Welsh Parliament
Legislation Committee

The Welsh Government's Legislative Consent Memorandum on the Health Bill

October 2026

1. Background

The UK Government's Health Bill

1. The Health Bill[1] (the Bill) was introduced into the House of Commons on 14 May 2026.[2] It is sponsored by the Department of Health and Social Care.

2. The long title of the Bill states that it is "A Bill to make provision about health and social care."[3] The Explanatory Notes to the Bill state that:

> *"This Bill will:*
>
> *• Enable the establishment of a Single Patient Record.*
>
> *• Abolish NHS England and transfer its functions to either the Secretary of State or Integrated Care Boards (ICBs) and provide for implementation of the Dash Review recommendations related to the Health Services Safety Investigation Body and Healthwatch.*
>
> *• Deliver a range of targeted measures aiming to support the devolution of decision making to a local level; to embed a greater role for patient voice in health and social care decision making; and to clarify governance and responsibilities for ICBs and providers (including foundation trusts and NHS trusts)."*[4]

3. The Bill had its first reading in the House of Lords on 9 September 2026, and its second reading on 13 October 2026.[5] At the time of writing, the Bill was due to begin Committee stage on 28 October 2026.

The legislative consent process

4. Standing Orders 29.1 and 29.2 provide that the Welsh Government should lay a legislative consent memorandum when a UK Bill makes provision in relation to Wales that has regard to devolved matters (relevant provision). The memorandum should normally be laid no later than 2 weeks after:

[1] **Health Bill [HC 9]**
[2] UK Parliament, **Health Bill: Stages**
[3] **Health Bill [HC 9]**
[4] UK Government, **Health Bill: Explanatory Notes**, 14 May 2026, page 2
[5] UK Parliament, **Health Bill: Stages**

- a Bill that makes relevant provision is introduced into the UK Parliament; or
- any amendment(s) is/are agreed that make relevant provision that goes beyond the limits of any consent previously given by the Senedd; or
- any amendment(s) is/are tabled by a Minister of the Crown (or with the Minister of the Crown's support) that would make relevant provision that goes beyond the limits of any consent previously given by the Senedd.[6]

2. The Welsh Government's Legislative Consent Memorandum

5. On 25 June 2026, Mabon ap Gwynfor MS, the Cabinet Minister for Health and Care (the Cabinet Minister), laid before the Senedd a Legislative Consent Memorandum (the Memorandum) in respect of the Bill as introduced on 14 May 2026.[7]

6. On 30 June 2026, the Business Committee agreed that the Legislation Committee (the Committee) and the Health and Social Care Committee should report to the Senedd by 23 October 2026.[8]

Provision for which the Senedd's consent is sought

The Welsh Government's view on consent

7. In the Memorandum, the Cabinet Minister sets out that the Senedd's consent should be sought for the following clauses of the Bill:

> **Transfer schemes in connection with the abolition of NHS England**: clause 2

[6] Welsh Parliament, **Standing Orders**, April 2026
[7] Welsh Government, **Legislative Consent Memorandum on the Health Bill**, 25 June 2026
[8] Business Committee, **Timetable for consideration: Legislative Consent Memorandum on the Health Bill**, 30 June 2026

Transfer schemes under section 2: taxation: clause 3

Secretary of State's power to provide assistance: clause 9

Primary care services: clause 14, Schedule 1 (paragraphs 55, 94 and 95)

Duty to have regard to impact on services in border areas: clause 17

Special Health Authorities: establishment and exercise of functions: clause 27

Joint working and delegation arrangements: clause 39

Single patient record: clause 47

Information about health service products: clause 48

Health and social care information: delegation of functions: clause 49

Health and social care information systems etc: clause 50 and Schedule 7

Arrangements with devolved authorities etc. about information services: clause 52

Arrangements with devolved authorities about commissioning: clause 53

Delegation of functions under certain arrangements with devolved authorities: clause 55

