

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (MEMORANDUM NO 6)

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 2025.
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 two amendments described below that were tabled by UK Government on 16 September 2025.
9. **Clause 51** (data protection) clarifies that a duty or power to process information that is imposed or conferred by the Mental Health Act 1983 (“the MHA”) (as amended by the Bill) does not require or authorise the

processing of information which would contravene data protection legislation.

10. This government amendment (i.e. amendment Gov 34) would remove clause 51 from the Bill, on the basis that the clause is no longer necessary because of the general data protection override in section 183A of the Data Protection Act 2018, which was inserted by section 106(2) of the Data (Use and Access) Act 2025 and came into force on 20 August 2025.
11. **Schedule 2** to the Bill inserts a new section 30B into the MHA (power of court to terminate appointment of nominated person). New section 30B sets out the circumstances in which a court order terminating the appointment of a nominated person for a patient may be made.
12. This amendment (i.e. amendment Gov 35) to Schedule 2 would narrow the scope of the definition of “patient” in new section 30B(7) of the MHA for the purposes of section 30B. The reason for the amendment is to correct the current definition in that provision (i.e. *“In this section “patient” includes any person by or for whom a nominated person is appointed”*) (which inadvertently goes too wide since in certain cases it would cover an approved mental health professional).

UK Government view on the need for consent

13. At introduction, there was a difference of opinion between Welsh Government and the UK Government on the need for consent to clause 51 (which was clause 50 at time of introduction). I set out in my initial LCM that the UK Government’s view was that consent was not required for clause 51 whilst in my view, clause 51 makes provision in relation to Wales that has regard to the devolved matter of public health.
14. The Senedd’s consent was sought for its inclusion in the Bill, and I consider that Senedd consent should now also be sought in relation to the amendment to remove clause 51 from the Bill. UK Government, however, consider that consent is not required in relation to this amendment.
15. In relation to the amendment to Schedule 2, Welsh Government and the UK Government agree that consent is required. The amendment has regard to the devolved matter of health policy.
16. Therefore, in accordance with Standing Order 29, Senedd consent is required.

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

17. 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.
18. 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.
19. 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.
20. 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 MHA 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.
21. 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

22. 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.
23. 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.
24. 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

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25. 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.

26. Therefore, I recommend that the Senedd gives its consent.

Sarah Murphy MS
Minister for Mental Health and Wellbeing
30 September 2025