

Concordat

Between the Department for Work and
Pensions and the Scottish Government

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Introduction

This Concordat establishes an agreed framework for co-operation between the Department for Work and Pensions (DWP)¹ and the Scottish Government (SG)² on all matters arising from DWP's responsibilities which impact directly or indirectly on the functions of the SG and vice versa.

The Concordat follows the principles set out in the [Memorandum of Understanding](#) (MoU) between the UK Government and the devolved administrations. It is non-statutory and is not intended to be legally binding or to constrain the freedom of the Scottish Government to operate in areas for which it is responsible, or similarly DWP's ability to operate in its areas of responsibility. However, the Scottish Government and DWP agree to honour the principles set out in the Concordat.

Good working relationships between Government Departments and the Scottish Government are vital to the public interest and the effectiveness of government in Scotland and the United Kingdom. The aim of this Concordat is to set out ground rules for managing the relationship between DWP and the SG for consultation, exchange of information (including the terms on which information is shared), finance, access to services, resolution of disputes and review of relations. The Concordat is a statement of intent of the way that DWP and the SG will work together.

Since 1 July 1999, Scottish Ministers have held responsibility for those matters not reserved to the UK Parliament in Schedule 5 of the Scotland Act 1998. Under Schedule 5, responsibility for policy and administration for social security, child support, pensions and jobsearch and support is reserved, and remains with the UK Government.

There are many interactions between social security, job search and support matters and services for which responsibility is devolved on which the two administrations need to keep in close touch. In addition, there are other areas where DWP and the SG need to co-operate and maintain good communications in order to deliver effective administration. These are listed at Annex 1 to this Concordat.

In addition to this Concordat, there are Service Level Agreements (SLAs) and Working Level Agreements (WLAs), which set out specific working relationships in greater detail. A list of agreements agreed or planned is set out at [Annex 2](#) to this Concordat.

¹ References to the DWP include DWP Ministers and officials in DWP including Jobcentre Plus, The Pension and Disability Carer's Service, the Child Maintenance and Enforcement Commission, and its sponsored bodies.

² For the purposes of this Concordat, the Scottish Government means Scottish Ministers and their officials.

Communication and consultation

DWP and the SG are committed to the principle of good communications with each other. They will alert each other as soon as practicable (in confidence where appropriate) to proposals for new policy initiatives, and changes to existing policies where there is a direct or indirect impact on the other's areas of responsibility. The aim is to ensure that, as far as possible, each administration is informed of, or consulted on, proposals for change in sufficient time for them to be evaluated, comments made and those comments to be considered.

They will also, where appropriate, aim to establish arrangements that allow for policies for which responsibility is shared to be drawn up and developed jointly between the administrations.

Liaison arrangements will be taken forward by officials in the DWP and SG who will develop specific bi-lateral arrangements where necessary. On general points or where there is no established link, the initial contact points will be the Information and Devolution Policy Team in DWP Legal Group and the Tackling Poverty Team, Social Inclusion Division, in SG.

Legislation

[Devolution Guidance Note 10](#) sets out the guidance to Whitehall Departments for managing Bills affecting Scotland. In the case of legislation and in accordance with the general principles set out in the MoU, consultation will take place from an early stage in the developments of relevant legislative proposals, in confidence where necessary.

The DWP and the SG confirm their commitment to work together to fully consider the implications of any proposals to amend legislation, which is the responsibility of the other, well in advance of the amending legislation being introduced into parliament. In the case of legislation and in accordance with the general principles of the MoU, consultation between the DWP and the SG will take place at the earliest possible stages in the development of relevant legislative proposals, in confidence where necessary and making every effort to consider any specific implications for Scotland.

On matters of exercising [shared powers](#) the parties will consult each other beforehand to avoid duplication of effort and contradictory actions. The shared powers concerned are sections 2, 11(3) and 12(4) of the Employment and Training Act 1973 (power to make arrangements for employment and training etc. and to make certain payments).

Partnership Arrangements with Local Government in Scotland

The SG shall act in accordance with its internal Concordat with the Convention of Scottish Local Authorities (COSLA), which requires that they work in partnership with local government in Scotland. In so far as communication between DWP and SG which cover issues that impact on local authorities, COSLA shall be involved as an equal third partner in such communications or consultations.

