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Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio



Llywodraeth Cymru
Welsh Government

Ein cyf/Our Ref: MA/RE/1216/25

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay
CF99 1SN

17 June 2025

Dear Mike,

I am writing in response to the Legislation, Justice and Constitution Committee's reports on the Supplementary Legislative Consent Memorandums (SLCM) No.3 and No.4, laid in respect of the Data (Use and Access) Bill ("the Bill").

As you will be aware, the Senedd plenary debate for the Legislative Consent Motion on the Bill was held on 6 May 2025. My recommendation was that the Senedd give its consent for the relevant provisions within the Bill, and I am pleased that the motion was agreed. I have since laid a further SLCM (No.5) on 16 May 2025 regarding provisions within Part 3 of the Bill, which make supplementary provision to the clauses for which consent was previously sought.

I would like to thank the Committee for their consideration of the two Supplementary Memoranda No.3 and No.4. I have considered the conclusions set out in the report on SLCM No.3 and also the points highlighted in the report on SLCM No.4.

Legislative Consent

I am pleased that the Committee continue to agree with the Welsh Government's assessment of provisions within the Bill which require the consent of the Senedd, in accordance with Standing Order 29.

Part 3 of the Bill (National Underground Asset Register)

With regards to the National Underground Asset Register (NUAR) provisions, I note that the Committee welcomes amendment Gov 5 tabled on the 25 March 2025 and are also of the view that amendments Gov 1 - Gov 4 deliver an improvement to the Bill as introduced.

As I outlined during the motion debate, the legislative approach taken in Part 3 of the Bill as introduced, had caused the Welsh Government the most concern from a constitutional perspective. Of particular concern was the revocation of the Street Works (Records) (Wales) Regulations 2005 and extension of the equivalent regulations in England, the Street

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Works (Records) (England) Regulations 2002, to Wales. The amendments tabled to the NUAR provisions demonstrated a significant concession on the part of the UK Government and will ensure devolved interests remain protected in the development of further subordinate legislation surrounding the creation of the NUAR.

On the matter of how potential disagreements as to whether a provision made under Part 3A falls within the legislative competence of the Senedd, I can assure the Committee that the Welsh Government will continue to work closely with the UK Government at both official and Ministerial level throughout the legislative process and beyond, in order to address any potential areas of disagreement.

With regards to the consent provisions which have now been included in Part 3 of the Bill, I can also assure the Committee that the Welsh Government will write to relevant Senedd committees, informing them of an intention to consent to the UK Government exercising a delegated legislative power in a devolved area in relation to Wales. This is in line with Inter-Institutional Relations Agreement and will include an explanation as to the rationale for the intention to consent. Where time allows, opportunity will of course be given to the Senedd to express a view prior to consent being formally given. A written Statement will then follow.

The Welsh Government has been working closely with the Geospatial Commission on the NUAR project for a number of years and we began piloting the NUAR here in Wales in 2021. Given the subject matter, I am content with regulation making powers being provided solely to the Secretary of State in relation to the NUAR.

Matters of concern in Parts 1 and 2 of the Bill which are not resolved

The Committee will be aware that UK Government's assessment of the need for legislative consent for Parts 1 and 2 of Bill differs to that of the Welsh Government. Whilst the Welsh Government did pursue amendments to provide Welsh Ministers with a formal role, we also recognised the argument put forward by UK Government on the extent to which they considered these provisions to be devolved. There was also recognition in the Welsh Government of the benefits that Part 1 and 2 provisions will bring to the people of Wales, particularly when delivered on a UK-wide basis. Having the same Smart Data regulatory regime apply across the UK will simplify operations and ensure that both consumers and businesses benefit, regardless of where they live or where they are based. Having a UK wide Code of Practice for sharing personal information for digital verification purposes will avoid any disparity of guidance. This will prevent confusion between public authorities in Wales and UK wide identity service providers, to whom they would be providing the information.

In Conclusion 6 of your report on SLCM (No.3), the Committee highlight that the Welsh Government's concerns regarding similar provisions in the previous UK Government's Data Protection and Digital Information (DPDI) Bill led the Welsh Government to recommend to the Senedd that consent be withheld. As I set out in the motion debate on 7 May, key to the recommendation that consent be withheld for the DPDI Bill was the approach taken in respect of the NUAR provisions. The Committee will recall that the removal of a devolved executive function from the Welsh Ministers, without agreement, was highlighted at the time as being completely inappropriate. Engagement with the current UK Government has resolved this issue and the amendments tabled to the NUAR provisions in Part 3 of the Bill demonstrate positive and constructive continued working with the new UK Government.

I can confirm that my recommendation that the Senedd gave its consent to the relevant provisions, was in recognition of the positive impacts of this Bill, including those which will be achieved as a result of provisions in both Part 1 and Part2, as well being in recognition of the constitutional safeguards introduced in Part 3.

UK-EU obligations

The responsibility for the renewal process for the UK data adequacy decisions sits with the EU Commission, who have recently proposed a six-month extension to its adequacy decisions. This is to provide time for the Commission to complete its review of data adequacy once the Bill has completed its passage through the UK Parliament. As such, the outcome of the data adequacy review will not be known until after the Bill has completed its passage

Both I and my officials have stressed the importance of retaining data adequacy to the UK Government prior to the Bill's introduction and throughout its passage through the UK Parliament. I can confirm that the Welsh Government will continue to raise concerns through the appropriate inter-governmental channels.

Overall concerns

As I wrote above, the legislative approach taken in Part 3 of the Bill as introduced had caused the Welsh Government the most concern from a constitutional perspective. It is my view that the amendments tabled to Part 3 of the Bill have addressed these concerns. Therefore, I do not agree with the Committee's view that there remain significant issues with the Bill's provisions as they relate to devolved matters.

I note the Committee's concerns regarding the provision of robust and timely information in legislative consent memoranda and I remain committed to enabling efficient discharge of the legislative consent process. Early engagement with the UK Government enabled both SLCM No.3 and SLCM No.4 to be laid as quickly as possible and in accordance with Standing Orders, in order to provide the Senedd Committee's with time to scrutinise them prior to the motion debate.

I hope this provides further clarity for the Committee.

Yours sincerely,



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