



Llywodraeth Cymru
Welsh Government

POLICY AND STRATEGY

Concordat between the Department for Culture, Media and Sport and Welsh Assembly Government

This concordat sets out a framework for co-operation between the Department for Culture, Media and Sport and the Welsh Government.

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Introduction

1. This concordat establishes an agreed framework for co-operation between the Department for Culture, Media and Sport (DCMS) and the Welsh Assembly Government¹ (the Assembly Government) on all matters arising from DCMS's responsibilities which impact directly or indirectly on the responsibilities of the Assembly Government and vice versa. The Heritage Minister is the Welsh Minister with portfolio responsibility for these functions.
2. The concordat follows the principles set out in the Memorandum of Understanding (MoU)² between the UK Government and the devolved

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administrations. It is non-statutory and is not intended to be legally binding or to constrain either the freedom of the Assembly Government to operate in areas for which it is responsible, or similarly DCMS's ability to operate in its areas of responsibility. However, the Assembly Government and DCMS agree to honour the principles and obligations set out in the Concordat, including using the reinvigorated Joint Ministerial Committee for discussing high level matters of mutual interest such as the consideration of non-devolved matters which impinge on devolved responsibilities and vice versa.

3. The concordat also follows the advice on common working arrangements set out in Devolution Guidance Note 13.
4. This co-operation is for the mutual benefit of both the Assembly Government and DCMS. 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.

Devolved functions

5. Under the Welsh devolution settlement, the Assembly Government has a range of responsibilities in relation to the areas of culture, media and sport, the historic environment and tourism. These comprise various functions conferred on the Welsh Ministers by a "Transfer of Functions " Order (TFO) made under section 58 Government of Wales Act 2006 (previously section 22 Government of Wales Act 1998). The main such TFO is The National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). In addition relevant functions have been conferred directly [on the Welsh Ministers] under Acts of Parliament (eg section 61 GoWA 2006 support of culture, and section 60 GoWA 2006, the well being power) Also functions may be conferred on the Welsh Ministers by Assembly Measures.
6. These functions are referred to in this concordat as "devolved functions". They include powers to make subordinate legislation to set the policy framework for the arts and sport (including the arts and sports Lottery funds in Wales); the historic environment; museums and galleries; libraries and archives, and the promotion of the Welsh language and tourism in Wales. In relation to devolved functions, the Assembly Government will be free to implement different policies from those of the UK Government. Annexes A –

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F describe some of the devolved and non-devolved functions.

7. Following a referendum held in Wales on 3 March 2011, the National Assembly will soon be able to make Acts of the Assembly in relation to the subjects listed under the twenty headings in Part 1 of Schedule 7 to GoWA 2006. The subjects listed in Schedule 7 to GoWA 2006 include the Welsh language, culture, sport and tourism. This system is in contrast to Assembly Measures where legislative competence was gradually conferred on the Assembly via legislative competence orders or UK Acts of Parliament.
8. The full list of subjects that the Assembly will be able to legislate on appears in Schedule 7 to the Government of Wales Act 2006, and include responsibilities relating to culture, media and sport, the historic environment and tourism.
9. Before reaching a decision on the transfer of executive functions, the Welsh Assembly 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 liabilities have been identified but also on agreement about which funds, assets and liabilities will transfer with the functions themselves.
10. Many of the responsibilities of DCMS and the Assembly Government are executed through sponsored bodies. These include:
 - i. For DCMS: The Arts Council of England; British Library; Commission for Architecture and the Built Environment; Public broadcasting bodies (BBC, Channel 4, S4C), OFCOM; English Heritage; British Film Institute; Museums, Libraries and Archives Council (MLA); National Film and Television School; National Museums and Galleries in England; National Heritage Memorial Fund; Sport England, UK Sport, Visit Britain; Visit England and UK Anti-Doping.
 - ii. For the Assembly Government: The Arts Council of Wales; Amgueddfa Cymru - National Museum Wales; National Library of Wales; Royal Commission on the Ancient and Historical Monuments of Wales; Sport Wales and the Welsh Language Board.
11. To varying degrees, DCMS and the Assembly Government give strategic leadership to these bodies and allocate public funds to them. The principles of this concordat extend to the decisions made by these bodies in relation to

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the work they undertake for DCMS and the Assembly Government. In some specific cases - set out within this concordat - DCMS and the Assembly Government have also agreed where co-operation from and between some of their sponsored bodies will be required.

