

**CONCORDAT  
BETWEEN  
THE DEPARTMENT FOR WORK AND PENSIONS  
AND  
THE WELSH GOVERNMENT**

<b>Contents</b>	<b>Paragraph</b>
Introduction	1-5
Communication and consultation	6-7
Correspondence	8-9
Parliamentary and Assembly Business	10-12
Producing information material	13
Making announcements	14
Witnesses	15
Confidentiality	16
Finance	17-18
Legislation	19-20
Service Provision	21- 23
Housing Benefit and Council Tax Benefit	24
Regulatory Appraisals	25
Human Rights Act 1998	26
Welsh Language	27
Disputes	28-29
Review	30
Queries about this concordat	31

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

# CONCORDAT BETWEEN THE DEPARTMENT FOR WORK AND PENSIONS AND THE WELSH GOVERNMENT

## Introduction

1. This Concordat establishes an agreed framework for co-operation between the Department for Work and Pensions (DWP)<sup>1</sup> and the Welsh Government<sup>2</sup> (the Welsh Government) on all matters arising from DWP's responsibilities which impact directly or indirectly on the functions of the Welsh Government and *vice versa*. In this Concordat, references to functions or responsibilities transferred to the Welsh Ministers<sup>3</sup> include functions or responsibilities conferred on the Welsh Ministers.
2. 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 Welsh Government to operate in areas for which it is responsible, or similarly DWP's ability to operate in its areas of responsibility. However, the Welsh Government and DWP agree to honour the principles and obligations set out in the Concordat.
3. This co-operation is for the mutual benefit of both the Welsh 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 Welsh Government and DWP are responsible and benefit the users of those services.
4. There are many interactions between those areas for which DWP is responsible including social security, pensions, and child support, and those services for which responsibility has been transferred to the Welsh Government on which DWP and the Welsh Government need to keep in close touch. In addition, there are other areas where DWP and the Welsh Government need to co-operate and maintain good communications in order to deliver effective administration (see list at Annex 1).
5. Before reaching a decision on the transfer of executive functions, the Welsh Government and the UK Government will identify the administrative, programme and capital costs involved in the exercise of those functions in relation to Wales, taking full account of all relevant factors. Ministerial agreement to the transfer of executive functions will depend on agreement not only that the relevant costs, assets and

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<sup>1</sup> References to the DWP include DWP Ministers and officials, its businesses including Jobcentre Plus, the Pensions, Disability and Carers Service, and its sponsored bodies.

<sup>2</sup> The legal name for the Welsh Government is the Welsh Assembly Government, pursuant to section 45(1) of the Government of Wales Act 2006. References to the Welsh Government in this Concordat include officials.

<sup>3</sup> "Welsh Ministers" is defined in s.45 (2) of the Government of Wales Act 2006.

liabilities have been identified but also on agreement about which funds, assets and liabilities will transfer with the functions themselves.

## **Communication and consultation**

6. DWP and the Welsh 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 Welsh 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<sup>4</sup>.
7. Liaison arrangements will be taken forward by officials in the Welsh 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 Management, Devolution and Governance in DWP and the Department for Education and Skills of the Welsh Government.

## **Correspondence**

8. DWP and the Welsh Government will handle correspondence in accordance with the MoU, Devolution Guidance Note 2<sup>5</sup>, and any procedures agreed between them on common working arrangements. If a letter or other enquiry is received where both DWP and the Welsh Government have an interest they will agree on a case-by-case basis on how the reply should be handled.
9. 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**

10. DWP and the Welsh Government will co-operate to enable each to meet its obligations to the UK Parliament and National Assembly for Wales<sup>6</sup>

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<sup>4</sup> See also paragraphs 19 and 20 of this Concordat

<sup>5</sup> See "Devolution Guidance Note 2: [Handling Correspondence under Devolution.](#)"

<sup>6</sup> The "National Assembly for Wales" is the elected legislative body of 60 Assembly Members established by section 1(1) of the Government of Wales Act 2006 (GOWA 2006). Sections 37-40 of GOWA 2006 give the National Assembly the powers to require a range of witnesses to give oral evidence or produce documents to the Assembly or its committees or sub-committees.

respectively, having regard to the principles set out in the MoU and the advice in paragraphs 20-28 of Devolution Guidance Note 1<sup>7</sup>.

11. DWP and the Welsh 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 Welsh 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.
12. Both the Welsh Government and DWP will treat information received from the other in accordance with any restrictions that the sender may specify, subject to paragraph 15 below.

### **Producing Information Material**

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

### **Making announcements**

14. Where an announcement is to be made on a matter which touches on both devolved and non-devolved matters, DWP and the Welsh Government will agree how the announcement will be made.

### **Witnesses**

15. The National Assembly for Wales may invite Ministers and officials from DWP to attend its proceedings to give oral 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<sup>8</sup>. The starting point will be for DWP to be as helpful as possible to the National Assembly for Wales, subject to considerations of confidentiality and the overriding priority that must be given to matters arising in the Westminster Parliament.

### **Confidentiality**

16. 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 Welsh 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.

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<sup>7</sup> See “Devolution Guidance Note 1: [Common Working Arrangements](#)”.