NICE recommendations: decisions about time for compliance: clause 58

Transfer of HSSIB's functions to CQC: clause 59 and Schedule 8 (parts of paragraph 4 and paragraph 8)

Minor and consequential amendments: clause 67 and Schedule 11 (paragraphs 12, 117, 192, 197 and 198)

8. A summary of the provisions in the Bill that the Welsh Government believes require the consent of the Senedd begins at paragraph 7 of the Memorandum.[9]

The UK Government's view on consent

9. In the Memorandum the Cabinet Minister states that the UK Government's view on consent is that it is required for clauses 2, 27, 49, 50, 52, 53, 55 and Schedule 7.[10]

10. Therefore, the UK Government does not agree with the Welsh Government that consent is required for clauses 3, 9, 14 (and paragraphs 55, 94 and 95 of Schedule 1), 17, 39, 47, 48, 58, 59 (and parts of paragraph 4 and paragraph 8 of Schedule 8), 67 (and paragraphs 12, 117, 192, 197 and 198 of Schedule 11).

Delegated powers in the Bill

11. In respect of the delegated powers in the Bill, the UK Department of Health and Social Care states the following in a memorandum to the House of Lords Delegated Powers and Regulatory Reform Committee:

> *"The Bill contains a total of 161 powers. In the majority of cases these are existing delegated powers being transferred from NHSE to the Secretary of State. One of the powers in the Bill – the power to make provision consequential on the Act - includes a power to amend primary legislation through secondary legislation. The latter, insofar as it includes provision which amends primary legislation, is subject to the affirmative procedure. This "Henry VIII" power is included to ensure that legislation continues to operate effectively, and the statute book is kept up to date. This is contained in clause 68."*[11]

12. The delegated powers contained in or amended by provisions identified in the Memorandum[12] as requiring legislative consent include the following:

[9] Welsh Government, **Legislative Consent Memorandum on the Health Bill**, 25 June 2026, paragraphs 7 to 60
[10] Welsh Government, **Legislative Consent Memorandum on the Health Bill**, 25 June 2026, paragraph 61
[11] UK Government, **Health Bill: Memorandum from the Department of Health and Social Care to the Delegated Powers and Regulatory Reform Committee**, paragraph 15
[12] Welsh Government, **Legislative Consent Memorandum on the Health Bill**, 25 June 2026, paragraphs 7 to 60

Provision(s)	Power	Exercisable by	Scrutiny procedure
Clause 2	To make schemes for the transfer of property, rights and liabilities from NHS England	Secretary of State	None
Clause 3	To make regulations to vary the way in which a relevant tax has effect in relation to anything transferred under a scheme made under clause 2, or anything done for the purposes of, or in relation to, a transfer under such a scheme	HM Treasury	Negative
Clause 27	Amendment of an existing power in section 28 of the National Health Service Act 2006 (the NHS Act 2006) to establish, by order, a Special Health Authority, for the purpose of exercising any functions which may be conferred on them by or under the NHS Act 2006 or any other Act. Amendment of an existing power in	Secretary of State In relation to section 28 of the NHS Act 2006, the Secretary of State must, before making an order under that section, consult with respect to the order such bodies as the Secretary of State may recognise as representing officers who in	In relation to an order made under section 28 of the NHS Act 2006 – Negative In relation to regulations made under section 29 of the NHS Act 2006 - Negative

	section 29 of the NHS Act 2006 to make regulations to provide that Special Health Authority functions are to be exercised by another Special Health Authority, jointly with one or more other Special Health Authorities, or a committee, sub-committee or officer of a Special Health Authority.	the Secretary of State's opinion are likely to be transferred or affected by transfers in pursuance of the order.	
Clause 39	Amendment of an existing regulation making power to allow regulations to arrange for any of the Secretary of State's functions relating to the health service in England to be exercised by or jointly with the bodies listed in new section 65Z5(1A) of the NHS Act 2006 and any other person as may be prescribed	Secretary of State	Negative
Clause 39	Transfer of an existing power to publish guidance on the exercise of powers under	Secretary of State	None

