

Report on the Legislative Consent Memoranda for the Data (Use and Access) Bill

May 2025

1. Background

1. The Data (Use and Access) Bill (“the Bill”) was introduced in the House of Lords on 23 October 2024.
2. The long title of the Bill states that it is a Bill to:

“Make provision about access to customer data and business data; to make provision about services consisting of the use of information to ascertain and verify facts about individuals; to make provision about the recording and sharing, and keeping of registers, of information relating to apparatus in streets; to make provision about the keeping and maintenance of registers of births and deaths; to make provision for the regulation of the processing of information relating to identified or identifiable living individuals; to make provision about privacy and electronic communications; to establish the Information Commission; to make provision about information standards for health and social care; to make provision about the grant of smart meter communication licences; to make provision about the disclosure of information to improve public service delivery; to make provision about the retention of information by providers of internet services in connection with investigations into child deaths; to make



provision about providing information for purposes related to the carrying out of independent research into online safety matters; to make provision about the retention of biometric data; to make provision about services for the provision of electronic signatures, electronic seals and other trust services; and for connected purposes.”

3. Standing Order 29.1 provides that the Welsh Ministers must lay an Legislative Consent Memorandum where a UK Bill makes provision “in relation to Wales that has regard to devolved matters.”²
4. On 2 January 2025, the Welsh Government laid a Legislative Consent Memorandum (“the LCM”) for the Bill.³
5. On 7 January 2025 the Business Committee referred the LCM to the Culture, Communications, Welsh Language, Sport, and International Relations Committee (“the Committee”), the Economy, Trade, and Rural Affairs Committee, the Climate Change, Environment, and Infrastructure Committee, the Equality and Social Justice Committee and the Legislation, Justice and Constitution Committee with a reporting deadline of 7 March 2025,⁴ which was subsequently extended by the Business Committee to 14 March 2025⁵ and then to 28 March 2025.⁶
6. A Supplementary Legislative Consent Memorandum (“SLCM No.2”) was laid on 12 March 2025.⁷ On 18 March 2025, the Business Committee allocated the SLCM to the same committees for scrutiny, with a reporting deadline of 2 May 2025.⁸ At the same time, the reporting deadline for the first LCM was extended to the same date.

¹ UK Parliament, [Data \(Use and Access\) Bill](#)

² Welsh Parliament, [Standing Orders of the Welsh Parliament](#), January 2025

³ Welsh Government, [Legislative Consent Memorandum: Data \(Use and Access\) Bill](#)

⁴ Welsh Parliament, [Timetable for consideration: Legislative Consent Memorandum on the Data \(Use and Access\) Bill](#), January 2025

⁵ Welsh Parliament, [Revised timetable for consideration: Legislative Consent Memorandum on the Data \(Use and Access\) Bill](#), January 2025

⁶ Welsh Parliament, [Revised timetable for consideration: Legislative Consent Memorandum on the Data \(Use and Access\) Bill](#), February 2025

⁷ Welsh Government, [Supplementary Legislative Consent \(Memorandum No.2\): Data \(Use and Access\) Bill](#)

⁸ Welsh Parliament, [Timetable for consideration: Supplementary Legislative Consent Memorandum \(No.2\) on the Data \(Use and Access\) Bill](#)

7. A further SLCM (SLCM No.3) was laid on 3 April 2025,⁹ and another (SLCM No.4) on 28 April 2024.¹⁰ On 29 April 2025, the Business Committee referred both SLCMs to us with a reporting deadline of 2 May 2025. Given this very short timescale, we have been unable to consider SLCMs No.3 and No.4. Therefore, this report focuses only on the original LCM and SLCM (No.2).

