

## Agenda Supplement – Legislation, Justice and Constitution Committee

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Meeting Venue:

For further information contact:

Video conference via Zoom

P Gareth Williams

Meeting date: 19 May 2025

Committee Clerk

Meeting time: 13.00

0300 200 6565

[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

### Remote – Supplementary Pack

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Please note the documents below are in addition to those published in the main Agenda and Reports pack for this Meeting

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#### 5 Papers to note

(13.45 – 13.50)

#### 5.6 The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 5) on the Data (Use and Access) Bill

(Pages 1 – 4)

Attached Documents:

LJC(6)-16-25 – Paper 22 – Supplementary Legislative Consent Memorandum



## SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (MEMORANDUM NO.5)

### 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 Cymru<sup>1</sup> 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 three Supplementary LCMs (SLCM) on 12 March 2025, 3 April 2025 and 28 April 2025.
3. 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)

4. 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

5. 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**

6. The Legislative Consent Motion debate for the Bill took place in the Senedd on 6 May 2025. The Motion was agreed and the Senedd gave consent to the relevant provisions within the Bill.
7. Regular engagement between the UK and the Welsh Government has been continuing throughout the Parliamentary passage of the Bill.
8. On 8 May 2025 a government amendment, Commons Amendment 34, was tabled to the Bill at Ping Pong Stage, which commenced on 12 May.
9. Following legal analysis of the implications of this new amendment, I consider this SLCM is required to be laid before the Senedd for the reasons set out in paragraphs 10 to 15 below

#### Commons Amendment 34 - Clause 56 - National Underground Asset Register: England and Wales:

10. Part 3 of the Bill – National Underground Asset Register - amends the New Roads and Street Works Act (NRSWA) 1991, enabling the creation of the National Underground Asset Register (NUAR), a digital map of underground pipes and cables developed by the Geospatial Commission.
11. Clause 56 introduces a new part (Part 3A) into the NRSWA 1991 which deals with the details of the proposed NUAR. It includes specifying the data to be shared, the making available of information contained in it, the form of the register and the charging of fees and the provision of information by undertakers.

12. Commons Amendment 34 provides that the Secretary of State must produce guidance for NUAR users, setting out how to protect the information kept within, or obtained from, NUAR. It also provides that the Secretary of State must publish the guidance in such a manner as the Secretary of State considers appropriate for bringing it to the attention of the users of NUAR.
13. The need for legislative consent for Part 3 of the Bill, including clause 56, was set out in the LCM laid on the Bill on 2 January This stated that Welsh Ministers have executive competence in relation to the NRSWA 1991 (except s.167(3)) by virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999/672. Further, that no relevant reserved matters as set out in Schedule 7A to GoWA 2006 have been identified.
14. On 25 March 2025 the UK Government tabled amendment 'Gov 1' during Report Stage in the House of Commons which also amended clause 56. Amendment Gov 1, which was the subject of SLCM No.3 laid on the Bill, provides that the Secretary of State must obtain the consent of the Welsh Ministers before making regulations under Part 3A of the NRSWA 1991 (as inserted by this clause) in relation to any provision that would be within the legislative competence of Senedd Cymru if contained in an Act of the Senedd.
15. Commons amendment 34 amends clause 56, making provision for the first time in respect of a requirement for the Secretary of State to issue guidance. As such, legislative consent is required.

### **UK Government view on the need for consent**

16. A summary of the UK Government's view on the need for consent in relation to Part 3 of the Bill was provided in the first LCM laid on 2 January 2025 and also in Supplementary LCM No.3 laid on 12 April 2025.
17. This set out that UK Government agree that legislative consent is required for the provisions contained within Part 3, National Underground Asset Register, clauses 56, 57, 60(1) and Schedule 1 as they will alter the executive competence of the Welsh Ministers.

### **Welsh Government position on the Bill**

18. The Welsh Government remains supportive of the UK Government's policy intent behind the Bill.
19. 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.

20. 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.
21. As a result of the latest amendments, I am able to continue to recommend the Senedd supports this Bill and gives its consent.

### **Financial implications**

22. As set out in previous LCMs laid on the Bill, the UK Government's intention is for the NUAR's running costs to be funded through fees paid by those who benefit from the service (and not the taxpayer). Through regulations the Secretary of State may create a fees scheme and may require undertakers with apparatus in a street to pay fees to fund the operation of the NUAR service. The intended approach is that the fees will be targeted at covering the operating and are not to generate additional revenue beyond this.

### **Conclusion**

23. It is my view, and further to the consent given by the Senedd on this Bill, 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.
24. The NUAR is a UKG owned and managed service. Given the purpose of the guidance is to ensure the security of data held within and obtained from the NUAR, there is benefit in having consistent guidance in place for all users across England, Wales & N.Ireland. It is my view that inconsistency in guidance could negatively impact the data security of the service.
25. These amendments make supplementary provision to the clauses for which consent was previously sought. As a result, this SLCM remains in line with the consent previously given by the Senedd.

**Rebecca Evans MS**  
**Cabinet Secretary for Economy, Energy and Planning**  
**16 May 2025**