.

C.5. These baseline adjustments will be separately calculated for each of the devolved taxes and devolved benefits in order to aid transparency in how the block grant adjustments are calculated.

[1] www.gov.scot/fiscalframework and https://www.gov.uk/government/publications/the-agreement-between-the-scottish-government-and-the-united-kingdom-government-on-the-scottish-governments-fiscal-framework

Taxation

C.6. The two Governments have agreed that the initial baseline block grant adjustments will be equal to the UK government's receipts from the relevant tax generated from Scotland in the year immediately prior to the devolution of powers (year 0). The baseline year is therefore the year prior to devolution. As set out in Part 2, the indexation mechanisms will then be applied to determine the adjustments for year 1 onwards.

C.7. The detailed arrangements for calculating the baseline adjustment in year 0 are as follows[2]:

- Forecasts of the UK government's receipts in Scotland in year 0 will be produced for each tax during year 0 and used to apply a provisional baseline adjustment.[3]
- After the end of year 0, once outturn tax receipts are available, the provisional baseline block grant adjustments will be recalculated.
- To avoid multiple iterations of reconciliations, these calculations will be made at the same time as the reconciliation for year 1 receipts; see Part 3 for further information.

C.8. The table below reflects the agreed basis for baseline adjustments for tax.

Revenue source	Methodology for calculating baseline adjustment
Income tax	Total non-saving non-dividend income tax receipts in Scotland under UK government income tax policy in 2016-17. Initially this will be forecast and then reconciled against outturn once data is available.
Air passenger duty	An average of the GERS[4] and HMRC methodologies for apportioning UK Air Passenger Duty (APD) revenues to Scotland, applied to a forecast of UK-wide receipts in 2017-18. This forecast will be reconciled to outturn based on outturn UK receipts and based on the share estimated by the HMRC and GERS methodologies.

[2] These arrangements don't apply to Stamp Duty Land Tax and Landfill Tax as 2014-15 (year 0) outturns are already known.
[3] The timing of which is set out at Part 3.
[4] Government Expenditure and Revenue Scotland (GERS) http://www.gov.scot/Topics/Statistics/Browse/Economy/GERS

Aggregates levy	An average of the GERS and HMRC methodologies for apportioning UK Aggregates Levy (AL) revenues to Scotland, applied to a forecast of UK-wide receipts in the year immediately preceding devolution. This will be reconciled to outturn based on outturn UK receipts and based on the share estimated by the HMRC and GERS methodologies. The JEC will agree on a suitable point for the commencement for devolution of the aggregates levy and the baseline year once current state aid and other legal issues have been resolved.
Landfill tax	An average of the GERS and HMRC methodology for apportioning UK Landfill Tax revenues to Scotland will be applied to UK receipts in 2014-15. This agreement is without prejudice to the one-off block grant adjustment agreed in respect of Landfill Tax for 2015-16.
Stamp Duty Land Tax	Receipts in Scotland in 2014-15 will be used as published in HMRC statistics with a reduction to account for the £20m forestalling effects associated with residential tax receipts in 2014-15. This agreement is without prejudice to the one-off block grant adjustment agreed in respect of Stamp Duty Land Tax for 2015-16.
Assigned VAT	The methodology for apportioning VAT revenues to Scotland will be used to estimate receipts in the year immediately prior to assignment. This will be reconciled to outturn using the same methodology once the relevant data is available.
Revenues from courts and tribunals	Revenues from courts and tribunals in Scotland (including fines, forfeitures, fixed penalties and amounts recovered under Proceeds of Crime legislation) collected by the Scottish Government in 2016-17 will be used as the baseline deduction. This will initially use outturn data from the Scottish Consolidated Fund for the latest year available and updated to use the year prior to devolution once available.

Benefits Spending

C.9. The two Governments have agreed that the initial baseline block grant adjustments will generally be equal to the UK government's spending on the relevant benefit in Scotland in the year immediately prior to the devolution of powers (year 0). The baseline year is therefore the year prior to devolution. As set out in Part 2, the indexation mechanisms will then be applied to determine the adjustments for year 1 onwards.

C.10. The table below reflects the agreed basis for baseline adjustments for devolved benefits.

Devolved welfare element	Methodology for calculating baseline
Most benefits	The baseline addition will be the UK government's spending on each of the relevant benefits (i.e. those being devolved) in Scotland in the year immediately prior to the devolution of powers. This will initially be based on an OBR forecast and reconciled to outturn using DWP's statistics.
Cold Weather Payments	The baseline will be the average of the spending on the Cold Weather Payment in Scotland from 2008-09 to the year prior to devolution, reconciled to outturn, and based on DWP statistics.

C.11. The detailed arrangements for calculating the baseline adjustment in year 0 are as follows:

- Forecasts of the UK government's spending in Scotland in year 0 will be produced for each benefit during year 0 and used to apply a provisional baseline adjustment (as part of a multi-year average for the Cold Weather Payment).[5]
- After the end of year 0, once outturn spending is available, the provisional baseline block grant adjustments will be recalculated.
- To avoid multiple iterations of reconciliations, these calculations will be made at the same time as the reconciliation for year 1 spending; see Part 3 for further information.

Crown Estate

C.12. The baseline adjustment will be the gross revenue for the year immediately prior to the transfer of the management of Crown Estate assets, net the costs of managing these assets. This will initially use outturn data for the latest year published in the Scotland Report, and updated to use the year prior to devolution

[5] The timing of which is set out at Part 3.

once available. This baseline adjustment will be incorporated into the block grant and will not be separately indexed.

C.13. The baseline addition for the Coastal Communities Fund will equal the UK government spending in the year immediately prior to devolution. This baseline addition will be incorporated into the block grant and will not be separately indexed.