Interface between devolved and non-devolved functions

12. The Assembly Government should consult DCMS at an early stage when there is a possibility that a proposed policy or decision may affect a non-devolved function (eg. UK or GB-wide strategies) for which DCMS is responsible. Similarly, DCMS should consult the Assembly Government at an early stage when there is a possibility that a proposed policy or decision may affect a devolved function. DCMS and the Assembly Government should maintain close contact on these issues in order to:
 - ensure that both parties keep abreast of developments in relation to each other's policy, practice and legislation, including discussions with third parties in areas where there is or could be, an interface
 - co-ordinate activities where appropriate
 - identify when proposed changes in policy or secondary legislation on devolved functions could have an effect on a non-devolved function and to ensure that prior consultation on such changes takes place between the administrations
 - identify when changes in legislation or policy relating to non-devolved functions could have an effect on a devolved function and to ensure that prior consultation on such changes takes place between the administrations.
13. Where advice offered by DCMS on the effect of a proposal by the Assembly Government on a non-devolved function has been rejected by the Assembly Government in whole or in part, the Assembly Government should inform DCMS immediately, and vice versa.

Functions where responsibility has not been devolved

14. Before DCMS intends to consult outside government circles on issues considered to be of importance to Wales, it should give prior notice of that intention to the Assembly Government. Any views that the Assembly Government has on DCMS initiatives will be communicated to DCMS in reasonable time so that they can be taken into account when formulating policy.
15. If the Assembly Government gives advice to DCMS on the formulation of policy on a non-devolved function concerning effects on devolved functions, and advice is rejected in whole or in part, DCMS should inform the Assembly Government before the policy is presented outside government circles. Similarly in a converse scenario where the Assembly Government has rejected advice from DCMS, the Assembly Government should inform DCMS before the policy is presented to the wider arena.

Communication and consultation

16. DCMS and the Assembly Government are committed to the principle of good communications, and will alert one another as soon as practicable (in confidence where appropriate) to proposals for new policy initiatives, changes to existing policies where there is a direct or indirect impact on the other's areas of responsibility, and related public announcements.
17. Where there is a direct or indirect impact on the other's area of responsibility, information shared will include key-note speeches; major policy decisions, papers and reports; research and statistics; remit letters of sponsored bodies; Green and White Papers; consultation papers and press notices. DCMS and the Assembly Government will also inform each other of information that comes to its attention that may require action by the other party.
18. Liaison arrangements will be taken forward by officials in the Assembly Government and DCMS who will develop specific procedures where necessary. On general points, or where there is no established link, the initial

contact points will be those set out in paragraph 50.

Correspondence

19. DCMS and the Assembly Government will handle replies to correspondence in accordance with the MoU and the principles set out in Devolution Guidance Note 24. If a letter or other enquiry is received where both DCMS and the Assembly Government have an interest, they will agree on a case-by-case basis on how the reply should be handled.
20. Where there is a need to transfer correspondence between Departments, it will be transferred within 5 working days. On the day that the correspondence is transferred a letter should be sent to the correspondent confirming the action that has been taken and naming the person who is responsible for handling the correspondence.

Producing information material

21. Where information material is to be produced that covers both devolved and non devolved functions, DCMS and the Assembly Government will agree the content of the relevant text within the material before publication.

Making announcements

22. Where announcements are to be made on matters concerning both devolved and non devolved functions, DCMS and the Assembly Government will agree in each case and in good time, how the announcement will be made.

Confidentiality

23. The MoU sets out the principles that govern the duty of confidence between the UK Government and the devolved administrations. DCMS and the Assembly Government will state, when sharing information, the restrictions, if any, that should apply, and both parties will endeavour to treat information

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received in accordance with any restrictions. In the event of one administration receiving a freedom of information request from a third party relating to information it has received from the second administration, the former will seek the latter's views on disclosure, and ultimately make a decision about disclosure in accordance with access to information laws and, in the case of the Assembly Government, the Assembly Government's Code of Practice on Access to Information.

