

**Rebecca Evans AS/MS**  
**Cabinet Secretary for Economy, Energy and Planning**  
**Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio**



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref

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

24 April 2025

Dear Mike Hedges MS

I would like to thank you, as well as the members of the Legislation, Justice and Constitution Committee, for considering the first two Legislative Consent Memoranda laid in respect of the Data (Use and Access) Bill.

I have considered the conclusions set out in both reports and have responded to each of the recommendations in the accompanying report.

In addition, during my appearance at the Committee's evidence session on the Bill on 3 February 2025, my officials committed to provide feedback regarding the Scottish version of National Underground Asset Register (NUAR). The Scottish Community Apparatus Data Vault (or VAULT for short) has been operational since 2011 and remains integral for Scotland due to its ties with the road works register and its established use. The Scottish Government is continuing to engage on the NUAR programme in relation to cross-border integration/data sharing, and building good working practices. The Welsh Government is also engaging with Transport Scotland to understand how the data captured can be best utilised for wider purposes.

I hope this provides further clarity to the Committee.

Yours sincerely,

**Rebecca Evans AS/MS**  
**Cabinet Secretary for Economy, Energy and Planning**  
**Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio**

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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.

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## **The Welsh Government's Legislative Consent Memorandum and Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Data (Use and Access) Bill**

### **Welsh Government response to the Legislation, Justice and Constitution Committee's reports**

**24 April 2025**

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In March 2025, the Legislation, Justice, and Constitution (LJC) Committee laid its report on the Welsh Government's Legislative Consent Memorandum on the Data (Use and Access) Bill. The report includes six recommendations.

In April 2025, the LJC Committee laid its report on the Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No.2) on the Data (Use and Access) Bill. The report includes four recommendations.

This is the Welsh Government's response to the recommendations in both reports.

### **Introduction**

The Data (Use and Access) Bill was introduced in the House of Lords on 23 October 2024. It completed its passage through the House of Lords on 5 February 2025 and was introduced into the House of Commons on 6 February 2025. At the time of publication, the Bill was at Report Stage in the House of Commons.

The Bill has been designed to achieve three policy objectives by the UK Government namely, to harness the power of data for economic growth, support a modern digital government, and improve people's lives.

It was the view of both the Welsh and UK Governments that the Bill required the legislative consent of the Senedd. To this end a Legislative Consent Memorandum (LCM) was laid in the Senedd on 2 January 2025.

The LCM stated that whilst the Welsh Government was supportive of the policy intent behind the Bill, there remained concerns from a constitutional perspective with several provisions in the Bill. Therefore, further engagement was required with the UK Government on the role of the Welsh Ministers and the Senedd within the Bill on these matters. As a result, the LCM did not provide a recommendation as to whether the Senedd should give consent to this Bill.

A Supplementary LCM (SLCM) No.2 was subsequently laid on 12 March 2025 in respect of UK Government amendments tabled on the Bill on 26 February 2025. As discussions

with the UK Government regarding constitutional concerns were still ongoing at that time, LCM No.2 stated further engagement was required with the UK Government on the role of the Welsh Ministers and the Senedd within the Bill before a recommendation could be given on whether the Senedd should give consent to this Bill.

Following positive discussions between the two governments, amendments were tabled on 25 March 2025 by the UK Government at Report Stage in the House of Commons. As a result, in SLCM No.3 laid on 3 April 2025, the Cabinet Secretary for Economy, Energy and Planning recommended that the Senedd supports the Bill and gives its consent.

The Welsh Government has set out its response to the individual recommendations in the Committee's reports on the Welsh Government's LCM No.1 and SLCM No.2 on the Data (Use and Access) Bill below.

## **Responses to recommendations**

**LCM Recommendation 1 - The Cabinet Secretary should ensure that any supplementary legislative consent memoranda, which may be required because of amendments being proposed or made to the Bill in the UK Parliament, are laid before the Senedd as soon as possible to give Senedd Committees the best possible chance of considering the legislative changes as they apply to devolved matters.**

### **Welsh Government response**

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The Welsh Government is committed to ensuring the efficient discharge of the legislative consent process in accordance with the requirements of Standing Order 29.

The Welsh Government laid a SLCM No.3 on 3 April 2025, following UK Government amendments tabled to the Bill on 25 March 2025.

