

# Concordat between Department for Transport and Welsh Assembly Government, 2003

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## **Introduction**

1. This concordat is made between the Department for Transport and the Welsh Assembly Government. It is intended to provide the framework to guide the working relationship between the Secretary of State for Transport, other DfT Ministers and officials of the Department for Transport, (together referred to in this document as "DfT") and the Welsh Assembly Government, comprising the Assembly First Minister, Ministers and their officials (together referred to as "the Assembly Government"). The terms "DfT" and "the Assembly Government" include their respective Executive Agencies where appropriate. The term "the parties" means DfT and the Assembly Government. The term "the Assembly" means the National Assembly for Wales as a corporate body (see in particular paragraph 12). The objective of the concordat is to ensure that the roles and responsibilities of DfT and the Assembly Government are effectively translated into practical working arrangements between the two organisations. The aim is to promote the establishment of close and harmonious working relationships and good communications at all levels between the two organisations, and in particular to foster constructive co-operation.

2. In support of these objectives, DfT and the Assembly Government have jointly established a forum of senior officials to help promote good relationships between the two organisations. The forum will focus on administrative and cross-cutting issues rather than specific policy matters or disputes, which will be dealt with under the procedures indicated below. The forum will monitor the effectiveness of this concordat in delivering the aims described above, and will consider the scope for improvements, taking account of the future developing needs of the two organisations. This will include oversight of the formal review process for the concordat referred to in paragraph 41 below.

## **Nature of Concordat**

3. This concordat has been drawn up in accordance with the principles outlined in the Memorandum of Understanding (MOU) which sets out the understanding of the UK Government and the administrations of Scotland, Wales and Northern Ireland of the principles that underlie relations between them. The MOU is supplemented by an agreement on the Joint Ministerial Committee (JMC) and by guidance on common working practices. There are also over-arching concordats setting out the framework for co-operation on EU policy issues, international matters, statistics and

financial assistance to industry. Where those matters are concerned, reference should first be made to those over-arching concordats. However, where specific arrangements on cost-sharing have been agreed between DfT and the Assembly Government, those arrangements apply rather than the general cost-sharing provisions of the statistics concordat.

4. This concordat is a voluntary arrangement between DfT and the Assembly Government. It is not a binding agreement or contract and so does not create any legally enforceable rights, obligations or restrictions. It is intended to be binding in honour only. The Government of Wales Act 1998 ("the 1998 Act") and other legislation provide for statutory consultation by the UK Government with the Assembly Government in certain cases; this concordat does not create any equivalent or other right to be consulted or prevent consultation beyond that required by statute. Any failure to follow the terms of the concordat is not to be taken as invalidating decisions taken by DfT or the Assembly Government.

5. The main body of this concordat specifies general working arrangements between DfT and the Assembly Government. There are also a number of annexes containing additional arrangements which relate to specific subject areas (or groups of subjects). For other subject areas which are not covered in the annexes, the arrangements provided for in the main body of this concordat, taken together with the MOU, the JMC agreement, the over-arching concordats, and guidance on common working practices will be followed

## **Interpretation**

6. As this concordat indicates, DfT and the Assembly Government will exchange information and inform or consult each other about a wide range of issues in a wide range of situations. The concordat is not, however, intended to be an exhaustive description of every aspect of the relationship between the organisations, or to preclude communication between them about other issues or in other situations.

7. It is not generally either possible or desirable for the concordat to prescribe in detail the circumstances which will trigger a need to invoke the arrangements set out in this concordat, or the exact form of communication or the timescale involved. Where specific arrangements are necessary on particular topics they are outlined in this concordat and its annexes. The parties will use their judgement, taking into account the terms of this concordat, in determining for any given issue the procedures (including the level of detail and, where necessary, the period of notice) that appear reasonable and appropriate in the circumstances, in accordance with the principle that if either is planning action which impinges on the responsibilities of the other, it should give adequate forewarning.