Legislation

24. Devolution Guidance Note 95 sets out guidance to Whitehall Departments on arrangements for managing Bills affecting the legislative competence of the National Assembly for Wales or the responsibilities of the Assembly Government. It sets out the expectations of the UK Government Cabinet Committee on Parliamentary Business and Legislation (PBL Committee) in giving effect to this policy and how to manage it to ensure smooth running of the UK Government's legislative programme. PBL Committee expects devolution issues to be resolved by the time a Bill is brought before the Committee prior to its introduction into Parliament.
25. Devolution Guidance Note 166 sets out guidance on the procedure for conferring legislative competence on the National Assembly for Wales by Order in Council. These Orders must be agreed between Assembly Ministers and the UK Government, and then approved by the National Assembly for Wales and Parliament.
26. The Assembly Government website contains 'guidance to Assembly Government departments on liaison with UK Government over parliamentary bills, legislative competence orders and Assembly measures'. It can be accessed via the link below. <http://wales.gov.uk/caec/publications/legislation/guidanceliaiseuk/e.doc?lang=en>

Parliamentary and Assembly business

27. DCMS and the Assembly Government will provide each other, as far as is appropriate and practicable, with information necessary to meet their

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responsibilities to Parliament or the National Assembly for Wales.

28. While the UK Parliament retains the absolute right to debate, enquire into or make representations about devolved matters, the Government has undertaken to encourage it to bear in mind the primary responsibility of the devolved legislatures and administrations in these fields. While the devolved legislatures are entitled to debate non-devolved matters, the devolved executives will encourage each devolved legislature to bear in mind the responsibility of the UK Parliament in these matters. Further guidance is contained in the MOU.
29. The attendance of witnesses to give oral evidence or produce documents for the Assembly or its committees is a matter for the National Assembly and not the Assembly Government (similarly appearances before Parliament and its committees are a matter for Parliament and its committees, not a matter for the UK Government).
30. DCMS and the Assembly Government will co-operate to enable each to meet its obligations to its respective Parliament or Assembly, having regard to the principles set out in the MoU and the advice in paragraphs 20-29 of Devolution Guidance Note 13.
31. DCMS and the Assembly 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 Assembly Government and DCMS confirm their commitment to provide each other with as full and open access as possible to policy and other information including statistics and research (paragraph 17 refers).
32. Both the Assembly Government and DCMS will treat information received from the other in accordance with any restrictions that the sender may specify, subject to paragraph 23 above.

Human Rights Act 1998

33. Similarly, where parallel legislation is proposed or where DCMS is legislating to transfer functions to, or confer functions on, the Welsh Ministers, DCMS will liaise with the Assembly Government to ensure that assessments of compliance with the Human Rights Act are shared.

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Welsh Language

34. The DCMS and WAG will comply with the commitments contained in their current and future Welsh Language Schemes when providing services to the public in Wales. WAG's Welsh Language Scheme will be amended during 2011. DCMS and WAG will co-operate as necessary in relation to Welsh language issues, including acting in accordance with the sections in the WAG scheme on working with Whitehall and UK Government departments.

Statistics

35. The general framework for co-operation agreed among the UK Government and the devolved administrations on all matters in relation to statistics will apply in respect of all those that are relevant to the policy areas in which DCMS has an interest. These areas are the:
- compilation of UK tourism statistics, specifically to ensure continued UK compliance with the EU Directive on Tourism Statistics and with other international commitments
 - maintenance / development of statistics on participation in sport, including meaningful comparisons between the UK and other countries
 - any agreed projects leading to the development of cultural statistics (covering access and participation, facilities and funding, employment and economic value), including meaningful comparisons between the UK and other European countries (eg as specified in EU Council Decisions)
 - amounts and types of funding awarded by the respective Lottery distributors, including the proportions of UK-level funds allocated to Wales
 - statistics on the creative industries across the UK.
36. Appropriate arrangements will be maintained in order to manage UK-wide surveys, statistical collections and databases, and information about statistical sources.

