

Report on the Statutory Instrument Consent Memorandum for the Legislative Reform (Disclosure of Adult Social Care Data) Order 2025

June 2025



1. Background

- 1.** Standing Order 30A states that a member of the government must lay a statutory instrument consent memorandum in relation to any statutory instrument, or draft statutory instrument, laid before the UK Parliament by UK Ministers which makes provision in relation to Wales amending primary legislation within the legislative competence of the Senedd.
- 2.** On 23 May 2025, Jayne Bryant MS, the Cabinet Secretary for Housing and Local Government (the Cabinet Secretary), laid before the Senedd a statutory instrument consent memorandum (the Memorandum)¹ in respect of the draft Legislative Reform (Disclosure of Adult Social Care Data) Order 2025 (the Order), in accordance with Standing Order 30A. Alongside the Memorandum she laid a copy of the Order², an explanatory document produced by the UK Government³, and an impact assessment completed by the UK Government⁴. The Cabinet Secretary also issued a written statement in respect of the Memorandum⁵, and on 30 May 2025 informed the Committee of the Memorandum's laying⁶.
- 3.** A draft of the Order was laid before the UK Parliament on 21 May 2025, and will be made by the UK Government using the power to make legislative reform orders in section 1 of the *Legislative and Regulatory Reform Act 2006* (the LRRRA 2006). The Welsh Ministers have no equivalent powers to make a legislative reform order under the LRRRA 2006.
- 4.** In accordance with section 11(1) of the LRRRA 2006, it is only with the agreement of the Senedd that legislative reform orders may make provision which would be within the legislative competence of the Senedd if the provision were contained in an Act of Senedd Cymru. The Cabinet Secretary states in her letter of 30 May 2025 that she intends to table a motion to seek the Senedd's agreement to the inclusion of devolved provision in the Order.
- 5.** As stated in its accompanying Explanatory Note, the purpose of the Order is to reduce financial burdens on local authorities by assisting in the recovery of

¹ Welsh Government, [Statutory Instrument Consent Memorandum: The Legislative Reform \(Disclosure of Adult Social Care Data\) Order 2025](#), 23 May 2025

² [Draft Legislative Reform \(Disclosure of Adult Social Care Data\) Order 2025](#)

³ [Legislative Reform \(Disclosure of Adult Social Care Data\) Order 2025, Explanatory Document](#)

⁴ [Legislative Reform \(Disclosure of Adult Social Care Data\) Order 2025, Impact Assessment](#)

⁵ Welsh Government, [Written Statement: Statutory Instrument Consent Memorandum in relation to The Legislative Reform \(Disclosure of Adult Social Care Data\) Order 2025](#), 23 May 2025

⁶ [Letter from the Cabinet Secretary for Housing and Local Government, 30 May 2025](#)

money lost through fraud and error. It also seeks to eliminate an administrative inconvenience on local authorities.

6. In particular, the Order amends paragraph 4 of Schedule 9 to the *Local Audit and Accountability Act 2014* (the LAAA 2014) and section 64D of the *Public Audit (Wales) Act 2004* (the PAWA 2004) to enable the recommencement of the matching and sharing of adult social care data across local authorities in England and Wales, respectively. According to the UK Government's explanatory document:

*"This will enable the National Fraud Initiative (NFI)⁷, a team within the Cabinet Office's Public Sector Fraud Authority, to use this data in its data matching activities to identify and prevent fraud and error in the adult social care system. This will generate an estimated minimum impact of £4.6m in prevented fraud loss across the UK, over each two-year period."*⁸

2. The Statutory Instrument Consent Memorandum

7. The Cabinet Secretary states at paragraph 5 of the Memorandum that the Order contains provisions that fall within the legislative competence of the Senedd and therefore requires the Senedd's consent.

8. The Cabinet Secretary provides further detail about the purpose of the amendments made by the Order:

"Section 64C of the PAWA 2004 (and Schedule 9 to the LAAA 2014) define "patient data" as meaning data relating to an individual which are held for medical purposes (within the meaning of section 251 of the National Health Service Act 2006).

Until 2016, "medical purposes" in section 251 was defined as meaning the purposes of any of "(a) preventative medicine, medical diagnosis, medical research, the provision of care and

⁷ The NFI works across the United Kingdom in partnership with Audit Wales, Audit Scotland and the Northern Ireland Audit Office.

⁸ Legislative Reform (Disclosure of Adult Social Care Data) Order 2025, Explanatory Document, paragraph 2.2

treatment and the management of health and social care services, and (b) informing individuals about their physical or mental health or condition, the diagnosis of their condition or their care and treatment.”

However, in January 2016, that definition was amended by the Cities and Local Government Devolution Act 2016, which defined “care” as including “local authority social care”. The amendment to section 251 of the NHS Act had the effect of aligning local authority social care data with ‘patient data’ for the purposes of PAWA. This meant that the results of data matching using patient social care data could only be shared with ‘relevant NHS bodies’ and could no longer be shared with local authorities.

This Order makes provision to reverse the unintended effects of the amendments made to the definitions in section 251 of the National Health Service Act 2006 which are relied on in PAWA 2004 and the LAAA 2014 to once again allow the NFI to share matched adult social care data with local authorities.”⁹

- 9.** At paragraphs 12 and 13 of the Memorandum, the Cabinet Secretary summarises the provisions to be made by the Order for which consent is sought:

“The Order will amend paragraph 4 of Schedule 9 to the Local Audit and Accountability Act 2014 to add a provision that exempts matched “adult local authority social care” data from a restriction on disclosure. The Order will also amend an equivalent provision of section 64D of the Public Audit (Wales) Act 2004.

It is the view of the Welsh Government that the provisions described in paragraph 12 above make provision in relation to Wales and amend primary legislation within the legislative competence of the Senedd.”

- 10.** The Cabinet Secretary expresses her view that it is appropriate to deal with these provisions in the Order, and that the power in section 1 of the LRA 2006 is exercisable only by a Minister of the Crown.¹⁰

⁹ Memorandum, paragraphs 8 to 11

¹⁰ Memorandum, paragraph 18

11. The Cabinet Secretary also summarises the likely benefits to local authorities by the inclusion of the provisions¹¹, including expected financial benefits¹². The Cabinet Secretary further states that there are no anticipated financial implications for the Welsh Government as a result of the Order.¹³

3. Committee consideration

12. We considered the Memorandum at our meeting on 23 June 2025.¹⁴

Our view

13. We note, and agree with, the Welsh Government's assessment of the provisions within the Order which require the consent of the Senedd.

14. We similarly note that the Senedd's agreement is required to enable the Order to be made by the UK Government, and that the Cabinet Secretary has tabled a motion for debate on Tuesday 1 July 2025¹⁵ to seek that agreement.

¹¹ Memorandum, paragraphs 15 to 18

¹² Memorandum, paragraph 19

¹³ Memorandum, paragraph 19

¹⁴ ~~Legislation, Justice and Constitution Committee~~, 23 June 2025

¹⁵ Senedd Cymru, ~~Plenary~~, 1 July 2025