8. This concordat is framed in terms of the interface between DfT and the Assembly Government; it is not intended to imply that communications on issues covered by the concordat should not, where appropriate, also involve other UK Departments or devolved administrations; indeed that may be the most effective way of conducting some business. In particular, communications may also involve the Secretary of State for Wales, for example where he has a role under the terms of the 1998 Act, or in the circumstances envisaged in paragraphs 24 and 25 of the MOU. However, both parties agree that consulting the Secretary of State for Wales is not a substitute for consulting each other.

## **Confidentiality**

9. DfT and the Assembly Government wish to ensure that the information each supplies to the other will be treated in a way consistent with the level of confidentiality appropriate to it, and in accordance with the principles set out in the MOU. These arrangements rely for their effectiveness on mutual respect for the confidentiality and sensitivity of information exchanged. Consultation and discussion with the Assembly Government on matters not in the public domain may be limited to the relevant Minister(s) and Assembly officials, and are subject to the establishment of suitable arrangements to safeguard confidentiality. DfT and the Assembly Government will not in any case disclose

unpublished information to third parties without the permission of the administration which provided the information, subject to the requirements of the law and other obligations.

10. In considering the case for disclosure, the provisions under the Freedom of Information Act 2000 will be taken into account. Until these provisions come into effect, DfT follows the Open Government Code of Practice on Access to Government Information while the Assembly Government has its own Code of Practice on Public Access to Information (and related Standing Orders). However, as provided in the MOU, each party will honour the code of the originator of the information.

11. The Assembly First Minister's policy is to publish the minutes of meetings of the Assembly Cabinet, and otherwise to be as open as possible under the terms of the Assembly's Code of Practice. However, that policy does not permit the disclosure of information received in confidence from third parties, or any references or allusions to such information. Material received from DfT will consequently be protected in accordance with paragraphs 9 and 10 above.

## **Statutory Framework**

12. The 1998 Act, Orders in Council made under that Act (in particular under section 22 of that Act), and other subordinate legislation made under the Act, provide for a range of functions to be transferred to, or made exercisable by, the Assembly, or to be conferred or imposed on the Assembly subject to specified limitations or constraints. Where such legislation provides, a function exercisable in relation to Wales may be exercisable by the Assembly jointly or concurrently with a Minister of the Crown, and, so far as exercisable by a Minister of the Crown, may be exercisable by him with the agreement of or after consultation with the Assembly. The Assembly may also make arrangements for the exercise of its functions by a Government department or other public authority (but not any legislative functions). Other functions exercisable in relation to Wales (which are not devolved to the Assembly) remain the responsibility of the appropriate UK Minister. Responsibility for primary legislation relating to matters in or as regards Wales remains with the UK Parliament, although powers by order to amend or modify the effect of primary legislation in certain cases may be conferred on or transferred to the Assembly. The Assembly may also have such powers by virtue of being designated to make regulations under section 2(2) of the European Communities Act 1972. Section 31 of the 1998 Act provides that the Secretary of State for Wales is required to consult the Assembly, so far as appears to him to be appropriate, on the Government's legislative programme for each session of Parliament.

## **Practical Arrangements**

13. The parties recognise that good communications systems are essential in order to assist the process of policy formation and decision-making in each administration and to meet any consultation or other requirements connected with the exercise of a function. In general, it is expected that communication between the parties will be between their relevant officials, or between DfT Ministers and the relevant Minister(s). The parties undertake to keep each other informed, where relevant, of developments in policy and practice in respect of matters within or affecting their respective responsibilities, including proposals for legislation and other initiatives, and other issues which may be relevant to each other. They also recognise that there will be mutual benefit from the exchange, where appropriate, of information on scientific, technical and policy matters, in accordance with the principles set out in the MOU. Specific arrangements are set out below.