	sections 65Z5 and 65Z6 of the NHS Act 2006 from NHS England to the Secretary of State		
Clause 47	To make regulations to create and operate a system to make patient information readily available (a single patient record)	Secretary of State The Secretary of State must consult such persons as the Secretary of State considers appropriate before making regulations under new section 250E of the NHS Act 2006.	Affirmative
Clause 49	To make regulations prescribing a person who may exercise the Secretary of State's functions under Chapter 1 of Part 9 of the Health and Social Care Act 2012 (the 2012 Act) (information standards), subject to exceptions.	Secretary of State	Negative
Clause 49	To direct a public body (a body or other person whose functions are of a public nature or include functions of that nature) that	Secretary of State	None

	exercises functions in, or in relation to, England, to exercise the Secretary of State's "relevant information functions". It also enables the Secretary of State to give directions about the exercise of those functions.		
Clause 52	To direct a public body to exercise the Secretary of State's functions under section 294A of the 2012 Act or under arrangements under that section, as well as give that public body directions about the exercise of those functions	Secretary of State	None
Clause 55	To direct a public body to exercise some or all of the Secretary of State's functions under arrangements made under section 295 or section 296A of the 2012 Act, as well as give that public body directions about the exercise of those functions	Secretary of State	None
Clause 58	Amends a regulation making	Secretary of State	Negative

	power in section 237 of the 2012 Act to allow regulations to include provision about the period within which a recommendation made by NICE is to be complied with, including provision for the period to be determined by NICE or the Secretary of State		
Paragraph 55 of Schedule 1	To make provision in regulations for the preparation, maintenance and publication by the Secretary of State or an NHS body of one or more lists of persons approved for the purpose of assisting in the provision and performance of pharmaceutical services which an Integrated Care Board arranges	Secretary of State	Negative
Paragraph 16 of Schedule 7	To issue guidance to health or social care bodies on matters relating to the processing of information insofar as relevant to the exercise of their	Secretary of State	None

	functions in connection with the provision of health services or of adult social care in England		
Paragraph 19 of Schedule 7	Duty to make regulations to provide for schemes to accredit information service providers to be established and operated by the Secretary of State, or a public body designated by the Secretary of State in accordance with regulations	Secretary of State	Negative
Paragraph 20 of Schedule 7	An amendment of an existing power to enable regulations under section 268 of the 2012 Act to confer functions on the Secretary of State instead of NHS England	Secretary of State	Negative
Paragraph 21 of Schedule 7	An amendment of an existing power to enable regulations under section 269 of the 2012 Act to confer functions on the Secretary of State instead of NHS England	Secretary of State	Negative

Paragraph 4 of Schedule 8 (in relation to new section 51Q of the Health and Social Care Act 2008 only)	To publish guidance about when a qualifying incident will be regarded as related to another incident for the purposes of the co-operation clause.	Care Quality Commission	None
Paragraph 192 of Schedule 11	Duty to issue a code of practice relating to the processing of confidential patient information in connection with the provision of health services or of adult social care in England	Secretary of State	None
Paragraph 197 of Schedule 11	To prescribe, by directions, conditions relating to payments by Integrated Care Boards under section 256 of the NHS Act 2006	Secretary of State	None
Paragraph 198 of Schedule 11	To prescribe conditions, by directions, relating to payments by Integrated Care Board or by local authorities under section 257 of the NHS Act 2006.	Secretary of State	None

The Welsh Government's engagement with the UK Government

13. The Cabinet Minister states in the Memorandum that the Welsh Government became aware of the development of the Bill "towards the end of 2025". The Cabinet Minister adds that it was not possible to fully assess the implications of the Bill for Wales until the Bill was introduced.[13]

The Welsh Government's position as set out in the Memorandum

14. The Cabinet Minister states that:

> *"In my view it is appropriate to deal with these provisions in this UK Bill as it is the most effective means of achieving the relevant policy objectives for reasons set out in paragraph [63]. However, further engagement is required with UK Government on powers in clauses 2 and 3."*[14]

