

LEGISLATIVE CONSENT MEMORANDUM

HEALTH BILL

1. This legislative consent memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales that has regard to devolved matters.

2. The Health Bill (“the Bill”) was introduced in the House of Commons on 14 May 2026. The Bill can be found at:

<https://publications.parliament.uk/pa/bills/cbill/59-02/0009/260009.pdf>

Policy Objective(s)

3. The explanatory notes of the Bill states “The UK Government’s stated policy objectives of the Bill is to provide the legislative footing for the abolition of NHS England, as announced by the Prime Minister in March 2025. The Bill will also give effect to a number of reforms and recommendations that were set out in the 10-Year Health Plan and Penny Dash’s review of patient safety across the health and care landscape (“Dash Review”), both published in July 2025.

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).

The Bill addresses a range of issues relating to health and social care. The Bill makes changes to a number of existing Acts, most notably the National Health Service Act 2006 (the NHS Act 2006) and the Health and Social Care Act 2012.” The notes can be found here:

Summary of the Bill

4. The Bill is sponsored by the Department of Health and Social Care. The Bill primarily provides for the abolition of NHS England but will also take forward the UKGs Health and Care reforms, namely the 10-Year Health Plan and Penny Dash’s review of patient safety across the health and care

landscape, both published in July 2025. The [Explanatory Notes](#) provides detail as to the areas covered by the Bill. Further, UKG has published a range of fact sheets in relation to the Bill (see [here](#)), which by way of brief summary includes the following:

- **Abolition of NHS England:** The Bill provides for the abolition of NHS England and moves its functions either to the Secretary of State (exercised through the restructured department of Health and Social Care (“**DHSC**”)) or the wider system. UKG confirms that where functions are best held locally, they are being moved to integrated care boards (“**ICBs**”) and where national-level functions are still needed, they will move to the restructured DHSC.
- **Reform of health and care structure in England:** The Bill restructures how DHSC will operate, including how national, regional and local roles will work together. UKG have published [this document](#) which shows how they consider the Bill will streamline the system. It will be noted that:
 - nationally, it is expected that UKG ministers, DHSC and the National Institute for Health and Care Excellence (“**NICE**”) will continue to support public health, the NHS and adult social care. The Care Quality Commission (“**CQC**”) will continue to support the NHS and adult social care, whilst NHS England, Healthwatch England and the Health Services Safety Investigations Body will be abolished;
 - locally, health and wellbeing boards, ICBs and local Healthwatch will support public health, the NHS and adult social care. Further, local authorities will support public health and adult social care. Public health providers will support public health, NHS providers will support the NHS, and social care providers support adult social care.
- **Single Patient Record (“**SPR**”):** UKG confirm that the purpose of the SPR is to bring together patient information from existing separate sources and make it available to patients and their relevant health and care providers such as GPs, hospital doctors, social care providers or others involved in their direct care. The Bill includes a power to create the SPR and the legal framework that will underpin it by enabling the Secretary of State of Health and Social Care to specify in regulations (1) who can and who must share data with the single patient record, for example different providers of care; (2) who can see the data, such as the relevant professionals delivering health and social care and those providing essential support, as well as patients being able to see their own record; and (3) how the system will be enforced.
- **Transfer of data and digital functions:** NHS England’s health and adult social care digital and data functions are set out in Part 9 of the Health and Social Care Act 2012 (“**the 2012 Act**”). The Bill will transfer statutory health and adult social care digital and data functions, with some adjustments, to the Secretary of State.