## **Primary Legislation**

14. In addition to the duties of the Secretary of State for Wales to consult the Assembly under section 31 of the 1998 Act, DfT will, so far as practicable and appropriate, consult the Assembly Government at the earliest opportunity on proposals for legislation which would affect the functions or responsibilities of the Assembly or would be of particular impact in Wales. Consultation on

legislative proposals not in the public domain may be limited to the Minister(s) and Assembly officials who are responsible for the relevant functions or other matters, and will be subject to the establishment of suitable arrangements to safeguard confidentiality.

15. Where DfT is promoting primary legislation which contains clauses which are specific to Wales, it may where appropriate seek support from the Secretary of State for Wales and his Department in taking these clauses through Parliament. He and his office will therefore be kept informed from an early stage of the detail of these clauses.

16. Where the Assembly Government proposes to use the Assembly's own powers to amend, modify or repeal primary legislation in any area within or relevant to DfT's responsibilities, it will so far as practicable and appropriate consult DfT at the earliest opportunity on its proposals. Such consultation will be subject to the establishment of suitable arrangements to safeguard confidentiality. Such consultation will not affect any duty on the Assembly to consult or seek agreement, or to comply with any other condition attaching to the exercise of these powers.

### **Devolved Functions**

17. In relation to functions exercisable by the Assembly, the parties will:

- share information, analysis and research, where this would be of mutual benefit;
- inform each other of any relevant information which comes to their attention which may require action by or have resource consequences for the other party;
- seek to involve each other, as and when appropriate, in policy formation on topics where there is a reasonable expectation that a policy initiative might affect, the other's responsibilities, or be used or adapted by the other;
- inform each other at the earliest practicable stage of any proposal to change primary or secondary legislation, and to highlight the potential implications, so far as apparent, for the other's responsibilities; and
- inform each other at the earliest practicable stage of substantive new policy announcements which may be relevant to the other's responsibilities.

### **Interface between Devolved and Non-devolved Functions**

18. There are some areas where there is a close interface between the devolved functions of the Assembly and non-devolved functions of DfT. The parties will maintain close contact on issues where this arises. In such cases:

- the Assembly Government will consult DfT at an early stage when there is a possibility that a proposed policy or decision (e.g. on planning guidance) may have an impact on or be connected with a matter (e.g. UK or GB-wide strategies) for which DfT is responsible; DfT will similarly consult the Assembly Government at an early stage where a proposed policy or decision might affect matters for which the Assembly is responsible;
- in the case of planning or analogous cases which are to come before Ministers or members of the Assembly or an Assembly Committee for decision and where there is an interface between devolved and non-devolved matters, the Assembly Government and DfT will inform each other at an early stage; such notification will be in sufficient time to enable the recipient to submit representations, in the same way as other interested parties, for consideration before a decision is reached;
- each party will ensure that the other is kept abreast of developments in policy, practice and legislation, including discussions with third parties, in areas where there is, or could be, an interface;

- the parties will co-ordinate activities where appropriate.

19. DfT may offer advice to the Assembly Government on the effect of a proposal by the Assembly or its Government on functions within DfT's responsibility, and the Assembly Government may similarly offer advice to DfT on the effect of a proposal by DfT on functions within the Assembly's responsibility. If the administration making the proposal intends to proceed with it without measures to take account, in whole or in part, of the other's advice, it will notify the other administration about this, wherever possible before presenting the proposal in public.

### **Non-devolved Functions**

20. In relation to non-devolved functions of DfT:

- DfT will inform the Assembly Government, as early as practicable, of proposals which are likely to be of interest to the Assembly, and wherever possible before any public announcement is made;
- the parties will inform each other of any information which comes to their attention which may require action by the other party.

### **Joint and Concurrent Powers**

21. Joint powers are those where it is a legal requirement for the Assembly and UK Ministers to act in agreement and together. Alternatively, there may be a requirement for UK Ministers to act only after consultation with the Assembly (or vice versa). Concurrent powers are those which either the Assembly or UK Ministers or both will be able to exercise in Wales. In such cases, the provisions in paragraphs 18 and 19 above will apply, subject to any necessary modifications.

