

# CONCORDAT BETWEEN THE CABINET OFFICE AND THE SCOTTISH ADMINISTRATION

## Part I - General Provisions

1. This concordat establishes an agreed framework for co-operation between the Cabinet Office and the Scottish Administration, in accordance with the principles set out in the *Memorandum of Understanding* between the UK Government and the Devolved Administrations. There is no intention to constrain either the Scottish Administration's freedom to operate in areas devolved to it, or to constrain the Cabinet Office's competence in areas of reserved responsibility.

2. The Cabinet Office and the Scottish Administration affirm their mutual commitment to working together on Modernising Government, management of the Home Civil Service, and cross-cutting issues. These policy areas are set out in greater detail in Annex A. This co-operation is for the mutual benefit of both parties, and intended to give them the assurance that working relationships will be conducted in an agreed and helpful manner. Good communication in both directions and the avoidance of surprises for either party will form the basis of this co-operation. Therefore, the concordat particularly covers arrangements for consultation and the exchange of information, as well as the resolution of disputes.

### Consultation and exchange of information

3. The Cabinet Office and the Scottish Administration confirm their commitment to consult and exchange information on matters of mutual interest in a timely and helpful manner in accordance with the provisions of the *Memorandum of Understanding* and the *Guidance Note on Common Working Arrangements*. Each party shall:

- keep the other fully informed of relevant developments within their areas of responsibility, wherever possible in sufficient time to enable the other administration to comment on the proposals;
- give appropriate consideration to the views of the other administration; and
- where possible, notify the other party prior to publicising a relevant proposal for action.

This commitment includes any proposals for primary or secondary legislation (including Deregulation Orders<sup>1</sup>) and Orders in Council, as well as other major policy initiatives.

4. The Cabinet Office and the Scottish Administration recognise that, in the interests of frankness and candour, consultation and exchange of information need to be subject to appropriate safeguards. In certain circumstances, a duty of confidence may arise, and the Cabinet Office and the Scottish Administration will between themselves respect legal requirements of confidentiality. Both accept that:

- it is for the party supplying the information to state what restrictions, if any, there should be on its usage;

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<sup>1</sup> In many cases the Cabinet Office will not be the initiating Department for Deregulation Orders, but it will co-ordinate information from other UK departments.

- they will treat information received from the other in accordance with any restrictions specified to its usage; and
- disclosure of information is subject to the *Code of Practice on Access to Government Information* and the *Code of Practice on Access to Scottish Executive Information*. In due course, it will be subject to the requirements of Freedom of Information legislation.

5. The Cabinet Office will invite the Scottish Administration to participate in relevant inter-departmental working groups it sponsors.

6. Both parties shall have regard to each other's information needs while establishing and maintaining their own systems for collecting and managing information. They will co-operate to ensure that statistics for the UK as a whole are readily available, are timely, coherent and reliable, and are collected and compiled in a way which provides good value for money, allows gender disaggregation where appropriate and ensures consistency as far as data sources allow. Statistical information will be exchanged on the basis of the principles set out in the overarching *Concordat on Statistics*. In particular, the Scottish Administration will work with the Cabinet Office and other UK departments to ensure the exchange of statistical information about the policy areas listed in Annex A. In addition, it will assist the Cabinet Office in discharging its obligations to provide the UK Parliament with statistics and information on a UK-wide basis by continuing to collect the information detailed in Annex B. The Scottish Administration also undertakes to provide, on a transitional basis, such information as is required for retrospective UK-wide reports covering the issues detailed in Annex C, responsibilities for which have now been devolved.

#### Correspondence

7. Correspondence will be handled in accordance with the provisions of the *Memorandum of Understanding* and the *Guidance Note on Common Working Arrangements*. The contact points for transferring correspondence are the Cabinet Office Ministerial Correspondence Unit and the Scottish Administration Central Correspondence Unit.