- **ICBs as strategic commissioners:** The Bill implements several changes set out in the 10 Year Health Plan which will support ICBs to become strategic commissioners. UKG confirms that these includes (1) increasing the commissioning responsibilities of ICBs, including primary care services; (2) streamlining the planning process; (3) reforming ICB membership requirements; and (4) reforming financial controls over the system, so organisations are responsible for their own performance, and ICBs are better able to make strategic decisions about how resources are allocated.
- **Providers:** UKG confirms that some changes to be implemented by the Bill will give local providers greater freedom to deliver for patients and the public. Measures include: (1) removing the requirement for NHS foundation trusts to have a council of governors so they can choose a dynamic approach to local engagement tailored to the needs and structure of local communities as opposed to the 'one-size-fits-all' governor model; (2) introducing a power for the Secretary of State to be able to de-authorise NHS foundation trusts in cases of serious failure, where it is in the public interest to do so; (3) transferring NHS England's responsibility for provider oversight and regulation to the Secretary of State.
- **Patient Safety:** UKG confirm that the 2025 [review of patient safety across the health and care landscape](#) (the Dash review) set out a clear need to streamline, simplify and consolidate across the patient safety landscape, in order to remove duplication and improve clarity over where responsibility for improving the quality and safety of services sits. It found removing duplication and overlap could help to make processes simpler and more effective for users and patients. It's confirmed that the Bill looks to address this as follows:
 - integrating the functions and powers of the Health Services Safety Investigations Body (HSSIB) into CQC while maintaining the 'safe-space' protection;
 - extending the limitation period for CQC prosecutions;
 - transferring the statutory duties related to patient safety previously carried out by NHS England to the Secretary of State;
 - establishing the SPR.

5. Welsh Government (WG) became aware of the development of the Bill towards the end of 2025. However, it has not been possible to fully assess the implications of the Bill for Wales until the Bill was introduced.

Provisions in the Bill for which consent is required

6. I consider that the following provisions requires a Legislative Consent Memorandum (LCM) by virtue of Standing Order 29 of the Senedd's Standing Orders:

Clause 2 - Transfer schemes in connection with the abolition of NHS England

7. Clause 2 states that the Secretary of State has the power to make one or more schemes to transfer property, rights, and liabilities from NHS England. Transfers may be made to various bodies, including but not limited to a Special Health Authority, an NHS trust, an NHS foundation trust, a Local Health Board or any other public body. Criminal liabilities can also be transferred under the scheme. Rights and liabilities also include those relating to a contract of employment.

8. The transfer scheme may make provisions on the continuing effect of things done by NHS England, shared ownership or use of property, and any other consequential or incidental provisions, including those which are similar to the TUPE Regulations. The transfer scheme may also provide modifications by agreement, which can come into effect when the original scheme came into effect.

9. As this provision is capable of applying to any public body, including devolved Welsh authorities (such as NHS trusts, Local Health Boards and Special Health Authorities created under the NHS (Wales) Act 2006), and potentially the Welsh Ministers, and as it relates to the organisation and operation of health services in Wales, considered to have regard to devolved matters.

Clause 3 - Transfer Schemes under s.2: Taxation

10. Clause 3 provides that the Treasury may by regulations make provision varying the way in which a relevant tax has effect in relation to anything transferred under a scheme under clause 2 or anything done for the purposes of such transfer. For these purposes, “relevant tax” includes income tax, corporation tax, capital gains tax, value added tax, stamp duty or stamp duty reserve tax.

11. This power on the Secretary of State can extend to making provision for a tax provision not to apply, or apply with modifications, as well as anything transferred to be treated in a specified way for a tax provision. The Secretary of State is required or permitted to specify the method of determining anything in relation to the tax provision so far as relating to anything transferred.

12. As this provision applies to transfers under clause 2 which may involve devolved Welsh authorities and therefore relates to the funding and operation of health services in Wales it is considered to have regard to devolved matters.

Clause 9 - Secretary of State’s power to provide assistance

13. Clause 9 enables the Secretary of State to provide assistance or support to (1) any person providing or proposing to provide services as part of the health service; (2) a public authority, where the assistance or support is in relation to the education or training of anyone employed, or considering becoming employed, in an activity which involves or is connected with the provision of services as part of the health service; (3) a person otherwise

carrying out or proposing to carry out activities that the Secretary of State considers to be beneficial to the health service.

14. It is stated that reference to a “public authority” is to include a public authority anywhere in the British Islands, so it is capable of including the Welsh Ministers or devolved Welsh authorities. Whilst the provision is limited to the health service in England, it is considered this clause has the potential of having a material impact on devolved matters as it would allow the Secretary of State to provide assistance to devolved Welsh authorities who are engaged in activities relating to the English health service.