**LCM Recommendation 2 - The Cabinet Secretary should update the Committee and the Senedd as soon as possible on the specific changes to Part 1 of the Bill that are being sought by the Welsh Government, and provide details of the progress of discussions with the UK Government.**

### **Welsh Government response**

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The Welsh Government has been in discussions with the UK Government, at both Ministerial and Official level, regarding the devolved implications of provisions within Part 1 of the Bill. These discussions sought to address the differing conclusions reached by both governments in their devolution analysis of Part 1.

On Part 1 of the Bill, the Welsh Government requested that the UK Government provide Welsh Ministers with a formal role in relation to establishing Smart Data schemes.

Discussions on these matters have now concluded and SLCM No.3 provided an update on the Welsh Government's position on the Bill following the amendments tabled by the UK Government on 25 March 2025.

**LCM Recommendation 3 - The Cabinet Secretary should update the Committee and the Senedd as soon as possible on the specific changes to clause 49 in Part 2 of the Bill that are being sought by the Welsh Government, and provide details of the progress of discussions with the UK Government.**

#### **Welsh Government response**

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The Welsh Government has been in discussions with the UK Government, at both Ministerial and Official level, regarding the devolved implications of certain provisions within Part 2 the Bill. These discussions sought to address the different conclusions reached by both governments in their devolution analysis of these provisions.

The Welsh Government requested that the UK Government amend clause 49 to provide a more formal role for Welsh Ministers in relation to preparing and publishing a code of practice on Digital Verification Services.

Discussions on these matters have now concluded and SLCM No.3 provided an update on the Welsh Government's position on the Bill following the amendments tabled by the UK Government on 25 March 2025.

**LCM Recommendation 4 - The Cabinet Secretary should update the Committee and the Senedd as soon as possible on the specific changes to clauses 56, 57(3), 57(4), and 57(9) in Part 3 of the Bill that are being sought by the Welsh Government, and provide details of the progress of discussions with the UK Government.**

#### **Welsh Government response**

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The Welsh Government has been in discussions with the UK Government, at both Ministerial and Official level, regarding the devolved implications of provisions within Part 3 of the Bill. Both governments agreed that this part of the Bill required legislative consent.

The legislative approach taken in Part 3 of the Bill had caused Welsh Government the most concern from a constitutional perspective, particularly as this is an area of the Bill where Welsh Government and UK Government are in full agreement on the need for legislative consent.

The Welsh Government requested amendments to Part 3 of the Bill to provide the necessary constitutional safeguards regarding provisions within this Part.

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As a result of positive discussions, the UK Government tabled amendments to clauses 56, 57(3), 57(4), and 57(9) in Part 3 of the Bill on 25 March 2025. As set out in SLCM No.3, these amendments provide the necessary constitutional safeguards and will ensure devolved interests remain protected in the development of further subordinate legislation surrounding the creation of the National Underground Asset Register.

**LCM Recommendation 5 - The Cabinet Secretary should clarify whether the UK-EU dimensions of the Bill are being discussed at relevant intergovernmental forums, including the Interministerial Groups on UK-EU relations and on trade, and provide a summary of those discussions.**

### **Welsh Government response**

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Concerns regarding the impact of the Bill on EU data adequacy have been raised with the UK Government at both Ministerial and official level.

The current EU data adequacy decision for the UK was due to expire on 27 June 2025 and the EU had started the renewal assessment process. However, on 18 March 2025, the EU Commission proposed an extension to its adequacy decisions by six months, until 27 December 2025.

The EU Commission indicated the extension is intended to provide sufficient time for it to complete its review of adequacy once the Data (Use and Access) Bill has completed its passage through the UK Parliament. This is to ensure that the EU Commission's assessment on whether to renew these decisions is based on a stable legal framework.

The UK Government have provided assurances that dedicated teams in both the Department for Science, Innovation and Technology (DSIT) and the Home Office are engaging closely with the EU Commission on the renewal process, including in respect of the Data (Use and Access) Bill, and that provisions within the Bill have been designed with EU data adequacy in mind. The UK Government have also told us that the Secretary of State DSIT has held three meetings with the former and current European Commissioner for Justice to discuss data adequacy, with the most recent meeting being with Commissioner McGrath on 29 January in Brussels. According to the UK Government, the Commissioner acknowledged the shared interest in maintaining data flows and that adequacy 'is key' to the relationship with the EU. As adequacy is not devolved, Welsh Government has not been party to these discussions.