Other Spending

C.14. For all DEL spending areas being devolved the normal approach to machinery of government changes will determine the initial baseline adjustments in respect of programme expenditure. Part 5 sets out the agreed baseline transfer for administration spending. The UK government will transfer planned spending in Scotland (including any planned employability funding through payment by results) for all remaining years of the Spending Review period, to which the Barnett Formula will subsequently apply. There will be no reconciliation to outturn.

Part 2: Indexation methodologies

C.15. This part sets out the agreement on how the indexation mechanisms will operate with reference to corresponding UK government receipts and benefit spending. This section also sets out the data required.

Taxation data

C.16. For revenues, "corresponding UK government receipts" are the revenues from the equivalent taxes or other revenue-raising powers collected by the UK government in the rest of the UK, specifically described in the table below. The scope of the UK government receipts will be updated with any devolution of tax powers to other parts of the UK. For example, when Stamp Duty Land Tax (SDLT) and landfill tax are devolved to the Welsh Assembly in April 2018, the change in UK government revenues between 2017-18 and 2018-19 will exclude SDLT and landfill tax receipts from Wales in both years.

Revenue source	Corresponding UK government receipts
Income tax	Non-savings, non-divided income tax receipts
Assigned VAT	VAT receipts from the first 10p of the standard VAT rate and the first 2.5p of the reduced VAT rate

Air passenger duty, aggregates levy, stamp duty land tax and landfill tax	Corresponding UK government receipts for each of the fully devolved taxes
Fines and penalties (from courts and tribunals)	Corresponding UK government revenues

Benefits spending data

C.17. For benefits, “corresponding UK government benefit spending” is the expenditure on the equivalent benefits by the UK government in England and Wales. The scope of the UK government spending will be updated with any devolution of welfare powers to other parts of the UK.

Population Statistics

C.18. Mid-year population estimates published by the Office of National Statistics (ONS) and National Records of Scotland (NRS) will be used for all calculations. The latest available mid-year estimates will initially be used to determine the provisional block grant adjustments (alongside forecasts of UK government tax receipts and benefit spending). As part of the wider process of reconciling from forecasts to outturn, the mid-year population estimates used initially will be replaced by those for the relevant years.

Tax and benefits indexation mechanisms

C.19. For a transitional period up to and including 2021-22, the Governments have agreed that the block grant adjustment for tax and benefits should be effected by using the Comparable Model and Barnett Formula respectively, whilst achieving the outcome delivered by the Indexed Per Capita (IPC) method for tax and benefits.

C.20. Each year it will therefore be necessary to concurrently calculate the block grant adjustment based on both the Comparable and Barnett Models and the IPC model, as set out below. These calculations will be made separately for each tax and benefit each year and then applied to the Scottish Government’s block grant.

C.21. The first step will be to calculate the adjustments on the basis of the Comparable and Barnett Models.

C.22. For tax, for the period of the transition the Comparable Model will be used to determine the block grant adjustments. Specifically, a proportion of the change in UK government tax revenues in devolved areas will be deducted from the block grant (i.e. “Tax Consequentials”). The proportion is determined by two variables:

- **a comparability factor for each tax** - Scotland’s revenues per head as a share of the average revenues per head in the rest of the UK in the year immediately prior to devolution; and,
- **Scotland’s population share** – Scotland’s population relative to the population covered by the corresponding UK government tax (which is usually England, Wales and Northern Ireland).

C.23. In Year t+1, the adjustments to the block grant for each tax are therefore calculated as:

Change in UK government revenues from tax devolved to the Scottish Parliament	x	Scotland’s population share	x	Comparability factor (set out in the table below)

C.24. The mathematical version of this equation is:

$$Tax\ Consequential = (X_{t+1}^{UKG} - X_{t}^{UKG}) * \frac{P_{t+1}^{S}}{P_{t+1}^{UKG}} * Comparability\ Factor$$

where P denotes population, X denotes tax receipts, S denotes Scotland and UKG denotes UK government. This tax consequential is then deducted from the block grant for the previous year. The overall adjustment therefore equals the baseline deduction plus all tax consequentials.

C.25. P (UKG) is the population of those parts of the UK covered by the UK government tax. For example, once SDLT and landfill tax are devolved to the Welsh Assembly, the corresponding UK government tax revenues will be collected from England and Northern Ireland, and P (UKG) will therefore be the populations of England and Northern Ireland.

C.26. The comparability factors used in the model will be revised to reflect outturn figures in the year immediately prior to devolution, and will subsequently be revised following any devolution of corresponding tax revenues to another administration within the UK, for example the devolution of SDLT and landfill tax to the Welsh Assembly. The indicative comparability factors based on HMRC statistics for 2014/15 are set out in the table below, including devolved benefits for completeness:

Devolved area	Comparability factor (%)
Income tax	87.7
SDLT	51.5
Landfill tax	108.3
VAT	98.9
APD	117.5
Aggregates Levy	189.1
Each Devolved Benefit	100.0

C.27. For benefits, the Barnett Formula will be applied to UK government spending on each of the benefits devolved to the Scottish Parliament. This means that a population share of the change in UK government spending on each relevant benefit will be added to the block grant baseline. In the case of DEL expenditure these are commonly referred to as "Barnett Consequentials" and are calculated as:

Change in UK government spending on areas devolved to the Scottish Parliament	x	Scotland's population share	x	Comparability factor (always 100% for devolved benefits as set out in the table above)

C.28. The mathematical version of this equation for Year t+1 is:

$$Barnett\ Consequential = (X_{t+1}^{UKG} - X_t^{UKG}) * \frac{P_{t+1}^{S}}{P_{t+1}^{UKG}} * Comparability\ Factor$$

where P denotes population, X denotes UK government expenditure on the devolved benefit, S denotes Scotland and UKG denotes UK government. This consequential is then added to the block grant for the previous year. The overall adjustment is therefore the baseline addition plus all Barnett consequentials

C.29. Under the Barnett Formula it is the population covered by corresponding UK government spending (usually England and Wales for benefits) rather than the population in the rest of the UK. This population share will be updated if further spending responsibilities are devolved to other parts of the UK.