Clause 14 – Primary care services

15. This clause introduces Schedule 1 to the Bill, for which see further below.

Clause 17 - Duty to have regard to impact on services in certain areas

16. Clause 17 places a duty on ICBs, when exercising their commissioning functions in relation to the health service in England, to have regard to the impact of their decisions on people who reside in any area of Wales or Scotland that is close to the border with England. As this provision requires regard to be had to impacts on persons residing in Wales in the exercise of health services commissioning functions in England, it directly affects the delivery of health services in Wales. It is therefore considered clause 17 makes provision in relation to Wales which has regard to devolved matters.

Clause 27 - Special Health Authorities: establishment and exercise of functions

17. Clause 27 amends sections 28 and 29 of the National Health Service Act 2006 (NHS Act 2006) as follows:

a) Section 28 is amended to expand the functions for the purpose of which Special Health Authorities (SHAs) may be established by the Secretary of State. Whereas currently this is limited to functions only under the NHS Act 2006, this clause makes provision for SHAs to also be established for the purpose of exercising functions under “any other Act”.

b) Section 29 is amended to omit references to section 7 of the NHS Act 2006 which means that the SHA would not be restricted in the functions they could arrange to be carried out jointly with another SHA, by another SHA or by a committee or officer of the SHA.

18. These provisions could include cross-border Special Health Authorities, namely The NHS Business Services Authority and NHS Blood and Transplant and therefore impact on services affecting Wales. Clause 27 is therefore considered to include provision in relation to Wales that has regard to devolved matters.

Clause 39 - Joint working and delegation arrangements

19. This clause provides the Secretary of State with the ability to arrange and make regulations for functions of the Secretary of State which relate to the health service in England to be exercised jointly with various bodies. These include such “other person” or “other body” or as may be prescribed. This clause enables joint working and delegation involving bodies which may include devolved Welsh authorities, in connection with health service functions. It therefore has the potential of having a material impact on devolved matters.

Clause 47 - Single patient record

20. Clause 47 amends Part 13 of the NHS Act 2006. It inserts, before existing section 251, new section 250E and new section 250F:

21. New section 250E(1) enables the Secretary of State to make regulations to establish a system (which is being referred to as the “Single Patient Record (“SPR”)) to make patient information readily available to (a) patients who have received care as part of the health service, or social care, in England and (b) people who are involved in providing health or social care to people in England. For these purposes, “patient information” means *“information (however recorded) which relates to the physical or mental health or condition of a person, to the diagnosis of their condition or to their care or treatment, whether or not the person’s identity is ascertainable from the information”*.

22. New section 250E(2) provides more information on what such regulations may include, to include the following:

- Subsection (2)(a) enables the Secretary of State to confer functions on a public authority both to establish the SPR, and to operate it on an ongoing basis.
- Subsection (2)(b) enables the regulations to set out when patient information, or information connected with it, can or must be processed to establish and operate the SPR. The UK Government’s Explanatory Notes to the Bill states that this is about bringing together a range of source records containing patient information or information held in connection with it (for example, demographic data) for the purpose of establishing and operating the system. The UK Explanatory Notes also confirm that this provision does not limit who can be asked, or required, by the regulations to provide information as long as it is patient information, or information held in relation to the patient information, and will be used for the purposes of establishing and operating the SPR (i.e. that this could include NHS and private providers of health and care services, social care providers and IT suppliers etc).

- Subsection (2)(c) enables the regulations to set out when patient information, or information held in connection with it, can or must be processed to make it available, through the system, to the people mentioned in new section 250E(1). Subsection (2)(c)(i) and (ii) ensure that processing can also be authorised to make patient information available to someone acting on behalf of a patient such as a parent, other relative, or carer, and to providers who treat or care for a patient outside of England but within the British Isles. The UKG Explanatory Notes to the Bill provides an example of where a patient is receiving direct care in both England and another location in the British Isles, regulations could enable the SPR to be made available to all providers involved in their care irrespective of their location in the British Isles. This is stated as being subject to the requirements of new section 250E(4) being satisfied (detailed below).
- Subsection (2)(d) allows the regulations to confer an enforcement function on either the Secretary of State, an SHA, or the Care Quality Commission (“**CQC**”). The regulations may set out the circumstances in which a financial penalty will be imposed and enforced.

