

# Withdrawn

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# Concordat between the Department for Work and Pensions and the Department for Social Development

April 2012

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# Concordat between the Department for Work and Pensions and the Department for Social Development

## Introduction

### Context

1. The aim of this concordat is to ensure that the close relationship between the Department for Work and Pensions (DWP)<sup>1</sup> and the Department for Social Development (DSD)<sup>2</sup> continues and that business between the two Departments is conducted in a smooth and efficient way. It sets out arrangements for consultation, exchange of information (including the terms on which the information is shared), finance, access to services, resolution of disputes and review of relations.
2. This concordat is neither a binding agreement nor a contract, but rather a statement of intent about the way DWP and DSD will work together to ensure good communications and the efficient discharge of respective responsibilities. DWP and DSD agree to work in accordance with the principles and obligations set out in this document and will co-operate to the fullest extent to achieve these aims.
3. The Northern Ireland Act 1998 transferred responsibility for most social security, child support and pensions matters in Northern Ireland to the Northern Ireland Assembly "(the Assembly)". There are however some exceptions, such as the Vaccine Damage Payments Scheme, which has never been administered separately in Northern Ireland. Responsibility for this Scheme is not transferred to the Assembly, and remains with DWP. In addition, responsibility for National Insurance contributions and some associated matters is also excepted to the

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<sup>1</sup> References to DWP include DWP Ministers and officials in DWP including Jobcentre Plus, Pensions, Disability and Carers Service, Child Maintenance and Enforcement Commission and Debt Management.

<sup>2</sup> References to DSD include the Minister and officials in DSD, the Social Security Agency (SSA), the Child Maintenance and Enforcement Division and the Appeals Service NI.

Westminster Parliament; executive responsibility rests with HM Revenue and Customs (HMRC)<sup>3</sup> for the whole of the UK.

## Memorandum of Understanding

4. A revised [Memorandum of Understanding](#) (MoU) between the UK Government and the devolved administrations in Scotland, Wales and Northern Ireland was agreed in June 2011. This sets out the principles which underlie the working relationships between the UK Government and the devolved administrations. DWP and DSD will implement the practices set out in the MoU, and will co-operate to achieve its aims.

## Other Statutory and Non-Statutory Agreements

5. Nothing in this Concordat affects relations between the two Departments, which are regulated or affected by a number of statutory and non-statutory agreements:
  - section 87(1) of the Northern Ireland Act 1998 reinforces the principle of parity between the GB and NI systems by requiring the Secretary of State and the Minister for Social Development to consult one another with a view to securing, to the extent agreed between them, single systems of social security, child support and pensions
  - the legal framework for co-ordination and reciprocity in (a) social security benefits and contributions, and (b) Child Benefit, between GB and NI, established by the Memorandum of Reciprocal Arrangements and the Memorandum of Reciprocal Arrangements relating to Child Benefit respectively, both signed between the Secretary of State and the Department of Health and Social Services for Northern Ireland in 1976. Those arrangements continue in force until new arrangements are made under the wider powers set out in sections 87 and 88 of the Northern Ireland Act 1998
  - the Memorandum of Understanding relating to the allocation and processing of Great Britain Child Support Agency caseloads and the reciprocal arrangements which flow from it
  - the Memorandum of Understanding and concordat between DWP and HMRC, and the equivalent document agreed between DSD and HMRC establish the principles of working relationships in respect of National Insurance contributions and tax credits

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<sup>3</sup> Under the Commissioners for Revenue and Customs Act 2005 (c.11) the Inland Revenue and Her Majesty's Customs and Excise became Her Majesty's Revenue and Customs. HMRC has replaced references to the Inland Revenue in previous versions of this Concordat.

- working level agreements and/or contractual arrangements on particular aspects of day-to-day administration (a list of areas likely to be covered is at Annex 1).