15. The Cabinet Minister does not give a recommendation on whether the Senedd should give its consent to the Bill. In line with each of the first eight legislative consent memoranda laid by the Welsh Government during the Seventh Senedd (of which the Memorandum is one), he states that he will "bring forward a recommendation to the Senedd on whether to give consent to the Bill once Welsh Government has analysed the wider impact of the UK legislative programme for Wales."[15]

3. Committee consideration

16. We considered the Memorandum at our meeting on 14 September 2026, and agreed to write to the Cabinet Minister.[16] Our letter, dated 22 September 2026, sought further information about various matters, including:

[13] Welsh Government, **Legislative Consent Memorandum on the Health Bill**, 25 June 2026, paragraph 5
[14] Welsh Government, **Legislative Consent Memorandum on the Health Bill**, 25 June 2026, paragraph 65
[15] Welsh Government, **Legislative Consent Memorandum on the Health Bill**, 25 June 2026, paragraph 66
[16] **Legislation Committee**, 14 September 2026

- why the Memorandum was not laid until six weeks after the Bill's introduction to the House of Commons;
- the extent to which the provisions in the Bill are consistent with the Welsh Government's Principles on UK Legislation in Devolved Areas[17];
- the nature and extent of engagement with the UK Government about the Bill, including about clauses 2 and 3 in particular;
- the UK Government's position on consent;
- why the Welsh Government does not believe that clauses 19, 28, 54, 57 and 68 require the consent of the Senedd, and other matters relating to the Welsh Government's view of which provisions require consent;
- delegated powers in the Bill (including whether they impact any delegated powers held by the Welsh Ministers, consent mechanisms, and duties to consult); and
- the Welsh Government's recommendation on whether the Senedd should grant its consent.[18]

17. The Cabinet Minister wrote to us on 5 October 2026; his responses are outlined below.[19] We considered the Cabinet Minister's letter at our meeting on 12 October 2026[20], and agreed our report at our meeting on 19 October.[21]

18. We ask that the Cabinet Minister responds in writing to the recommendations and conclusions we make in this report.

Legislative consent

19. In his letter dated 5 October 2026, the Cabinet Minister states the following:

- On clause 3, the Senedd's consent should be sought because of the potential application to transfers involving Welsh NHS bodies and other public bodies in Wales.[22]

[17] Welsh Government, '**Written Statement: Welsh Government Principles on UK Legislation in Devolved Areas**', 14 July 2026
[18] **Letter to the Cabinet Minister for Health and Care**, 22 September 2026
[19] **Letter from the Cabinet Minister for Health and Care**, 5 October 2026
[20] **Legislation Committee**, 12 October 2026
[21] **Legislation Committee**, 19 October 2026
[22] **Letter from the Cabinet Minister for Health and Care**, 5 October 2026, answer to question 5

- On clause 47, the Senedd's consent should be sought because, while the primary purpose of the Single Patient Record is to support the health service in England, patient pathways may involve Welsh providers and Welsh patients and regulations could confer enforcement functions on cross-border Special Health Authorities whose services are relied upon in Wales.[23]

- On clause 49, the Senedd's consent should be sought because the provisions are capable of applying to bodies that operate in relation to both England and Wales meaning the clause has regard to the delivery of health services in Wales.[24]

- On clause 55, the Senedd's consent should be sought because it allows the Secretary of State to delegate functions performed under arrangements made under clause 53, and clause 53 also requires the Senedd's consent.[25]

20. The Cabinet Minister also confirms in his letter that the Welsh Government does not consider that clauses 19, 28, 54 and 68 engage Standing Order 29; the Welsh Government's reasons are as follows:

- Clause 19 concerns powers exercisable by Integrated Care Boards in relation to the health service in England.

- Clause 28 transfers an existing framework for staff transfers involving Special Health Authorities.

- Clause 54 updates an existing framework for education and training arrangements and does not significantly alter the nature or scope of the existing underlying power.