### **Production of Guidance**

22. Where the relevant legislation applying in England and in Wales is substantively the same, the parties will consider the scope for co-ordinating the preparation and cross-checking of their respective codes of practice and other published guidance, with the aim of ensuring compatibility and consistency where appropriate. They will also consider whether to issue their respective guidance as part of a joint package. The aim will be to ensure clarity and to avoid confusion for those to whom the guidance is addressed.

### **Publicity and Publications**

23. The Assembly Government will, where appropriate, inform DfT, in advance, of public statements which can be prepared well in advance (e.g. consultation documents, Press Notices, publication of research findings and reports) on functions of the Assembly for which DfT has responsibility in relation to other parts of the UK or which have an impact on the exercise of functions of DfT. DfT will, where appropriate, inform the Assembly Government, in advance, of corresponding public statements which can be prepared well in advance on matters relating to functions of DfT for which the Assembly Government is responsible in Wales or which have an impact on the exercise of any Assembly functions. In particular, where either party proposes to consult publicly in Wales on a matter of interest to both, they will liaise closely in advance with the aim of establishing a mutually acceptable way of doing so.

24. In preparing publicity campaigns, the parties will consider in advance whether co-ordinated campaigns would be mutually beneficial; and co-operate on delivery where appropriate. When it is preparing publicity or other material which relates to Wales, DfT will abide by the terms of its Welsh Language Scheme.

## **Dispute Resolution**

25. The vast majority of matters should be capable of being handled bilaterally between the parties at official or Ministerial level. Where, exceptionally, an issue cannot be resolved bilaterally, or through the good offices of the Secretary of State for Wales, it will normally be referred, in accordance with the MOU and the JMC agreement, to the JMC Secretariat. Whilst such discussions are under way, the parties will continue to be able to act in areas within their respective competence.

26. It is recognised that the above mechanisms will not be appropriate in some, perhaps exceptional, cases which involve third parties, for example where commercially confidential and market sensitive information is involved. In these instances arrangements will need to follow any specific legal requirements.

## **General Administration**

27. The parties will consult each other where appropriate on correspondence and Parliamentary/Assembly business, and on public statements and announcements, in accordance with the arrangements set out in the MOU and supporting guidance material.

## **Public Bodies**

28. A number of public bodies for which DfT is responsible have functions that relate to devolved matters in Wales as well as other functions. DfT will liaise closely with the Assembly Government on the arrangements for these bodies, and in particular on matters relating to devolved functions. Detailed arrangements are set out in the Annexes as appropriate.

## **Appointments**

29. DfT will consult the Assembly Government in accordance with section 30 of the 1998 Act in relation to appointments to any public posts which have been specified under that section. DfT may also, where appropriate, consult the Assembly Government about other appointments to public bodies with a UK or GB remit. Specific arrangements for appointments to certain bodies are included in annexes to this concordat.

## **Joint Working**

30. The parties may set up joint working groups or committees where appropriate. DfT may, where circumstances permit and this is appropriate, invite the Assembly Government to nominate members of committees which consider, for England, matters that are transferred to Wales, or matters which, though not transferred, may affect Wales.

## **Analysis, Statistics, Research and Monitoring**

31. The parties will consult each other regularly about matters of mutual interest on analysis, research, monitoring and statistics, including proposals for and results of research programmes. The parties will, as and where appropriate, co-operate with each other, to the extent that available resources permit, in the provision of data and information needed to fulfil their respective responsibilities. The parties will continue to co-operate on existing research projects covering England and Wales, where that remains appropriate, and will co-operate on future such projects where that is in their mutual interest. The over-arching concordat on statistics provides general guidance on that issue, and should be read in conjunction with this paragraph, subject to any specific cost-sharing arrangements referred to in paragraph 3 of this concordat.