## Communication and Consultation

6. The Belfast Agreement (para 26(e)) recognised that although there is separate legislation for social security in Northern Ireland, and that responsibility should transfer to the Assembly, this is an area where parity with Great Britain is normally maintained.
7. In order to ensure that GB and NI legislation correspond, or that any divergence can be accommodated, and that implementation timetables can be co-ordinated:
  - DWP and DSD will consult each other as early as possible in the development of policy or operational change to allow particular interests or local considerations to be properly reflected and to consider the requirements of co-ordination and handling. Both Departments will respect the confidentiality of such exchanges
  - In recognition of the need to maintain parity between GB and NI, consultation documents, White Papers and Green Papers will, if agreed, include a paragraph to the effect that “Social Security, Pensions and Child Maintenance are devolved matters in NI. The Government will continue to work closely with the devolved administration in NI to seek to maintain single systems across the United Kingdom.”
  - DWP will ensure that DSD has early notice of all proposals for social security, child support and pensions legislation in GB (both primary and secondary). It is accepted that there will be occasions where legislation is introduced quickly but the aim will be that a draft will be sent to DSD at the same time that it is available within DWP
  - DWP will supply DSD with a draft of all social security and pensions regulations in sufficient time to allow consideration of the implications for NI before they are due to be submitted to the Social Security Advisory Committee (SSAC) or the Industrial Injuries Advisory Council (IIAC), or issued for public consultation
  - DSD will advise DWP as early as possible of any circumstances in NI which may need to be taken into account in developing policies and planning implementation timetables (for example, any additional procedures arising from the requirements of the DSD Equality Scheme)
  - DWP will keep DSD fully informed at each stage of the legislative process and take account, as far as possible, of timing difficulties faced by DSD in meeting the requirements of Assembly procedures and ensuring parity of timing of the legislation. Where possible, operative dates will be agreed to allow both the GB

Statutory Instrument and the Northern Ireland Statutory Rule to comply with the 21 day rule

- If the Assembly decide not to maintain parity in any particular instance, whether by not following changes to be introduced in GB, or by introducing changes for NI, DSD will immediately inform DWP so that the consequences of divergence can be assessed, including the costs of administering dissimilar schemes. The principles for determining and meeting any additional costs will be met in accordance with the Statement of Funding Policy published by HM Treasury
- Should NI social security and pensions regulations diverge from the position in GB, DSD will ensure that a draft is supplied to DWP in sufficient time before they are submitted to SSAC or IIAC
- DWP and DSD will co-ordinate activities where this would be mutually beneficial for security and accuracy.

Further details of how this will be done are described in Annexes 2-5 to this document.

## Regulatory Appraisals

8. All proposed legislation requires a regulatory appraisal of the costs and benefits and in order to minimise any duplication of effort, DWP will liaise with DSD to ensure that the assessment takes appropriate account of the situation in NI.

## Human Rights Act 1998

9. Similarly, DWP will liaise with DSD to ensure that assessments of compliance with the Human Rights Act 1998 are shared, where parallel legislation is proposed. Such liaison will be carried out in accordance with the provisions of paragraph 7, and Annex 5 paragraph 5.7.

## Co-ordination of Implementation Timetables

10. The general principle that the Assembly will continue to maintain parity with GB on social security, child support and pensions provisions encompasses common implementation dates for new requirements.
11. As DSD relies on DWP computer systems, services and underpinning commercial arrangements to calculate and deliver the majority of benefits for which it is responsible, it is also essential that where DWP is planning change for GB, and DSD is planning to introduce the same changes, the two Departments work closely together to co-ordinate implementation timetables. Where DWP is planning legislation, it will be necessary for DSD to confirm at an early stage whether or not, and when, it would seek to introduce parallel legislation. Usually

this will be as soon as possible after GB legislation has been approved by Parliament. Where primary legislation is involved, DSD will, where necessary, seek the agreement of the Assembly to the use of the accelerated passage procedure for considering a draft Bill in accordance with Standing Order No 42 (Annex 5 Para 5.4.2)

DSD should be considered to be in scope for any changes to DWP computer systems, services and underpinning commercial arrangements unless by agreement in writing, they have asked to be excluded. Where DWP is considering new computer systems, services or commercial arrangements, details of these should be notified in writing to the Director of Pensions, Disability and Corporate Services within the NI Social Security Agency at the earliest opportunity.

12. Annex 5 sets out in more detail the protocol for handling DWP involvement in parallel legislation that DSD takes through the Assembly.

## Liaison Arrangements

13. Liaison arrangements will be taken forward by officials in DWP and DSD 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 Social Security Policy and Legislation Division in DSD.

## Joint Authority

14. Section 88 of the Northern Ireland Act 1998 continued in being the former National Insurance Joint Authority with an expanded membership and role and renamed it the Social Security, Child Support and Pensions Joint Authority. Its members are the Secretary of State for Work and Pensions, the Chancellor of the Exchequer and the Minister for Social Development. The Authority's responsibilities include giving effect to arrangements reached to co-ordinate the operation of legislation in GB and NI, and it continues to have responsibility for making any necessary adjustments between the GB and NI National Insurance Funds. The agreed working arrangements of the Joint Authority are set out in Annex 2.

