

# **Devolution concordat on health and social care**

Department of Health, and Department of Health, Social Services and Public Safety.

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## **Introduction**

Devolution has changed the way in which the United Kingdom is governed. The creation of the Scottish Executive, the Cabinet of the National Assembly for Wales [and the Northern Ireland Executive Committee] (referred to here as "the devolved administrations") allows greater divergence in policy making to address local needs and priorities. Without close co-operation between all [four] UK administrations there is the risk that developments in one administration may inadvertently constrain or put pressure on policy or finances of the other administrations.

This Concordat is intended to provide a framework for co-operation between the Department of Health and the departments or directorates concerned with health and social care in each of the devolved administrations. It supplements the more general Memorandum of Understanding and overarching concordats agreed between the [four] administrations. In turn, this Concordat is supplemented by associated agreements made either at the level of the health and social care departments or between appropriate divisions and branches. In addition there may also be - as appropriate - agency arrangements, working procedures, documents, desk notes and other agreed working arrangements (including those for the funding of agreed working arrangements) which develop the principles of this Concordat and give specific guidance about putting these into practice.

## **General Principles**

The parties jointly affirm their commitment to co-operate on matters affecting the NHS, public health, wider health issues and social care, seeking to work in an open and helpful manner, with good communication and early involvement of the other parties when appropriate. This will build on existing working relationships, with officials continuing to maintain free, informal and regular contact.

The parties will inform each other at the earliest reasonable opportunity of issues - including the forming of policy, proposals for legislation, and the timing of public announcements - which are likely to be of mutual interest. In coming to decisions or developing policies or legislation which may have an impact financially or otherwise on other parties, or which may constrain others' policy development, each party will seek the views of those potentially affected at the earliest reasonable opportunity and be mindful of those views in taking any decisions.

The Department of Health should be consulted on issues with possible implications for health and social care that lie within the competence of the devolved administrations but that also impact on interests within the competence of the European Union.

The parties will work together, where appropriate, to ensure that public bodies in the health and social care field continue to operate effectively.

Consultation and liaison arrangements will be maintained and developed between the Department of Health's Heads of Health and Social Care Professions/Chief Officers and their counterparts in the devolved administrations. The Heads of Health and Social Care Professions/Chief Officers for the devolved administrations will provide advice to those administrations. In addition, they will provide professional advice to the United Kingdom Ministers if and as requested.

### **Operation**

This Concordat does not create legal obligations or restrictions on any party, though it is the intention that the devolved administrations and the Department of Health will manage their business with regard to this Concordat wherever possible. It is recognised that, in exceptional circumstances, there may be occasions where full adherence is impractical. In these cases, the parties will act as closely as possible in line with the spirit of the Concordat and will try to rectify any shortfall at the earliest opportunity. The parties will take steps to ensure these exceptions are kept to the minimum.

### **Disputes**

Every effort will be made to avoid disputes. Should a dispute arise which cannot be handled by the officials concerned, it will be considered first by senior officials and then, if need be, by the relevant Ministers or Assembly Secretaries to seek a mutually acceptable resolution. Referral to the Joint Ministerial Committee mechanisms as provided for in the Memorandum of Understanding will be the option of last resort.

### **Confidentiality of Information**

As set out in the Memorandum of Understanding, the parties will, subject to any Code of Practice on Access to Government Information requirements, freedom of information considerations or legal obligations, maintain the confidentiality of any information received from each other in confidence. The administrations providing the information should state if they consider that there should be restrictions on its uses.

### **Finance**

Any party to this Concordat will, at the earliest reasonable opportunity, inform and consult any other party about proposals for new policy initiatives or changes to existing policy that directly or indirectly have an impact on the finances of that other party or bodies that they fund.

Any additional costs to the devolved administrations arising directly from policy changes developed and implemented by the Department of Health, and which are not subject to an increase through the Block and Formula rules, should be identified and discussed jointly prior

to decision by the Department and the devolved administrations, as should any additional costs to the Department arising directly from policy changes developed and implemented by the devolved administrations.

In general, in line with HM Treasury's Statement of Funding dated 31 March 1999, where one party or bodies under its jurisdiction imposes costs on the other, and where other arrangements do not exist automatically to adjust for such extra costs, it will be right for the party whose decision leads to higher or extra costs to make any necessary financial transfers. However, there will be no adjustment to Departmental Expenditure Limits to accommodate additional costs incurred by a devolved administration as a result of decisions by the United Kingdom Government which the United Kingdom Government is expecting its departments with parallel responsibilities to absorb within existing spending plans.

### **Services**

The Department of Health has previously provided services to or on behalf of, the Secretaries of State for Scotland, Wales and Northern Ireland. Except where the parties have decided otherwise, these arrangements will continue for the time being on the basis of existing custom and practice until more detailed arrangements are agreed.

### **Associated agreements and guidance**

Associated with this Concordat are a number of agreements and guidance documents between relevant parts of the [four] administrations. These address working relationships related to specific areas of mutual interest. If appropriate, they may be agreed at division or branch level, and may be bilateral or multilateral. Additional agreements or guidance may be made at any time, and all agreements or guidance will be kept under regular review and may be updated individually as required, with the agreement of the relevant officials.

The parties will ensure that all relevant staff are aware of the terms of the Concordat and associated agreements or guidance. Any written guidance will be freely available to the other parties. In many cases it will be appropriate to seek the views of staff in the other administrations in order to make sure that guidance fully meets their needs. The agreements and guidance should be consistent with the terms and spirit of this Concordat.

Following changes to the Concordat or associated agreements, working arrangements, guidance, agreements and any other related documents will be updated as required.

### **Review**

This Concordat will be kept under regular review and will be updated by the [four] as necessary. There will be a formal review within the first year of operation.