

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (MEMORANDUM NO 5)

MENTAL HEALTH 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 Cymru if a UK Parliamentary Bill makes provision in relation to Wales with regards to devolved matters.
2. The Mental Health Bill (“the Bill”) was introduced in the House of Lords on 6 November 2024. Second Reading in the House of Commons took place on 19 May 2025 and Committee stage concluded on 24 June.
3. A new print of the Bill was published on 25 June 2025 to incorporate the amendments made at Committee stage and this can be found at: [Mental Health Bill \[HL\]](#).

Policy Objectives

4. The UK Government’s stated policy objectives remain as set out in the first LCM, which was laid on 20 November 2024.

Summary of the Bill

5. The Bill is sponsored by the Department of Health and Social Care.
6. A summary of the Bill was provided in the first LCM, which remains accurate.
7. Welsh Government officials and UK Government officials have continued their regular contact in relation to the development of the Bill, including Government amendments that affect Wales.

Provisions in the Bill for which consent is required

8. In addition to the clauses for which I recommended that consent is required in the first LCM and in the previous supplementary LCMs (“SLCMs”), in my view an SLCM is required in relation to the amendment described below.
9. At introduction, clause 49 (procedure for certain regulations made by virtue of sections 18 and 35) provided that regulations made by the Welsh Ministers under new section 62ZB(1), as inserted by clause 18, would be subject to the affirmative procedure. Clause 49 later became

clause 50 (as amended in Committee) and is therefore referred to as clause 50 throughout this SLCM.

10. Amendments were tabled for consideration at Report Stage in the House of Lords to remove that regulation-making power from the Bill, inserting new text into clause 18 to include the policy on the face of the Bill rather than enabling regulations to be made. SLCM no 3 seeks the Senedd's consent to these substantive amendments to clause 18.
11. In consequence of the substantive amendments to clause 18, amendments were also laid in relation to clause 50, removing the provision prescribing the relevant Senedd procedure that would have applied to such regulations.
12. I further refer the Senedd's Committees to my response to the Legislation, Justice and Constitution Committee's report on SLCM no 3 in which clause 50 is discussed.

UK Government view on the need for consent

13. At introduction, UK Government agreed that consent was required for the clause discussed in this SLCM in so far as it has regard to devolved matters and no longer consider consent to be required as the clause has been removed from the Bill.
14. In my view, the amendment to clause 50 discussed above makes relevant provision because it has regard to the devolved matter of public health. Therefore, in accordance with Standing Order 29, Senedd consent is required.

Reasons for making these provisions for Wales in the Mental Health Bill

15. In my original LCM and subsequent SLCMs, I set out my reasons for concluding that these provisions for Wales should be made through the Mental Health Bill. These reasons still stand in my view. I restate them below, for ease of reference.
16. I support these reforms which will modernise mental health legislation to give patients greater choice, autonomy, enhanced rights and support; and ensure everyone is treated with dignity and respect throughout treatment. The Bill also includes measures to improve the care and support of people with a learning disability and autistic people, reducing reliance on hospital-based care.
17. There is a significant amount of cross-border provision of mental health services between Wales and England. Not making provisions in this Bill risks increasing divergence between services available in the two countries.

18. Furthermore, the periods of detention and the rights to apply to the tribunal are key safeguards in the protection of rights of individuals subject to the Mental Health Act 1983 and I want to take this opportunity to implement those changes here in line with the Welsh Government's approach to enhancing individual rights in Wales.
19. Whilst this Bill has regard to devolved matters, it also makes provision relating to reserved matters. For that reason, I consider legislating through a UK Bill to offer the most coherent approach to the provisions delivered in this legislation.

Financial implications

20. The financial implications of this Bill remain as they were set out in my original LCM. The impact assessment laid with the Bill (at [Mental Health Bill \[HL\] publications - Parliamentary Bills - UK Parliament](#)) includes a cost for Wales which has been estimated by applying uplift costs for England. Costs and cost savings that have been estimated for England have been scaled up, with impacts depending on the processes that the reforms are linked to. Total costs (England and Wales) for the 20-year appraisal period are estimated at £5.7 billion.
21. Implementation will be phased and therefore costs are not evenly split across the 20-year period. Total costs to Wales in the impact assessment over the 20-year period are estimated at £425 million across health, housing and social care.
22. If the Senedd consents to the LCM and the subsequent SLCMs including this one, this is on the basis of consequential funding from the UK Government to support implementation as set out in the impact assessment to Parliament.

Conclusion

23. In my view, it remains appropriate to deal with the provisions contained in the Mental Health Bill in a UK Bill as it ensures a coherent system of rights across Wales and England, in line with our commitment to enhancing individual rights in Wales, and supports our policy objectives on new mental health strategies.
24. Therefore, I recommend that the Senedd gives its consent.

Sarah Murphy MS
Minister for Mental Health and Wellbeing
20 August 2025