15. DWP is responsible for nominating the Secretary to the Joint Authority, and obtaining the agreement of the Chancellor of the Exchequer and the Minister for Social Development to the appointment. DWP will also provide the secretariat to the Joint Authority.

## Service Arrangements

16. Services are provided by DWP to support the work of DSD in the following main areas:

- IT and Commercial and related contractors support
- State Pension Forecasts
- Winter fuel payment scheme (they process applications made by non benefit recipients in NI and the helpline available is a national service as well)
- International Pension Centre
- DWP supports the work of DSD in the processing of Child Maintenance Applications.
- Support for Family Resources Survey, NI

17. Services are provided by DSD to support the work of DWP in the following main areas:

- the Belfast Benefit Delivery Centre - remote processing of benefit claims for parts of London
- the Child Maintenance and Enforcement Division - processing of child support maintenance applications for the Eastern area.
- Management of NI fieldwork for the Family Resources Survey.

18. Both Departments will establish and maintain appropriate arrangements that specify the service provided, the financial arrangements and review procedures. This Concordat is not intended to prevent the development of new arrangements where appropriate to meet the changing needs of the business. Arrangements in existence since 2 December 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 DSD will make and agree proposals for new costing or funding arrangements.

19. Main areas covered by Working Level Agreements and Service Level Agreements are set out in Annex 1.

## Handling correspondence, Parliamentary or Assembly Debates, Committees and Questions

20. DWP and DSD will implement the agreed arrangements for consultation and advance notifications, and for liaison between the administrations in respect of correspondence, Parliamentary Questions, Assembly Questions, debates, committees and other issues. DWP and DSD will handle replies to correspondence in accordance with the provisions of paragraph 13 of the MoU and any procedures agreed between the administrations on common working arrangements. If a letter or other enquiry is received where both DWP and DSD have an interest they will agree on a case by case basis on how the reply should

be handled. If appropriate, DWP and DSD will agree additional guidance on handling specific issues.

21. DWP and DSD 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, DWP and DSD 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.
22. The Assembly Ombudsman investigates maladministration complaints for NI cases for the Social Security Agency and the Child Maintenance and Enforcement Division. The Parliamentary Ombudsman investigates complaints about casework carried out by the Child Maintenance and Enforcement Division for the GB Child Maintenance and Enforcement Commission under the provisions of a Service Agreement. In addition, the Independent Case Examiner investigates complaints about poor administration by the Child Maintenance and Enforcement Division of DSD, the Child Maintenance and Enforcement Commission and the Social Security Agency. The operation of these functions is outside the scope of this concordat.

## Making Announcements

23. In each case where announcements are to be made which involve both GB and NI systems of social security, child support and pensions, DWP and DSD will consult each other on the co-ordination of the arrangements.

## Confidentiality

24. Paragraph 12 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, DWP and DSD 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.

## Exchange of Statistical and Research Data

25. The supply of statistical and research data by DSD to DWP and vice versa is set out in Service Level Agreements (Annex 1).

## Exchange of Information and Personal Data

26. Information received or held about individual claimants is always sensitive and confidential; such data will be maintained and shared in accordance with statutory and other powers and duties set out in legislation, including the Data Protection Act 1998, section 122C of the Social Security Administration Act 1992 and section

116C of the Social Security Administration (Northern Ireland) Act 1992. As far as data protection and other legislation allow, DWP and DSD will share information as necessary to maintain and improve the security and accuracy of their social security, child support and pensions systems.

27. When a claimant transfers from GB to NI or vice versa relevant details will be passed on to the new administration as quickly as possible.

## Exchange of Administrative Data

28. Information about suppliers and supply arrangements will be shared where it is mutually advantageous to do so, subject to legal and contractual limitations.

## Liaison on EU and International Matters

29. Under paragraph 3 of Schedule 2 to the Northern Ireland Act 1998, international relations and relations with the EU remain the responsibility of the UK Government and the UK Parliament. The MoU and the Agreements on International Relations and on the Co-ordination of European Policy Issues outline the procedures that will be followed. Liaison arrangements will be taken forward by officials in DWP and DSD who will develop specific procedures where necessary. On general points, or where there is no established link, the initial contact points will be the International Unit in DWP and Social Security Policy and Legislation Division in DSD.