2. Data Protection and Digital Information Bill

8. The Data Protection and Digital Information Bill (“the DPDI Bill”) was introduced in the House of Commons on 8 March 2023, but failed to complete its passage through the UK Parliament before the 2023-24 session of Parliament was dissolved prior to the 2024 General Election.¹¹

9. Paragraph 8 of the LCM states that: “Many of the Bill’s provisions align with provisions included in the previous DPDI Bill.”¹²

10. The DPDI Bill was subject to the legislative consent process with legislative consent memoranda laid in the Senedd on 29 March 2023,¹³ 25 May 2023,¹⁴ 11 December 2023¹⁵ and 25 April 2024.¹⁶ A legislative consent motion was debated on 14 May 2024 in which the Welsh Government recommended that the Senedd withhold its consent due to constitutional concerns with a number of the Bill’s provisions. The Senedd subsequently withheld its consent following a vote in Plenary.¹⁷

11. Paragraph 36 of the LCM goes on to say that:

⁹ Welsh Government, [Supplementary Legislative Consent \(Memorandum No.3\): Data \(Use and Access\) Bill](#)

¹⁰ Welsh Government, [Supplementary Legislative Consent \(Memorandum No.4\): Data \(Use and Access\) Bill](#)

¹¹ UK Parliament, [Data Protection and Digital Information Bill](#)

¹² Welsh Government, [Legislative Consent Memorandum: Data \(Use and Access\) Bill](#)

¹³ Welsh Government, [Legislative Consent Memorandum: Data Protection and Digital Information \(No.2\) Bill](#)

¹⁴ Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No.2\): Data Protection and Digital Information \(No.2\) Bill](#)

¹⁵ Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No.3\): Data Protection and Digital Information Bill](#)

¹⁶ Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No.4\): Data Protection and Digital Information Bill](#)

¹⁷ Welsh Parliament, [Plenary, Record of Proceedings](#), 14 May 2024

“With the previous DPD Bill, there were a number of provisions which touched upon devolved matters but did not align with the Welsh Government’s Principles on UK legislation.”¹⁸

12. Paragraph 36 of the LCM explains which of these concerns have, in the Welsh Government’s view, been resolved in the Bill. Paragraphs 37 to 40 of the LCM go on to set out concerns that the Welsh Government continues to have with provisions of the Bill that, as currently drafted, do not align with its principles on UK legislation.

3. The LCM

13. In the LCM, the Welsh Government expresses support for the policy intention behind the Bill.

14. However, it also expresses concerns from a constitutional perspective, many of which mirror concerns previously set out by the Welsh Government in relation to the DPD Bill. The LCM explains, at paragraph 50, that the Welsh Government is engaging with the UK Government on these matters at both Ministerial and official level. The LCM also states, at paragraph 37, that some of the Bill’s provisions, as currently drafted, do not align with the Welsh Government’s principles on UK legislation.

15. Paragraphs 38-40 of the LCM set out, in the Welsh Government’s view, the key matters to be resolved, namely:

- The provision of regulation making powers to the Secretary of State and the Treasury in devolved areas in **Part 1** of the Bill (Access to customer data and business data).
- The powers provided to the Secretary of State in **clause 49** of the Bill (Code of practice about the disclosure of information) to prepare and publish a Code of Practice, which would be applicable to Welsh public authorities, in an area which is devolved.
- The requirement placed by **clause 56** (National Underground Asset Register: England and Wales) on the Secretary of State to consult the

¹⁸ Welsh Government, Legislative Consent Memorandum: Data (Use and Access) Bill

Welsh Ministers prior to making regulations under the new Part 3A of the 1991 Act, as inserted by the Bill.

- The provision of concurrent regulation making powers under **clause 57(3)** (Information in relation to apparatus: England and Wales) to the Secretary of State and the Welsh Ministers, with a requirement being placed on the Secretary of State to consult with the Welsh Ministers before making regulations under section 79 of the New Roads and Street Works Act 1991.
- The provision of regulation making powers to the Secretary of State only under amendments made to section 80 of the 1991 Act by **clause 57(4)** of the Bill, with a requirement being placed on the Secretary of State to consult the Welsh Ministers before making regulations under that section.
- The revocation of Senedd-approved legislation, namely the Street Works (Records) (Wales) Regulations 2005 , by **clause 57(9)** of the Bill, and the extension of the application of the Street Works (Records) (England) Regulations 2002 so that they apply to both England and Wales, rather than just England.