EU and international issues

37. These paragraphs should be read in conjunction with the EU Policy/ International Relations Concordats, contained in the MOU.
38. DCMS and the Assembly Government will inform each other of EU, Council of Europe, UNESCO or other international meetings due to take place where the UK should or may be represented, either at an 'expert', official or ministerial level.
39. DCMS will chair regular Home Countries heritage meetings, sometimes on a rotational basis, involving officials from the Assembly Government and the devolved administrations (together with other relevant government and cultural bodies) to keep each other fully informed of international developments relevant to the sector, including on the historic environment.
40. The Assembly Government will liaise regularly with DCMS about its interest and participation in EU business.

Appointments to cross border bodies

41. To the extent required by section 63 of GoWA 2006, DCMS will, before appointing to or removing office holders from relevant cross border bodies, consult the Assembly Government on those appointments relating to Wales, and to consult if the removal of the body in question is contemplated. (A relevant cross border body is a cross border body that is not a government department that exercises functions of a public nature.) That also includes consulting on other functions that might affect Wales where those functions are exercised by Welsh Ministers.
42. Some relevant cross border bodies have specific requirements and, where this is the case the detail has been included in the relevant annex. In the absence of any specific requirements, DCMS will consult the Assembly Government on those appointments and removals set out in the above paragraph, and abide by the New Code of Practice for Ministerial Appointments to Public Bodies (August 2009).

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Finance

43. DCMS and the Assembly Government will act in accordance with the Statement of Funding Policy, published by HM Treasury in October 2010. That is, where decisions taken by DCMS or its agencies lead to additional costs for the Assembly Government or, alternatively, where decisions taken by the Assembly Government or bodies under its jurisdiction lead to additional costs for DCMS, and other arrangements do not exist to automatically adjust for such extra costs, the body whose decision leads to the additional cost will meet that cost.
44. Any additional costs to the Assembly Government arising directly from policy changes developed and implemented by DCMS, and which are not subject to an increase through the Block and Formula rules, should be identified and discussed jointly with the Assembly Government prior to any decision by DCMS, as should any policy changes developed and implemented by the Assembly Government giving rise to additional costs to DCMS.
45. DCMS will keep the Assembly Government abreast of proposals for new policy initiatives and changes to existing policy which may directly or indirectly impact on Assembly Government expenditure on the public bodies that it funds, Welsh local authorities, or on the costs to industry/consumers in Wales.
46. DCMS will inform the Assembly Government of any in year claims they make on the UK DEL Reserve which are relevant to Wales, once these have been agreed by HM Treasury. Where available, DCMS will provide the Assembly Government with information about its planned and actual expenditure in Wales.

Access to services

47. DCMS and the Assembly Government may provide each other with administrative, professional or technical services by agreement, including by agreements made under Section 83 of the Government of Wales Act 2006. Each may charge the other for services provided; charges will not generally be made where such services have been provided free in the past.

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Dispute resolution

48. Avoidance and resolution of differences, disagreements and disputes will take place in accordance with the principles and procedures set out in the MOU. DCMS and the Assembly Government are committed to resolving issues at official level where possible, or if it becomes necessary, at Senior Civil Service level; only exceptionally will matters be referred to ministers or to the Joint Ministerial Committee.

Concordat review

49. The procedures set out in this concordat and its annexes shall be regularly reviewed and, where appropriate and agreed jointly by DCMS and the Assembly Government, amended. In particular, amendments will be necessary to reflect changes arising out of the Government's ongoing review of public bodies. Proposals for amendments can be considered at the regular Four Nations Culture and Sport meetings which consist of senior officials from each administration. Meetings are hosted by each administration on a rotation basis. These meetings will also review relations between both parties to address any points at issue, and take a forward look at respective programmes for legislation and executive action.