C.30. The second, concurrent, step will be to calculate the adjustments on the basis of the IPC model.

C.31. Under the IPC model the initial block grant adjustment will be increased in line with the percentage growth in the equivalent UK government tax receipts per head or benefit spending per head, multiplied by Scottish population growth. In year t+1, the block grant adjustment is therefore calculated as:

$$BGA_{t+1} = \frac{X_{t+1}^{UKG}}{X_t^{UKG}} * \frac{\frac{P_{t+1}^{S}}{P_t^{S}}}{\frac{P_{t+1}^{UKG}}{P_t^{UKG}}} * BGA_t$$

where BGA denotes the block grant adjustment, t denotes the year, P denotes the population and X denotes either tax receipts or benefit expenditure, S denotes Scotland and UKG denotes UK government.

C.32. Finally, if there is a difference between the Barnett/Comparable and IPC calculations, there will then be a reconciling adjustment to the Barnett/Comparable adjustments to ensure the mechanism delivers the IPC outcome.

C.33. The calculation of these two models and the reconciliation process will be repeated at any time when adjustments to the block grant are calculated during the transitional period up to and including 2021-22. This means that, over the transition period, the block grant adjustments will ultimately be indexed against per capita growth in tax receipts and benefit spending. The results from the two models will be presented in the annual reports to each Parliament.

C.34. The block grant adjustments for tax and benefits for any year will be re-calculated and a final reconciliation carried out once outturn data in respect of relevant UK government tax receipts and benefit spending are known and when the relevant mid-year population estimates have been produced. Further details on this process are provided in Part 3 below.

C.35. The two Governments have agreed that these arrangements will be reviewed following the UK and Scottish Parliament elections in 2020 and 2021 respectively, allowing an assessment at that time, and in the light of a Parliament's worth of experience, of the best way of achieving a fair, transparent and effective outcome in line with all of the Smith principles.

C.36. The review will be informed by an independent report with recommendations presented to both Governments by the end of 2021.

C.37. The remit of the review and the membership of the group producing the review will be jointly agreed by the Scottish and UK Governments.

C.38. The fiscal framework does not include or assume the method for adjusting the block grant beyond the transitional period. The two Governments will jointly agree that method as part of the review. The method adopted will deliver results consistent with the Smith Commission’s recommendations, including the principles of no detriment, taxpayer fairness and economic responsibility.

Other spending areas

C.39. For all other areas of devolved spending not specifically mentioned in this annex, the Barnett Formula will apply. For the employment programmes, the Barnett formula will apply to changes in the entirety of UK government spending, including any elements funded through payment by results.

Part 3: Process for calculating the resource block grant and tax revenues

C.40. This section describes the process and timings for calculating the resource block grant alongside the Scottish Government's receipt of tax revenues.

C.41. The Scottish Government will be able to access the block grant and forecast of HMRC-collected tax revenues (income tax and VAT) as required during the year, while also receiving revenues from the fully devolved taxes as they are collected.

C.42. The Scottish Fiscal Commission will be responsible for preparation of independent forecasts of Scottish Government tax receipts and benefit expenditure, and Scottish onshore GDP. It is expected to assume this role in full for the financial year 2018-19 onwards, which means producing forecasts from summer 2017 (based on the current Scottish Government budget timetable). However, for the short period while the Scottish Fiscal Commission is preparing to assume responsibility for independent forecasts, the Scottish Government will produce the forecasts and the Scottish Fiscal Commission will provide independent scrutiny and assurance of the reasonableness of the forecasts.

Block Grant Calculation

C.43. As set out in the Smith Agreement, changes in the Scottish Government's block grant will continue to be determined via the operation of the Barnett Formula. Under the Barnett Formula, the Scottish Government's block grant in any given financial year is equal to the block grant baseline plus a population share of changes in UK government spending on areas that are devolved to the Scottish Parliament. This will continue to apply to changes in UK government spending on areas that are devolved to the Scottish Parliament at each UK government spending round and fiscal event when decisions are made to change UK government spending in these areas.

C.44. The Statement of Funding Policy[6] will continue to set out the detailed arrangements for the operation of the Barnett Formula.

Adjustments to the Block Grant

C.45. Adjustments to the block grant for tax and benefits will provisionally be based on a forecast of relevant UK government receipts and expenditure in the rest of the UK and the latest available mid-year population estimates, as outlined in paragraph C.18. The adjustments will be calculated separately for all relevant areas of expenditure and revenue to aid transparency, and will then be applied to the Scottish Government's Resource Block Grant for the relevant financial year.

C.46. The adjustments for the next financial year will be calculated by the UK government in line with the provisions of this annex at the Autumn Statement provided this occurs at least three months in advance of the start of the financial year.

C.47. Where the Scottish Government's Draft Budget occurs before the UK Autumn Statement, the UK government will additionally provide a provisional estimate of the adjustments for budgeting purposes based on the previous UK Budget forecasts, which will be revised at the Autumn Statement. If the Autumn Statement has not occurred at least three months in advance of the start of the financial year, then the provisional estimate of the adjustments calculated for budgeting purposes in the Scottish Government's Draft Budget will be applied to the block grant for the next financial year.

