

The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 5) on the Mental Health Bill

October 2025



1. Background

The Mental Health Bill

1. The Mental Health Bill¹ (the Bill) was introduced into the House of Lords on 6 November 2024. It is sponsored by the Department of Health and Social Care.

2. The long title to the Bill states that it is a Bill to:

“Make provision to amend the Mental Health Act 1983 in relation to mentally disordered persons; and for connected purposes.”²

3. The *Mental Health Act 1983* (the 1983 Act) provides a legal framework to authorise the detention and compulsory treatment of people who have a mental disorder and are considered at risk of harm to themselves or others.

4. The Explanatory Notes to the Bill as introduced state that:

“The measures in this Bill are generally intended to strengthen the voice of patients subject to the Act. They add statutory weight to patients’ rights to be involved in planning for their care, and to inform choices regarding the treatment they receive. The reforms will increase the scrutiny of detention to ensure it is only used when, and as long, as necessary. The Bill also seeks to limit the use of the Act to detain people with a learning disability and autistic people.”³

5. The Bill completed its passage through the House of Lords on 23 April 2025. It subsequently received its First and Second Readings in the House of Commons.⁴ At the time this report was agreed, the Bill had completed its Committee Stage but a date for Report Stage had not been announced.

¹ Mental Health Bill, as introduced (HL Bill 47)

² Mental Health Bill, as introduced

³ Mental Health Bill, Explanatory Notes, 6 November 2024, paragraph 2

⁴ Mental Health Bill, as brought from the Lords (Bill 225)

The Welsh Government's previous Memoranda

- 6.** Standing Orders 29.1 and 29.2 provide that a legislative consent memorandum is required when a relevant Bill before the UK Parliament makes provision in relation to Wales that has regard to devolved matters.
- 7.** On 21 November 2024, Sarah Murphy MS, Minister for Mental Health and Wellbeing (the Minister), laid before the Senedd a Legislative Consent Memorandum (the Memorandum) in respect of the Bill.⁵
- 8.** The Minister subsequently laid a Supplementary Legislative Consent Memorandum (Memorandum No. 2) on 10 January 2025 in respect of amendments tabled by the UK Government to the Bill at Lords Committee Stage.⁶
- 9.** We reported on these memoranda on 4 April 2025 (our first report).⁷ The Welsh Government provided its response to our first report on 13 June 2025.⁸
- 10.** On 8 April 2025, the Minister laid a further Supplementary Legislative Consent Memorandum (Memorandum No. 3).⁹
- 11.** We reported on Memorandum No. 3 on 27 June 2025 (our second report).¹⁰ Our report on Memorandum No. 3 noted that it was unclear why the Welsh Government was not seeking consent for amendments tabled by the UK Government to clauses 30, 36 and 50 of the Bill as amended at Lords Committee Stage, and recommended that the Senedd's consent should be sought for the amendments.¹¹

⁵ Welsh Government, [Legislative Consent Memorandum, Mental Health Bill](#), 20 November 2024

⁶ Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No. 2\)](#), 10 January 2025

⁷ Legislation, Justice and Constitution Committee, [The Welsh Government's Legislative Consent Memoranda on the Mental Health Bill](#), April 2025

⁸ Welsh Government, [Response to the Committee's report on The Welsh Government's Legislative Consent Memoranda on the Mental Health Bill](#), 13 June 2025

⁹ Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No. 3\)](#), 10 January 2025

¹⁰ Legislation, Justice and Constitution Committee, [The Welsh Government's Supplementary Legislative Consent Memorandum \(Memorandum No. 3\) on the Mental Health Bill](#), June 2025

¹¹ Legislation, Justice and Constitution Committee, [The Welsh Government's Supplementary Legislative Consent Memorandum \(Memorandum No. 3\) on the Mental Health Bill](#), June 2025, paragraphs 24 and 25, and recommendations 3 and 4.