30. DWP will continue to provide the opportunity for DSD to consider any proposals made by, or to, the EU on these or other relevant social protection matters affecting both Departments.

31. DWP and DSD will share information concerning their bilateral meetings with the Department of Social Protection in the Republic of Ireland.

32. DWP will continue to provide an opportunity for DSD to consider any proposed new bilateral social security agreements with countries outside the UK, or any changes to existing agreements.

## Other External Relations

33. From 1 April 1999, HMRC assumed responsibility for policy and operations in respect of National Insurance contributions, including the management of the GB and NI National Insurance Funds and the supporting computer system and operational responsibility for Statutory Sick Pay and Statutory Maternity Pay. On 5 October 1999, HMRC introduced Working Families Tax Credit and Disabled Person's Tax Credit, which replaced Family Credit and Disability Working Allowance. These were replaced by Working Tax Credit in 2002. There are numerous essential interactions between these systems and the social security, child support and pensions systems. Relations between DWP and HMRC are

regulated by a Memorandum of Understanding and a concordat; separate though similar documents regulate the relationship between DSD and HMRC.

34. DWP and DSD are responsible for managing their own requirements in respect of business links with HMRC. Whilst in many cases the interests of the two Departments will be identical, agreement or requirements on the part of DWP shall not be taken as agreements or requirements on the part of DSD and vice-versa. DWP will notify DSD where changes in DWP requirements are likely to have an impact on the requirements of NI and vice-versa.
35. Both Departments have a variety of links with other public authorities, importantly in respect of housing, health, education, employment and social services. The regimes for these differ between GB and NI, leading in some cases to variations in the details of the social security provisions, which interact, with them. Each Department will inform the other at the earliest possible stage where a proposal is put forward for legislation in any area which would have a direct or indirect impact on the co-ordination of the two social security, child support and pensions systems, and in particular on those services which DWP provides to DSD.

## Arrangements for Appeals, Litigation and Compensation

36. WP and DSD will discuss the provision of legal advice on cases of mutual interest and exchange information on significant forthcoming cases and supply material in support of litigation where possible. They will inform each other of judicial review decisions and the provision of legal advice on judicial review challenges of mutual interest. They will also inform each other of compensation issues of mutual interest.
37. The appointment of Social Security Commissioners for Northern Ireland is an excepted matter.
38. The appointment of a Social Fund Commissioner for Northern Ireland is a transferred matter. DWP and DSD recognise the advantages in appointing the same person to the posts in GB and NI, which are both part-time appointments, and in operating similar administrative arrangements. An agreement on funding allows for DWP and DSD to fund the administrative costs of the respective Commissioner's offices, and for DSD to contribute one third of the costs of the Commissioner's salary.
39. On each occasion that a vacancy for the posts of Social Fund Commissioner arises, DWP will consult DSD to confirm that they are content that the policy of appointing one person to both posts should continue. They will agree on the description of the posts and the conditions of employment, which are both set out in the information for applicant's document, and the terms of the advertisement for the posts. Further consultation will take place to confirm that DSD is content for the interviews to be conducted by DWP. When the Secretary of State for Work

and Pensions has selected a candidate for the posts, the name of the prospective appointee will be passed to the Minister for Social Development for consideration.

40. In the event of the Social Fund Commissioner resigning or in the unlikely circumstances of disciplinary proceedings or dismissal becoming necessary, DWP will agree the way forward with DSD.

## Financial Arrangements

### General

41. DWP and DSD will act in accordance with provisions set out in the Statement of Funding Policy “Funding the Scottish Parliament, National Assembly for Wales and the Northern Ireland Assembly” published by HM Treasury and as amended from time to time.

### Funding for Mutual Support Services

42. Where the Northern Ireland social security benefit system is delivered via DWP infrastructure, DSD pays a pro rata contribution towards the cost of providing the service. Where changes in service are required for NI and these are equally applicable nationally, the normal practice has been to provide the changes free of charge. Where NI has different requirements, which impose any additional cost to DWP, which would not be incurred in delivering service to GB alone, the normal practice is to require the extra cost to be met by DSD. These will continue to be the principles of the financial relationship, but where new systems are procured, other funding arrangements may be agreed.

### Power to incur expenditure in anticipation of legislative change

43. It is the responsibility of both DWP and DSD to ensure that appropriate legislative cover exists for expenditure on any work incurred on DSD's behalf by DWP.