16. Paragraph 36 of the LCM explains that some concerns regarding the transfer of regulation making powers from the Welsh Ministers to the Secretary of State under section 79 of the New Roads and Street Works Act 1991, as previously proposed under the DPDI Bill, have now been resolved, due to the removal of certain provisions regarding the National Underground Asset Register. However, we note that those powers are currently exercised solely by the Welsh Ministers . The LCM also states, at paragraph 40, that the proposal for powers under the amended section 79 to be exercised concurrently are considered matters by the Welsh Government still to be resolved. We also note that many powers relating to the National Underground Asset Register (“NUAR”) would be exercisable solely by the Secretary of State in relation to Wales.

17. The LCM does not expressly state the Welsh Government’s position as to whether consent should be granted. The Cabinet Secretary states, at paragraph 51 of the LCM, that she will provide further updates to the Senedd on the Welsh Government’s position in relation to the Bill following further engagement with the UK Government.

Provisions for which consent is sought

18. Paragraphs 13 to 27 of the LCM list the clauses that the Welsh Government say require the Senedd's consent under Standing Order 29.

Part 1 – Access to Customer Data and Business Data, clauses 1-13 and 18-26

19. Clauses 1-13 and 18-26 make provision about the sharing of customer and business information to improve data portability and establishes a regulatory framework for the setting up of Smart Data schemes.

20. Smart Data is the secure sharing of customer data, upon the customer's request, with authorised third-party providers ("ATPs"). ATPs can typically be defined as organisations who are neither the customer nor original service provider (e.g. banks) and are offering services to the customer. As an example, this could be used for automatic switching and account management. Open Banking is the only active example of a regime comparable to a 'Smart Data scheme'.

21. Paragraph 35 of the LCM explains that the policy intent for these provisions is to "improve data portability, enabling customers to make better use of their personal data; to benefit from a more competitive marketplace; helping consumers save and manage their money and services and to provide access to new and more innovative services in and across the sectors."

22. Together these clauses provide the Secretary of State and the Treasury with a number of regulation making powers. This would enable Smart Data schemes to be established via regulations, requiring suppliers and other relevant persons to share data in the manner prescribed in regulations. These regulations would specify the scope of the scheme, the data required to be published or shared by "data holders", the framework for the set up and management of the scheme, including the accreditation of third parties, provision of enforcement by a specified public body, and the payment of fees and levies. These provisions also enable the Secretary of State or Treasury to give financial assistance to enforcers to cover expenses.

Part 2 – Digital Verification Services – Information Gateway, clauses 45, 47 and 49

23. Much of Part 2 of the Bill is reserved but seeks to establish a legislative framework for the provision of Digital Verification Services ("DVS") in the UK, where providers for those services wish to be registered on a government

register. The Explanatory Notes to the Bill state, at paragraph 22, that these provisions “aim to increase trust in and acceptance of digital identities across the UK to help make identity proofing easier, cheaper and more secure and to enable a trusted digital identity market to develop in the UK for those that choose to use it to prove things about themselves, for example when starting a new job or moving house.”

24. The provisions enable public authorities to disclose personal information to registered DVS providers for the purpose of identity and eligibility verification. DVS providers will need to comply with the rules of the legislative structure if they wish to be registered on a government register, use a Trust mark and access an information gateway through which public authorities will be permitted to share information. The Senedd’s consent is sought in relation to the ‘information gateway’ provisions.

25. Clause 45 (Power of public authority to disclosure information to registered person) establishes a new information gateway and confers a permissive power on public authorities to provide personal information about individuals to identity service providers providing trust-marked DVS. It contains protections for both the public authority and the data subject. For example, clause 45(3)(a) provides that a disclosure of information under this clause does not breach any obligation of confidence owed by the public authority, or any other restriction on the disclosure of information, although this does not authorise a disclosure which would contravene data protection legislation (clause 45(4)(a)). But a disclosure can only be made with the individual’s consent (clause 45(1)(b)) and in the exercise of public functions (clause 45(5)).