Contacts

50. Queries about this concordat should be addressed to:
Anne Rowlands
Sustainable Futures Operations team
Welsh Assembly Government
Cathays Park
Cardiff
Tel: 029 20801024
Mailboxes: HeritageBusinessUnit@wales.gsi.gov.uk
anne.rowlands@wales.gsi.gov.uk

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Tel: 020 7211 6000

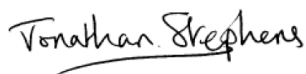
Signatories

Gill Morgan



Permanent Secretary on behalf of the Minister for Heritage
Welsh Assembly Government
Date: 18 April 2011

Jonathan Stephens



Permanent Secretary on behalf of the Secretary of State for Culture, Olympics,
Media and Sport
Department for Culture, Media and Sport
Date: 19 April 2011

Annex A: Cadw

Architecture

1. DCMS is responsible for sponsoring the Commission for Architecture and the Built Environment. The equivalent body for Wales is the Design Commission for Wales, sponsored by the Planning Division of the Welsh Assembly Government. In that part of its work relating to the historic environment, DCMS and Cadw in the Assembly Government will encourage cross-border co-operation.
2. As part of its comprehensive spending review announcement on 20 October 2010, DCMS announced that it would withdraw funding from CABE after

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2011-12. On 11 February 2011 DCLG announced that part of CABE would merge with the Design Council, with some staff transferring to an extended Design Council to create a one-stop shop, to provide a service to industry, councils and local communities in England. It is envisaged that the new Design Council (sponsored by BIS) will continue to co-operate with its sister organisations in Wales, Scotland, and Northern Ireland. Arrangements for future liaison with sponsoring Government Departments are under consideration.

Historic environment

3. DCMS and the Assembly Government will encourage cross-border co-operation between English Heritage and Cadw.

Heritage Protection Reform (HPR)

4. DCMS will consult the Assembly Government on any future proposals for primary legislation relating to reform of the heritage protection system in England, and will inform it of any proposals for secondary legislation or strategic policy changes. Similarly, the Assembly Government will inform DCMS of any different provisions proposed for Wales, including any proposal to seek Welsh framework powers – see footnote 5 on page 7.

Underwater archaeology

5. An MOU is being prepared to address responsibilities relating to underwater archaeology.

World Heritage sites

6. The Secretary of State will be responsible for the UK Government's overall policy on World Heritage Sites and exercise a co-ordinating role in its relationship with UNESCO on this issue. Within this policy the Assembly

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Government is responsible for identifying and nominating to the Secretary of State individual sites within Wales for World Heritage status, and for dealing with issues that might arise relating to the management of those sites. DCMS will chair regular meetings with representatives of the Assembly Government and other devolved administrations to discuss World Heritage issues of mutual concern.

Annex B: Culture

Arts

1. Functions relating to the arts have been devolved. DCMS and the Assembly Government will encourage the Arts Councils of England and Wales to co-operate on questions relating to the joint funding of arts bodies engaged in cross-border activities and joint arts initiatives.

Film

2. The Arts Council of Wales provides Lottery funding for film in Wales from the arts good cause. UK wide film funding, including GIA from DCMS and Lottery funding for UK wide film, will be the responsibility of the British Film Institute (BFI). The BFI will work closely with the Arts Council of Wales and the Welsh Assembly Government. The statutory powers contained within The Films Act 1985 to certify films as “British Films” are not devolved.

Broadcasting

3. No functions have been devolved under the Broadcasting Acts of 1990 and 1996. The OFCOM, S4C and BBC Cymru/Wales will, however, make their annual reports available to the Assembly Government for information and to facilitate debate. The Secretary of State will consult the First Minister on broadcasting (television and radio) matters of relevance to Wales, if they:
 - relate solely or principally to S4C, the Channel 3 franchisee for Wales

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- and the West, or to the BBC in Wales, or
 - impact solely or principally on viewers and listeners in Wales, or on the broadcasting industry in Wales, or
 - relate materially to the Welsh language, or to the distinctive culture of Wales.
4. The First Minister will consider how to come to a view on such a matter, including referring it to an Assembly Government Minister or for the consideration by the whole Assembly Government. The First Minister will have regard to any confidentiality attached to the matter in deciding how to deal with it. If the Assembly Government or one of the National Assembly Committees decides to inquire or debate into broadcasting matters, DCMS will provide Assembly Government officials with such assistance as may be agreed.