### Provision of Service Agreement

44. The underlying agreement on finance for staff in the Social Security Agency and the Child Maintenance and Enforcement Division of DSD who process GB work on behalf of DWP and the Child Maintenance and Enforcement Commission can be found in the relevant Provision of Service Agreements (POSAs).

### Paying Benefits

45. The following arrangements will continue:

- **Cashcheques** - arrangements are in place to enable the encashment of GB cashcheques in NI and vice versa. Reconciliation processes ensure that payments are funded by the country of issue

- **Automated Credit Transfer** - all such payments are funded by the issuing authority
- **Cashcheques** - arrangements are in place to allow DSD to benefit from the cheque encashment facility provided through DWP's contract with Santander Bank
- Both Departments will continue to work closely together to ensure that the benefits of any emerging commercial arrangements for new methods of payment can be shared.

## Motability and the Motability Equipment Fund

46. Gross funding for Motability and the Motability Equipment Fund for the UK is included in DWP baselines with the NI share being reimbursed by DSD to DWP as an appropriation-in-aid. The NI share of the funds is based on the proportion of the Motability and Motability Equipment Fund caseload, which falls within NI. This is currently assessed and agreed at 5.5 per cent, but this will be reviewed in the event of a significant change in the caseload distribution.

## Reaching agreement

47. Both parties recognise that the vast majority of matters will be handled routinely between DWP and DSD 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 Northern Ireland should be called upon to assist in any significant case of disagreement.

48. 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 JMC. DWP and DSD will inform the other beforehand of any proposal to involve the JMC.

## Review

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

## Queries and Further Information

50. Queries about this concordat should be addressed to

Information Management, Devolution and Governance  
Department for Work and Pensions  
Caxton House  
Tothill Street

Concordat between the Department for Work and Pensions and the Department for Social Development

London

SW1H 9NA

or to

Corporate Services Unit

Department for Social Development

Lighthouse Building

Gasworks Business Park

Cromac Place

Belfast

BT7 2JB

## Annex 1

### **List of Main Areas covered by Service and Working Level Agreements between DWP and DSD**

- The work of policy officials supporting DSD Minister and DWP Secretary of State in seeking to maintain parity between the NI and GB systems of social security, child support and pensions, including:
  - Policy development
  - Drafting new legislation
  - Regulatory appraisals
  - Assessment of compliance with the Human Rights Act
- Information and communications technology, and funding arrangements
- Commercial agreements including frameworks and joint procurement activity
- Services provided by DSD to support the work of DWP (paragraph 17)
- Services provided by DWP to support the work of DSD (paragraph 16)
- Exchange of statistical and research data
- Exchange of administrative data
- Liaison on EU and international matters
- Liaison on appointments to public bodies

## Annex 2

### **Working Arrangements for the Social Security, Child Support and Pensions Joint Authority (The Authority)**

#### **Decisions of the Authority**

2.1 Decisions of the Authority shall be unanimous.

#### **Financial Arrangements**

- 2.2 The Authority shall ensure that financial adjustments are made between the National Insurance Funds of Great Britain and Northern Ireland in order to maintain contributions and benefits at equivalent levels, and shall make other financial adjustments as agreed in arrangements made under section 87 of the Northern Ireland Act 1998.
- 2.3 In determining the criteria on which adjustments are made, the Authority shall have regard where appropriate to advice from the Government Actuary. The Authority shall review the criteria from time to time.
- 2.4 The Secretary to the Authority shall direct HMRC to make transfers as required between the Funds, on the basis approved by the Authority.

#### **Deputies**

- 2.5 Members of the Authority may appoint a deputy as provided for in section 88(5) of the Northern Ireland Act 1998. The appointment shall be notified in writing to the Secretary of the Authority and shall continue until a further appointment is made.
- 2.6 A deputy may be a named person or the holder of a particular post.
- 2.7 A deputy may nominate a substitute.

#### **Working Arrangements**

- 2.8 The Authority will normally conduct business by correspondence unless one or more members or a deputy requests that a meeting should be held.
- 2.9 The deliberations of the Authority shall be regarded as confidential by the participants, in order to permit the free exchange of views and information. However, where the Authority considers it appropriate, the outcome of its deliberations may be made available.

**General**

- 2.10 The Authority shall have regard to any agreements from time to time in force governing the financial and other relationships between Great Britain and Northern Ireland.
- 2.11 These rules supersede any previous rules of the Authority.