- Clause 68 contains a power to make provision consequential on the Bill and was not considered, of itself, to engage Standing Order 29.[26]

21. On clause 57, the Cabinet Minister confirms it "was not identified in the Memorandum in error", but adds the Welsh Government's view that it is

[23] **Letter from the Cabinet Minister for Health and Care**, 5 October 2026, answer to question 6
[24] **Letter from the Cabinet Minister for Health and Care**, 5 October 2026, answer to question 7
[25] **Letter from the Cabinet Minister for Health and Care**, 5 October 2026, answer to question 8
[26] **Letter from the Cabinet Minister for Health and Care**, 5 October 2026, answer to question 9

ancillary to clauses 52, 53 and 55 and "does not give rise to any separate considerations beyond those already identified in the Memorandum".[27]

22. In the Memorandum, the Cabinet Minister states that clause 17 requires regard to be had to impacts on persons residing in Wales in the exercise of health services commissioning functions in England, and therefore directly affects the delivery of health services in Wales. If it is acknowledged that commissioning decisions can potentially affect the delivery of health services in Wales, we questioned why other provisions in the Bill relating to commissioning (by Integrated Care Boards and the Secretary of State) have not been identified as requiring legislative consent. In his letter, the Cabinet Minister confirms the Welsh Government's assessment that it is only clause 17 which is "specifically directed at influencing decisions where they affect the delivery of health services to Welsh residents", and it was therefore considered "at least reasonably arguable of being capable of having a material impact on the delivery and operation of health services in Wales".[28]

23. On the subject of the differing opinions across the Welsh and UK governments, in his letter the Cabinet Minister says:

> *"The UK Government's assessment is based on the Devolution Guidance Notes on Parliamentary Legislation Affecting Wales, which states that an LCM is required for provisions which would be within the Senedd's legislative competence or which alter legislative or executive devolved competence. Our assessment is based on the test in Standing Order 29, which states that a "relevant Bill…makes provision in relation to Wales that has regard to devolved matters". This includes provision that has a material impact on devolved matters."*[29]

The legislative consent process

24. As highlighted in Chapter 1, the Memorandum was laid on 25 June 2026; this was six weeks after the Bill was introduced into the UK Parliament. Of the 16

[27] **Letter from the Cabinet Minister for Health and Care**, 5 October 2026, answer to question 9
[28] **Letter from the Cabinet Minister for Health and Care**, 5 October 2026, answer to question 10
[29] **Letter from the Cabinet Minister for Health and Care**, 5 October 2026, answer to question 4

memoranda laid to date by the Welsh Government, only one has been laid within the two-week deadline set out in Standing Orders.

25. During general scrutiny on 21 September 2026, the Cabinet Minister for Government Effectiveness and the Constitution highlighted challenges that the Welsh Government can face in relation to the legislative consent process.[30]

26. In a response to our question about the volume of forthcoming legislative consent memoranda, the Cabinet Minister for Government Effectiveness and the Constitution stressed that the timing of the King's Speech (on 13 May 2026) was "particularly difficult, given the establishment of the Senedd and the new Government." However, he went on to state that he is "hoping to make better progress in meeting the fortnight deadline in the future."[31]

27. When we queried the delay, the Cabinet Minister told us that the final version of the Bill was not shared with the Welsh Government before its introduction, and the work needed to complete an analysis of the Bill and obtain clarifications where appropriate resulted in the Memorandum being laid outside the normal two-week period.[32] However, the Cabinet Minister also states that Welsh Government officials have engaged with their counterparts in the UK Government during the development of the Bill and following its introduction.[33]

28. In the Memorandum, the Cabinet Minister does not provide a recommendation as to whether the Senedd should consent to the relevant provisions in the Bill. Instead, he states that he will bring forward a recommendation once the Welsh Government has analysed the wider impact of the UK legislative programme for Wales.[34]

29. While the Cabinet Minister accepts the "challenge this poses for Senedd scrutiny", he told us he considers it appropriate to "maintain an open position on this Bill whilst conversations are ongoing with the UK Government regarding