Official liaison

- 5. DCMS will arrange and chair joint meetings with officials from the Assembly Government and devolved administrations at least twice a year.
- 6. The DCMS will provide sufficient advanced notice for consultations and policy development (see paragraphs 16 – 18 on page 6).

Appointment to Cross Border Bodies

- 7. DCMS will consult with the Minister for Heritage on 'Welsh' appointments to the Boards of the BBC, S4C and OFCOM.

Export of Works of Art

- 8. The export of cultural objects is not devolved. MLA on behalf of DCMS is responsible for issuing and authorising export licences for all cultural objects located within the UK.

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Annex C: Sport, Olympic And Paralympic Games

Sport

1. As the lead UK Government department for non-devolved matters relating to Sport, the Department for Culture, Media and Sport will:
 - alert the Assembly Government's Sports Policy officials of any UK, European Union or international policy proposals or issues that might impact on Wales
 - provide the Secretariat for the UK Sports Cabinet that meets biannually to discuss UK wide issues by:
 - liaising with Sport officials in the Welsh Assembly Government to agree the dates and arrangements for Sports Cabinet
 - arranging and chairing a meeting with the devolved administrations to agree the agenda for Sports Cabinet
 - circulate to officials for comments, the draft minutes, and the final meeting note for Sports Cabinet
 - arrange and chair other meetings with the Assembly Government's sports policy officials, as and when required or requested
 - consult with the Minister for Heritage on public appointments to UK Sport and the new National Anti Doping Organisation.

2012 Olympic and Paralympic Games

2. DCMS and (as appropriate) the Government Olympic Executive located in DCMS, will:
 - communicate effectively with the Major Events Unit in the Assembly Government on London 2012 and other major events related issues, including early communication of:
 - games inspired and / or Games Legacy initiatives and strategies, proposed and funded by UK Government Departments, whether or not funding is directed towards England only delivery
 - UK Government in principle, interest and discussions regarding potential bids for future mega sporting events.

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3. The Assembly Government will cooperate with the Government Olympic Executive in relation to operational planning for 2012, by:
 - being represented on the UK-wide Operations Programme Board
 - ensuring regular meetings of the Wales Operations Group, and
 - supporting regular meetings of the Cardiff City Operations Steering Group.

Annex D: National Lottery

National Lottery

1. The Welsh Assembly Government is involved in setting the priorities for distribution of the proceeds of the National Lottery in Wales under the National Lottery etc Act 1993 as amended by the National Lottery Act 1998 and the National Lottery Act 2006.

General principles

Powers in relation to Wales-only distributing bodies

2. The Assembly Government has the power to give policy directions concerning the operations and priorities of the Wales-only distributing bodies i.e. the Arts Council of Wales (ACW) and the Sport Wales.

The Minister for the Cabinet Office now has policy responsibility for the Big Lottery Fund, and separate arrangements will be made between Cabinet Office and the Assembly Government in respect of relevant Big Lottery Fund matters not covered by this annex.

Powers in relation to UK-wide distributing bodies

3. The Assembly Government does not have power to make decisions on the allocation of resources between Wales and other parts of the United

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Kingdom, or on the general principles of the administration of Lottery funding. The Assembly Government will be consulted by DCMS on the exercise by the Secretary of State of his powers in these areas. These arrangements protect the position of the DCMS Permanent Secretary as Accounting Officer for the National Lottery Distribution Fund (NLDF).

Appointments

4. The Arts Council of Wales (ACW) and the Sport Wales are Wales-only bodies with grant-in-aid as well as Lottery functions. Responsibility for the appointment of members to each Council lies with the Assembly Government.
5. The National Heritage Memorial Fund is a UK-wide body with both Lottery and non-Lottery functions. Appointments as Trustees of the Fund are a matter for the Prime Minister. The Trustees are required to include persons who have knowledge, experience or interests relevant to the purposes for which the Fund may be applied and who are connected by residence or otherwise with England, Wales, Scotland and Northern Ireland respectively. At present one such "Welsh trustee" is appointed, and as a matter of administrative practice the appointment is subject to consultation with the Welsh Assembly Government.

