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By email

21 January 2022

Dear Mr Stride

### **Pre-Budget press briefing**

Thank you for your letter of 15 December 2021, following up on the discussion at the Treasury Committee session of 1 December, where among other things we discussed pre-Budget briefing in general, and the particular example of the National Living Wage (NLW).

As I told the Committee, in its approach to pre-Budget press briefing, the Treasury followed the principles set out in the Macpherson Review (2013). This recommended that a ban be introduced on the pre-release of the core of the Budget, that is: the economic and fiscal projections, the fiscal judgement, and individual tax rates, reliefs, and allowances. The Review also recognised that it is common across government to provide some embargoed briefing of major announcements to the media, and noted the number and range of policy announcements that modern Budgets contain, going much wider than the core of the Budget. That was certainly the case with the October 2021 Budget, not least since it also announced the conclusions of the 2021 Spending Review.

Policy on the NLW is not part of the core of the Budget. As a policy matter, it is treated within government quite differently to Budget decisions: the department responsible for the policy is not the Treasury but BEIS, there is a process for seeking and considering formal recommendations on the policy from a statutory body independent of the government (the Low Pay Commission), those recommendations in turn are made following broad public consultation on the options, and the policy is subject to the process of collective decision-making through write-rounds. And the government has its usual flexibility over the timing and nature of the announcement. Over the years changes to the National Living Wage, and also the National Minimum Wage, have sometimes been announced by the Chancellor on Budget day, but have also been announced by other ministers and outside fiscal events.

In October 2021 it was decided that the Chancellor would announce changes to the NLW alongside the Budget. On the morning of 25 October, ITV News reported details of the forthcoming announcement on social media, apparently following an unauthorised disclosure of the information. To avoid confusion as to whether this report was reliable and represented an official announcement, the Treasury quickly issued an email for immediate general release setting out the full details of the policy change. This was then widely reported as a formal announcement.

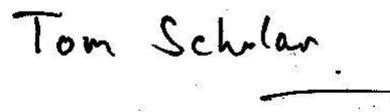
When releasing information that could potentially be price sensitive, the essential requirement is for the information to be made available at the same time to all market participants. This avoids a situation where the information (which in some cases could amount to privileged inside information) is open to exploitation. In this case, the unauthorised and premature disclosure was clearly unfortunate, and should not have happened (although, since it was announced on social media, the same unauthorised information was at least available simultaneously to all market participants). There was clearly scope for confusion in the market as to whether the report was accurate. Recognising this, the Treasury moved as quickly as possible to regularise the situation, by bringing forward the formal on-the-record announcement.

At the Committee session I was asked (Q40) whether information on the forthcoming announcement on the NLW could be considered to be inside information within the meaning of the UK Market Abuse Regulation, in the context of one of the examples given in the Financial Conduct Authority's *Best Practice Note*. As I said, the NLW does not meet this definition since it is an economy-wide measure, and not sectoral or company-specific. I did not say that the Treasury had deemed the announcement not to be market sensitive, because we had not made any such determination.

In your letter you mention the arrangements followed by the Office for National Statistics (ONS) for the embargoed pre-release of official statistics. This applies to a very different situation, where a small number of journalists are given privileged advance access to potentially price sensitive information, ahead of general release, to allow them to report fully and accurately at the time the information is released. The ONS apply strict security arrangements to protect the integrity of this privileged information. The circumstances of the Treasury's announcement of the changes to the NLW were quite different, since the information was provided simultaneously to a very wide range of media organisations, for immediate general release.

The unauthorised disclosure of this information on 25 October was clearly unfortunate, although an increase in the NLW of this magnitude was within expectations, given the public consultation conducted by the Low Pay Commission between April and June. Under the process of collective agreement, the details of the government's proposed

announcement on the NLW were shared across a number of departments, increasing the risk of unauthorised disclosure. The government will review the arrangements ahead of future announcements.

A handwritten signature in black ink that reads "Tom Scholar". The signature is written in a cursive style and is positioned above a horizontal line.

Tom Scholar