<sup>8</sup> See “[Devolution Guidance Note 12: Attendance of UK Ministers and Officials at Committees of the Devolved Legislatures](#)”

## Finance

17. HM Treasury's Statement of Funding Policy<sup>9</sup> sets out the policies and procedures, which will underpin the exercise of setting the budgets of the devolved administrations. In particular, chapter 6 makes specific reference to calculating adjustments<sup>10</sup>, where changes in expenditure on council tax benefit and rent rebate subsidies are disproportionate to relative changes in England.
18. In accordance with the Statement of Funding Policy principles, where decisions taken by the Welsh Government have financial implications for DWP, or alternatively, decisions taken by DWP lead to additional costs for the Welsh 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

19. Devolution Guidance Note 9<sup>11</sup> sets out guidance to Whitehall Departments on arrangements for managing Parliamentary and Assembly primary legislation affecting the responsibilities of either the National Assembly for Wales or the Welsh Government. It sets out the expectations of the Cabinet Committee on Parliamentary Business and Legislation (PB & L Committee) in giving effect to this policy and how to manage it to ensure smooth running of the UK Government's legislative programme. PB & L Committee expects devolution issues to be resolved by the time a Bill is brought before the Committee prior to its introduction into Parliament.
20. Devolution Guidance Note 17<sup>12</sup> 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 Government and the UK Government, and then approved by the National Assembly for Wales and both Houses of Parliament.

## Service Provision

21. DWP and the Welsh Government may seek access to each other's services and expertise, to ensure that the responsibilities and duties of the UK Government and the Welsh 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

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<sup>9</sup> See HM Treasury's "Funding the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly, A Statement of Funding Policy", Sixth Edition, October 2010.

<sup>10</sup> In the case of any increase in council tax benefit and rent rebate subsidy expenditure disproportionate to expenditure in England, the Government will apply a formula to calculate the adjustment.

<sup>11</sup> See "Devolution Guidance Note 9: [Parliamentary and Assembly Primary Legislation Affecting Wales](#)"

<sup>12</sup> See "Devolution Guidance Note 17: [Modifying the Legislative Competence of the National Assembly for Wales](#)"

providers change, DWP or the Welsh Government will make proposals for new costing or funding arrangements.

22. DWP and the Welsh 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 and Local Housing Allowance;
  - 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.<sup>13</sup>
23. Separate Agreements will set out the agreed responsibilities in these areas, and others, which may arise.

### **Housing Benefit and Council Tax Benefit**

24. 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. Council Tax Benefit (CTB) is being abolished from the 1st April 2013 and responsibility for introducing a replacement scheme to provide support for council tax is being passed to the devolved administrations. Detailed arrangements for the Welsh Government and DWP are set out in a separate Working Level Agreement.

### **Regulatory Appraisals**

25. Responsibility for social security, pensions and child support rests with the UK Government, so there are unlikely to be many instances where DWP and the Welsh Government are preparing an impact assessment for similar legislation. Should this happen, and in order to save duplication of effort, DWP will liaise with the Welsh Government to ensure that the assessment takes appropriate account of the situation in Wales.

### **Human Rights Act 1998**

26. Similarly, where parallel legislation is proposed or where DWP is legislating to create functions for the Welsh Government, DWP will liaise with the Welsh Government to ensure that assessments of compliance

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<sup>13</sup> The UK Government and the Welsh Government have concurrent powers in respect of Job Search and Support (JSS) and Job-Related training (JRT).

with the Human Rights Act are shared.

## **Welsh Language**

27. The Welsh Government's policy is to promote and facilitate the use of Welsh and to ensure, unless it would be unreasonable or disproportionate to do so, that the Welsh language is treated no less favourably than the English language. In accordance with its Welsh Language Scheme approved by the former Welsh Language Board on 25 March 2010, and which remains in operation, DWP will continue to give effect to the principle that the English and Welsh languages are treated on the basis of equality in Wales and in so doing will provide practical support to the Welsh Government's policy in Wales.

## **Disputes**

28. The vast majority of matters will be handled routinely between DWP and the Welsh Government in accordance with liaison arrangements set out in the MoU and in this Concordat. Both the Welsh 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.
29. Where agreement cannot be reached bilaterally, matters may formally be referred to the Joint Ministerial Committee (JMC) Secretariat pursuant to the principles and arrangements for dispute avoidance and resolution set out in Section A3 of the MoU. DWP and the Welsh Government will inform the other beforehand of any proposal to involve the JMC.

## **Review**

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

## **Queries about this concordat**

31. Queries about this concordat should be addressed to:

Information Management, Devolution and Governance  
Department for Work and Pensions  
4<sup>th</sup> Floor, Caxton House  
Tothill Street  
London SW1H 9NA

or Employability and Skills  
Department for Education and Skills  
Welsh Government  
Ty'r Afon  
Bedwas Road  
Caerphilly CF83 8WT

## **MATTERS ABOUT WHICH DWP AND THE WELSH GOVERNMENT WILL ESTABLISH AND MAINTAIN GOOD COMMUNICATIONS**

**This is not an exhaustive list; rather, it represents the main issues where DWP and the Welsh 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 Welsh Government
- Personal Social Services, including residential and community care
- Families First (formerly Cymorth) Programme in Wales sits alongside the support offered by other programmes:
  - Flying Start;
  - Communities First; and
  - the Integrated Family Support Service
- Eligibility for free prescriptions and dental treatment

### **Health**

- 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 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
- Health and Safety

### **Administration**

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