23. New section 250E(3) enables regulations to be made to lift the common law duty of confidentiality in relation to processing of information authorised under them. Such processing must be for the purpose of establishing and operating the SPR or for making patient information available through the system (as set out above).

24. New section 250E(4) requires the Secretary of State to have regard to the need to ensure proper safeguards are in place to prevent the misuse of data made available as a result of the regulations. The UK Government’s Explanatory Notes to the Bill states that this would particularly apply where patient information is to be shared with clinicians in the British Isles but outside of England under section 250E(2)(c)(ii) – i.e. consideration would be given to the existence of equivalent safeguards in respect of data security, roles-based access etc.

25. New section 250E(5) provides that SPR data may be used for secondary purposes such as planning and research if there is a separate legal basis for doing so. This is a saving provision to ensure that the SPR can be used as a source of data for purposes other than direct care in England, (as set out in subsection (1)) where there are other legal powers such as legislation or the common law which authorise the use of patient information for those purposes. The UKG Explanatory Notes confirm that new section 250E does not create any new powers to share patient information for secondary purposes and that the information that is processed to establish and operate the SPR must be for the purposes set out in section 250E(1) (i.e. to be made available to patients receiving health service, or social care, in England and those involved in delivering their direct care).

26. New section 250F sets out what may and what must be included in the regulations made under new section 250E(2)(d) in relation to enforcement.

For example, in relation to the setting of financial penalties and steps an enforcement authority must take during enforcement action.

27. Clause 47(3) amends section 271 of the NHS Act 2006 so that the territorial extent of the new sections 250E and 250F are not limited to England. The UK Government's Explanatory Notes to the Bill states that this means, for example, that where there is policy agreement and a technical solution is in place the functions conferred by the sections may be exercised outside of England.

28. The provisions enable the Secretary of State to confer powers on a cross border Special Health Authority to be an enforcement authority for the purposes of the SPR. Clause 47 is therefore considered to include provision in relation to Wales that has regard to devolved matters. The provision also enables the establishment and operation of a system for sharing and processing patient information which may involve persons receiving care in Wales and cross-border service provision. It is therefore considered to have regard to health in Wales, a devolved matter.

Clause 48 – Information about health service products

29. Clause 48 amends section 264B of the NHS Act 2006 which sets out the extent of the Secretary of State's powers to disclose information, in particular confidential and commercially sensitive information, the Secretary of State has obtained from manufacturers and suppliers concerning the pricing of health service products to the NHS.

30. By virtue of section 264A(3)(f) of the NHS Act 2006, the information which the Secretary of State receives under section 264A (and can disclose by virtue of section 264B) could include the following:

- a) information from a UK producer which has the purpose of enabling or facilitating consideration by the Welsh Ministers of whether (i) adequate supplies of Welsh health service products are available, and (ii) the terms on which those products are available represent value for money;

- b) information about medicinal products, other medical supplies or other related products as is necessary to verify whether they are "Welsh health service products" (defined by section 264A(15) to mean "*any medicinal products used to any extent for the purposes of the health service continued under section 1(1) of the National Health Service (Wales) Act 2006 and any other medical supplies, or other related products, required for the purposes of that health service*").

31. As this provision relates to information concerning Welsh health service products and may affect the exercise of functions by the Welsh Ministers in relation to the Welsh health services it is considered to include provision in relation to Wales that has regard to devolved matters.

Clause 49 - Health and social care information: delegation of functions

32. Clause 49 inserts new provisions into the 2012 Act conferring on the Secretary of State powers to delegate certain functions relating to information about health services and adult social care.

33. New section 251ZF of the 2012 Act confers a power on the Secretary of State to make arrangements for a person prescribed by regulations to exercise functions under Chapter 1 of the 2012 Act (information standards).

34. New section 277G(1)(a) of the 2012 Act confers a power on the Secretary of State to delegate their “relevant information functions” (as defined in section 277G(4)) to others, namely a power to direct a “public body” that exercises functions in, or in relation to, England to exercise those functions. Further, new section 277G(1)(b) enables the Secretary of State to give the public body directions about the exercise of those functions.