12. The Welsh Government responded to our second report on 15 August 2025.¹² In respect of the amendments to clauses 30 and 36 of the Bill as amended at Lords Committee Stage it stated:

“Consent is not being sought in relation to the amendment to clause 30 of the Bill as amended in Committee as it is a technical amendment updating a cross-reference to provisions relating to the Secretary of State’s powers which does not have regard to devolved matters.

Consent is not being sought in relation to the amendment to clause 36 of the Bill as amended in Committee as it is moving provision relating to the prescribed procedures applicable to certain Secretary of State’s powers from previous clause 50 into clause 36, the substantive provision of which (in so far as it has regard to devolved matters) is subject to an LCM (in respect of clause 35 as it was at introduction), laid on 21 November 2024.”¹³

13. However, it stated that “upon further consideration and analysis”, a further memorandum would be laid in due course in relation to the amendment to clause 50 of the Bill.¹⁴

14. On 30 June 2025 the Minister laid a further Supplementary Legislative Consent Memorandum (Memorandum No. 4) in respect of the Bill.¹⁵

15. We reported on Memorandum No. 4 on 29 July 2025 (our third report).¹⁶

¹² Welsh Government, [Response to the Committee’s report on The Welsh Government’s Supplementary Legislative Consent Memorandum \(Memorandum No. 3 on the Mental Health Bill\)](#), 15 August 2025

¹³ Welsh Government, Response to the Committee’s report on The Welsh Government’s Supplementary Legislative Consent Memorandum (Memorandum No. 3 on the Mental Health Bill, 15 August 2025, response to recommendation 3

¹⁴ Welsh Government, Response to the Committee’s report on The Welsh Government’s Supplementary Legislative Consent Memorandum (Memorandum No. 3 on the Mental Health Bill, 15 August 2025, response to recommendation 3

¹⁵ Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No. 4\)](#), 30 June 2025

¹⁶ Legislation, Justice and Constitution Committee, [The Welsh Government’s Supplementary Legislative Consent Memorandum \(Memorandum No. 4\) on the Mental Health Bill](#), July 2025

The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 5)

16. On 20 August 2025 the Minister laid before the Senedd a Supplementary Legislative Consent Memorandum (Memorandum No. 5) in respect of the Bill.¹⁷

Provisions for which the Senedd's consent is required

17. Memorandum No. 5 seeks consent for an amendment to clause 50 of the Bill as amended at Lords Committee Stage (as referenced in our report on Memorandum No. 3 and at paragraphs 11 and 13 of this report). The amendment was tabled by the UK Government in March 2025, and is consequential to amendments to clause 18 of the Bill, which were the subject of Memorandum No. 3.

The Welsh Government's position

18. In Memorandum No. 5, the Minister says:

*"In my original LCM and subsequent SLCMs, I set out my reasons for concluding that these provisions for Wales should be made through the Mental Health Bill. These reasons still stand in my view. I restate them below, for ease of reference"*¹⁸

19. The Minister also states that the UK Government agreed that consent was required for clause 50 "in so far as it has regard to devolved matters and no longer consider consent to be required as the clause has been removed from the Bill."¹⁹

2. Committee consideration

20. We considered Memorandum No. 5 at our meeting on 15 September 2025, and agreed our report at the same meeting.²⁰

¹⁷ Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No. 5\)](#), 0 August 2025

¹⁸ Memorandum No. 4, paragraph 15. See also paragraphs 16 to 19.

¹⁹ Memorandum No. 4, paragraph 13

²⁰ [Legislation, Justice and Constitution Committee](#), 15 September 2025

Our view

21. We note the Welsh Government's assessment of the provisions within the Bill that require the consent of the Senedd.

22. We also note the UK Government's position as regards consent.

23. We acknowledge that the Welsh Government has sought consent for the amendment which is the subject of Memorandum No. 5 after further consideration subsequent to the laying of our report on Memorandum No. 3.

Conclusion 1. We agree with the Welsh Government's assessment of the provisions within the Bill as set out in Memorandum No. 5 that require the consent of the Senedd in accordance with Standing Order 29.