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The Committee will be aware that the Welsh Government requested a copy of the UK Government's risk assessment on the potential impact of the Bill on EU data adequacy. The UK Government have told us that they do not consider it appropriate to share their assessment with the Welsh Government, citing the importance of discretion whilst the EU Commission's review is underway to enable the adequacy decision process to be undertaken objectively and independently by the EU Commission.

Where the Welsh Government is concerned that UK Government policy or legislation may impact on UK-EU relations then we will continue to raise these concerns directly with the UK Government through the appropriate inter-governmental channels. For example, data adequacy was raised by the Cabinet Secretary for Economy, Energy, and Planning during a bilateral call with Nick Thomas-Symonds, Paymaster General and Minister for the Cabinet Office (Minister for the Constitution and European Union Relations) on 4 November 2024, and at the most recent meeting of the Inter-Ministerial Group on UK-EU Relations on 3 December 2024.

**LCM Recommendation 6 - The Cabinet Secretary should outline to the Senedd the renewal process for the UK's data adequacy decision.**

**Welsh Government response**

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The responsibility for the renewal process for the UK data adequacy decisions sit with the EU Commission. On its website, the EU Commission states that the adoption of an adequacy decision for a non-EU country involves:

- a proposal from the European Commission.
- an opinion of the European Data Protection Board.
- an approval from representatives of EU countries.
- the adoption of the decision by the European Commission.

**SLCM No.2 Recommendation 1 - The Cabinet Secretary should provide an updated assessment of the impact of the Bill on the UK-EU Trade and Co-operation Agreement, confirming the Welsh Government's view on whether the amendments that are the subject of Memorandum No. 2 modify its initial assessment.**

**Welsh Government response**

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The amendments which are the subject of Memorandum No.2 relate only to Part 1 – Access to Customer and Business Data - and Part 3- National Underground Register - of the DUA Bill and do not amend the UK data protection regime. As

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such, these amendments do not modify the Welsh Government's assessment on the impact of the Bill on Trade and Co-operation Agreement, as set out in the assessment provided to the Senedd Committees on 5 February.

**SLCM No.2 Recommendation 2 - The Cabinet Secretary should ensure that a UK-EU Trade and Co-operation Agreement assessment is included in all future memoranda for the Bill, in line with previous commitments given by the Welsh Government.**

#### **Welsh Government response**

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The Welsh Government's assessment of the potential impact of the Bill on the Trade and Co-operation Agreement (TCA) provided to the Senedd Committees on 5 February clarified how Welsh Ministers intend to fulfil the commitment to assessing the impact of Bills on the Trade and Co-operation Agreement.

This set out that where a Bill has a clear impact on the obligations made in the Trade and Co-operation Agreement, an assessment will be provided to Senedd Committees only in relation to the provisions which the Senedd is being asked to consent to. Further, that assessments will continue to be provided in writing, as a separate document to any LCM.

As set out above, as none of the amendments that are the subject of LCM No.2, or those amendments which are the subject of SLCM No.3 laid on 3 April 2025, impact the data protection regime, the Welsh Government's assessment of the impact of the Bill on the Trade and Co-operation Agreement assessment still stands. Should any further amendments be agreed on the Bill which do have an impact on the Trade and Co-operation Agreement, an updated assessment will be provided to the Committees.

**SLCM No.2 Recommendation 3 - The Cabinet Secretary should confirm the Welsh Government's view on whether the amendments that are the subject of Memorandum No. 2 reduce or increase the likelihood of divergence between the UK and the EU on data protection.**

#### **Welsh Government response**

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The amendments which are the subject of Memorandum No.2 relate only to Part 1 – Access to Customer and Business Data - and Part 3- National Underground Register - of the DUA Bill and do not amend the UK data protection regime. As such, these amendments do not reduce or increase the likelihood of divergence between the UK and the EU on data protection.

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**SLCM No.2 Recommendation 4 - The Cabinet Secretary should respond to the recommendations in our Report on the Welsh Government's Legislative Consent Memorandum on the Data (Use and Access) Bill, and to recommendations 1 to 3 in this report, by 24 April 2025.**

### **Welsh Government response**

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This response addresses the recommendations in the Committee's reports on both LCM No.1 and SLCM No.2.