35. As this provision enables the delegation of information-related functions to public bodies which may operate across England and Wales, in connection with health and social care information, it is considered to have a regard to health in Wales, a devolved matter.

Clause 50 - Health and social care information systems etc

36. Clause 50 introduces Schedule 7 to the Bill, for which see further below.

Clause 52 - Arrangements with devolved authorities etc. about information

37. Clause 52 inserts new sections 294A and 294B into Part 11 of the 2012 Act.

38. New section 294A(1)(b) enables the Secretary of State to make arrangements with the Welsh Ministers or a Welsh health body for the provision by the Secretary of State of services or facilities in connection with the processing of information for the purposes of the Welsh health service or the provision of social care in or in relation to Wales. There are similar provisions in relation to Scotland, Northern Ireland and the Isle of Man. The UK Government state in their Explanatory Notes to the Bill that the purpose of this provision is to enable the Secretary of State to continue certain functions exercised by NHS England under section 270 of the 2012 Act of providing services to the devolved administrations and the Crown Dependencies, such as systems delivery functions, including in connection with establishing information systems.

39. New section 294A(2) states that such arrangements may be on such terms as may be agreed between the parties, including terms as to payment.

40. New section 294B enables the Secretary of State to direct a public body exercising functions in, or in relation to, England to exercise the Secretary of State's functions under section 294A or under arrangements under that section, as well as give that public body directions about the exercise of those functions including directions about the processing of information that the body obtains in exercising those functions.

As this provision enables arrangements to be made with the Welsh Ministers and Welsh Health bodies in relation to the processing of information for the purposes of the Welsh health services it is considered that it has regard to devolved matters.

Clause 53 - Arrangements with devolved authorities about commissioning

41. Clause 53 replaces section 295 of the 2012 Act and omits section 296.

42. New section 295(1) provides that the Secretary of State may make arrangements with the Welsh Ministers or a Welsh health body for the Secretary of State to commission services or facilities for the purposes of the Welsh health service. There are similar provisions in relation to Scotland, Northern Ireland and the Isle of Man.

43. New section 295(2) sets out that arrangements are made on terms agreed between the parties and may include terms as to payment. As Clause 53 enables arrangements to be made with the Welsh Ministers in relation to the commissioning of services for the Welsh health services it is therefore considered to include provision in relation to Wales that has regard to devolved matters.

Clause 55 - Delegation of functions under certain arrangements with devolved authorities

44. Clause 55 inserts new section 296B into the 2012 Act which enables the Secretary of State to direct a public body exercising functions in, or in relation to, England to exercise some or all of the Secretary of State's functions under arrangements made under section 295 of the 2012 Act (commissioning arrangements, as incorporated by clause 53 of the Bill) or section 296A (education and training arrangements, as incorporated by clause 54 of the Bill).

This clause is therefore an extension of the power of the Secretary of State in clause 54.

Clause 58 – NICE recommendations: decisions about time for compliance

45. Clause 58 inserts a new section 237(8A) into the 2012 Act.

46. Section 237 is a regulation making power to confer functions on NICE in relation to the giving of advice or guidance, provision of information or making of recommendations in respect of health and social care provision.

47. Section 237(8) is a power for regulations to require “specified health or social care bodies” to have regard to NICE advice or guidance, or to comply with NICE’s recommendations. “Specified health or social care bodies” is defined in section 237(11) of the 2012 Act as meaning “any public body exercising functions in connection with the provision of health services in England”, which could potentially include cross-border special health authorities, namely The NHS Business Services Authority and NHS Blood and Transplant. It is for this reason that clause 58 is considered to include provision in relation to Wales that has regard to devolved matters.

