

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (MEMORANDUM NO.4)

Data (Use and Access) Bill

1. This legislative consent memorandum (LCM) 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 Cymru¹ if a UK Parliamentary Bill makes provision in relation to Wales which has regard to devolved matters.
2. The Data (Use and Access) Bill (“the Bill”) was introduced in the UK Parliament, the House of Lords, on 23 October 2024. I laid an LCM on 2 January 2025 and two Supplementary LCMs (SLCM) on 12 March 2025 and 3 April 2025.
3. On 28 April 2025, a number of government amendments were tabled to the Bill for House of Commons Report stage which is scheduled to be held on 7 May. These amendments make provision which have regards to devolved matters, as detailed in paragraphs 7 to 19 below.
4. The Bill, as amended at Public Bill Committee in the House of Commons, can be found at: [Data \(Use and Access\) Bill \[HL\]](#)

Policy Objective(s)

5. The UK Government’s stated policy objectives are to harness the power of data for economic growth, support a modern digital government, and improve people’s lives. It indicates that the Bill has been designed to achieve these three objectives with measures included to start delivering its commitment to better serve the British public through science and technology.

Summary of the Bill

6. The Bill makes provision to:
 - allow for the secure sharing of customer data, e.g., held by a communications provider or financial services provider, upon the customer’s request, with authorised third-party providers.
 - establish a legislative structure for the provision of digital verification services in the UK.
 - provide a legislative framework to support the operation of the National Underground Asset Register.
 - reform the way in which births and deaths are registered in England and Wales, enabling the move from a paper-based system to registration in an electronic register.
 - reform parts of the UK's data protection and privacy framework to maintain high standards of protection, whilst addressing a lack of

clarity in existing legislation that impedes the safe development and deployment of some new technologies.

- facilitate the flow and use of personal data for law enforcement and national security purposes.
- reform the regulator, the Information Commissioner, including its governance structure, duties, enforcement powers, reporting requirements, data protection complaints processes and its development of statutory codes of practice.
- provide the Gas and Electricity Markets Authority with flexibility to determine the best process to follow in appointing the successor licensee for providing smart meter communication services.
- extend data sharing powers under section 35 of the Digital Economy Act 2017 to include businesses.
- amend the Online Safety Act 2023 to create a requirement for OFCOM, when notified of a child death by the Coroner (or Procurator Fiscal in Scotland) to issue an information notice to specified online service providers requiring them to retain certain information relating to the use of the service by the deceased child for a specified period.
- create a framework allowing researchers access to data relating to online safety held by tech companies.
- retain biometric information, including that received through international partner sharing.
- update regulations to make sure that the UK's trust services legal framework continues to function effectively.

Update on position since the publication of the first LCM

7. The following government amendments tabled on 28 April to Part 1 of the Bill, were assessed as requiring legislative consent of the Senedd (the reference numbers used below are the OPC reference numbers assigned to the amendments prior to their formal publication):
 - Amendments OPC 155-160, which amend clause 4.
 - Amendments OPC 139-141 and OPC 168, which amend clause 11.
 - Amendment OPC 170, which amends clause 21.
 - Amendment OPC 173, which amends clause 25.
8. Part 1 of the Bill – Access to Customer Data and Business Data - makes provision about the sharing of customer and business information to improve data portability and establishes a regulatory framework for the setting up of Smart Data schemes.
9. Following legal analysis of the implications of these new amendments I consider this SLCM is required to be laid before the Senedd for the reasons set out in paragraphs 11 to 19 below.
10. The need for legislative consent for Part 1 of the Bil as set out in the LCM laid on the Bill on 2 January 2025. This set out:

- that as these clauses make provision about sharing customer and business information to improve data portability in order to improve the quality of service provided to the customer and to businesses. Further, these clauses are intended to facilitate the sharing of personal data but do not make changes to data protection legislation framework itself and therefore do not relate to paragraph 170 of Schedule 7A to GOWA 2006, “Protection of personal data”;
- That as the purpose of these provisions relate to business and economy, neither the reserved matter in paragraph 170, nor any other reserved matters in Schedule 7A to GOWA 2006, are engaged. Further, these provisions do not relate to the or “Regulation of the sale and supply of goods and services to consumers” in Paragraph 72 of Schedule 7A to GoWA 2006; and,
- With regards to clause 12 (levy), a power to levy a charge does not amount to a tax falling within the scope of “Fiscal, economic and monetary policy including the issue and circulation of...taxes” as reserved by paragraph 15 of Schedule 7A to GoWA 2006.