C.48. Following the financial year to which the adjustments relate, once outturn data is available on tax receipts and on benefit spending and for mid-year population estimates, the adjustments to the block grant will be recalculated using this outturn data and the results reconciled. Any difference compared to the original calculation will be applied to the block grant in respect of the following financial year, provided this information is available at least two months in advance of the Scottish Government's Draft Budget. In the event that this information is not available at least two months in advance of the Scottish Government's Draft Budget then the Scottish Government may determine whether the adjustment will apply in the following financial year or the second following financial year.

[6] HM Treasury (November 2015) Statement of funding policy: funding the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479717/statement_of_funding_2015_print.pdf

Timing of tax forecasts and reconciliations

C.49. The forecasts of Scottish Government tax receipts will be available for inclusion in the Scottish Government's budget each year, and in the case of VAT and income tax these will ultimately be reconciled to outturn. The forecasts of UK government tax receipts used to determine the block grant adjustments will also all be reconciled to outturn. However, the arrangements are slightly different for different types of devolution/assignment as set out below.

Income tax and VAT

C.50. For income tax, the forecast of revenues raised in Scotland will be available for the Scottish Government to draw down in the upcoming financial year.

C.51. Once outturn figures for income tax receipts are available the Scottish revenues and the block grant adjustment will be recalculated on the basis of this outturn data. In the case of income tax, outturn data will be available around 15 months after the end of the financial year. As there is a transition period for income tax, no reconciliation will apply to the forecast tax receipts or block grant adjustment for the Scottish rate of income tax in 2016/17. However outturn data for 2016/17, once available, will be used to re-calculate the final baseline block grant adjustment, which will be reconciled to the original baseline adjustment.

C.52. Following the reconciliation after the end of each financial year, any difference in Scottish tax receipts or block grant adjustment compared to the original calculations will be incorporated into the equivalent funding for the following financial year, provided this information is available at least two months in advance of the Scottish Government's Draft Budget. In the event that this information is not available at least two months in advance of the Scottish Government's Draft Budget then the Scottish Government may determine whether the adjustment will apply in the following financial year or the second following financial year.

C.53. There will be no in-year updates to either the Scottish income tax and VAT forecasts or the associated block grant adjustments.

C.54. Arrangements for the production of VAT revenue forecasts and the process for reconciling forecasts to outturn will be agreed by JEC once further work on the assignment methodology has been completed.

Fully devolved taxes

C.55. The taxes in question are air passenger duty, the aggregates levy, stamp duty land tax and landfill tax. The same approach will also be taken for revenues from courts/tribunals, except without in-year updates.

C.56. The Scottish Government will use receipts as they are collected during the year to fund spending. The block grant adjustment will therefore also be updated during the year to reflect latest forecasts of corresponding tax receipts in the rest of the UK. This will ensure that the Scottish Government is shielded from UK-wide in-year shocks (affecting receipts positively or negatively). In-year updates to the block grant adjustments will occur at the in-year Autumn Statement and will be applied in Supplementary Estimates. Updates to the block grant adjustments will also be made once outturn data is available after the end of the financial year.

C.57. In-year updates to the block grant adjustments to reflect latest forecasts of corresponding tax receipts in the rest of the UK may result from economic impacts or policy changes introduced by the UK government. Any in-year policy changes to fully devolved taxes in the rest of the UK introduced by the UK government after the Scottish Government's Budget will not automatically result in an in-year adjustment to the Block Grant. The Scottish Government may determine whether any adjustment that is due will be made in-year to the Block Grant or whether this will be incorporated at the final reconciliation when outturn data is available. The effect of the tax policy change on tax receipts in the remainder of the UK will be included in forecasts used to calculate the block grant adjustment for subsequent years. The Scottish Government will have the power to borrow within the agreed limits in response to a net forecast error between Scottish receipts and the adjustments to the Block Grant (which depend on forecasts of UK government receipts).

C.58. Once outturn figures are available for UK government receipts from the fully devolved taxes, the block grant adjustment will be recalculated and reconciled to the original calculation.

Benefits

C.59. The timing for benefit related adjustments to the block grant will operate in a similar way to that for fully devolved taxes.

C.60. The adjustments will therefore be calculated on the basis of forecasts at each spending round and fiscal event at which a forecast for UK government benefit spending is produced. Forecasts of UK government benefit spending in England and Wales will be produced by the OBR and the block grant adjustment calculated on this basis. Once outturn data is available the block grant adjustments will be recalculated, and reconciled to the original calculation.

C.61. As the Scottish Government makes benefit payments during the year, where UK government in-year spending diverges from forecast the block grant adjustments will be updated during the year. These updates will take place at the in-year Autumn Statement and applied at Supplementary Estimates.

C.62. In-year updates will not automatically apply to any policy changes introduced by the UK government after the Scottish Government's Budget. The Scottish Government may determine whether the adjustment will be made in-year to the Block Grant or whether this will be incorporated within the end-year reconciliation (and the policy change will also be included within forecasts for subsequent years).

Future revisions to operational arrangements

C.63. To ensure the continued smooth operation of the fiscal framework, the operational and governance arrangements for the fiscal framework shall be reviewed as part of the periodic reviews into the fiscal framework.

C.64. These arrangements are based on the current Parliamentary budget timetables in the UK and in Scotland (the latter agreed between the Scottish Government and the Scottish Parliament). Should there be substantial changes to this timetabling arrangement then the timings set out in these arrangements shall be reviewed to ensure that they are still appropriate.