#### Dispute resolution

8. In the event of a dispute arising over the operation of this concordat, the Cabinet Office and the Scottish Administration are committed to resolving the issue bilaterally at working levels wherever possible. If necessary, advice will be sought from the central contact points responsible for the concordat, the Cabinet Office Central Secretariat and the Scottish Executive's Directorate of Corporate Development and its Personnel Management Division. In the event that agreement cannot be reached, the matter will be passed to Senior Civil Service levels, or if necessary to Permanent Secretaries, for a decision. Only very exceptionally should it be necessary to refer matters to Ministerial levels, or failing that to the Joint Ministerial Committee.

#### Review

9. This concordat will be reviewed 1 year after it comes into effect, and thereafter at 2-year intervals. Either party may request an additional review if they consider it necessary (for example, to

propose the addition of further areas as new policies develop). Any changes made to the concordat will be with the agreement of both parties.

## **Part II - Management of the Home Civil Service**

### General

10. Staff of the Scottish Administration are Crown servants and part of a unified Home Civil Service. The Prime Minister as the Minister for the Civil Service is responsible for civil servants, advised by the Head of the Home Civil Service. The Minister for the Cabinet Office discharges, on a day-to-day basis, the responsibilities of the Minister for the Civil Service. As servants of the Crown all civil servants owe a duty of loyalty to the Crown. That duty, subject to the provisions of the Civil Service Code, is owed to the duly constituted administration which they serve.

11. The management of the Home Civil Service is therefore a matter reserved to the UK Government. The Scottish Administration is bound by the legislative framework governing the Home Civil Service. This includes compliance with the Civil Service Order in Council 1995 (as amended), the Civil Service Management Code, the Civil Service Code, the Civil Service Commissioners' Recruitment Code and Guidance on Senior Recruitment, the Checklist of Processes for Senior Appointment Selection Committee Appointments, and the Superannuation Act 1972.

12. The Minister for the Civil Service has, however, delegated to the First Minister in the Scottish Executive the responsibility for a wide range of terms and conditions of service for staff of the Scottish Administration, subject to conditions set out in the Civil Service Management Code. These are matters previously delegated to the Secretary of State for Scotland.

13. The Cabinet Office and the Scottish Administration affirm their mutual commitment to working together to maintain a unified Home Civil Service and their recognition of the collective benefits derived from it. In particular, this includes a commitment to promoting inter-administration mobility of civil servants as a means of maintaining a cohesive and unified Civil Service. This co-operation is for the mutual benefit of both parties, ensuring that both administrations continue to be served by a highly professional, impartial, well-managed and unified Civil Service.

14. The Cabinet Office and the Scottish Administration confirm their commitment to consult and exchange information on matters concerning the management of the Home Civil Service in a timely and helpful manner. The Scottish Administration is a member of the Civil Service Management Committee and of the network of main departmental Establishment Officers. This includes receipt of all papers, attendance at meetings and conferences, and representation, where appropriate, in inter-departmental working groups. Through membership of these bodies, the Scottish Administration will:

- have access to information;
- comply with requests for information and statistics (e.g. for the Mandate Civil Service personnel database);
- follow guidance;
- receive support from the Cabinet Office;
- be consulted; and

- contribute to the delivery of the *Modernising Government* agenda

on matters concerning the management of the Home Civil Service to the same extent as UK departments.

15. Where the Cabinet Office proposes major changes to the framework for management of the Home Civil Service, for example the general withdrawal of a delegation by the Minister for the Civil Service, this will be done, wherever possible, by mutual agreement with the Scottish Administration. All informal dispute resolution procedures will be exhausted in seeking to reach agreement.

16. The Cabinet Office will consult the Scottish Administration on recommendations to the Queen in Council for the appointment of Civil Service Commissioners.

#### Senior Civil Service Pay

17. The pay arrangements for the Senior Civil Service are determined by the UK Government's response to recommendations made each year by the Senior Salaries Review Body (SSRB). The rules for Senior Civil Service pay (set out in Chapter 7 of the Civil Service Management Code, including 7.1 Annexes A and B) and guidance issued by the Cabinet Office on the operation of the pay system are designed to ensure cohesion on Senior Civil Service pay matters.