Handling of Correspondence

DWP and the SG will handle replies to correspondence in accordance with the MoU, [Devolution Guidance Note 2](#) and any procedures agreed between them on common working arrangements. If a letter or other enquiry is received where both DWP and the SG have an interest they will agree on a case-by-case basis on how the reply should be handled.

Parliamentary Business

DWP and the SG will co-operate to enable each to meet its obligations to its respective Parliament having regard to the principles set out in the MoU and the advice in paragraphs 20-28 of [Devolution Guidance Note 1](#) and any agreements between the administrations on common working arrangements. In particular, DWP and the SG will aim to treat enquiries and requests for information from the other with the same priority as a request from within their own legislative body. In the event of a conflict of requirements however, DWP owes its primary duty to the UK Parliament. Likewise, the SG owes its primary duty to the Scottish Parliament.

The SG and DWP confirm their commitment to provide each other with as full and open access to policy and other information, including statistics and research, and, where appropriate, representations from third parties.

Witnesses

The Scottish Parliament may invite officials from DWP to attend proceedings to give evidence or to provide documentary evidence. DWP will consider each such request on a case-by-case basis, having regard to the advice set out in Devolution Guidance notes. The starting point however will be a wish to be as helpful to the Scottish Parliament as possible, subject to considerations of confidentiality and the overriding priority that must be given to matters arising in the Westminster Parliament. DWP will nominate a contact point to handle all requests from the Parliament, and the SG will nominate a contact point who will be kept informed by DWP of any such requests.

Confidentiality

The MoU sets out the principles that govern the duty of confidence between the UK Government and the devolved administrations. In line with those principles, DWP and the SG will respect the confidentiality of information received from each other. Where DWP or the SG provides information they will indicate the appropriate status and any restrictions on how the information is used. Disclosure of information will be subject to legal and other provisions relating to freedom of information and data protection in accordance with the MoU.

Making Announcements

Where announcements are to be made on matters that involve both devolved and reserved matters, or in the case of reserved matters which have implications for devolved administrations, DWP and the SG will make every effort to agree in advance in each case how the announcement will be made.

Producing Information Material

Where information material is to be produced which covers both reserved and devolved matters, DWP and the SG will give each other sufficient notice of and agree the content of the relevant parts within the material before publication.

Finance

The DWP and the SG will act in accordance with the [HM Treasury Statement of Funding Policy](#). In particular, [paragraph 6.3](#) makes specific reference to calculating adjustments, where changes in expenditure on council tax benefit and rent rebate subsidies are disproportionate to relative changes in England.

In accordance with the Statement of Funding Policy principles where decisions taken by the SG have financial implications for DWP, or alternatively, decisions taken by DWP lead to additional costs for the SG, where other arrangements do not exist automatically to account for such extra costs, the body whose decision leads to the additional cost will meet that cost.

Service Provision

DWP and the SG may seek access to each other's services and expertise, to ensure that the responsibilities and duties of the UK Government and the SG may be discharged. Arrangements in existence prior to 1 July 1999 for administrative liaison and co-ordination, and if appropriate for cost sharing, will continue until changes are agreed. Where new demands are made, or where costs to providers change, DWP or the SG will make proposals for new costing or funding arrangements.

Where DWP and the SG are mutually dependent on each other's services, for example to deliver their respective responsibilities, separate agreements will set out the agreed responsibilities in these areas, and others, which may arise. A list of agreements agreed or planned is set out at [Annex 2](#) to this Concordat and include:

- Training allowances and the analogous Industrial Injuries Scheme in Scotland, DWP services are provided by Financial Services Division and through Jobcentre Plus.
- Working collaboratively on welfare to work initiatives, job related training and wider lifelong learning policies.

Housing Benefit and Council Tax Benefit

Housing Policy and Local Government Finance are areas of devolved responsibility that interact closely with Housing Benefit and Council Tax Benefit, where the policy remains the responsibility of the UK Government. Local Authorities administer Housing and Council Tax Benefits in Scotland and the Rent Registration Service (part of the SG) provides advice to local authorities on eligible rents for Housing Benefit purposes in line with legislation and related guidance by DWP. Detailed arrangements for consultation and liaison are set out in a separate Working Level Agreement.