Part 4: Resource Borrowing

C.65. A Scotland-specific economic shock is triggered when onshore Scottish GDP growth in real terms is or is forecast to be below 1% on a rolling 4 quarter basis (i.e. actual or forecast real terms GDP growth is to be measured over 4 quarters compared to the previous 4 quarters) and at least 1 percentage point below actual or forecast UK GDP growth in real terms over the same period. Where a revision to forecast or actual onshore GDP growth figures shows a Scotland-specific economic shock, the trigger will also apply. Where the provision is triggered, the Scottish Government will be able to borrow up to the agreed limits for the year in which the trigger applies plus the following two financial years. In the event that forecast data or GDP figures suggest an economic shock but outturn data or revised data does not, no retrospective revisions will be applied to borrowing powers.

C.66. Forecasts of onshore Scottish GDP growth will be produced by the Scottish Fiscal Commission. Onshore Scottish out-turn GDP will be estimated by the Scottish Government in their quarterly GDP National Statistics release.

Part 5: Implementation and administration costs

C.67. There will be one-off and ongoing costs to both governments associated with changing or implementing systems (one-off implementation costs), and administering the new arrangements (ongoing administration costs).

C.68. The general approach is that the UK government will make a fixed transfer to the Scottish Government; the Scottish Government is then responsible for all implementation and administration costs (including all jointly agreed net additional UK government costs where these are wholly and necessarily incurred as a result of implementing or operating devolved powers). The one exception to this general approach is that the governments have agreed that any costs associated with the design, implementation and ongoing administration of VAT assignment will be split equally.

C.69. The governments have agreed that the UK government will transfer to the Scottish Government a one-off non-baselined amount of £200m as a contribution towards implementation costs borne by the Scottish Government. A profile of this funding will be agreed by both governments at a future JEC.

C.70. The governments have agreed that the UK government will make a baseline transfer of £66m to the Scottish Government as a contribution towards ongoing administration costs borne by the Scottish Government. The JEC will agree the date of transfer. The comparability factors within the Barnett Formula for areas of spending devolved to the Scottish Parliament will be updated from the point of devolution so that the Scottish Government will receive a population share of planned changes in UK government spending on administration in these areas (as well as a population share of planned changes in UK government programme spending in these areas).

Part 6: Memorandums of Understanding

C.71. To support the effective implementation and operation of the fiscal framework, Memorandums of Understanding (MoUs) will be required between the bodies that will perform the duties that are outlined in this agreement.

C.72. The following MoUs will be agreed for the implementation of the Scotland Act and the ongoing administration of the fiscal framework. Together with other agreements not listed here (those in non-fiscal areas for example), these will set out the arrangements for implementing and operating this fiscal framework.

- Between the UK government and the Scottish Fiscal Commission to enable information sharing requirements covered by the fiscal framework agreement.
- Between the OBR and the Scottish Government to ensure implementation of the Scotland Act 2016 provision on information sharing requirements in this arrangement.
- Between the OBR and the Scottish Fiscal Commission to support these independent bodies in discharging their statutory functions.

- Between Revenue Scotland and HMRC – this is likely to be an extension of the current MoU on compliance and any other relevant areas.
- Between the Scottish Government and the DWP to support the delivery of benefits in Scotland (noting that many such MoUs exist already).
- Between the DWP and any future administrative organisation or delivery partner for the administration of social security in Scotland to support the delivery of benefits in Scotland.
- Between the Scottish Government and UK government to facilitate the introduction and operation of new tax and devolved benefits, which would cover the information and data sharing arrangements set out in Part 7.

C.73. The Memorandums of Understanding will be agreed by the relevant parties and made available to both Parliaments as soon as they are agreed. These MoUs will also be provided as part of the annual implementation reports produced by both governments.

Part 7: Data and Information Sharing Arrangements

C.74. Both governments and both independent forecasters (the OBR and the Scottish Fiscal Commission) will require access to information and data that will enable Ministers, officials, appointed commissioners and office holders to the OBR to discharge their duties in respect of Parliamentary accountability, scrutiny, policy development and forecasting.

C.75. Both governments have the agreed objective to provide each other with as full and open as possible access to technical, operational and policy information including statistics and research and, where appropriate, representations from third parties. These exchanges between administrations may be subject to restrictions or requirements, including statutory and commercial constraints on disclosure of information and confidentiality.

C.76. Each government will ensure that the information it supplies to others is subject to appropriate safeguards in order to avoid prejudicing its interests. Each government will treat shared information with appropriate discretion.

C.77. The Scottish Government and Scottish Fiscal Commission will work with the UK government to explore options to ensure that appropriate provision can be made for the Scottish Government and Scottish Fiscal Commission to have access to the necessary data, information and models held by the UK government to support policy development and produce forecasts of a comparable quality to those produced by the OBR.

C.78. The arrangements set out below do not preclude the supply of additional data and facilities that may be agreed between the UK and Scottish Governments from time to time. Any requests for the regular supply of additional data agreed shall be incorporated into the Memorandums of Understanding.

C.79. There should be ongoing engagement between UK government officials and Scottish Government officials and the Scottish Fiscal Commission over development and peer support around forecasting of tax receipts and devolved benefit expenditure.

Income tax

C.80. The Scottish Government and the Scottish Fiscal Commission will require access to information, data and models that includes, but is not limited to, income tax data and models to forecast income tax receipts, which must be provided in sufficient time to support production of income tax forecasts in advance of the Scottish Government's Draft Budget. This will initially be provided via the Public Use Tape income tax data set but the Scottish Government, the Scottish Fiscal Commission and HMRC will explore options to provide access to the income tax data at a level of detail to support policy development and ensure forecasts to underpin the Scottish Government's Budget are of a comparable quality to those forecasts produced by the OBR.

C.81. The UK government and OBR will require access to information and data including, but not limited to, five-year forecasts of Scottish Government income tax receipts alongside the Scottish Government's draft Budget and Budget.

