



CONCORDAT

BETWEEN

DEPARTMENT OF SOCIAL SECURITY

AND

THE SCOTTISH EXECUTIVE

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CONCORDAT BETWEEN THE DEPARTMENT OF SOCIAL SECURITY AND THE SCOTTISH EXECUTIVE

Introduction

1. The devolution of powers to the Scottish Parliament has meant that new relations have had to be forged with Government Departments. This concordat establishes an agreed framework for co-operation between the Department of Social Security (DSS)¹ and the Scottish Executive ("the Executive").²
2. From 1 July 1999, Scottish Ministers have responsibility for those matters not reserved to the UK Parliament in Schedule 5 of the Scotland Act 1998. Under Schedule 5, responsibility for social security, child support and pensions policy and administration is reserved, and remains with the UK Government.
3. There are many interactions between social security matters and services for which responsibility is devolved, on which the two administrations need to keep in close touch.

Nature and Status of this Concordat

4. Good working relationships between Government departments and the Executive 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 groundrules for managing the relationship between DSS and the Executive 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 DSS and the

¹ References to the DSS include DSS ministers and officials in DSS including the Benefits Agency (BA), Child Support Agency (CSA) War Pensions Agency (WPA) the Information Technology Services Agency (ITSA) and The Appeals Service

Executive will work together. It is not a binding agreement or a contract, and is intended to be binding in honour only.

5. 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. In some cases, DSS acts as an agent for the Executive. A list of agreements agreed or planned is set out at annex 2 to this Concordat.

Memorandum of Understanding

6. The Memorandum of Understanding (MoU) published in October 1999³ sets out the principles which underlie the working relationships between the UK Government and the devolved administrations. DSS and the Executive will implement the practices set out in the MoU, and will co-operate to achieve its aims.

Communication and consultation

7. DSS and the Executive are committed to the principle of good communications with each other. They will alert each other, in confidence where appropriate and as soon as practicable, 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 proposals for change in sufficient time for them to be evaluated, comments made and those comments to be considered.
8. In particular, DSS and the Executive will notify the other of any proposal to amend legislation which is the responsibility of the other, before the amending legislation is introduced into the Parliaments.

² For the purposes of this concordat, the Scottish Executive means Scottish Ministers and their officials.

³ Memorandum of Understanding and supplementary agreements between the United Kingdom Government, Scottish Ministers and the Cabinet of the National Assembly for Wales. CM4444

9. Liaison arrangements will be taken forward by officials in the Executive and DSS who will develop specific procedures where necessary. On general points, or where there is no established link, the initial contact points will be the Devolution and Constitutional Reform Unit in DSS and the Equality and Voluntary Issues Group in the Executive.

Handling of Correspondence, Parliamentary Debates, Committees and Questions

10. DSS and the Executive will implement the agreed arrangements for consultation and advance notifications, and for liaison between the administrations in respect of correspondence, Parliamentary questions, debates, committees and other issues.
11. DSS and the Executive will handle replies to correspondence in accordance with the provisions of paragraph 12 of the MoU and any procedures agreed between the administrations on common working arrangements. If a letter or other enquiry is received where both DSS and the Executive have an interest they will agree on a case by case basis on how the reply should be handled. If appropriate, DSS and the Executive will agree additional guidance on handling specific issues.
12. DSS and the Executive will answer questions and enquiries in accordance with the provisions in the MoU and any agreements between the administrations on common working arrangements. In particular, DSS and the Executive 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, DSS owes its primary duty to the UK Parliament. Likewise, the Scottish Executive owes its primary duty to the Scottish Parliament.

Witnesses

13. The Scottish Parliament may invite officials from DSS to attend proceedings to give evidence or to provide documentary evidence. DSS will consider each such request on a case by case basis. The starting point however will be a wish to be helpful, subject to considerations of confidentiality and the overriding priority that must be given to matters arising in the Westminster Parliament. DSS will nominate a contact point to handle all requests from the Parliament, and the Executive will nominate a contact point who will be kept informed by DSS of any such requests.

Confidentiality

14. Paragraph 11 of the MoU sets out the principles which govern the duty of confidence between the UK Government and the devolved administrations. In line with those principles, DSS and the Executive 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.

Making Announcements

15. Where announcements are to be made on matters which touch on both devolved and reserved matters, DSS and the Executive will agree in each case how the announcement will be made.