[30] **Legislation Committee, Record of Proceedings, 21 September 2026, paragraph 35**
[31] **Legislation Committee, Record of Proceedings, 21 September 2026, paragraph 137**
[32] **Letter from the Cabinet Minister for Health and Care**, 5 October 2026, answer to question 1
[33] **Letter from the Cabinet Minister for Health and Care**, 5 October 2026, answer to question 3
[34] Welsh Government, **Legislative Consent Memorandum on the Health Bill**, 25 June 2026, paragraph 66

a number of provisions identified in the Memorandum, including clauses 2 and 3."[35]

30. We have queried this government-wide approach with the First Minister, Counsel General, and Cabinet Minister for Government Effectiveness and Constitution.[36]

The Welsh Government's Principles on UK Legislation in Devolved Areas, and matters relating to delegated powers in the Bill

31. We refer above, in paragraph 16, to the Welsh Government's principles for dealing with legislation introduced to the UK Parliament that seeks to make provision in areas devolved to Wales.

32. The Cabinet Minister believes that the Bill is consistent with the Welsh Government's Principles, stating "I am content that the Welsh Government's assessment of the Bill is consistent with the principles as the Bill does not make provision with the legislative competence of the Senedd and does not modify the functions of the Welsh Ministers or a devolved Welsh authority."[37]

33. The Cabinet Minister confirms in his letter to us that discussions with the UK Government on clauses 2 and 3 remain ongoing, and the Welsh Government has sought an appropriate consent mechanism in relation to transfers under clause 2 involving the Welsh Ministers or devolved Welsh authorities.[38]

34. The Cabinet Minister also confirms that the Welsh Government has not identified any existing delegated powers of the Welsh Ministers that are removed or modified by the Bill as introduced. Furthermore, in his letter the Cabinet Minister says the Welsh Government has not considered it appropriate to request inclusion of a requirement on the Secretary of State to consult the

[35] **Letter from the Cabinet Minister for Health and Care**, 5 October 2026, answer to question 14
[36] **Letter to the First Minister**, 8 July 2026; **Letter from the Counsel General**, 28 August 2026; **Letter to the Counsel General and Cabinet Minister for Government Effectiveness and Constitution**, 28 September 2026
[37] **Letter from the Cabinet Minister for Health and Care**, 5 October 2026, answer to question 2
[38] **Letter from the Cabinet Minister for Health and Care**, 5 October 2026, answer to question 13

Welsh Ministers prior to exercising any relevant delegated powers outlined in the Bill as introduced.[39]

4. Our view

Legislative consent

35. We note the Welsh Government's assessment of the provisions within the Bill that require the consent of the Senedd, as set out in the Memorandum.

36. We remain unconvinced by the rationale concerning several clauses in the Bill put forward by the Cabinet Minister is his letter to us on 5 October, as we will explain.

37. The Cabinet Minister does not consider that the Senedd's consent should be sought for clause 19 because, in his view, it concerns powers exercisable by Integrated Care Boards in relation to the health service in England. However, the Cabinet Minister does think consent is needed for clause 9 - for which consent is sought – and, although it concerns powers exercisable by the Secretary of State as opposed to Integrated Care Boards, clause 9 is also in relation to the health service in England.

38. We also note that the Cabinet Minister does not consider that the Senedd's consent should be sought for clauses 28 and 54 because, again in his view, they are not considered to give rise or risk to a materially new effect in relation to devolved matters. This, however, is not the test to be met in Standing Order 29.

39. Furthermore, the Cabinet Minister's view that consent should not be sought for clause 68 because it only contains a power to make provision consequential on the Bill, appears to not be in line with the views of other Welsh Ministers that have laid legislative consent memoranda before the Senedd. We intend to review this matter further before deciding whether to raise the issue with the Counsel General.

40. In addition, we remain unclear about why it is just clause 17 that the Cabinet Minister believes requires consent and not other provisions in the Bill relating to commissioning (by Integrated Care Boards and the Secretary of State).