Regulatory appraisals

Standing Orders of the UK Parliament require a regulatory appraisal of the costs and benefits of proposed legislation. With the exception of some shared responsibilities in relation to arrangements for employment and training, responsibility for social security matters remains with DWP, so there are unlikely to be many instances where DWP is preparing a regulatory impact assessment for the same (or very similar) legislation. Should this happen, however, in order to save duplication of effort, DWP will liaise with the SG to ensure that the assessment takes appropriate account of the situation in Scotland.

Human Rights Act 1998

Similarly, DWP will liaise with the SG to ensure that assessments of compliance with the Human Rights Act 1998 are shared, where parallel legislation is proposed.

Reaching agreement

Both parties recognise that the vast majority of matters will be handled routinely between DWP and the SG in accordance with liaison arrangements set out in the MoU and in this Concordat. Both the SG and DWP are committed to resolving issues at working levels wherever possible or if necessary at Senior Civil Service levels.

Only very exceptionally should it be necessary to refer matters to the Joint Ministerial Committee (JMC).

Where agreement cannot be reached bilaterally, the issue may be referred to the JMC in accordance with the guidance and procedures in the MoU and the associated Agreement on the Joint Ministerial Committee. DWP and the SG will inform the other before hand of any proposal to involve the JMC.

Review

The Concordat may be amended at any time if both parties agree in writing to the changes.

Queries about this concordat

Queries about this concordat should be addressed to:

Information and Devolution Policy Division
Department for Work and Pensions
Argyle House
3 Lady Lawson Street
Edinburgh EH3 9SH

Or

Employment and Tackling Poverty Division
Scottish Government
Area 2-F
Victoria Quay
Edinburgh EH6 6QQ

Annex 1 – Matters about which DWP and the Scottish Government will establish and maintain good communications

This is not an exhaustive list; rather, it represents the main issues where DWP and the SG expect to co-operate in order to deliver effective administration.

Housing and Local Government

- Housing, in particular levels of rents and council tax.
- Housing Benefit and Council Tax Benefit, including subsidy arrangements.
- Rent Officer Service functions relating to Housing Benefit.
- Local Government organisation.
- Local taxation, including council tax.
- Exercise of the tax varying powers in s73 of the Scotland Act 1998.

Benefits and Welfare

- General benefits policy.
- Changes to benefits or benefits administration where these would affect the responsibilities of the Scottish Government.
- Personal Social Services, including residential and community care
- Childcare.
- Eligibility for free prescriptions and dental treatment.
- Plans for activity to increase take-up of benefits.

Health

- National Health Service in Scotland.
- Provision of medical certificates for benefit purposes.
- Health charges.

Employment and Learning

- Any changes to employment and learning provisions which impact on social security benefit entitlements.
- Employment and learning matters, encompassing significant Welfare to Work policy matters, Job Search and Support and Job-Related Training policy and programme developments, insofar as these impact directly or indirectly on Scotland.
- Section 2, 11(3) and 12 (4) of the Employment and Training Act 1973 (power to make arrangements for employment and training etc and to make certain payments).
- Commissioning other organisations to deliver programmes of support under contract to those not in work

Integrated Employment and Skills Policy

- Development and implementation of policy
- Joint working between DWP and Scottish Government and relevant agencies to develop and implement an integrated skills service.
- The UK Commission for Employment and Skills 2010 Review of Integration of Employment and Skills across GB

International Conventions and Treaties and Reporting Procedures

- On matters of UK State reporting where there is a devolved function

Other Matters

- European initiatives on social exclusion.
- Civil rights legislation for disabled people.
- Older people and an ageing society.
- Multi Agency Public Protection Arrangements (MAPPA).
- Financial inclusion activity, including support for credit unions and the work of the Financial Inclusion Champions team for Scotland.
- Social Welfare and Social Work Services.
- Education.
- Equal Opportunities.
- Scots private law (e.g. the law of ailment, financial provision on divorce, bankruptcy, debt and debt recovery)
- Scots criminal law.
- 16/17 year olds who are not in education, employment or training

Administration

- Information, including research findings, data and other statistics where readily available, relevant to the business of DWP and the SG.

Land Use Planning and Development by DWP

- DWP will continue to follow the Crown Development Procedures applicable to government departments.

Annex 2 – Working Level Agreements and Service Level Agreements

Agreements in Place

- General welfare reform issues including welfare to work, Job Search and Support and Job-Related Training and integrated employment and skills
- Housing Benefit and Council Tax Benefit
- Training Allowances and Analogous Industrial Injuries Scheme
- Statistics and Research data.