**MEMORANDUM OF UNDERSTANDING BETWEEN THE JUST TRANSITION COMMISSION AND SCOTTISH GOVERNMENT**

1. This document has been drawn up by Just Transition Commission and the Scottish Government. It sets out the broad framework within which the Just Transition Commission will operate and defines key roles and responsibilities which underpin the relationship between the Just Transition Commission, as an independent body, and the Scottish Government.

1. While this document does not confer any legal powers or responsibilities, it forms a key part of the accountability and governance framework and should be reviewed and updated as necessary, at least every two years. This Memorandum must not be varied except with the written agreement of both parties.
2. References to the Just Transition Commission includes the Chair, Members and any working groups formed by the Commission.
3. **Function**
   * The Scottish Government has given [a remit](https://www.gov.scot/groups/just-transition-commission/) to the Commission tasking it with:
     + providing scrutiny and advice on the ongoing development of Scottish Government led just transition plans, including the application of the Just Transition Planning Framework
     + advising on the most suitable approaches to monitoring and evaluation
     + undertaking meaningful engagement with those most likely to be impacted by the transition, hearing from a broad range of representative voices and advising on how to ensure these can shape and contribute to just transition planning work in Scotland
     + engaging and collaborating with other sources of expertise, including relevant Scottish Government advisory bodies and relevant programmes of work
     + publishing an annual report to reflect on Scotland’s progress.
   * Both parties will seek to ensure that the Commission is engaged in a manner that enables it to discharge its scrutiny and advice function in a timely and robust fashion.
4. **Independence**
   * Independence from Government is secured by the agreement of a clear remit and terms of reference for the Just Transition Commission; by the appointment of independent Chair and Commissioners; by the provision of an independent Secretariat to be instructed solely by the Commission; and by the provision of support and funding controlled by the Secretariat.
   * The Scottish Government commit to engage with the Commission in a manner that respects the independence of the Commission and the Commission’s Secretariat. Where liaison or communication between the Scottish Government and the Secretariat is required, the Scottish Government will at all times act in a manner that respects this independence while supporting the Commission and its Secretariat in delivering robust scrutiny and advice.
   * The Scottish Government is committed to all aspects of the operation of the Commission being independent and this commitment requires that the Commission and its Secretariat operate independently from Government. This means that the Scottish Government will not seek to influence or direct the Secretariat or Commission in its deliberations.
5. **Secretariat functionality and resourcing** 
   * The Scottish Government will provide the Commission with a dedicated Secretariat, drawn from civil servants working in the Scottish administration. The Scottish Government will make accommodation available to the Secretariat and provide the Secretariat with IT and office equipment as required. While working in the Secretariat, the civil servants will comply with the Civil Service Code in discharging the objectives of the Commission.
   * Furthermore, the Scottish Government frameworks for services will also be made available to the Secretariat. This also includes the Secretariat being able to access independent legal advice though the Scottish Government legal services framework.
   * The Commission is functionally independent from the Scottish Government and the Secretariat determines its own working arrangements and ways of working to deliver the Commission’s work plan, however the Commission relies on Scottish Government facilities to enable its operations. The Scottish Government remains the data controller, however, information is restricted to the Secretariat. Ultimately, the Scottish Government is answerable to the Scottish Parliament for the Commission’s conduct, including data processing, and the Commission will ensure that all requirements of the Data Protection Laws are fulfilled.[[1]](#footnote-1)
6. **Sponsor Unit** 
   * The Scottish Government sponsor unit for the Commission is the Net Zero Economy and Carbon Markets unit under the direction of the Deputy Director of the Domestic Climate Change Division. It is the first point of contact for the Commission in dealing with the Scottish Government.
   * Specific responsibilities include:

* ensuring that sponsorship is suitably flexible, proportionate and responsive to the needs of the Scottish Ministers and the Commission;
* Safeguarding the independent operation of the Commission and its Secretariat
* proportionate monitoring of the Commission’s activities through an adequate and timely flow of appropriate information, agreed with the Commission, on performance, budgeting, control and risk management;
* addressing in a timely manner any significant problems arising in the operation of the Commission, alerting the responsible Minister, where considered appropriate;
* ensuring that the functions of the Commission and the risks to their fulfilment are properly and appropriately taken into account in the Scottish Government’s risk assessment and management systems.

1. **Customer Unit**

* The Scottish Government’s ‘customer’ unit for the Commission is the Just Transition unit. The unit, under the direction of the Deputy Director of the Domestic Climate Change Division, is the primary source of advice to the Scottish Ministers on the discharge of their responsibilities in respect of the Commission.
* Specific responsibilities include:
* Liaising with the Secretariat as required in order to brief Ministers on the Commission’s work, including its work plan and reporting outputs
* The customer unit will advise Ministers on engagement with, and requests for advice to, the Commission
* The customer unit will keep the Secretariat informed as to how and when the Commission can expect to review policy proposals in development, and advise on any changes to planned timescales to ensure minimal disruption to the Commission’s work plan.
* The customer unit will update the Secretariat monthly on activity and any key achievements across the Scottish Government’s just transition work, including where there are emerging strategic issues the Commission may wish to consider.