## Annex 3

### Social Security Advisory Committee

- 3.1 The Social Security Advisory Committee (SSAC) is an independent statutory body. It has two statutory functions:
  - to provide advice and assistance to the Secretary of State for Work and Pensions and the Department for Social Development (DSD) on social security matters generally
  - to consider proposals for changes to regulations.
- 3.2 In fulfilling these functions the Committee ensures that it is well informed and takes account of all shades of opinion. Its reports and advice are independent and non-political.
- 3.3 The Social Security Administration (Northern Ireland) Act 1992 places a duty on DSD to consult with SSAC but, because parity is maintained between the GB and NI systems, the separate advisory function is principally used in respect of housing benefit, which is administered through different structures from the rest of the UK. Housing benefit in NI includes a rates element (considered to be equivalent to council tax benefit in GB) and is administered through different structures from the rest of the UK (in particular, NI does not have rent officers and equivalent functions are carried out by the NI Housing Executive).
- 3.4 Paragraph 18 of Schedule 3 to the Northern Ireland Act 1998 reserves the existing requirement for the Northern Ireland Department to refer matters to SSAC where proposed legislation for NI would differ from that proposed for GB. The aim is to ensure that SSAC provides a single source of expert advice both to the Secretary of State for Work and Pensions and DSD.
- 3.5 The Secretary of State or DSD may refer matters to SSAC for advice and SSAC may offer advice to both the Secretary of State and DSD without a request or reference.
- 3.6 SSAC will continue its current practice of copying its agendas, meeting papers and minutes to both Departments.
- 3.7 A representative from DSD will continue to attend the SSAC meetings to advise on any questions which may arise regarding NI policy and legislation.
- 3.8 If the Minister for Social Development proposes to introduce legislation which differs from that proposed for GB, DSD will formally consult SSAC where required to do so by legislation and inform DWP that it is doing so. Where DSD is planning to refer a matter to SSAC for advice, it will inform DWP in advance of such an approach.

**Appointment of the Northern Ireland member of the Committee**

3.9 The Social Security Administration Act 1992 provides that one member of SSAC shall be appointed by the Secretary of State for Work and Pensions following consultation with the Head of the Northern Ireland Department, in practice DSD. When a new member is required, the two Departments will abide by existing practice taking account, as appropriate, of all relevant guidance on the conduct of public appointments.

## Annex 4

### **Industrial Injuries Advisory Council**

- 4.1 The Industrial Injuries Advisory Council (IIAC) is an independent statutory body established by legislation, to advise the Secretary of State for Work and Pensions on matters relating to the industrial injuries scheme, which came into effect in 1948. The Council advises on:
  - the prescription of industrial diseases
  - regulations under the Social Security Administration Act 1992 and the Social Security Contributions and Benefits Act 1992
  - the Industrial Injuries Benefit scheme itself.
- 4.2 Prior to the commencement of the Northern Ireland Act 1998, there had been no separate statutory requirement for DSD to consult or be advised by the IIAC. Section 89 of the Northern Ireland Act 1998 introduced a requirement that DSD should also refer matters to the IIAC and paragraph 18 of Schedule 3 to the Act reserves that requirement. DSD may seek IIAC's advice on general matters relating to industrial injuries and its administration in NI so that IIAC can provide a single source of advice and expertise on industrial injury matters to both the Secretary of State and DSD.
- 4.3 If the Minister for Social Development proposes to introduce legislation, which differs from that proposed for GB, DSD will formally consult IIAC. DSD will inform DWP in advance of such a referral. Similarly, where DSD is planning to refer a matter to IIAC for advice, it will also inform DWP in advance of such an approach. IIAC also has the ability to initiate a dialogue specifically on NI industrial injury issues.
- 4.4 IIAC will continue its current practice of sending copies of all meeting papers, minutes and agendas to both Departments.