## **Regulatory Impact Assessments**

32. Where domestic legislation, proposals for EC Directives, other European legislation and other proposed international obligations have an impact in relation to Wales on the costs of businesses, charities or voluntary bodies, a regulatory impact assessment will need to be prepared by DfT or, in the case of Assembly legislation, by the Assembly Government. The parties will discuss the most appropriate means in each case for obtaining the information necessary for each of them to fulfil their respective responsibilities, and will provide advice and support to the other as appropriate. The parties will also co-operate where either of them decides to carry out a regulatory impact assessment for certain proposals other than by reason of an anticipated impact on costs.

## **EU and International Matters**

### **General**

33. The over-arching concordats on EU and international matters provide general guidance on how these issues should be handled and should be read in conjunction with the following paragraphs.

### **EU and International Obligations**

34. The UK Government will continue to play the leading role in international and EU negotiations. Any legally binding target or undertaking set in this context for the UK as a whole will require a UK-wide response to ensure that the UK can meet it. Similar considerations apply to obligations arising under informal instruments, as defined in the international concordat. Some of the policies needed to meet EU and international obligations may be the responsibility of the Assembly Government, others will remain with the UK Government. The Assembly Government will therefore have an important contribution to make in developing and delivering new programmes to meet EU and international obligations. Regular dialogue and close co-operation between the parties will therefore be essential.

35. The Assembly Government will co-operate fully with the monitoring and reporting process for EU and international obligations, providing details of, and relevant data on, the results of monitoring, assessment and initiatives carried out within Wales. It will also participate fully in any EU or international monitoring and review of programme measures taken across the UK which together form the UK's response to such obligations.

36. In the case of quantitative obligations, the 1998 Act includes powers that could be used, if needed, to enable the allocation of a share of such obligations to the Assembly. The EU concordat sets out the general approach to be taken in such cases.

37. Where an EU or international obligation is framed in quantitative terms, the parties will discuss the extent to which each will contribute to the UK's efforts to meet the obligation, based on their respective scope for action within their competencies and taking account of all relevant circumstances. Such discussions may also where necessary cover the collection of information to assist in determining the appropriate contributions, and the methodology to be used in monitoring performance.

### **Expert Advice**

38. The Assembly Government will where practicable make available to DfT, in support of the UK's position at EU and international meetings, expert advice as requested. This will include the reasonable provision, at DfT's request, of qualified personnel to form part of the UK's delegation. (This arrangement is in addition to the provisions of the EU concordat covering attendance by representatives of the Assembly Government at EU and international meetings.)



## **Finance**

39. HM Treasury's Statement of Funding Policy, dated July 2002, sets out the policies and procedures which currently underpin the funding arrangements for the Assembly and the other devolved administrations. Where DfT or the Assembly Government proposes to take action which may have financial consequences for the other, it will inform and consult the other in advance wherever practicable. To the extent that such additional costs arise, they will be dealt with as necessary in accordance with the Statement of Funding Policy (or any corresponding Statement in operation at the relevant time).

40. The parties will inform each other of any in-year claims they make on the Reserve, other than claims associated with End-Year Flexibility, which are accepted by H M Treasury.

## **Review and Renewal of Concordat**

41. It will be open to DfT or the Assembly Government to propose alterations to this concordat at any time to reflect changes in policy or to reflect the evolution of administrative conventions of co-operation and joint working between the UK Government and the Assembly Government. Annexes may be added, removed or amended separately from the main section, as and when the need arises, by agreement between the parties. In any event, this concordat will be reviewed three years after it is agreed between the parties and thereafter at three yearly intervals.

## **Annexes**

*Note:* For those subject areas not covered in the annexes, the arrangements provided for in the main body of this concordat, taken together with the MOU and over-arching concordats, should be followed.

### **Annex 1: Executive Agencies of DfT with Responsibilities in Wales**

1.1 This is an annex to the concordat between DfT and the Assembly and must be read in conjunction with it. It covers the Executive Agencies of DfT whose remit includes Wales.

