

STATUTORY INSTRUMENT CONSENT MEMORANDUM

THE LEGISLATIVE REFORM (DISCLOSURE OF ADULT SOCIAL CARE DATA) ORDER 2025

1. This Statutory Instrument Consent Memorandum is laid under Standing Order (“SO”) 30A.2. SO30A prescribes that a Statutory Instrument Consent Memorandum must be laid and a Statutory Instrument Consent Motion may be tabled before Senedd Cymru if a UK Statutory Instrument makes provision in relation to Wales amending primary legislation within the legislative competence of the Senedd.
2. The Legislative Reform (Disclosure of Adult Social Care Data) Order 2025 (“the Order”) is subject to the affirmative procedure and was laid before the UK Parliament on 21 May 2025 and can be found at:

[Legislative Reform \(Disclosure of Adult Social Care Data\) Order 2025 \(HTML\) - GOV.UK](#)
3. Copies of the Order and associated documentation have today been laid before the Senedd alongside this memorandum.
4. The Secretary of State makes the Order in exercise of the powers conferred by section 1 of the Legislative and Regulatory Reform Act 2006 (“the LRRA 2006”). Except with the agreement of the Senedd, the Order may not make provision which would be within the legislative competence of the Senedd if the provision were contained in an Act of the Senedd (under section 11(1) of the LRRA 2006).
5. The Order contains provisions that fall within the legislative competence of the Senedd and therefore requires Senedd consent.

Summary of the Instrument and its objective

6. The objective of the Order is to amend the Local Audit and Accountability Act 2014 (“the LAAA 2014”) and the Public Audit (Wales) Act 2004 (“the PAWA 2004”) to enable the recommencement of the sharing of adult social care matching data with local authorities in England and Wales for the purposes of identifying and preventing fraud and error.
7. The National Fraud Initiative (NFI) is a team within the Cabinet Office’s Public Sector Fraud Authority which works across the UK in partnership with Audit Wales, Audit Scotland and the Northern Ireland Audit Office. The NFI specialises in “patient data” matching, using a range of products and data matching techniques to help detect and prevent fraud. Where a

match is found, it indicates that there may be an inconsistency that requires further investigation. The NFI will share its reports of matches which identify Inconsistencies in the data held with eligible bodies. This enables those bodies to investigate whether there has been any fraud and to take remedial action where appropriate.

8. 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).
9. 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 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.”
10. 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.
11. 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.

Provision to be made by the Instrument for which consent is sought

12. 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.
13. 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.

Why is it appropriate for the SI to make this provision

14. The power in section 1 of the Legislative and Regulatory Reform Act 2006 is exercisable only by a Minister of the Crown and with the consent of the Senedd in accordance with section 11 of that Act.

15. The UK Government's Explanatory Memorandum states fraud is a significant issue for adult social care in local authorities as well as presenting evidence that local authorities want to resume adult social care data matching.
16. The 2022 NFI consultation report highlighted that 78 of 84 (93%) local authority respondents across England, Scotland and Wales said there was a strong need for the NFI to provide adult social care data matching. Moreover, 93% also said that adult social care fraud was a major risk and 94% agreed that mandatory data matching would be valuable to their organisation.
17. The Order will reverse the unintended effects of the amendments made to the National Health Service Act 2006 on PAWA and the LAAA and will allow matched adult social care data to be shared once more, to identify and tackle fraud.
18. It is my view that it is appropriate to deal with these provisions in this Order. The powers to make this Order lies with the Secretary of State under section 1 of the Legislative and Regulatory Reform Act 2006. However, under section 11(1) of that Act, the Order may not make provision which would be within the legislative competence of the Senedd except with the agreement of the Senedd.

Financial implications

19. There are no anticipated financial implications for Welsh Government. There is expected to be a net benefit to Welsh Local Authorities, with the gain from stopping fraud exceeding the administration charge.

Jayne Bryant MS

Cabinet Secretary for Housing and Local Government

23 May 2025