26. Clause 47 (Information disclosed by the Welsh Revenue Authority) prevents further disclosure of information provided by the Welsh Revenue Authority (“WRA”) under clause 45 otherwise than for the purpose of providing DVS, without the consent of the WRA. The clause makes it an offence to disclose information without consent.

27. Clause 49 (Code of Practice about the disclosure of information) gives power to the Secretary of State to publish a Code of Practice regarding the disclosure of information under clause 45, which public authorities sharing data for DVS must have regard to. Under clause 49(5), the Secretary of State is required to consult with the Welsh Ministers when preparing or revising the Code.

Part 3 – National Underground Asset Register, clauses 56, 57, 60(1) and Schedule 1

28. The National Underground Asset Register (NUAR) is a digital map of underground pipes and cables. Part 3 of the Bill amends the New Roads and Street Works Act 1991 by inserting a new Part 3A into that Act to put the NUAR on a statutory footing by imposing a duty on the Secretary of State to keep a register (i.e. NUAR) and make the information on that register available to other persons (**clause 56** in relation to England and Wales).

29. The Secretary of State must consult the Welsh Ministers before making regulations under this Part.

30. **Clause 57** (Information in relation to apparatus: England and Wales) amends section 79 of the 1991 Act, and replaces the existing (but not yet commenced) section 80 of that Act. Many of the new provisions relating to NUAR deal with how the register will be populated with information and how it will operate in the future.

31. The amendments to section 79, among other things, require “undertakers” to record certain information related to apparatus and to enter information into NUAR. Section 79 of the 1991 Act already imposes a number of record-keeping requirements on undertakers in relation to items of apparatus belonging to them. For example, section 79(1) requires that, as soon as reasonably practicable after specific events occur, an undertaker records the location of every item of apparatus belonging to them, including their nature (if known) and whether it is for the time being in use. The amendments made by the Bill impose a duty on undertakers to record other information beyond that they are already required to record.

32. Existing provisions in section 79 confer powers to “prescribe” certain matters. In relation to Wales, these functions are already conferred on the Welsh Ministers. The Bill amends these provisions so that matters can be prescribed by the Secretary of State or the Welsh Ministers in relation to apparatus in streets in Wales, although the Secretary of State is required to consult the Welsh Ministers in relation to the exercise of these powers.

33. The new section 80 imposes duties on persons executing works of any description in a street to take other certain steps where they identify missing or incorrect information in existing records, or where they find apparatus and cannot ascertain its owner. A person who fails to take these steps commits a

criminal offence. The Secretary of State is provided with regulation making powers to prescribe matters where this duty will not apply. This power is not extended to the Welsh Ministers, who must instead be consulted before this power is exercised by the Secretary of State. This removes existing, but uncommenced, powers from the Welsh Ministers in relation to Wales.

34. Clause 57(9) revokes the Street Works (Records) (Wales) Regulations 2005, which prescribe the form of records of apparatus placed in streets to be kept by undertakers in accordance with the provisions of section 79 of the 1991 Act. Clause 57(8) extends the application of the Street Works (Records) (England) Regulations 2002 so that they apply to both England and Wales, rather than just England.

35. Clause 60(1) (Pre-commencement consultation) provides that a requirement to consult (under a provision which is inserted into the 1991 Act by clauses 56 or 57) may be satisfied by consultation undertaken before the day on which the Bill is passed.

36. Schedule 1 (National Underground Asset Register (England and Wales): monetary penalties) inserts a new Schedule 5A into the 1991 Act which makes provision about monetary penalties for non-compliance with the requirements to pay a fee and provide information set out in the new Part 3A of that Act.