Amendments OPC 155-160 – Part 1, Clause 4

11. These amendments amend clause 4 and make relevant provision for the first time in respect of a third-party recipient of business data who is appointed by a public authority to do something with that data.
12. As amendments OPC 155-160 amend clause 4 by making relevant provision for the first time, legislative consent is required.

Amendments OPC 139-141 and OPC 168 - Part 1, Clause 11

13. These amendments amend clause 11 by extending the regulation making power under this clause from expenses to a wider provision namely ‘activities’.
14. Amendment OPC 168 amends clause 11 by extending the regulation making power under this clause to allow the Secretary of State to make provision about whether a person who could require payment for an activity may do so.
15. As amendments OPC 139-141 and OPC 168 amend clause 11 by extending the scope of regulations, legislative consent is required.

Amendment OPC 170 - Part 1, Clause 21

16. This amendment amends clause 21 by making a relevant provision for the first time by extending the exception to the regulation making power in clause 21 (to include that of clause 11(9) which is a new amendment extending regulation making powers).

17. As amendment OPC 170 amends clause 21 by making relevant provision for the first time, legislative consent is required.

Amendment OPC 173 - Part 1, Clause 25

18. This amendment amends clause 25 and expressly adds regulations made under clause 4(4)(b) or (c) to references to regulations made under clauses 4(3) or clauses 5 to 21 for the first time.
19. As amendment OPC 173 amends clause 25 by making relevant provision for the first time, legislative consent is required.

UK Government view on the need for consent

20. A summary of the UK Government's view on the need for consent in relation to Part 1 of the Bill was provided in the first LCM laid on 2 January. The UK Government have confirmed that this continues to be their position and applies to these amendments.
21. This set out that UK Government are of the view that the general provisions under Part 1, Access to Customer Data and Business Data clauses 1-28 are reserved under the consumer protection reservation in Schedule 7A Section C6 GOWA 2006; but are in a devolved area in relation to business customers. Further that the 'Smart Data' provisions are reserved where it applies to the financial services sector, under the financial services reservation (Paragraph 17 of Schedule 7A to GoWA 2006). UK Government also consider the levy raising power under clause 12, Levy to be reserved under the fiscal economic and monetary policy reservation – Paragraph 15 of Schedule 7A to GoWA 2006.

Welsh Government position on the Bill

22. The Welsh Government remains supportive of the UK Government's policy intent behind the Bill.
23. The vast majority of the provisions within the Bill relate to the reserved matters reserved under the data protection reservation, the sale and supply of goods and services to consumers reservation, the telecommunications reservation and the reservation for the registrations of births, deaths and places of worship, as set out in Schedule 7A to the Government of Wales Act 2006.
24. In the SLCM (No.3), I confirmed that discussions with the UK Government regarding Welsh Government's constitutional concerns with the Bill had concluded and that as a result of amendments tabled to Part 3 of the Bill, I recommended the Senedd supports this Bill and gives its consent.

25. As a result of the latest amendments, I am able to continue to recommend the Senedd supports this Bill and gives its consent.

EU Data Adequacy

26. Concerns do remain though in relation to the impact the Bill may have on the UK's Data Adequacy status, as set out in the first LCM laid on the Bill.

27. On 18 March, the EU Commission proposed an extension to its adequacy decisions until 27 December 2025. The extension is intended to provide sufficient time for the Commission to complete its review of the adequacy decisions once the Bill has completed its passage through the UK Parliament.

Financial implications

28. *Part 1, Access to Customer Data and Business Data* - includes powers to impose fees on data holders and others and to impose a levy on data holders and others. The UK Government indicates these are intended to cover the costs incurred by decision-makers and enforcers in exercising their functions. It states the provisions aim to ensure schemes are self-funding and not reliant on public funds.

Conclusion

29. It is my view that it is appropriate to deal with these provisions in this UK Bill, as the Bill represents the most effective way for these provisions to come into force.

30. Therefore, I recommend the Senedd supports the proposal and gives its consent.

Rebecca Evans MS
Cabinet Secretary for Economy, Energy and Planning
28 April 2025