Clause 59 - Transfer of safety investigation functions to Care Quality Commission

48. This clause introduces Schedule 8 of the Bill, for which see further below.

Clause 67 - Minor and consequential amendments

49. This clause introduces Schedule 11 of the Bill, for which see further below:

Schedule 1 - Conferral of primary care functions on integrated care boards etc (*in relation to paragraphs 55, 94 and 95*)

50. Schedule 1 to the Bill contains provision which confers certain primary care functions and responsibilities on ICBs. Of particular note are the following provisions:

- a) Paragraph 55 of Schedule 1 to the Bill amends section 147A of the NHS Act 2006. It provides the Secretary of State with a power to make regulations for the preparation, maintenance and publication by the Secretary of State or a NHS body of one or more lists of persons approved by them for the purpose of assisting in the provision of pharmaceutical services which an ICB arranges, or persons approved by them for the purpose of performing local pharmaceutical services.

Section 275 of the 2006 Act defines an “NHS body” as including a Local Health Board, NHS trust or Special Health Authority. “NHS trust” and “SHA” are both defined as including those established under the NHS (Wales) Act 2006. The definition of “NHS body” does not appear to have been narrowed for the purposes of this provision. Taking this and the breadth of the definition of NHS body into account, it’s considered the provision could be argued to have regard to devolved matters.

b) Paragraphs 94 and 95 of Schedule 1 to the Bill amends sections 51 and 65 of the National Health Service (Wales) Act 2006. The amendments add to the list of persons with whom Local Health Boards may make agreements with for the provision of primary medical and dental services, to include individuals who are providing such services in accordance with new additional powers for ICBs to make arrangements (new sections 83 and 99A of the NHS Act 2006). Such provision is considered to modify the functions of Local Health Boards, which are devolved Welsh authorities, and therefore paragraphs 94 and 95 of Schedule 1 to the Bill are considered to have regard to devolved matters.

Schedule 7 – Health and social care information etc

51. Schedule 7 to the Bill makes amendments to Chapter 2 of Part 9 of the 2012 Act in relation to health and adult social care information systems. This includes but is not limited to the following:

- a) Paragraph 1 extends the extent of Chapter 2 of Part 9 to the United Kingdom.
- b) Paragraph 5 replaces section 254 of the 2012 Act (establishment of information systems). As part of this, new section 254(2) enables the Secretary of State to establish and operate other systems for the collection, analysis or other processing of information for the purposes of, or in connection with, the provision of health or adult social care in the British Islands.
- c) Section 254(2) is relevant to new section 257(A1) under which any person (anywhere) may request the Secretary of State to establish and operate an information system. UKG Explanatory Notes state that these provisions derive from section 255 which enabled any person (including a devolved authority) to request the Secretary of State to establish and operate an information system (where the information was necessary or expedient for the person to have in relation to the exercise of functions, or carrying out of activities, in connection with the provision of health care or adult social care).
- d) New section 254(2) enables the Secretary of State to establish and operate other systems for the collection, analysis or other processing of information for the purposes of, or in connection with, the provision of health care or adult social care in the British Islands.
- e) Paragraphs 6 and 7 omits section 255 of the 2012 Act (power to request NHS England to establish information systems) and section 256 (requests for collection under section 255: confidential information).
- f) Paragraph 8 amends section 257 of the 2012 Act – in addition to moving from section 255 to the new section 257(A1), the power for any

person to request the Secretary of State to establish and operate an information system, paragraph 8 of schedule 7 to the Bill also transfers functions under section 257 (publishing information and procedures and charging fees) from NHS England to the Secretary of State and makes consequential amendments, such as omitting references to section 255.

g) Paragraph 10 amends section 259 to transfer powers to require and request information from NHS England to the Secretary of State.

h) Paragraph 11 replaces sections 260 and 261 so that under the new section 260(1), the Secretary of State has power to publish information obtained in the operation of an information system. However, section 260(2) prohibits the Secretary of State from publishing “personal information” unless the individual to whom it relates has consented to the publication or the Secretary of State considers that publication is a proportionate means of achieving a legitimate aim. A “legitimate aim” is defined in new section 260(3).

i) Under new section 261(1), the Secretary of State has a power to disclose (other than by publication) information obtained in the operation of an information system. New section 261(2) prohibits the Secretary of State from disclosing personal information under subsection (1) unless one or more specified conditions apply. New section 261(3) overrides the common law duty of confidentiality in respect of some of those conditions. New section 261 now refers to the concept of “disclosure” only and not both “dissemination” and “disclosure”.

j) New section 261(2)(d) is a new power, enabling disclosure for the purpose of facilitating the carrying out of clinical trials or otherwise for the purpose of facilitating research and this includes enabling potential participants in research to be identified and contacted. There is also a new power for the Secretary of State (at section 261(d)(j)) to enable disclosure of personal information where the Secretary of State considers this to be a proportionate means of achieving a legitimate aim.

k) New section 261(3) overrides the common law duty of confidentiality in respect of some conditions.