Control of lottery distribution

6. The Assembly Government has the power to issue policy directions to the ACW and SCW.
7. The Assembly Government and the Secretary of State have a concurrent power to issue policy directions to the Heritage Lottery Fund in relation to Wales, i.e. to determine the purposes for which and the conditions subject to which, the Fund distributes money in relation to Wales. In order to avoid unintended inconsistencies in the exercise of this concurrent power, their use in relation to Wales by the Secretary of State on the one hand will be subject to consultation with the Assembly Government and their use by the Assembly Government, on the other, will be subject to consultation with the Secretary of State.

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Financial and accounts directions

8. The power to issue financial and accounts directions to distributing bodies under ss.26(3) and 35(3) of the National Lottery etc Act 1993 (the 1993 Act) Act lies with the Secretary of State, because these directions relate to matters of financial accountability and propriety which impinge directly on DCMS's Accounting Officer responsibility for the NLDF. In the cases of ACW and SCW, however, this function is exercisable only with the agreement of the Assembly Government.
9. The Secretary of State may make orders under s.28 of the 1993 Act to vary the percentages of Lottery funding allocated to each of the good causes. This allocation determines the structure of Lottery distribution and is therefore central to general Lottery policy. The power will be exercised by the Secretary of State, but he will be required to consult Welsh Ministers on the allocations he proposes.
10. The Secretary of State may make orders under s.29 of the 1993 Act to substitute, add or remove distributing bodies, and to vary the percentages allocated within each good cause. Any variation in the arts or sport percentages among the home countries would be a matter for the Secretary of State, but any such change affecting the percentages for ACW or SCW will be subject to the agreement of the Welsh Assembly Government. The Assembly Government will also be consulted about changes to UK distributors.
11. Section 25A of the 1993 Act gives distributing bodies power to delegate their functions relating to, or connected with, the distribution of lottery money. This is subject to the power of the Secretary of State in s.26(3A) to issue directions about delegation. The exercise of direction-making power in relation to ACW and SCW is subject to the agreement of the Assembly Government, since the directions could contain provisions on the financial status of delegates which would have direct implications for DCMS' Accounting Officer responsibilities. The Secretary of State is required to consult the Assembly Government on the directions on delegation he gives to UK distributing bodies.
12. Section 25B of the 1993 Act provides for joint schemes to be set up by distributing bodies while Schedule 3A to the 1993 Act makes supplementary provision about joint schemes. Paragraph 2 of Schedule 3A provides that

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schemes that distribute a total amount up to a prescribed value (currently £15 million) require the written approval of the Secretary of State; schemes above that value require the Secretary of State to make an order, subject to the negative resolution procedure in Parliament, authorising the scheme. In the case of joint schemes in which the only participating bodies are the Arts Council of Wales and the Sport Wales, this power lies with the Assembly Government. The Assembly Government's agreement is required before the Secretary of State approves or authorises any scheme, the area of which includes all or any part of Wales (other than a scheme in which the only participants are the ACW and SCW).

13. Section 25C of the 1993 Act requires distributing bodies to prepare and adopt strategic plans if instructed by the Secretary of State to do so. The plans are subject to consultation with the Secretary of State, who is required to lay a copy of the final plans before Parliament. The power to require ACW and SCW to prepare and adopt plans, and to be consulted on them, lies with the Assembly Government; and the Assembly Government, as well as the Secretary of State, should be consulted on the plans of UK distributors operating in Wales.
14. In addition the control of the National Lottery regime – namely allocation of Lottery resources, and the general principles of Lottery administration and distribution – remain reserved matters.

Annex E: Cymal: Museums Archives And Libraries Wales

NB: This section will be revised when the following arrangements have been finalised:

- i. administration of Public Lending Right scheme
- ii. transfer of functions from the Museums Libraries and Archives Council

Specific functions where responsibility is devolved

1. The Assembly Government and DCMS will encourage co-operation with and

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between the British Library, the National Library of Wales, Amgueddfa Cymru – National Museum Wales, the Museums Libraries and Archives Council (MLA), library authorities, professional organisations and other appropriate bodies in Wales and England, including on the issues set out below. DCMS is responsible for sponsoring the British Library and MLA.