Part 7 – Information to improve public service delivery, clause 121

37. Clause 121 extends the data sharing powers in section 35 of the Digital Economy Act (“DEA”), which permit specified public authorities (known as a “specified person” in the DEA) to share data to improve the delivery of public services to individuals and households for a “specified objective”. This clause extends these powers to include improving the delivery of services to “undertakings”, meaning businesses and bodies established for charitable purposes.

38. Section 35 of the DEA contains delegated powers to (i) specify data sharing objectives, and (ii) specify public authorities that can share data for a specified objective. The DEA allows the “appropriate national authority”, which means the Welsh Ministers in relation to Welsh bodies, to make regulations to add “specified persons” and to specify “specified objectives”.

39. By extending clause 121 to allow specified persons to share data for specified objectives to improve the delivery of public services to undertakings, this will have the consequence of extending a pre-existing Henry VIII power exercisable

by Welsh Ministers by allowing greater scope as to the specified objectives that may be prescribed in regulations. In other words, the Welsh Ministers will be able to specify objectives designed to improve the delivery of services to undertakings, as well as individuals and households.

Delegated powers

40. The Bill contains numerous provisions which confer regulation making powers on the Secretary of State and the Treasury, including in devolved areas. Some of these powers are to be exercised solely by the Secretary of State or the Treasury. Others are exercised concurrently with the Welsh Ministers in relation to Wales. The UK Government's justification for the conferral of these powers and the taking of powers in certain areas is set out in its Delegated Powers Memorandum.

Reasons for making these provisions for Wales

41. Paragraph 34 of the LCM explains the reasons for making provision for Wales in this UK Bill:

*"The vast majority of the provisions within the Bill relate to the reserved matters reserved under the data protection reservation, the sale and supply of goods and services to consumers reservation, the telecommunications reservation and the reservation for the registrations of births, deaths and places of worship, as set out in Schedule 7A to the Government of Wales Act 2006. As such, I believe it may be appropriate for these provisions to be made through a UK Bill."*¹⁹

42. Paragraph 49 of the LCM goes on to state:

*"It is my view that it is appropriate to deal with these provisions in this UK Bill, as the Bill represents the most effective way for these provisions to come into force."*²⁰

¹⁹ Welsh Government, [Legislative Consent Memorandum: Data \(Use and Access\) Bill](#)

²⁰ Welsh Government, [Legislative Consent Memorandum: Data \(Use and Access\) Bill](#)

EU Data Adequacy

43. The European Commission has the power to determine whether a country outside the European Union offers adequate levels of data protection. An adequacy decision means that no further safeguards are necessary for the flow of personal data from the EU, Norway, Liechtenstein and Iceland (the European Economic Area) to third countries, such as the UK.

44. The EU adopted two adequacy decisions for the UK on 28 June 2021, one under the General Data Protection Regulation (GDPR) and the other under the Law Enforcement Directive (LED). Unless extended, the decisions will last until 27 June 2025.

45. Paragraphs 41-45 of the LCM set out the Welsh Government's concerns regarding the Bill's potential impact on the UK's current adequacy decisions. They include concerns relating to trade:

“any potential loss of EU data adequacy is a key concern from a trade perspective as this would be a major threat for Welsh exporting businesses whose main overseas market continues to be the EU. There are a significant number of high-value Welsh businesses which rely on smooth data transfers with the EU, particularly multinationals with parent or sister companies based in EU countries. If the UK lost its data adequacy status, implementation of the safeguards required by the EU would mean additional administrative and reporting requirements for EU businesses and disruption for Welsh businesses, as they would also need to undertake additional, potentially costly, compliance activities”²¹

46. The LCM goes on to say that the loss of adequacy could also impact public service delivery where there is reliance on the flow of personal data from the EU, for example within education and local government. There is a particular focus on risks from a Health perspective:

“from a Health perspective the risks are even more significant - the loss of data adequacy would potentially have an effect on the Welsh NHS, impacting aspects of our cooperation with the EU on health. For

²¹ Welsh Government, [Legislative Consent Memorandum: Data \(Use and Access\) Bill](#)

example, access to data for existing reciprocal healthcare arrangements, protection of public health security, continuity for medical research, innovation and crossborder information flows”.²²

47. Similar concerns were raised as part of scrutiny relating to the DPD Bill. The LCM explains that the Bill contains some, but not all, of the provisions which caused concern previously, and that the Welsh Government is carrying out a detailed assessment of the potential, as well as engaging with the UK Government.

