

**Legal Group - Information
Devolution & Governance**

Concordat

Between the Department for Work and
Pensions and the Welsh Assembly
Government

DWP

Department for
Work and Pensions

Adran Gwaith
a Phensiynau



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

September 2009

Concordat between the Department for Work and Pensions and the Welsh Assembly Government

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Introduction

This Concordat establishes an agreed framework for co-operation between the Department for Work and Pensions (DWP) and the Welsh Assembly Government (the Assembly Government) on all matters arising from DWP's responsibilities which impact directly or indirectly on the functions of the Assembly Government and vice versa. In this Concordat references to functions or responsibilities transferred to the Assembly Government include functions or responsibilities conferred on the Assembly Government.

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 either the freedom of the assembly Government to operate in areas for which it is responsible, or similarly DWP's ability to operate in its areas of responsibility. However, the Assembly government and DWP agree to honour the principles and obligations set out in the Concordat.

This co-operation is for the mutual benefit of both the Assembly Government and DWP. It is intended to give the assurance that working relationships will be conducted in an agreed and timely manner and underpinned by good communications in both directions. This will assist the efficient, effective and economical delivery of public services for which the Assembly Government and DWP are responsible and benefit the users of those services.

There are many interactions between social security, jobsearch and support matters and services for which responsibility is transferred, to the Assembly Government on which DWP and the Assembly Government need to keep in close touch. In addition, there are other areas where DWP and the Assembly Government need to co-operate and maintain good communications in order to deliver effective administration. These are listed in [Annex 1](#) to this Concordat.

Communication and consultation

DWP and the Assembly Government are committed to the principle of good communications with each other and 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, both the Assembly Government and DWP are informed of proposals for change in sufficient time for them to be evaluated, comments made and those comments to be considered. 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 development of relevant legislative proposals, in confidence where necessary.

Liaison arrangements will be taken forward by officials in the Assembly Government and DWP who will develop specific procedures where necessary. On general points, or where there is no established link, the initial contact points will be Information, Devolution and Governance in DWP and the Department for Social Justice and Local Government of the Assembly Government.

Correspondence

DWP and the Assembly Government will handle 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 Assembly Government have an interest they will agree on a case-by-case basis on how the reply should be handled.

Correspondence which has to be transferred by one to the other will be transferred as swiftly as possible and, on the day that the correspondence is transferred, a letter should be sent to the correspondent confirming what action has been taken and who is now responsible for handling their correspondence.

Parliamentary and Assembly Business

DWP and the Assembly Government will co-operate to enable each to meet its obligations to its respective Parliament or Assembly, having regard to the principles set out in the MoU and the advice in paragraphs 20-28 of [Devolution Guidance Note 1](#).

DWP and the Assembly Government will also answer questions and enquiries from the other in accordance with the provisions in the MoU and any agreements between them on common working arrangements. The Assembly Government and DWP confirm their commitment to provide each other with as full and open access as possible to policy and other information including statistics and research and, where appropriate, representations from third parties.

Both the Assembly Government and DWP will treat information received from the other in accordance with any restrictions that the sender may specify, subject to [confidentiality](#).

Producing Information Material

Where information material is to be produced that covers both transferred and non-transferred matters, DWP and the Assembly Government will agree the content of the relevant parts within the material before publication.

Making announcements

Where announcements are to be made on matters which touch on both transferred and non-transferred matters, DWP and the Assembly Government will agree how the announcement will be made.

Witnesses

The Assembly Parliamentary Service may invite officials from DWP to attend proceedings of the National Assembly for Wales 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 paragraphs 7-9 of [devolution guidance Note 12](#). The starting point however will be a wish to be as helpful to the National Assembly for Wales as possible, subject to considerations of confidentiality and the overriding priority that must be given to matters arising in the Westminster Parliament.

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 Assembly Government will respect the confidentiality of information received from each other, and will indicate the status of, and any restrictions on the use of information, which they provide.

Finance

HM Treasury's [Statement of Funding Policy](#) sets out the policies and procedures, which will underpin the exercise of setting the budgets of the devolved administrations. In particular, section 5 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 Assembly Government have financial implications for DWP, or alternatively, decisions taken by DWP lead to additional costs for the Assembly Government where other arrangements do not exist automatically to account for

such extra costs, the extra costs will be met by the decision maker whose policy results in those additional costs.