[39] **Letter from the Cabinet Minister for Health and Care**, 5 October 2026, answer to question 12

41. We further note that the Welsh and UK governments differ in their views about which provisions in the Bill require the Senedd's consent, and that the Cabinet Minister is of the view that this relates to the different tests used by each government.

Conclusion 1. We are not in a position to state whether we agree with the Welsh Government's assessment, as set out in the Memorandum, of the provisions within the Bill which require consent of the Senedd in accordance with Standing Order 29.

Recommendation 1. The Cabinet Minister should provide further clarity regarding the Welsh Government's position on why the Senedd's consent should not be sought for clauses 19, 28, 54, 68, and provisions relating to commissioning by Integrated Care Boards and the Secretary of State.

42. We note the Cabinet Minister's acknowledgement that clause 57 was omitted from the Memorandum in error, and that it requires the consent of the Senedd. We also note his view that clause 57 is ancillary to the provisions in clauses 52, 53 and 55, and that he does not commit to laying a supplementary legislative consent memorandum in respect of clause 57 to rectify its omission.

43. Whether the Welsh Government is of the view that any given clause is ancillary to other clauses has no bearing on the requirement to lay a legislative consent memorandum in respect of that clause.

Recommendation 2. The Cabinet Minister should lay a supplementary legislative consent memorandum to clarify that the Senedd's consent is sought for clause 57.

The legislative consent process

The absence of a recommendation on consent

44. As we have previously noted[40], the Welsh Government's view on whether the Senedd should grant consent to the relevant provisions in a Bill is an important part of the legislative consent process and assists Senedd Committees in coming to an informed view on a legislative consent memorandum.

45. We note the Cabinet Minister's position in the Memorandum that the Welsh Government will bring forward a recommendation to the Senedd on whether to give consent once it has analysed the wider impact of the UK legislative programme for Wales.

46. We believe that Senedd Committees considering legislative consent memoranda should receive written confirmation of the Welsh Government's recommendation on consent in sufficient time to consider it as part of their scrutiny. In practice, this means that the Welsh Government should clearly communicate its view on consent, in writing, in time for committees to include that view in their reports.

Conclusion 2. It is regrettable that we have not received written confirmation of the Cabinet Minister's view on consent in sufficient time for it to be taken into account in the drafting of this report.

Recommendation 3. The Cabinet Minister should write to all Senedd Members at the earliest opportunity, and sufficiently in advance of the Senedd's debate on the legislative consent motion, to set out his view on whether the Senedd should grant its consent to the relevant provisions in the Bill.

Adherence to the two-week deadline for laying legislative consent memoranda

47. We note that the Memorandum was laid six weeks after the introduction of the Bill to the UK Parliament. We also note the Cabinet Minister's explanation

[40] Legislation Committee, **Report on the Welsh Government's Legislative Consent Memorandum on the Public Office (Accountability) Bill**, September 2026

that, although Welsh Government and UK Government officials had been in contact beforehand, the Welsh Government did not actually see the final text of the Bill before it was introduced.

48. This Bill - as with a number of others triggering the legislative consent process during the first few months of the Seventh Senedd - was introduced very soon after the Welsh Government was formed. We note the reflections of the Cabinet Minister for Government Effectiveness and the Constitution about the challenges of the timing of the King's Speech, and acknowledge that this may have had implications for the ability of the Welsh Government to adhere to the two-week deadline set out in Standing Orders for laying a legislative consent memorandum. In principle, we consider that analysing the relevant provisions of a Bill and coming to a view on consent so soon after the establishment of a new government is a reasonable example of where the two-week deadline may be difficult to meet.

> **Conclusion 3.** While we acknowledge the Cabinet Minister's stated reasons for the delay in laying the Memorandum before the Senedd, we remain unclear why the Welsh Government took six weeks to complete an analysis of the Bill.

The Welsh Government's Principles on UK Legislation in Devolved Areas, and matters relating to delegated powers in the Bill

49. We note that the Cabinet Minister is content that the Welsh Government's assessment of the Bill is consistent with its Principles on UK Legislation in devolved areas.