52. It is considered that Schedule 7 has regard to devolved matters as it provides the Secretary of State with a power in relation to the establishment and operation of a system for the collection, analysis or other processing of information in relation to the provision of health or adult social care in Wales.

Schedule 8 - Transfer of HSSIB's functions to the CQC
(in relation to the part of paragraph 4 which adds new sections 51Q and 51S to the Health and Social Care Act 2008, and paragraph 8)

53. Schedule 8 to the Bill relates to the transfer of functions from the Health Services Safety Investigations Body (“**HSSIB**”) and transfers its functions to an independent arm of the CQC. In doing so it makes a number of amendments to the Health and Social Care Act 2008 (“the 2008 Act”). Of particular note are the following provisions which are considered to have regard to devolved matters in Wales:

a) Paragraph 4 of Schedule 8 to the Bill inserts new sections to the 2008 Act. These include the following:

(1) a new section 51Q, which will require co-operation between CQC and various bodies (including a cross-border Special Health Authority) where both are carrying out an investigation in relation to the same or related incident; and

(2) a new section 51S, which will provide that CQC may enter into an agreement with any person for CQC to carry out an investigation into one or more incidents that have occurred, or are occurring, in the UK. These are stated to include incidents which have occurred during the provision of any services provided for the purposes of the health service in Wales continued under section 1 of the National Health Service (Wales) Act 2006.

b) Paragraph 8 of Schedule 8 to the Bill amends [section 69 of the 2008 Act](#) by adding that s.69(3) is “subject to section 51M (prohibition on disclosure of material).” Section 69(3) states that the CQC and the Welsh Ministers may share information with each other for the purposes of the efficient and effective discharge of their corresponding functions. As these provisions relate to investigation functions which may be exercised in relation to incidents occurring in Wales and involve co-operation with Welsh Ministers and Welsh bodies, they are considered to have regard to devolved matters.

Schedule 11 - Minor and Consequential Amendments (*in relation to paragraphs 12, 117, 192, 197 and 198*)

54. This schedule makes what are labelled “minor and consequential amendments” to many pieces of legislation. It is considered that following paragraphs in Schedule 11 to the Bill have regard to devolved matters in Wales:

55. Paragraph 12 of Schedule 11 to the Bill.

Section 113(4) of the Local Government Act 1972 (“1972 Act”) allows a local authority (which, by virtue of s.270(1) of the 1972 Act, includes, in relation to Wales, a county council, county borough council or community council) to enter into an agreement with various bodies (including but not limited to the Secretary of State) (“**the Various Bodies**”) for either of the following:

- placing the services of officers employed by the local authority at the disposal of the Various Bodies (for the purposes of the Various Bodies' functions);
- placing the services of officers employed by the Various Bodies at the disposal of the local authority (for the purposes of the local authority's functions).

Paragraph 12 of Schedule 11 to the Bill amends the definition of "Secretary of State" for the purposes of section 113(4) of the 1972 Act to mean "*the Secretary of State in relation to the exercise of functions in relation to the health service continued under section 1 of the NHS Act 2006*". This replaces the current definition, being "*in relation to the Secretary of State's functions under section 2A or 2B of, or paragraph 7C, 8 or 12 of Schedule 1 to, the NHS Act 2006*".

56. Paragraph 117 of Schedule 11 to the Bill.

This paragraph inserts a new section 12DB into the NHS Act 2006 which provides that the Secretary of State must establish and operate systems for collecting and analysing information relating to the safety of services provided by the health service in England. In doing so, the provision also states that the Secretary of State must give advice and guidance to such persons as he considers appropriate, for the purposes of maintaining and improving the safety of services provided by the health service in England.