Devolved taxes

C.82. The Scottish Government and the Scottish Fiscal Commission will require access to information and data held by HMRC and, where applicable, held by other bodies/organisations, for example the Civil Aviation Authority in the case of APD. In addition the Scottish Government and the Scottish Fiscal Commission will require access to historical time series data for the devolved taxes to enhance forecasting and scrutiny capabilities. This information must be provided in a timely manner to support policy development prior to devolution and forecasting.

C.83. The Scottish Government and the Scottish Fiscal Commission will also require access to the HMRC methodology and models for estimating the Scottish share of APD and AL receipts and forecasting UK receipts.

C.84. The UK government and OBR will require access to information and data including, but not limited to, five-year forecasts of Scottish Government devolved tax receipts alongside the Scottish Government's draft Budget and Budget (including forecasts of business rates revenues). As part of the reciprocal access to data and information, HMRC will also require access to information about the devolved taxes in order to undertake wider compliance activities (analogous to the arrangements already in place in relation to Land and Buildings Transaction Tax and Scottish landfill tax).

VAT

C.85. Arrangements for forecasting VAT revenues will be agreed at the Joint Exchequer Committee. The data set out below may be used to forecast revenues and to estimate the assigned VAT revenues, so will need to be shared with the Scottish Government and Scottish Fiscal Commission:

- Data to estimate expenditure by households, including but not limited to administrative data on spending and household survey data;
- Data to estimate VAT raised from the public sector, including but not limited to government spending data from PESA;
- Data to estimate VAT raised from the exempt sector, including but not limited to UK Supply-Use Tables;
- Data to estimate VAT raised from tourism expenditure;
- Forecasts of UK VAT revenues; and,
- In addition the Scottish Government and Scottish Fiscal Commission would require access to HMRC's models used for estimating and forecasting VAT arising in Scotland.

C.86. This information must be provided in a timely manner to support budgeting timetables.

GDP

C.87. For the operation of the fiscal framework GDP forecasts are only directly required to determine economic shocks for the purposes of revenue borrowing. While forecasts of tax receipts and demand-driven welfare spending will require economic determinants, these are not covered by the arrangements in the fiscal framework and will be determined by the relevant forecasting body.

Devolved Benefits

C.88. In order for the Scottish Fiscal Commission to produce independent forecasts of tax and benefits, the Scottish Government and Scottish Fiscal Commission will require access to historical time series expenditure and caseload data for each benefit operating in Scotland and the associated processing costs where this is not publically available, as well as tools used by DWP to forecast future caseload and expenditure levels for the benefits being devolved.

C.89. Prior to devolution the Scottish Government will require access to case level data for all devolved benefits, where available. This information must be provided in a timely manner to support policy development prior to devolution and forecasting.

C.90. Correspondingly, DWP will require access to timely, reliable and detailed case level data, where and when available, on benefits which have been devolved, so they can continue to support production of the OBR forecasts and administer benefits which have links to devolved expenditure.

C.91. Arrangements for accessing data and information regarding reserved benefits where these have interactions with the benefits being devolved should be discussed further by DWP and the Scottish Government.

Employability

C.92. The Scottish Government and, if appropriate, the Scottish Fiscal Commission will require access to historical time series expenditure and caseload data for the current employability programme operating in Scotland and the associated processing costs where this is not publically available, as well as tools used by DWP to forecast future caseload and expenditure levels for estimating claimant flows into the devolved employability services. All data requests must be proportionate and respect commercial confidentiality and ongoing data sharing arrangements.

C.93. Prior to devolution the Scottish Government will also require access to timely, reliable and detailed case level data on reserved benefits for those benefits linked to the devolved employability services so they can continue to forecast and administer the devolved employability services. Subject to putting in place any necessary additional data sharing agreements, including legal agreements, this information must be provided in a timely manner to support policy development prior to devolution and forecasting. This requirement will continue post devolution.

Block grant adjustment calculations

C.94. The Scottish Government requires access to information and data in relation to all the areas of the operation of the block grant adjustment mechanisms. The UK government already shares the data and calculations that are used to determine the Scottish Government's block grant; this will be extended to cover further tax and benefits devolution. In particular, this will set out how OBR forecasts of UK government tax revenues and benefit spending are used within the agreed funding arrangements.

Budgeting information

C.95. The UK and Scottish governments will agree updated budgeting arrangements that reflect the Scottish Government's new settlement. This will cover how the Scottish Government records its spending and the associated funding (from block grant, taxation, borrowing and the Scotland reserve). The UK government, OBR and ONS will require the Scottish Government to provide a range of information about actual, planned and forecast funding and spending. This includes:

- Planned capital borrowing for the Spending Review period, updated in advance of each financial year
- Planned drawdown of funds from the Scotland reserve in advance of each financial year
- Monthly in-year funding/spending data
- Five-year forecasts for tax revenues and demand-driven benefit spending

<u>Part 8: Governance</u>

Bilateral engagement

C.96. The Joint Exchequer Committee (JEC), operating by consensus, will govern the completion, implementation, operation and review of the fiscal framework. The JEC may also discuss any other issues arising which Ministers from either Government refer to the JEC.

C.97. JEC will have oversight of the implementation of the fiscal arrangements associated with the welfare benefits being devolved, including the transfer of funding into the Scottish Government's block grant baseline and indexation thereafter, forecasting and reconciliation process, and other financial and fiscal issues associated with this framework. The Joint Ministerial Working Group on Welfare will have responsibility for the policy and legislative aspects of devolution of this function.

C.98. The Governments agreed the Terms of Reference for JEC set out in Annex D.