18. The Scottish Administration will be involved in the preparation of the UK Government's evidence to the SSRB through membership of the Civil Service Management Committee and through the departmental narrative (submitted by all departments) given to the SSRB. Once the SSRB reports, the Prime Minister, as Minister for the Civil Service, will respond for the UK Government in the context of the UK economy. The Senior Pay Liaison Group, and if necessary the Civil Service Management Committee, will then decide how to implement the Government's decision on the SSRB recommendations and with what degree of cohesion across the Senior Civil Service.

#### Pay and Allowances outside the Senior Civil Service

19. Remuneration of staff outside the Senior Civil Service is a matter delegated by the Minister for the Civil Service, subject to the conditions in the Civil Service Management Code. The Scottish Administration is not constrained in what it is able to pay staff other than by any procedures it puts in place. The Scottish Administration is, however, required to ensure that its pay arrangements for staff are consistent with the UK Government's policies on the Civil Service and take account of the UK Government's policies on public sector pay. The Cabinet Office and the Scottish Administration will exchange information on Civil Service pay for comparative purposes.

#### Principal Civil Service Pension Scheme

20. As members of the Home Civil Service, staff in the Scottish Administration continue to be eligible to participate in the Principal Civil Service Pension Scheme (PCSPS). The administration of the Civil Service pension scheme by the Scottish Administration for their staff will be governed by the delegation instruments made under the Superannuation Act 1972.

#### Training and Development

21. The Scottish Administration affirms its commitment to agreed central standards and benchmarks reflecting good practice in development and training of civil servants, as currently set out, for example, in the *Modernising Government* White Paper, and by commitment to the Investors in People standard. This includes participation in Cabinet Office monitoring and evaluation arrangements for development and training initiatives and compliance with updated strategic frameworks and specific targets for development and training. The Cabinet Office will provide support to the Scottish Administration in meeting these commitments in the same way as it does for UK departments.

22. The Centre for Management and Policy Studies is a resource for the whole of the Home Civil Service and as such is available to the Scottish Administration. The Scottish Administration will be consulted on the same basis as UK departments on corporate training needs.

### **Part III - Other Cabinet Office Issues**

#### Best Practice in Public Service

23. The Cabinet Office has a central role in researching and establishing best practice in the conduct of government business and the delivery of public services. It also provides guidance for UK departments (and the NDPBs which they sponsor) on the discharge of many of their individual responsibilities. Both parties recognise the advantages which accrue from mutual exchange of best practice in areas of common interest. To this end, the Cabinet Office will continue to make its research and guidance available to the Scottish Executive on request. The Scottish Administration will contribute to the cost of any external research in which it has expressed an interest on the same basis as UK departments.

#### Regulatory Impact

24. The Cabinet Office has a central role in identifying and promoting regulatory good practice, and associated guidance, training and reporting in UK departments. In Scotland this is a devolved matter, and the Scottish Executive is accountable to the Scottish Parliament for how it regulates and makes available information about new regulations with an impact on business and others. The Cabinet Office and the Scottish Administration agree that there is advantage in working together to identify good regulatory practice and to share experience of arrangements which are clear and user-friendly to business, consumers and citizens.

#### Charter Mark

25. The Charter Mark award scheme will continue as a UK-wide scheme. The Cabinet Office will liaise closely with the Scottish Administration as with UK departments over the running of the scheme, in particular on issues concerning funding and eligibility. The Scottish Administration will continue to assist in the vetting of potential winners and in the promotion of the scheme. Any proposals affecting UK coverage of the scheme should be discussed at least one year in advance of their proposed introduction.

#### International co-operation on Public Service and other issues

26. The Cabinet Office retains overall responsibility for the formulation of UK policy on EU public service and regulatory impact initiatives. It also represents the UK at the OECD and in other international fora concerned with public service policy and the modernisation of government, and co-ordinates the progress reports and other action required under the *Convention on the Elimination of all forms of Discrimination Against Women* and following on from the Fourth World Conference on Women in Beijing. However, the Cabinet Office will seek fully to involve the Scottish Administration where appropriate. In particular, the Cabinet Office will inform the Scottish Administration of all new policy initiatives touching on devolved matters originating from the European Union or other international fora as soon as possible after it becomes aware of them, and provide timely access to all necessary information to enable agreement to be reached between the two administrations in accordance with the *Memorandum of Understanding*, the *Concordat on Co-ordination of European Union Policy Issues*, and the *Concordat on International Relations*. The Cabinet Office also retains a central policy interest in the principles governing transposition of EU Directives into UK law. It will consult the Scottish Administration when producing guidance on this issue.