Legislation

[Devolution Guidance Note 9](#) sets out guidance to Whitehall Departments on arrangements for managing Bills affecting the responsibilities of either the National Assembly for Wales or the Welsh Assembly Government. It sets out the expectations of the Cabinet Committee on Legislation (L) in giving effect to this policy and how to manage it to ensure smooth running of the UK Government's legislative programme. L Committee expects devolution issues to be resolved by the time a Bill is brought before the Committee prior to its introduction into Parliament.

[Devolution Guidance Note 16](#) sets out guidance on the procedure for conferring legislative competence on the National Assembly for Wales by Order in Council. The terms of each such Order must be agreed between the Welsh Assembly Government and the UK Government, and then approved by the National Assembly and both Houses of Parliament.

Service Provision

DWP and the Assembly Government may seek access to each other's services and expertise, to ensure that the responsibilities and duties of the UK Government and the Assembly Government may be discharged. Arrangements in existence on 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 Assembly Government will make proposals for new costing or funding arrangements.

DWP and the Assembly Government are mutually dependent on each other's services to deliver their responsibilities in the following areas:

- the service provided by Rent Officers in connection with the determination of eligible rents;
- medical certification to support claims to sickness and disability;
- training allowances and Bridging Allowances for persons with an underlying benefit entitlement and the Analogous Industrial Injuries Scheme in Wales. These DWP services are provided by Financial Services Division and through Jobcentre Plus;
- working jointly on welfare to work initiatives, Job Search and Support, Job-Related Training and wider lifelong learning policies; and

- working jointly on the City strategy and extending the localized partnership approach to helping more people disadvantaged in the labour market into work.

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.

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, which remain the responsibility of the UK Government. Detailed arrangements for the Assembly Government and DWP are set out in a separate Working Level Agreement.

Regulatory Appraisals

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 an impact assessment for the same (or very similar) legislation. Should this happen however and in order to save duplication of effort, DWP will liaise with the Assembly Government to ensure that the assessment takes appropriate account of the situation in Wales.

Human Rights Act 1998

Similarly, where parallel legislation is proposed or where DWP is legislating to create functions for the Assembly Government, DWP will liaise with the Assembly Government to ensure that assessments of compliance with the Human Rights Act are shared.

Welsh Language Act 1993

DWP will respond to notifications from the Welsh Language Board to develop and maintain schemes for the provision of services, documents and other information, which give effect to the principle that the English and Welsh languages are treated on the basis of equality. These schemes will accord with the Guidelines issued under section 9 of the Welsh Language Act 1993.

Disputes

The vast majority of matters will be handled routinely between DWP and the Assembly Government in accordance with liaison arrangements set out in the MoU and in this Concordat. Both the Assembly Government 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 Ministers. If agreement still cannot be reached, the Secretary of State for Wales should be called upon to assist in any significant case of disagreement.

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

Review

This 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, Devolution and Governance (part of Legal Group)
Department for Work and Pensions
The Adelphi
1-11 John Adam Street
London WC2N 6HT

or Department for Social Justice and Local Government
Welsh Assembly Government
Merthyr Tydfil Office
Rhydycar
Merthyr Tydfil
CF48 1UZ

Annex 1: Matters about which DWP and the Assembly Government will establish and maintain good communications

This is not an exhaustive list; rather, it represents the main issues where DWP and the Assembly Government 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

Benefits and Welfare

- Changes to benefits or benefits administration where these would affect the responsibilities of the Assembly Government
- Personal Social Services, including residential and community care
- Sure Start Programmes and Cymorth in Wales
- Eligibility for free prescriptions and dental treatment

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 Wales.

Other matters

- European initiatives on social exclusion
- Civil rights legislation for disabled people
- Develop and implement strategy for older people and an ageing society

Administration

- Welsh Improvement – intervention powers
- Information, including research findings, data and other statistics where readily available, relevant to the business of DWP and the Assembly

Land Use Planning and Development by DWP

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

Integrated Employment and Skills Policy

- Work together to consider the implications of the Leitch Review on skills
- Explore approaches to better integrate Employment and Skills
- Consider the implications of the UK Commission for Employment and Skills review in 2010

Annex 2: Service / Working level agreements

Working Level Agreements and Service Level Agreements in place or in preparation January 2009

- Statistics and Research data
- General Welfare Reform issues including Welfare to Work, Job Search and Support (JSS), Job-Related Training (JRT) and Integrated Employment and Skills (IES)
- Housing Benefit and Council Tax Benefit
- Training Allowances, Young Persons' Bridging Allowances and the Analogous Industrial Injuries Scheme