1. **Requests for advice from Scottish Ministers** 
   * At the start of each work year, as set out in the Commission’s remit, the Scottish Ministers will advise the Commission of planned government work that can help inform the development of the Commission’s own work plan.
   * The Scottish Government will ensure that all requests for advice are submitted to the Commission in writing. Requests should be submitted through the sponsor unit. Should further clarification be required, requests should be communicated through the sponsor unit who will coordinate responses as necessary.
   * There is a shared expectation that the Scottish Government will, at an early stage, proactively engage the Commission as it develops Just Transition Plans, including by:
     + Sharing outline / ‘skeleton’ sectoral or regional plans in draft for the Commission to review in advance of wider publication
     + Seeking advice from the Commission regarding specific policy questions to support the Scottish Government’s policy development
     + Making best efforts to ensure the Commission has sufficient time and information to provide substantive scrutiny and advice during the development of draft plans ahead of their wider publication for consultation.
   * This is in recognition of the distinct role the Commission has in building consensus between representatives of groups including workers, communities, business and industry, environmental groups, etc., and in providing expert scrutiny and advice on a broad range of issues of just transition planning and delivery, particularly relating to the [Just Transition Outcomes](https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2021/09/transition-fairer-greener-scotland/documents/transition-fairer-greener-scotland/transition-fairer-greener-scotland/govscot%3Adocument/transition-fairer-greener-scotland.pdf), as well as:
     + Financing the delivery of a just transition;
     + Approaches to engagement with stakeholders on policy development, including those most likely to be impacted by the transition;
     + Approaches to monitoring and evaluation.

* Scottish Ministers will share semi-annual (twice yearly) updates with the Commission, by correspondence, regarding progress of the Just Transition Fund. The Commission’s advice can also be requested on strategic matters related to the Just Transition Fund, including objectives, strategic approach, process, criteria, monitoring and evaluation.

1. **Ensuring effective engagement, scrutiny and advice**

* The Scottish Government will conduct early engagement with the Commission as it develops its work on specific Just Transition Plans, and its general approach to planning, in order to support the Commission’s core function of supporting the production of such plans and providing expert advice on their development. The Scottish Government should adhere to the following principles:
  + In order to help with the Commission’s own work planning, the Scottish Government will share the relevant details of its work programme (with updates, as appropriate), which will explicitly reference how and when the Commission’s input can be utilised.
  + Effective engagement entails seeking detailed advice on the substance of policy strategies and proposals, including strategic decisions and on especially challenging questions related to just transition planning and delivery.
  + Engagement with the Commission should be on an on-going basis and the Scottish Government should seek to maximise collaborative approaches.
  + The Scottish Government will endeavour to share in a timely manner with the Commission sufficient information to support the provision of detailed expert advice and scrutiny on the development of Just Transition planning work.

1. **Response to Commission advice / scrutiny from Scottish Ministers**

* The Scottish Government will aim to respond to publications, recommendations and advice from the Commission, where appropriate, in a manner and timeframe which is reasonably practical, but will in principle aim to not exceed 12 weeks from the date of the publication, recommendation or advice. Where this timescale will not be met, the Scottish Government should write to the Commission with information on the likely timescale within which a substantive response will be given.
  + The Scottish Government should aim to provide a response to routineCommission correspondence, where possible, within 20 working days. The Commission will also aim to adhere to this timescale.

1. **Meetings**

* The Secretariat will act as the first point of contact in any meeting requests directed to the Commission from Ministers and the Scottish Government. They will co-ordinate these requests on behalf of the Commission, ensuring effective exchange of relevant information with the Scottish Government sponsor unit.

1. **Briefing and information sharing**

* Scottish Government Ministers may request meetings with the Commission to discuss or seek advice on specific areas relating to just transition or any matter relating to their remit or work.
* On occasion, where the Commission requires information held by the Scottish Government to carry out its functions, the Scottish Government will make best efforts, so far as is compatible with the law, to provide access to relevant information within reasonable timescales for use by the Commission. Where additional explanation or assistance is required to interpret this information, the Scottish Government will provide such support.
* Where policy documents or data shared with the Commission is marked as sensitive, the Commission will respect the confidentiality of this material.
* Should the Scottish Government be aware of any changes or updates to relevant Scottish Government policy, the Scottish Government should seek to update the Commission in a timely manner.
* It is not the role of the Secretariat to brief Ministers on the Commission’s reports, publications or any other matter. This responsibility lies primarily with the Scottish Government Customer Unit.

1. **Appointments**

* The Scottish Ministers are responsible for appointing the Chair and core Commission members. The Scottish Ministers may also, where Commissioners fail to meet the terms and conditions of appointment, terminate such appointments.
* The Scottish Ministers are responsible for appointing working group members at the request of the Chair. Working group members will provide support and guidance to ensure that the Commission fulfils its remit in line with the Commission’s Terms of Reference.

1. **Finance**

* The Scottish Government will provide the Commission with an appropriate budget to deliver its remit. This includes, Commissioner expenses and fees, meeting costs, travel costs, research costs, website, communications and publications.
* The budget will be managed by the Secretariat in line with the requirements of the Scottish Public Finance Manual. If, due to unforeseen circumstances, the Commission requires additional resources a funding request can be made by the Secretariat to the Scottish Government.
* The Commission is expected to maintain robust records of budget spend in order to facilitate completion of Scottish Government accounts. The Scottish Government will require routine access to details of expenditure made by the Commission in line with the budget allocated.
* The Scottish Government will also provide the Commission with contracted services including, as reasonably required, digital and communications services, and design and delivery services. The contractors providing these services will be operationally accountable to the Secretariat for the delivery of contracts and for associated performance standards.

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Professor Jim Skea

Chair of the Just Transition Commission



Richard Lochhead

Minister for Just Transition, Employment and Fair Work

17th March 2023

1. In paragraph 6.3—

   * + - “Data Protection Laws” means any law, statute, subordinate legislation, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body which relates to the protection of individuals with regard to the processing of Personal Data to which a Party is subject including the Data Protection Act 2018 and any statutory modification or re-enactment thereof and the UK GDPR; and
       - “UK GDPR”means the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (SI 2019/419).

   [↑](#footnote-ref-1)