Financial implications

48. At paragraphs 46-48 of the LCM, the Welsh Government states that:

“46. Part 1, Access to Customer Data and Business Data - includes powers to impose fees on data holders and others and to impose a levy on data holders and others. The UK Government indicates these are intended to cover the costs incurred by decision-makers and enforcers in exercising their functions. It states the provisions aim to ensure schemes are self-funding and not reliant on public funds.

47. Part 2, Digital Verification Services - the UK Government expects some public sector organisations to have direct familiarisation costs as a result of this legislation. The UK Government also expects some UK businesses to face indirect costs, including those which choose to become certified against the UK digital identities and attributes trust framework and registered in the Digital Verification Services register. The UK Government also expects UK businesses to face indirect annual costs in the form of fees levied by public sector organisations to connect to government-held datasets and to check data. These fees are intended to offset public sector costs and maintain value for money for the taxpayer.

48. Part 3, National Underground Asset Register - UK Government’s intention is for the NUAR’s running costs to be funded through fees paid by those who benefit from the service (and not the taxpayer). Through regulations the Secretary of State may create a fees scheme

²² Welsh Government, [Legislative Consent Memorandum: Data \(Use and Access\) Bill](#)

and may require undertakers with apparatus in a street to pay fees to fund the operation of the NUAR service. The intended approach is that the fees will be targeted at covering the operating and are not to generate additional revenue beyond this.”²³

Delay in laying the LCM

49. Standing Order 29.2 provides that a member of the government must lay a memorandum in relation to any UK Government Bill that is a relevant Bill on its introduction to the first House, “normally no later than 2 weeks after introduction”.²⁴

50. The Bill was introduced in the House of Lords on 23 October 2024. On 30 October 2024, the Cabinet Secretary wrote to the Llywydd to explain that the complexity and length of the Bill meant that a delay in laying an LCM in relation to the Bill was likely.²⁵

51. The LCM was eventually laid before the Senedd on 2 January 2025, more than 10 weeks after the Bill was introduced in the first House.

52. We note that the Scottish Government laid its LCM in relation to the Bill before the Scottish Parliament on 22 November 2024.

4. Trade and Cooperation Agreement

53. The LCM does not include an assessment of the Data Bill’s interaction with the Trade and Cooperation Agreement (“TCA”).

54. In our International Relations Annual Report 2022-23 we called on the Welsh Government to routinely include detailed analysis of the Trade and Cooperation Agreement where UK-EU matters are cited in their Legislative Consent Memoranda.²⁶ The Welsh Government accepted this recommendation, noting:

²³ Welsh Government, [Legislative Consent Memorandum: Data \(Use and Access\) Bill](#)

²⁴ Welsh Parliament, [Standing Orders of the Welsh Parliament](#), January 2025

²⁵ Welsh Parliament, [Letter from the Cabinet Secretary for Economy, Energy and Planning to the Llywydd regarding the Legislative Consent Memorandum on the Data \(Use and Access\) Bill, 30 October 2024](#)

²⁶ Welsh Parliament, [Culture, Communications, Welsh Language, Sport, and International Relations Committee: International Relations Annual Report 2022-23](#)

*"The example of the potential impact of the Data Protection and Digital Information (No.2) Bill on the TCA is a very good one for cases where proposed UK legislation needs to take account of the Agreement. I am happy to agree that Welsh Government LCMs on Bills that impact on the TCA should set out our assessment of such an impact."*²⁷

