

**Sarah Murphy AS/MS**  
Y Gweinidog Iechyd Meddwl a Llesiant  
Minister for Mental Health and Wellbeing



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: MA/SM/1676/25

Mike Hedges MS,  
Chair, Legislation, Justice & Constitution Committee  
Welsh Parliament  
Cardiff Bay  
Cardiff  
CF99 1SN

2 September 2025

Dear Mike,

Thank you for your report on the Legislative Consent Memorandum for the Mental Health Bill received in June.

Please find attached the Welsh Government's response to these recommendations.

Yours sincerely,

A handwritten signature in black ink that reads "S. Murphy". The signature is written in a cursive, flowing style.

**Sarah Murphy AS/MS**  
Y Gweinidog Iechyd Meddwl a Llesiant  
Minister for Mental Health and Wellbeing

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

[Gohebiaeth.Sarah.Murphy@llyw.cymru](mailto:Gohebiaeth.Sarah.Murphy@llyw.cymru)  
[Correspondence.Sarah.Murphy@gov.wales](mailto:Correspondence.Sarah.Murphy@gov.wales)

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 Supplementary Legislative Consent Memorandum (Memorandum No. 4) on the Mental Health Bill**

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

**September 2025**

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In July 2025, the Legislation, Justice and Constitution Committee submitted its report on the Welsh Government's Legislative Consent Memoranda for the Mental Health Bill. The report includes one conclusion and two recommendations. This is the Welsh Government's response to those recommendations.

The Mental Health Bill ("the Bill") was introduced in the House of Lords on 6 November 2024.

The UK Government's stated policy objectives are to 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.

It contains a number of amendments to the Mental Health Act 1983 ("the Act"). The measures in this Bill are generally intended to strengthen the voice of patients subject to the Act. They add statutory weight to patients' rights to be involved in planning for their care, and to inform choices regarding the treatment they receive. The reforms will increase the scrutiny of detention to ensure it is only used when, and as long, as necessary. The Bill also seeks to limit the use of the Act to detain people with a learning disability and autistic people.

The Act provides the legal framework for the detention and compulsory treatment of individuals with mental disorders who may pose a risk to themselves or others. The primary focus of recent reforms to the Act has been Parts 2 and 3, which address civil patients (patients who are liable to be detained in hospital and who are not subject to the Act as a consequence of any involvement with the criminal justice system) and offenders with mental disorders, respectively. Over two thirds of those detained under the Act are civil patients (under Part 2).

The last major amendment to the Act took place in 2007, introducing Community Treatment Orders (CTOs), Independent Mental Health Advocates

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(IMHAs), and modified detention criteria. Part 3 governs the treatment of offenders with relevant mental disorders, divided into restricted and unrestricted patients. Restricted patients, who pose a public safety risk, are under stricter controls by the Secretary of State for Justice, whereas unrestricted patients are treated similarly to civil patients, with fewer restrictions.

The latest reforms, which are being put forward in the Bill introduced into Parliament in 2024, are based on the findings of the 2018 Independent Review of the Act, led by Professor Sir Simon Wessely. The review highlighted significant problems with the Act's application and culture, and it made 154 recommendations. The Westminster government accepted most of these recommendations and, following consultations and pre-legislative scrutiny, a draft Bill was introduced in 2022 and revised and introduced in 2024 to incorporate changes on the basis of the feedback received.

Given that the Act covers both **reserved and devolved areas**, there are well established partnership arrangements in Wales which support the safe operation of the Act, particularly where there is an interface between the justice system and the health system in Wales. The reformed Act, once the amendments come into force, will build on those established arrangements to ensure that its implementation is carried out smoothly and effectively.

In Wales, the Mental Health (Wales) Measure 2010 ("the Measure") is a unique piece of legislation designed to provide a legal framework to improve mental health services. Implementation of the services required by the Measure began, on a phased basis, in January 2012 and includes improved access to mental health services within primary care; care and treatment plans and care coordinators for everyone receiving secondary mental health services; self-referral back into mental health services for adults discharged from secondary mental health services; and extending the availability of independent mental health advocacy. The Measure aimed to improve access to support in primary care but also to strengthen the rights of people accessing mental health services, but who are not subject to the Act.

The Measure is primarily aimed at supporting earlier intervention and preventing escalation to more specialised services or detention under the Act.

The Act is primary legislation in England and Wales that governs the assessment, treatment and rights of individuals for people with a mental health disorder. The Act includes both reserved and devolved areas, and the interface between both – for instance between the criminal justice system and health services – means that a UK Bill is the appropriate mechanism to deliver these policy changes.

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Given the mix of reserved and devolved areas in the Act and in this Bill, legislating on a Wales-only basis in a Senedd Bill would not be able to deliver the same policy intent, with coverage across the justice and health systems in one piece of legislation, as this UK Bill does. Where the Bill makes provisions that have regard to devolved matters, the consent of the Senedd has been sought.

The Measure is Wales-only legislation and aims to set out how services need to work together to provide mental health support in the community. The Act is largely about compulsory powers and admission to, or discharge from, hospital.

## **Recommendation 1**

### **The committee recommends**

**The Minister should provide a commentary on whether the amendments referred to in Memorandum No. 4 were agreed to or not, and accordingly whether there were any unexpected outcomes.**

Response: Accept

I can confirm that the amendments referred to in Memorandum no.4 were agreed to in Parliament and that there were not any unexpected outcomes for the UK Government.

The latest version of the Bill as amended in Public Bill Committee is available here: [Mental Health Bill \[HL\]](#).

Financial Implications - None

## **Recommendation 2**

### **The committee recommends**

**The Minister should explain why the Bill creates concurrent powers that are not subject to relevant consent mechanisms and associated 'carve outs' from the Government of Wales Act 2006.**

Response: Accept

Whilst it is the Welsh Government's preferred position that concurrent powers are subject to relevant consent mechanisms and associated 'carve outs' from the Government of Wales Act 2006. The concurrent powers in this Bill relate to consequential amendment-making powers and I consider the risks flowing from

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the possibility of the Secretary of State exercising these functions for Wales to be minor and acceptable.

Financial Implications - None

## **Conclusion 1**

**The committee concluded that**

**We agree with the Welsh Government's assessment of the provisions within the Bill as set out in Memorandum No. 4 that require the consent of the Senedd in accordance with Standing Order 29.**

Response: We note that the Committee's assessment accords with our own.

Financial Implications - None

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