#### ***Background***

1.2 DfT has four Executive Agencies that have statutory operating responsibilities within Wales. They are the Driver and Vehicle Licensing Agency (DVLA); Driving Standards Agency (DSA); Maritime and Coastguard Agency (MCA); and the Vehicle and Operator Services Agency (VOSA). In addition the Vehicle Certification Agency (VCA), as the authority responsible for ensuring that new motor vehicles and their constituent parts meet European safety and environmental standards, can also operate in Wales. The Agencies' functions in Wales are non-devolved matters, except where specific functions have been transferred to the Assembly. Other annexes to this concordat deal with specific arrangements relating to certain functions carried out by the agencies.

1.3 Each Agency has a framework document setting out its status, purpose and objectives; statutory and other responsibilities; the responsibilities and accountability of the Chief Executive; and the relationship within DfT and with DfT Ministers.

#### ***Assembly/Agency Liaison***

1.4 Each Agency will nominate a point of contact for correspondence with the Assembly. It will respond, as appropriate, to any reasonable request from the Assembly for information relating to matters concerning the exercise of its functions in relation to Wales, including any operating issues that have a significant impact on devolved matters.

1.5 Some information is already provided on a Wales basis. However, the operational management structure of the Agencies reflects the character of their business in providing a consistent service in the UK. It may not reflect national or regional boundaries and accordingly there may be limits on their ability to provide detailed information on past or present activities within the boundaries of Wales.

1.6 When Agencies propose management decisions with significant impact on employment or investment issues in Wales, the Agency concerned will provide sufficient supporting information to the Assembly so that the reason for the decision can be fully understood, and will do so in good time before the decision takes effect. Significant questions of Agency resources and structure in relation to non-devolved functions are matters between the Agency and DfT Ministers, bearing in mind that the primary function of the Agency is to deliver a UK-wide, GB-wide or England and Wales-wide service. Where the Assembly wishes to raise questions on such issues, it will direct them to DfT centrally and not to the local or central management of the Agency concerned.

1.7 DfT will inform the Assembly of proposals made for public (non-executive) appointments to the advisory boards of Agencies which operate in Wales, and will be open to suggestions from the Assembly for possible appointees to these advisory boards. DfT will inform the Assembly of all appointments made to these advisory boards, and Agencies will inform the Assembly of Agency executive director appointments to be made within Wales, that will be filled following external advertisement.

## **Annex 2: Transport Policy Areas**

2.1 This is an annex to the concordat between DfT and the Assembly and must be read in conjunction with it. It covers:

- Road Traffic, Road and Vehicle Safety
- Traffic Commissioner for the Welsh Traffic Area
- Disabled Persons Transport Advisory Committee
- Railways
- Aviation
- Ports and Shipping
- Emergency Planning
- State Aid notification procedures
- Buses and Taxis
- The Standing Committee on Trunk Road Assessment (SACTRA)
- The Commission for Integrated Transport (CfIT)

### **Road Traffic, Road and Vehicle Safety**

2.2 The Assembly has a number of responsibilities for traffic regulation as it affects particular roads or localities; other matters remain DfT responsibilities. The Assembly is required to set and assess targets or use other measures for road traffic reduction and has powers to make regulations regarding road user charging and workplace parking levy schemes and to approve any such schemes that Local Authorities bring forward. There are concurrent powers to promote road safety.

2.3 It is envisaged that a UK Group of Road Safety Directors will continue to meet biannually to discuss policy matters of mutual interest or concern. Notifications of policy initiatives, consultations etc on DfT functions (and on Assembly functions with an impact on other parts of the UK) will in the first instance be made to the members of this Group.

### **Traffic Commissioner for the Welsh Traffic Area**

2.4 The Traffic Commissioner for the Welsh Traffic Area is appointed by the DfT Secretary of State and exercises statutory functions involving the operators and drivers of heavy goods vehicles and public service vehicles. Where it is necessary to appoint a new Traffic Commissioner for the Welsh Traffic Area, DfT will invite the Assembly to nominate a representative to sit on the selection panel.

### **Disabled Persons Transport Advisory Committee (DPTAC)**

2.5 The Disabled Persons Transport Advisory Committee (DPTAC) advises the DfT Secretary of State on public transport policies, and on transport policies more generally, as they affect the mobility of disabled people throughout Great Britain.