C.99. The Governments have agreed that the remit of the Joint Exchequer Committee – Officials (JEC(O)) will be expanded to include detailed implementation and operation of the financial provisions of any Scotland Act 2016. The remit of the JEC(O) will be expanded to cover the remit of the Intergovernmental Assurance Board established to oversee implementation and operation of the fiscal provisions of the Scotland Act 2012. JEC(O) will oversee, at official level, the delivery of the fiscal framework. Membership will also be expanded to include relevant interests from UK government departments and equivalent officials in the Scottish Government. The Terms of Reference for JEC (O) are at Annex E.

C.100. JEC(O) may wish to consider establishing sub-project boards for specific issues or areas of devolution, such as VAT. These would report to JEC(O) and seek its agreement in making decisions. JEC(O) will also consider and agree MoUs or other such agreements required to support implementation of the framework and the Scotland Act.

Accountability to Parliaments

C.101. Accountability and credibility to both Parliaments is an essential part of this Framework. Both governments expect and welcome detailed scrutiny of the Fiscal Framework in both Parliaments.

C.102. Both Governments agree that there should be accountability of delivery bodies in both jurisdictions to elected representatives. The lines of accountability should be clear and easily understood. Where a body operates in either the UK or Scotland but not both it should be accountable to that Parliament – for example a body set up to distribute benefits in Scotland only should be responsible to the Scottish Parliament. Where a body delivers in both jurisdictions this accountability will be more complex. In these cases both governments agree to make clear how those bodies are accountable - in welfare, this should be through the Joint Ministerial Working Group on Welfare.

Review

C.103. The Smith Commission recommended that the fiscal framework should be reviewed periodically. The first review into the operation of the fiscal framework will take place after the independent report on the block grant adjustment arrangements is presented to both governments by the end of 2021. The remit of the review in 2021 and the membership of the group producing the review will be jointly agreed by the Scottish and UK Governments.

C.104. The fiscal framework does not include or assume the method for adjusting the block grant beyond the transitional period. The two governments will jointly agree that method as part of the review. The method adopted will deliver results consistent with the Smith Commission's recommendations, including the principles of no detriment, taxpayer fairness and economic responsibility.

C.105. Subsequent reviews should take place on a 5 yearly basis but not more than once in any UK or Scottish electoral cycle. The timing will be agreed between the Scottish and UK Governments at the JEC.

C.106. The exact scope of the review is to be determined by the JEC at least 3 months before the review is to start. Issues to consider under the review could include operation of the fiscal framework including the BGA and indexation methods, no detriment and spillovers, borrowing limits and, if used, operation of dispute resolution procedures. As part of the review input should be sought from the OBR, the Scottish Fiscal Commission, stakeholders and academics but not be limited to these parties. Parliamentary Committees in the Scottish and UK Parliaments are actively encouraged to give evidence to the review.

Role of independent forecasters

C.107. The main duty of the OBR, which it performs independently, is to examine and report on the sustainability of the UK public finances. This includes producing biannual economic and fiscal forecasts for the whole of the UK. This duty is unaffected by the fiscal framework agreement.

C.108. However, some of the OBR's duties may be affected by the Scotland Bill and associated fiscal framework agreement. The UK government will discuss and agree any areas where the OBR believes that its duties (or how it must perform its duties) are significantly altered.

C.109. In particular, the OBR will need to take into account the Scottish Government's increased fiscal powers within its UK-wide forecasts, while ensuring that UK government tax and spending can be separately identified (to inform forecasts of block grant adjustments).

C.110. The UK and Scottish Governments may also make use of information published by the OBR to operate other areas of the framework. In addition, technical input on the impact of policy spillover effects or on disputes may be sought from the OBR and the Scottish Fiscal Commission. The process for seeking such input will be set out in the relevant MoU. Where input is sought that is beyond the statutory remit of the OBR or the Scottish Fiscal Commission, it will be for the OBR or the Commission, as relevant, to determine its response.

Audit

C.111.In line with the Smith recommendations for strengthening intergovernmental relations, both Governments have agreed to put in place a set of robust auditing arrangements with respect to the operation of this fiscal framework and the Scotland Act 2016. These arrangements should be efficient and effective. They should ensure that duplication is avoided as far as possible and that auditors are not overburdened by new responsibilities once the Smith provisions are fully implemented.

C.112.JEC should agree detailed arrangements based on these provisions.

Annex D: Joint Exchequer Committee (Scotland) – Terms of Reference (2015)

1. The Scottish and United Kingdom Governments established a Joint Exchequer Committee (JEC) in 2011 in the context of the Scotland Act 2012. These Terms of Reference reflect the Smith Commission Agreement and its proceeding implementation in the Scotland Act 2016 and Fiscal Framework.

Purpose

2. The JEC is the intergovernmental ministerial forum to discuss financial and fiscal matters relating to the Scotland Act 2016 and accompanying Fiscal Framework.

3. The JEC will discuss implementation of the relevant aspects of the Scotland Act 2016 and Fiscal Framework. The JEC may also discuss any other issues arising which Ministers from either Government refer to the JEC

4. The JEC will continue discussions on final implementation of the Scotland Act 2012.

5. The JEC will oversee and provide assurance to individual projects tasked with implementing individual elements.

Remit

6. The JEC will consider evidence and options and where appropriate make decisions in the following areas:

a. Issues where the Scottish and UK Governments need to reach agreement in order to implement specific elements of the Fiscal Framework or the Scotland Acts 2012 and 2016.

b. The process agreed by Ministers to address “spill over effects” as in paragraphs 44-53 of the Fiscal Framework agreement.

c. The timetable for implementation of the Fiscal Framework and tax elements of the Scotland Acts 2012 and 2016.

d. The fiscal issues associated with the implementation of the welfare elements of the Scotland Act 2016.

e. How best to share data and information between the Scottish and UK Governments to assist implementation and any agreements needed between the two Governments to do this.

f. Oversight of borrowing powers set out in the Scotland Acts 2012 and 2016 and agreed under the Fiscal Framework.

g. Oversight of additional budgetary flexibilities agreed under the Fiscal Framework.

h. Determining how delivery bodies are accountable to the relevant parliaments.

i. Proposals under Clause 28 of the Scotland Act 2012 to create additional devolved taxes.

j. Auditing arrangements with respect to the operation of this fiscal framework and the Scotland Act 2016.

k. The process, scope, terms of reference and implications when reviewing the Fiscal Framework.

l. Other bilateral financial and fiscal issues between the two Governments that require discussion.