It is considered that the provision could have a material impact on the exercise of functions by the Welsh Ministers or devolved Welsh authorities (including NHS bodies in Wales) where they provide services as part of the health service in England.

57. Paragraph 192 of Schedule 11 to the Bill.

This paragraph inserts a new section 252ZA into the NHS Act 2006 which provides that the Secretary of State must 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.

Given the cross-border nature of some of the health services in England and Wales, it is considered that the provision could have a material impact on the exercise of functions by the Welsh Ministers or devolved Welsh authorities where they exercise functions "in connection" with the provision of health services or adult social care in England.

58. Paragraph 197 of Schedule 11 to the Bill.

Paragraph 197(3) omits section 256(1) from the NHS Act 2006 which currently allows for NHS England or an ICB to make payments towards expenditure on community services. Bodies to whom they are currently able to make payments includes, but is not limited to (a) a local social services authority in Wales towards expenditure incurred or to be incurred by it in connection with any of its functions which are social services functions for the purposes of the Social Services and Well-being (Wales) Act 2014; and (b) a Welsh county council or county borough council, towards expenditure incurred or to be incurred by it in connection with its functions under Part 2 of Schedule 9 to the Health and Social Services and Social Security Adjudications Act 1983 (meals and recreation for old people); (c) the Welsh new towns residuary body, in respect of expenditure incurred or to be incurred by it in connection with the provision of housing accommodation; (d) a local authority as defined in section 579(1) of the Education Act 1996, which includes a local authority in Wales towards expenditure incurred or to be incurred by it in connection with its functions under the certain "Education Acts" (which includes education legislation in Wales), in so far as it performs those functions for the benefit of disabled persons.

In place of the above, paragraph 197(4) amends section 256(2) of the NHS Act 2006 which states that the Secretary of State or an ICB may make payments to certain bodies towards expenditure incurred or to be incurred by them in connection with the provision of housing accommodation if, in the opinion of the Secretary of State or (as the case may be) the ICB, making such a payment is in the interests of the health service. For these purposes, "health service" is defined to mean the health service continued under section 1(1) of the 2006 Act (i.e. the health service in England) and under section 1(1) of the National Health Service (Wales) Act 2006 (i.e. the health service in Wales).

Such bodies to whom payment can be made by the amended section 256(2) of the NHS Act 2006 includes, but is not limited to (1) a private registered provider of social housing; (2) a registered social landlord within the meaning of the Housing Act 1985 (see section 5(4) and (5) of that Act); (3) the Welsh new towns residuary body (which is defined by s.275(1) to mean the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a) (i) to (iii) of the New Towns Act 1981).

59. Paragraph 198 of Schedule 11 to the Bill.

This paragraph amends section 257 of the NHS Act 2006, which applies where the expenditure in respect of which a payment under section 256 of that Act is proposed to be made is expenditure in connection with services to be provided by a voluntary organisation. This provision therefore linked with paragraph 197 of Schedule 11 of the Bill discussed directly above.

60. Consent is required for these provisions because they contain provision in relation to Wales which are considered to have regard to the devolved matter of health and care services in Wales. This is for the reasons set out above.

UK Government view on the need for consent

61. UK Government consider that the legislative consent memorandum is required for the following clauses: 2, 27, 49, 50, 52, 53, 55 and Schedule 7. This analysis is contained at Annex A of the Explanatory Notes.

62. Whilst I agree that consent is required for these provisions, I also consider the LCM process is engaged for additional provisions of the Bill, as outlined above.

Reasons for making these provisions for Wales in the Health Bill

63. The Bill makes provision in both reserved and devolved areas and makes cross-border administrative arrangements. As a result, a UK Bill is the most effective means of achieving the relevant policy objectives.

Financial implications

64. It is not yet known whether there would be any financial implications arising from this Bill for Wales.

Conclusion

65. 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.

66. Furthermore, I will continue to monitor and provide updates on this Bill's passage through Parliament. I 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.

Mabon ap Gwynfor MS
Cabinet Minister for Health and Care
25 June 2026