2.6 Members are appointed by the DfT Secretary of State. The Assembly will be accorded observer status on the Committee and, in addition to the arrangements on appointments set out in paragraph 29 of the main body of the concordat, will be invited to nominate one member to represent Welsh interests on the Committee.

## **Railways**

2.7 The provision and regulation of railways is a non-devolved matter, except that the Assembly is to administer Freight Facilities Grants in Wales within GB criteria. Health and safety on railways and other guided transport systems (as defined in the Railways Act 1993) is also non-devolved and remain the responsibility of HSE, on which reference should be made to the HSE concordat.

2.8 DfT will consult the Assembly on railway matters which are of strategic importance to Wales, and on Directions and Guidance to the Strategic Rail Authority (SRA).

## **Aviation**

2.9 Responsibility for civil aviation policy and regulation as they affect Wales remains with DfT, and the Civil Aviation Authority (CAA). The aviation accident and serious incident investigation function, including compliance with the United Kingdom's obligations under Annex 13 to the Chicago Convention and the European Union Directive 94/56/EC, remains the responsibility of the Air Accident Investigation Branch (AAIB) within DfT.

2.10 Responsibility for the regulation of aviation and airports in Wales also remains with DfT, although the Assembly is responsible for town and country planning and related environmental impact assessment associated with airport development in Wales. DfT will consult the Assembly on airports policy and other aviation matters which are of strategic importance to Wales. The Assembly will consult DfT on matters within its responsibility which affect UK airports policy or other parts of the UK, including changes to planning policy guidance affecting airports and aviation in Wales. Where such matters involve planning cases which are to come before Ministers for decision, the provisions of the second bullet of paragraph 18 of the main body of the concordat will apply.

## **Ports and Shipping**

2.11 Maritime policy and legislation overall, including merchant shipping, ports and harbours, are mainly non-devolved matters. Exceptionally, issues relating to specific fishery harbours (which are those listed in Schedule 4 to the Sea Fish Industry Act 1951) are the responsibility of the Assembly, including the making of Orders under the Harbours Act 1964 and the confirmation of bye-laws. The Assembly is also responsible for the commercial sponsorship of the sea fish industry in Wales, but its safety and environmental regulation remain matters for DfT. The protection of culturally and historically important wrecks, under the Protection of Wrecks Act 1973, is devolved to the Assembly and the responsibility of DCMS in England; responsibility for dealing with dangerous wrecks remains a non-devolved matter.

2.12 Health and Safety aspects of ports operations (as defined in the Docks Regulations 1988) remain the responsibility of the HSE, and reference should be made to the HSE concordat. DfT is developing safety proposals for the application of a Marine Operations Code for Ports on which, as a non-devolved matter, they will consult the Assembly to the extent relevant to Welsh ports.

2.13 Policy and legislation, including casework, arising on Part II of the Coast Protection Act 1949 matters (except in respect of the impact of navigation works on coastal defences), Harbours Act 1964 matters (except in respect of fishery harbours) and other related issues in respect of tidal waters and ports, remain generally the responsibility of DfT, who will keep the Assembly informed from as early a stage as possible about policy developments and board appointments which are likely to be of interest to the Assembly in relation to ports, ferry services and other non-devolved matters, and before any public announcement is made.

2.14 The marine accident investigation function remains the responsibility of the Marine Accident Investigation Branch (MAIB) within DfT.

2.15 Regulatory, enforcement, search and rescue and counter-pollution functions remain the responsibility of DfT, largely exercised through the Maritime and Coastguard Agency (MCA). The successful conduct of search and rescue and counter-pollution operations will require the closest co-

operation between the MCA and the landward emergency services; MCA's regional management will pursue this liaison and the Assembly will have a standing invitation as observers to the UK Search and Rescue Maritime and Aviation, and Inland Committees.