55. The Cabinet Secretary for Economy, Energy and Planning, Rebecca Evans MS, wrote to us on 5 February 2025 noting the Welsh Government's view that the Bill "will not have a direct or immediate impact" on the UK's compliance with the TCA. However, she went on to say:

*"we are concerned that this Bill could signal the beginning of the UK's divergence from the data protection regime currently in place across the EU by diluting the protections provided by UK legislation set out in the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA). Regulatory divergence over the medium-to-long-term has the potential to undermine the data protection provisions in the TCA across a broad range of policy areas, including digital trade which is essential for public services and private businesses, and law and enforcement."*²⁸

5. SLCM (No.2)

Provisions for which consent is sought

56. Clause 8 of the Bill is amended by amendments 1, 2, 3 and 5. Clause 8(5) provides that regulations made by the Secretary of State or the Treasury may make provision enabling an enforcer to issue a compliance notice requiring compliance with a condition for authorisation or approval to receive customer data or business data. **Amendment 1** is a technical amendment that amends a

²⁷ Welsh Government, Response to Culture, Communications, Welsh Language, Sport, and International Relations Committee: International Relations Annual Report 2022-23

²⁸ Welsh Parliament, Letter from the Cabinet Secretary for Economy, Energy and Planning: Providing the Welsh Government's assessment of the impact of the Data (Use and Access) Bill on the Trade and Co-operation Agreement, 5 February 2025

reference to those conditions in clause 8(5)(a)(ii) to reflect the fact that conditions may not be imposed solely by decision-makers.

57. Amendments 2, 3 and 5 provide that regulations made under clause 8 may require enforcers to publish or produce documents as well as information, therefore widening the scope of those regulation-making powers.

58. Clause 10 of the Bill makes provision for financial penalties in relation to Smart Data schemes and imposes safeguards on their use.

59. Amendment 6 confers an additional power on the Secretary of State and the Treasury to make provision in regulations about the treatment of amounts paid to enforcers as penalties. In other words, what may or must be done with those amounts paid.

Welsh Government's position on consent

60. SLCM (No.2) does not expressly state the Welsh Government's position as to whether consent should be granted.

61. The Welsh Government reaffirms its support for the policy intent behind the Bill in paragraph 24 of SLCM (No.2). However, it indicates that there remain concerns from a constitutional perspective in relation to the devolved implications of a number of provisions in the Bill.

62. The Cabinet Secretary states, at paragraph 25 of SLCM (No.2), that the Welsh Government is "continuing to engage positively with UK Government at both Ministerial and official level on the role of the Welsh Ministers and the Senedd within the Bill on these matters."

63. SLCM (No.2) states that concerns remain in relation to the impact the Bill may have on the UK's Data Adequacy status and that discussions between the Welsh and UK Governments are ongoing at both Ministerial and official level.

64. SLCM (No.2) does not include an assessment of the Bill's interaction with the TCA.

6. Committee consideration

65. As the Committee responsible for international relations, we have considered the Bill from the perspective of UK-EU relations.

66. We initially considered the LCM at our meeting on 29 January 2025.

67. We further considered the LCM at our meeting on 19 February 2025 when we noted the letter from the Cabinet Secretary for Economy, Energy and Planning regarding the Welsh Government's assessment of the impact of the Bill on the Trade and Cooperation Agreement.²⁹

68. We considered SLCM (No.2) at our meeting on 2 April 2025.

69. We have not been able to consider SLCM (No.3) and SLCM (No.4) due to the lack of time available for scrutiny.

Our view

70. We are disappointed that there was a 10 week delay in laying the LCM, given that Stranding Order 29.2 provides that a memorandum should be laid "normally no later than two weeks after introduction". As a result of the delay, we have had limited time for scrutiny.