Membership and Meetings

7. The JEC will be made up of Ministers from the UK and Scottish Governments. Ordinarily, these would be the Cabinet Secretary for Finance in the Scottish Government and relevant Ministers from the (UK) HM Treasury (currently the Chief Secretary and Financial Secretary). Officials may attend the JEC with and with consent of their respective Minister.

8. The JEC will be supported by an Officials Group made up of an equal number of officials from the Scottish and UK Governments. The JEC may decide to establish other groups to support it, as it sees necessary.

9. The JEC will meet at least twice a year. The JEC may decide to meet more often, especially in the first years of implementation. The JEC can decide to meet only one or not at all in a given year, but only by written agreement between the parties.

10. The Chair of the meeting should alternate between Ministers from the UK and Scottish Governments, starting with the Scottish Government Minister.

11. The agenda for each meeting is to be agreed between Scottish and UK Government officials prior to the meeting. Ordinarily, the agenda will be agreed and circulated with any papers no more than 3 working days prior to the meeting.

12. Minutes will be written of each meeting, ordinarily by officials from the Government of the Minister chairing the meeting.

13. The meeting will ordinarily take place at a location selected by the Chair. The JEC is able to decide to meet virtually (for example by video-conference or online) where appropriate.

14. All efforts will be made to reduce the cost and environmental impact of JEC meetings, to both Governments.

Decision making

15. Decisions are to be reached jointly by Ministers of both Governments. A decision of the JEC is one which has been agreed by both Government Ministers. Decisions on issues described in these Terms of Reference as falling within the scope of the JEC may not be taken by any other mechanism than the JEC, nor taken forward without the agreement of both the Scottish and UK Governments.

Transparency

16. After each JEC meeting, a Communiqué will be agreed by both Ministers. This will be published online on both Governments' websites and made available to both the UK and Scottish Parliaments.

17. These Terms of Reference will be published online.

18. The discussions at each meeting, the agenda, the minutes and any papers are to be confidential to the UK and Scottish Governments, unless the JEC specifically decides otherwise. Each Government will respect this confidentiality.

Dispute Resolution

19. All efforts will be made to reach agreement at the JEC. Where a dispute arises the dispute resolution procedure set out in the fiscal framework will be used.

20. Prior to referring any matter for consideration under the dispute resolution procedures, every effort will have been made to achieve early and bilateral resolution.

Review

21. These Terms of Reference can be amended, re-written or supplemented as agreed by JEC members.

Annex E: Joint Exchequer Committee (Officials)

Remit

The remit of the JEC(O) will be:

- To support JEC discussions by considering issues and agenda items in advance in order to agree an agenda and identify decisions required;
- Where tasked to do so, take forward consideration of issues with the aim of developing a shared position for subsequent Ministerial agreement at a subsequent JEC meeting;
- to approve, oversee and review a joint implementation programme of agreed key milestones and activities to implement this framework and powers and functions devolved under the Scotland Act 2016;
- to take a joint approach to quality assurance of the implementation process and to agree and review how progress towards these milestones should be driven and measured;
- to ensure that adequate resources are made available in each administration to drive forward necessary progress;
- to identify risks to implementation and oversee appropriate mitigating actions;
- to identify, and resolve, any concerns about the implementation process;
- to report to JEC on key assurance activities;
- to anticipate, and seek to resolve at an early stage, any arising disputes and if required escalate using the dispute resolution procedures agreed as part of the fiscal framework.

Membership

The membership of JEC(O) would be agreed by officials from both the UK and Scottish Governments. We would intend that it included:

Scottish Government

Finance	DG Finance
	Deputy Director: Fiscal Responsibility
	[Policy Team Leaders]

Social Security	Deputy Director

UK government

HM Treasury	Director of Public Services
	Deputy Director: Devolution
	[Policy Team Leaders]
HMRC	Deputy Director: Devolution
DWP	Director: Devolution

Members may nominate deputies to attend on their behalf in the event that they are unable to attend meetings. Members may also nominate supplementary attendees where specific issues are to be discussed that require specialist knowledge.

Members of JEC(O) will retain responsibility for the areas of implementation that fall within the competence of their administration. As members of JEC(O), however, they will engage to seek to find solutions and resolve difficulties collectively.

Chairing

The group will be chaired by DG Finance at the Scottish Government and the Director of Public Services at HM Treasury on an alternating basis.

Secretariat

The Secretariat would be provided by the JEC Secretariat.

Frequency of meetings

It is envisaged that JEC(O) would meet at least two weeks in advance of JEC meetings or on a bi-annual basis if no JEC meetings are scheduled. The frequency of meetings may be reviewed in line with business need.

Progress reporting and quality assurance

It is anticipated that JEC(O), at each meeting, will review progress against the agreed milestones. Where a need for change or a likely delay is identified, the group will receive an interim exception report.

Members of JEC(O) will expect to be notified of any arising disputes together with efforts being made to resolve these disputes, at the earliest possible stage. In the event of failure to resolve the issue locally, the dispute resolution procedure set out in the fiscal framework will be followed.