2.16 DfT remains responsible for the development of maritime safety and regulatory standards. The MCA (or in some cases DfT) normally holds a briefing on the UK Government position before main Committee meetings of the International Maritime Organisation (IMO), to which the Assembly will have a standing invitation.

2.17 DfT retains the policy responsibility for the General Lighthouse Authorities and for the management of the General Lighthouse Fund across the United Kingdom and the Republic of Ireland.

### **Emergency Planning**

2.18 Responsibility for setting transport security requirements, for verifying that they are delivered, and for more general civil emergency planning in relation to railway, aviation and maritime industries remains with DfT, as non-devolved matters. In practice, the closest liaison between DfT, the Assembly and the emergency services and local authorities in Wales will be required in precautionary planning, in dealing with incidents and in facilitating subsequent investigation.

2.19 For incidents and emergencies arising from use of inland waters, the responsibilities of the Assembly, of the emergency services and of local authorities will parallel their responsibilities in normal circumstances. For all significant incidents, the Assembly will keep the MAIB informed (in case an investigation is required) and the MCA informed (in case it is necessary to proceed against those responsible under the Merchant Shipping Act).

2.20 DfT has responsibility for marine emergencies, including dealing with major spillages of oil and other hazardous substances at sea from ships and which threaten UK interests. However, the assessment of the environmental impact of marine accidents is devolved. DfT's Maritime and Coastguard Agency deals with marine emergencies and is the competent national authority as required by the OPRC Convention 1990. DfT and the Assembly will therefore liaise closely, as appropriate, on responses to marine emergencies. This will be within the framework of the UK National Contingency Plan.

2.21 MCA remains responsible for command and control arrangements in handling maritime emergencies and incidents, and will keep the Assembly informed on events in or affecting Welsh waters. For landward incidents in Wales, involving aircraft or rail services, the Assembly will keep DfT informed as required, and will encourage the relevant bodies in Wales to establish liaison machinery to do likewise.

### **State Aid Notification Procedures**

2.22 DfT's Europe and International Division (EID) provides advice on the application of transport state aid rules and assists in UK notifications to the Commission. All transport-related State Aid notifications should be submitted through EID using the procedures set out below.

2.23 The Assembly will consult with EID (who in turn will consult the DTI State Aid Policy Unit, Cabinet Office, FCO, UKRep and other Government Departments as necessary) before producing the notification and covering letter to the Commission.

2.24 EID will send the notification and letter to UKRep and the DTI State Aid Policy Unit; UKRep will send the notification and letter to the Commission Secretariat General, copying to the Assembly, EID and the DTI State Aid Policy Unit.

2.25 EID will relay to the Assembly and the DTI State Aid Policy Unit the Commission's decision together with any conditions attached to that decision.

### **Buses and Taxis**

2.26 DfT has general responsibility for policy affecting buses and taxis, as non-devolved matters.

2.27 The Assembly has limited powers in respect of taxi licensing, specifically to confirm bye-laws and to approve resolutions to amalgamate zones. The Assembly has powers in respect of subsidised public transport and administers the Local Transport Services Grant. The Assembly also has regulatory powers including those for concessionary fares, local authority owned bus companies, Quality Bus Partnerships and contracts, bus lane contravention penalties, grants to bus service operators and Traffic Commissioner penalties.

2.28 DfT and the Assembly will consult each other on buses and taxis matters affecting the other's responsibilities.

### **Standing Committee on Trunk Road Assessment (SACTRA)**

2.29 SACTRA will continue to advise the DfT Secretary of State on a UK-wide basis. Appointments will be made on individual merit with a view to achieving a balance between the relevant professional disciplines and expertise. The nature of the work prevents membership being allocated on an individual basis, but as vacancies arise, DfT will consult the Assembly about possible replacements.

### **The Commission for Integrated Transport (CfIT)**

2.30 CfIT will continue to advise the UK Government on transport issues on a UK-wide basis. Appointments will be on individual merit and DfT will consult the Assembly about possible appointments.