50. The Cabinet Minister says, in his letter dated 5 October (responding to our second question), that the Bill does not make provision within the legislative competence of the Senedd and does not modify the functions of the Welsh Ministers or a devolved Welsh authority. This statement causes us some confusion, not least because it directly contradicts statements made in the Memorandum and in another part of his letter.

51. Paragraph 50(b) of the Memorandum provides commentary on paragraphs 94 and 95 of Schedule 1 to the Bill. The Cabinet Minister explicitly states that the

provision in these paragraphs "is considered to modify the functions of Local Health Boards, which are devolved Welsh authorities".

52. In other places in the Memorandum, the Cabinet Minister highlights further provisions in the Bill where the Welsh Government considers consent is needed because those provisions could "have a material impact on the exercise of functions by the Welsh Ministers or devolved Welsh authorities".[41]

53. In addition, in his letter (responding to our fourth question), the Cabinet Minister states "The UK Government's assessment is based on the Devolution Guidance Notes on Parliamentary Legislation Affecting Wales, which states that an LCM is required for provisions which would be within the Senedd's legislative competence or which alter legislative or executive devolved competence."

54. If the Bill does not make provision within the legislative competence of the Senedd and does not modify the functions of the Welsh Ministers or a devolved Welsh authority, we are unclear why the UK Government considers that consent is required for certain provisions in the Bill.

55. Clarity is vital during the legislative consent process. The Senedd must have full and clear information available to it so that it can make informed decisions.

Recommendation 4. The Cabinet Minister should write to all Senedd Members at the earliest opportunity, and sufficiently in advance of the Senedd's debate on the legislative consent motion, to clarify:

- whether and how the Bill makes provision within the legislative competence of the Senedd;

- whether and how the Bill modifies the functions of the Welsh Ministers or a devolved Welsh authority;

- the contradiction between his responses to the second and fourth questions in our letter of 22 September 2026;

- the contradiction between his response to the second question in our letter of 22 September 2026 and paragraph 50(b) of the Memorandum.

[41] Welsh Government, **Legislative Consent Memorandum on the Health Bill**, 25 June 2026, paragraphs 56 and 57

56. We note that the Cabinet Minister is seeking an appropriate consent mechanism in relation to transfers under clause 2 of the Bill involving the Welsh Ministers or devolved Welsh authorities.

57. We also note that the Cabinet Minister does not consider it appropriate to request inclusion of a requirement on the Secretary of State to consult the Welsh Ministers prior to exercising any relevant delegated powers outlined in the Bill.

Recommendation 5. If the requirements of Standing Order 29 are not triggered by the results of the intergovernmental negotiation on clause 2, and as such, a supplementary legislative consent memorandum is not needed, the Cabinet Minister should write to all Senedd Members at the earliest opportunity, and sufficiently in advance of the Senedd's debate on the legislative consent motion, to set out the details of the relevant discussions with the UK Government.

Recommendation 6. The Cabinet Minister should update the Senedd if and when the Welsh Government considers it is appropriate to request the inclusion of a requirement on the Secretary of State to consult the Welsh Ministers prior to exercising any relevant delegated powers outlined in the Bill.

Recommendation 7. The Cabinet Minister should update the Senedd on the outcome of his negotiations with the UK Government about all delegated powers in the Bill and regarding the provisions identified in the Memorandum (including clauses 2 and 3) in sufficient time for Members to consider it in advance of the Senedd's debate on the legislative consent motion.

58. We are aware that the Cabinet Minister informed the Health and Social Care Committee on 8 October 2026 that the UK Government will be tabling amendments to the Bill in late October or early November during the Lords' stages that address the Welsh Government's requirements and which will allay its concerns.[42] At the time of writing this report, we had not received details from the Cabinet Minister.

[42] **Health and Social Care Committee, Record of Proceedings, 8 October 2026**, paragraphs 9 and 10 and 68