#### Protective Security

27. The Cabinet Office has a central role in developing protective security policy and promulgating guidance which applies to all UK Government departments and agencies, UK Government contractors, and others who have access to sensitive UK Government assets. The Scottish Administration will base its own protective security régime on this guidance, and the Cabinet Office will consult the Scottish Administration on any changes it proposes to make.

#### Cabinet Office Services

28. The Scottish Administration has access to the services listed in Annex D provided by the Cabinet Office, its Agencies and the Central Office of Information, on the same basis as UK departments.

## **Annex A: Policy areas covered by agreement**

(Paragraph 2)

Management of the Home Civil Service (including delivery of the Civil Service aspects of the *Modernising Government* programme).

Implementation of the *Modernising Government* White Paper programme, covering:

- the delivery of better public service in the UK, encompassed in the Service First programme and its component parts, including the People’s Panel, Better Government for Older People programme, and the Charter Mark award scheme;
- Information age government, including sharing of best practice and progress monitoring;
- best practice in the delivery of better public service, including: guidance on efficiency techniques and contracting out (such as the recent *Better Quality Services*); guidance on the *Handling of Parliamentary Ombudsman Cases, Non-Departmental Public Bodies: A Guide to Departments*, and guidance on best practice in public appointments; standards in public life; Next Steps Executive Agency and NDPB quinquennial reviews and annual reports, and bench-marking; and
- Better Regulation, including regulatory impact assessment, enforcement, control of Government forms, and the work of the Better Regulation Taskforce.

Cross-cutting issues, including:

- co-ordination of anti-drugs policies;
- the work of the Social Exclusion Unit, in England and the Social Inclusion Network in Scotland;
- the work of the Performance and Innovation Unit;
- the work of the Women’s Unit, including UK commitments following on from the Fourth World Conference on Women held in Beijing and the UN Convention on the Elimination of all forms of Discrimination Against Women; and
- development and promulgation of protective security measures.

## **Annex B: Information to be collected on a continuing basis**

(Paragraph 6)

- Statistics for the Mandate Civil Service personnel database, the Senior Civil Service database and the Fast Stream database, and other appropriate statistics relating to the management of the Home Civil Service.
- Summary statistical and other information for the annual publication *Public Bodies* (which covers NDPBs, public corporations, nationalised industries and NHS bodies).
- Summary statistical and other information on Next Steps Executive Agencies and the number of staff working for them for the annual *Next Steps Report*.
- Reports on action against drugs in Scotland.

**Annex C: Information to be collected on a transitional basis**

(Paragraph 6)

- Information on the performance of the Scottish Office against the six service standards for central government, and on the number of national charters.
- Statistical and other information for *Public Bodies 1999* (covering NDPBs, public corporations, nationalised industries and NHS bodies), and also information on the performance of Scottish Office executive NDPBs for the *1999 Executive NDPBs Report*.
- Information on the performance of Scottish Office executive agencies in 1998/99 for inclusion in the *1999 Next Steps Report*.

**Annex D: Cabinet Office Services**

(Paragraph 28)

CCTA: consultancy and procurement services in information technology<sup>2</sup>.

GCDA: driver and car services, and secure mail services.

PACE: co-ordination and advisory services on the management of property assets<sup>2</sup>.

TBA: procurement services, making available a wide range of quality-assured products and services<sup>2</sup>.

CSC: training and related consultancy services, delivered as part of the Centre for Management and Policy Studies

COI: advice on and procurement of publicity services and communications for all media.

Security Facilities Division (SAFE): advice and support services for physical security.

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<sup>2</sup> The Buying Agency will become an Agency of the Office of Government Commerce on 1 January 2000, and CCTA and PACE likewise on 1 April 2000.