## Annex 5

### **Protocol for Handling Legislation:**

### **Managing DSD legislation which maintains Parity with GB provisions**

#### **5.1 Introduction**

- 5.1.1 This Annex describes the procedure, which Bills and secondary legislation must follow in the Northern Ireland Assembly ("the Assembly"), and the consultation and other liaison arrangements required to deliver single coherent systems of social security, child support and pensions.
- 5.1.2 As a general principle, it is expected that the Assembly will continue to maintain parity with GB. In order to achieve this, the Minister for Social Development will introduce Bills into the Assembly that will be substantially the same as those Bills put before Westminster. It will be important for DSD to maintain close liaison with DWP during the Westminster consideration of GB Bills and to bring to the attention of DWP any proposals (including Opposition amendments) which might have a different or disproportionate effect in NI. DWP will keep DSD fully informed at each stage of the legislative process and take account, as far as possible, of timing difficulties faced by DSD in meeting the requirements of Assembly procedures and ensuring parity of timing of the legislation.
- 5.1.3 Where possible, operative dates will be agreed to allow both the GB Statutory Instrument and the NI Statutory Rule to comply with the 21 day rule.
- 5.1.4 There may be occasions when Westminster will need to legislate for certain transferred provisions on a UK-wide basis. Where such provisions are identified by DWP or DSD, they will work together to ensure that any differential impacts are taken into account and the necessary Legislative Consent Motion is passed by the Assembly.
- 5.1.5 DSD will not normally seek to introduce a Bill into the Assembly until the GB legislative process has been completed. This will ensure the NI Bill fully corresponds with the GB Bill.

## **5.2 Issues that require the consent of the Secretary of State for Northern Ireland**

5.1.1 Section 8 of the Northern Ireland Act 1998 requires the consent of the Secretary of State for Northern Ireland to be sought in certain cases before a Bill can proceed<sup>4</sup>. As this may have implications for the Bill's timetable DSD will:

- identify any provisions which they consider should be referred to the Secretary of State for Northern Ireland for consent
- before seeking such consent, consult DWP to confirm that both Departments agree on the interpretation of the reservation or exception in question inform DWP of the estimated additional time, which must be taken into account before the Bill, could be expected to be submitted for Royal Assent.

## **5.3 Assembly Procedures**

5.3.1 Assembly Standing Orders ensure that a Bill is not introduced into the Assembly if the Presiding Officer decides that any provision of it would not be within the legislative competence of the Assembly. Whether or not the consent of the Secretary of State for Northern Ireland has been obtained for any provision in the Bill, the Bill must be submitted to the Presiding Officer at least one week before introduction for consideration in accordance with section 10 of the Northern Ireland Act 1998.

5.3.2 The normal arrangements for taking legislation through the Assembly are as follows:

- 1<sup>st</sup> Stage - introduction to Assembly
- 2<sup>nd</sup> Stage - a general debate on the Bill, with an opportunity for Members to vote on its general principles
- Committee stage - detailed investigation, including amendments by a Committee followed by report to the Assembly (30 days minimum from the date of referral)
- Consideration stage - consideration in plenary session, and an opportunity for Members to vote on, the details of the Bill, including amendments proposed to the Bill
- Further Consideration stage - consideration of any further amendments made to the Bill

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<sup>4</sup> These are excepted matters, which are ancillary on other provisions dealing with a reserved or transferred matter, or reserved matters.

- Final Stage - the Assembly passes or rejects the Bill, without further amendment.

5.1.1 There will be a minimum interval of five working days between each stage of a Bill except in the case of Bills that are granted an accelerated passage.

#### **5.4 Accelerated Passage Procedure**

5.1.1 There are two major differences from the normal procedure: the Committee Stage is omitted, and there is no minimum time, which must elapse between the Bill's stages. However, the Bill cannot complete its Assembly stages in less than 10 days.

5.4.2 A Minister may ask the Assembly for permission to use the accelerated passage procedure. It is expected that DSD will where necessary seek the agreement of the Assembly to use the accelerated passage procedure for taking the Bill forward in order to allow the maximum flexibility for UK-wide implementation. Should DSD not wish to seek to use this route, DSD will immediately inform DWP, and provide an explanation of their reasons for not doing so. Similarly, DSD will inform DWP where the Assembly refuses a request to use the accelerated passage procedure, to allow DWP to consider the implications for implementation.

5.4.3 The first opportunity to request the accelerated passage procedure will be before Second Stage. The Minister must explain to the Assembly the reasons for the request, the consequences of not proceeding quickly and any steps taken to minimise or avoid the future use of the accelerated passage procedure. A motion for accelerated passage requires cross community support in the Assembly.

#### **5.5 Royal Assent**

5.5.1 It is for the Secretary of State for Northern Ireland to submit the Bill for Royal Assent.

5.5.2 However, where his consent has been required for a provision which deals with an excepted or reserved matter (except a provision which is ancillary to other provisions dealing with transferred matters), the Bill must be laid before both Houses of Parliament for a period of 20 days unless the Secretary of State for Northern Ireland considers that by reason of urgency the Bill should be submitted for Royal Assent without first being laid before Parliament.