2. The MLA is the strategic body working with and for the museums, archives and libraries sector in England. The Assembly Government, through CyMAL division, will work with MLA on UK wide programmes, including Museum Accreditation and Acceptance in Lieu.

Specific functions where responsibility is not devolved

Public Lending Right

3. The Public Lending Right Act 1979 established the Public Lending Right (PLR) Scheme which provides for registered authors to receive payments in proportion to the number of times their books are lent from a rotating sample of UK public library authorities. The PLR Scheme, administered by the Registrar of Public Lending Right, will continue its links with library authorities in Wales. DCMS will give prior notice to the Assembly Government of its intention to consult representatives of authors, library authorities and others likely to be affected by changes to the scheme.

Other functions

Government Indemnity Scheme

4. Section 16 of the National Heritage Act 1980 gives the Secretary of State powers to indemnify an institution, body or person for objects belonging to them which are on loan to certain institutions. For objects loaned to institutions in Wales, those powers of indemnification have been devolved to the Welsh Ministers.

MLA retains overall management of the scheme and provides security

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advice to institutions in both Wales and England.

5. MLA will issue indemnities for all eligible English national institutions, and the Assembly Government will issue and authorise indemnities for Amgueddfa Cymru – National Museum Wales and the National Library of Wales.
6. Non-national indemnities (i.e. for local authority or independent museums and galleries) are issued by the MLA in conjunction with the Assembly Government for institutions in Wales. For non-national institutions in Wales, MLA will be responsible for assessing and monitoring eligibility of venues, in consultation with the Assembly Government. Indemnities will be issued by the Assembly Government.

Acceptance in Lieu

7. Section 230 of the Inheritance Act 1984 deals with situations where the Commissioners for HMRC can accept certain property in lieu of inheritance tax. The Secretary of State has powers to give directions about the disposal of items accepted in lieu of inheritance tax and to allocate items to certain institutions. In relation to Wales these powers have been transferred to the Welsh Ministers. Where there is a “Welsh interest” as well as “another interest” (as defined in the National Assembly for Wales (Transfer of Functions Order) 2004) these functions are to be exercised concurrently by the Secretary of State and Welsh Ministers.
8. MLA co-ordinates expert advice from national museums and galleries on the pre-eminence, condition and valuation of works of art and makes recommendations to the Secretary of State and/or the Welsh Ministers in order for them to exercise their powers. (Land and buildings cases are directly administered by the Secretary of State or the Assembly Government).
9. MLA co-ordinates expert advice from national museums and galleries on the pre-eminence, condition and valuation of works of art and makes recommendations to the Secretary of State and/or Welsh Ministers in order for them to exercise the above powers. (Land and buildings cases are directly administered by the Secretary of State or the Assembly Government).

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Treasure Valuation Committee

10. The Treasure Valuation Committee will be responsible for making recommendations to the Secretary of State on the fair market value of finds from England, Wales and Northern Ireland. British Museum Great Court Limited, a subsidiary company of the British Museum, provides the secretariat for the Valuation Committee on behalf of the Secretary of State. The TVC secretariat invoices museums that wish to acquire treasure finds, and pays rewards to finders/landowners. Appeals regarding valuations are made to the Secretary of State under the code of Practice to the Treasure Act 1996. Amgueddfa Cymru – National Museum Wales and other relevant museums in Wales will be kept informed throughout the valuation process.

Annex F: Tourism and marketing

Tourism

1. Functions relating to tourism have been devolved.
2. DCMS is responsible for sponsoring Visit Britain (VB), including target-setting and other aspects of the funding agreements between DCMS and VB. DCMS will continue to encourage VB to work closely with Visit Wales, the Assembly Government's tourism arm. DCMS will inform and copy-in the Assembly Government on all UK and EU tourism reviews that affect Wales tourism, and will notify it of any other proposed policy changes that may impact on tourism in Wales. Joint meetings between officials from DCMS and the Assembly Government will be held regularly.

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