71. Data-sharing between the UK and EU is a crucial element of post-Brexit UK-EU relations.

72. We share the Welsh Government's concerns regarding the Bill's potential impact on the current and future adequacy decisions, particularly in relation to trade and public services delivery. Most private businesses and public services in Wales rely on cross-border data flows, and the loss of adequacy could affect other areas of data sharing, including law enforcement.

73. We are even more concerned about the potential effects of the Bill on EU data adequacy and the TCA when considered in the context of future UK-EU relations. The First Minister's recent letter to us on 28 January 2025 lists "ensuring retention of EU Data Adequacy for Welsh businesses trading with the EU" as a priority for the TCA review.³⁰

74. Given that the retention of EU data adequacy is clearly a priority for the Welsh Government, the potential loss of EU data adequacy as a result of the Bill

²⁹ Welsh Parliament, [Letter from the Cabinet Secretary for Economy, Energy and Planning: Providing the Welsh Government's assessment of the impact of the Data \(Use and Access\) Bill on the Trade and Co-operation Agreement, 5 February 2025](#)

³⁰ Welsh Parliament, [Letter from the First Minister: Responding to the Committee's letter of 23 December 2024 on the Welsh Government International Relations, 28 January 2025](#)

and the “major” threat this would pose for Welsh exporting businesses is particularly concerning.

75. The Cabinet Secretary’s letter to us dated 5 February 2025 notes that “the UK Government has provided assurances that it sees no threat to the adequacy agreement by the Bill.”³¹ We note that the Welsh Government has no evidence to prove or disprove this despite requesting that the UK Government shares a copy of its risk assessment on this matter. We are disappointed and concerned that this has not been shared with the Welsh Government, and believe that this should be rectified as a matter of urgency. We have therefore written directly to the UK Government reiterating the Welsh Government’s request and expressing our concern that the assessment is yet to be shared. We are disappointed that we have not received a response from the UK Government.

76. We are concerned that SLCM (No.2) does not provide an update in relation to the impact the Bill may have on the UK’s Data Adequacy status. We note that the European Commission on 18 March 2025 announced a proposal to extend the UK’s data adequacy by six months, to 27 December 2025, to allow time for the legislative process to conclude in the UK. It said the Commission could then:

“assess whether the UK continues to provide an adequate level of protection for personal data. If that assessment is positive, the Commission will propose to renew the UK adequacy decisions.”

77. We are disappointed that neither the LCM nor SLCM (No.2) include a TCA analysis, despite the Welsh Government accepting our recommendation that LCMs on Bills that impact on the TCA should set out the Welsh Government’s assessment of such an impact.

78. We note that the Welsh Government does not believe that the Bill will have a direct or immediate impact on the UK’s compliance with the TCA. However we note that the Welsh Government is now of the view that TCA data protection provisions could be undermined should the Bill lead to UK-EU divergence. We share the Welsh Government’s concerns that the Bill could signal the beginning of the UK’s divergence from the data protection regime currently in place across

³¹ Welsh Parliament, Letter from the Cabinet Secretary for Economy, Energy and Planning: Providing the Welsh Government’s assessment of the impact of the Data (Use and Access) Bill on the Trade and Co-operation Agreement, 5 February 2025.

the EU, and the effect this could have on private businesses and public services, as well as law enforcement.

79. We note that SLCM (No.2) does not include an updated assessment of the Bill's interaction with the TCA. We therefore ask that the Cabinet Secretary provides us with an update on whether the amendments reduce or increase the likelihood of divergence on data protection between the UK and EU.

Conclusion 1. The Welsh Government should update us on whether the amendments to the Bill reduce or increase the like likelihood of divergence on data protection between the UK and EU.

Conclusion 2. We share the Welsh Government's concerns on the potential loss of the UK's EU adequacy decisions and the potential for the Trade and Cooperation Agreement to be undermined in future should the Bill lead to UK-EU divergence. We want to see these concerns resolved as a matter of urgency. Should these concerns not be resolved in a timely manner, the Committee would probably recommend that the Senedd **withholds** its consent for the UK Government to legislate on these devolved matters.