#### **5.6 Liaison between DWP and DSD after the Bill has been introduced**

5.6.1 At all stages of the Bill, and irrespective of whether the normal or accelerated passage procedures are followed, DSD will ensure that any briefing and advice to Assembly Ministers is consistent with statements or commitments made by UK Ministers at Westminster.

## **Dealing with Amendments**

- 5.6.2 DSD will receive notice of amendments from the Assembly Business Office. Amendments to Bills under consideration will be deposited with the Clerk in time for inclusion on a Notice Paper circulated on a day before the day appointed for the Consideration Stage. Amendments to Bills that are intended to closely mirror GB legislation will need careful consideration by both DWP and DSD; DWP will need time to consider the implications of any amendment on GB social security systems. However, DWP acknowledges that DSD will be working to tight time scales and will respond to DSD drafts or queries as quickly as necessary to comply with the Assembly timetables.

## **5.7 Human Rights**

- 5.7.1 Any member of the Assembly may put down a motion requiring that the Northern Ireland Human Rights Commission be asked to advise whether the Bill is compatible with human rights any time after the Bill's introduction. In the case of a draft Bill or proposal for legislation notice of such a motion may be given at any time after the draft Bill or proposal for legislation is published for public consultation. DSD will inform DWP immediately if such a motion is received.

## **5.8 Equality Issues**

- 5.7.1 For the purpose of obtaining advice as to whether a Bill, draft Bill or proposal for legislation is compatible with equality requirements, any member of the Executive Committee or the Chairman of the appropriate Statutory Committee may raise a motion that the Bill, draft Bill or proposal for legislation, should be referred to an Ad Hoc Committee on Conformity with Equality Requirements.
- 5.8.2 In the case of a draft Bill or proposal for legislation, notice of such a motion may be given at any time after the draft Bill or proposal for legislation is published for public consultation. If the motion is agreed to, the Ad Hoc Committee shall report its opinion to the Assembly within the period of thirty days after the motion is agreed to or at a time agreed by the Assembly. DSD undertake to inform DWP immediately if such a motion is received.
- 5.8.3 In the case of a Bill, notice of such a motion may be given at any time after the Bill's introduction. An Ad Hoc Committee will report back to the Assembly within thirty days after the motion is agreed to or at a time agreed by the Assembly. However if the motion is received after the conclusion of the Second Reading then the Bill can be referred to the Ad Hoc Committee instead of the appropriate Statutory Committee. A decision by the Assembly to agree to a report by the Ad Hoc Committee will require cross-community support within the meaning of the Northern Ireland Act 1998. DSD will inform DWP immediately if any motion is received and provide an assessment of the impact it will have on any legislation.

## **5.9 Legislation introduced by other Northern Ireland Departments**

5.9.1 Where another Northern Ireland Department introduces legislation, which affects social security matters, DSD will:

- inform DWP
- draw to the attention of the other Northern Ireland Department the implications for the coherence of NI and GB systems of social security, child support and pensions
- work with DWP and the other Department to ensure that matters of timing etc can be resolved.

## **5.10 Handling Bills introduced by another Government Department**

5.10.1 Where another Westminster Department introduces legislation, which affects social security matters, DWP will:

- inform DSD
- draw to the attention of the other Department the implications for the coherence of GB and NI systems of social security, child support and pensions
- work with DSD and the other Department to ensure that matters of timing etc can be resolved.

5.10.2 Where DWP becomes aware of any proposals by the Scottish Parliament which impact on social security, child support or pensions matters in GB, DWP will work with DSD to maintain the co-ordination of arrangements, in accordance with the provisions of section 87 of the Northern Ireland Act 1998.

## **5.11 Handling Rules (Statutory Instruments)**

5.11.1 Every Statutory Rule laid before the Assembly, if within the competence of the Assembly, will be referred to the appropriate Statutory Committee, which may deal with the matter itself or delegate it to the Examiner of Statutory Rules.

5.11.2 If the Rule is subject to negative resolution then the Committee undertakes to consider and report within 21 days. If the Rule is subject to the confirmatory procedure the Committee undertake to report before the Rule is laid before the Assembly for approval by resolution.

5.11.3 DSD undertakes to inform DWP of any rules, which affect the coherence of NI and GB systems of social security, child support and pensions.