Finance

16. The DSS and the Executive will act in accordance with the Statement of Funding Policy, published by the Treasury on 31 March 1999, and as amended from time

to time. In particular, section 5⁴ 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.

Service Provision

17. DSS and the Executive may seek access to each other's services and expertise, to ensure that the responsibilities and duties of the UK Government and the Scottish Executive 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, DSS or the Executive will make proposals for new costing or funding arrangements.

18. DSS and the Executive are dependent on each other's services, for example to deliver their respective responsibilities in the following areas:

- the service provided by Rent Officers in connection with the determination of eligible rents
- the delivery of welfare foods
- medical certification to support claims to sickness and disability

and with DfEE,

- working jointly on welfare to work initiatives
- training allowances for persons with an underlying benefit entitlement.

Training Allowances

⁴ In the case of any increase in rent rebate and council tax subsidy expenditure disproportionate to England, the Government will apply a formula to calculate the adjustment. The formulae will be published shortly as an amendment to the Statement of Funding Policy.

19. In respect of training allowances, DSS provides a common service for the Scottish Executive, the National Assembly for Wales and the Department of Education and Employment (DfEE) in England in the processing and payment of training allowances payable under s2(2) of the Employment and Training Act 1973 and the Enterprise and New Towns Act 1990. The service is provided through the Benefits Agency, working in partnership with the Employment Service. The detailed arrangements are set out in a tripartite agreement between DSS, DfEE and the Executive.

Housing Benefit and Council Tax Benefit

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

Regulatory appraisals

21. Standing Orders of the Parliament require a regulatory appraisal of the costs and benefits of proposed legislation. Responsibility for social security matters remains with DSS, so there are unlikely to be many instances where DSS is preparing a regulatory impact assessment for the same (or very similar) legislation. Should this happen however, in order to save duplication of effort, DSS will liaise with the Executive to ensure that the assessment takes appropriate account of the situation in Scotland.

Human Rights Act 1998

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

Reaching Agreement

23. Both parties recognise that the vast majority of matters will be handled routinely between DSS and the Executive in accordance with liaison arrangements set out in the MoU and in this concordat. Where matters cannot be resolved through normal day to day contact, the dispute will be considered by senior officials, and if necessary, by Ministers. If agreement still cannot be reached, the Secretary of State for Scotland should be called upon to assist in any significant case of disagreement.
24. 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. DSS and the Executive will inform the other before hand of any proposal to involve the JMC.

Review

25. The Permanent Secretaries of DSS and the Executive will review this concordat one year after its agreement, and annually thereafter. The concordat may be amended at any time if both parties agree in writing to the changes.

Queries about this concordat

26. Queries about this concordat should be addressed to:

Devolution and Constitutional Reform Unit	or	Equality and Voluntary Issues Group
Department of Social Security		Executive Secretariat
Room 536		St Andrews House
The Adelphi		Regent Road
John Adam Street		Edinburgh
London WC2N 6HT		EH1 3DG

Principal matters where change may impact on the social security reservation or on devolved matters

Note: this list is not exclusive or exhaustive; it represents areas of closest mutual interest at the time of drafting

Reserved Matters

General benefits policy (including the Social Fund and the Independent Living Fund) Child Support and Pensions

Housing Benefit and Council Tax Benefit (including subsidy arrangements)

Welfare Food Scheme

Devolved Matters

Exercise of the tax varying powers in s73 of the Scotland Act 1998

Housing (including the levels of rent)

Council Tax

Rent Officer Service

Local government organisation

Social Welfare and Social Work Services

National Health Service in Scotland

Education

Employment

Training and lifelong learning

Scots private law (eg the law of aliment, financial provision on divorce, bankruptcy, debt and debt recovery)

Scots criminal law

Planning

General

Information, including research information, data and other statistics where available, relevant to the business of DSS and the Scottish Executive

Annex 2

Agency Agreements, Working Level Agreements and Service Level Agreements in place or in preparation November 1999

(i) AGENCY AGREEMENT

Resettlement [until 31 March 2000]

Welfare Foods

(ii) WORKING and SERVICE LEVEL AGREEMENTS

Statistics and Research data

Job Search and support and job-related training , including New Deal and Welfare to Work (with DfEE)

Housing Benefit and Council Tax Benefit