

DRAFT LEGISLATIVE CONSENT MEMORANDUM

[Word text provided below – attached PDF version to be submitted upon approval]

LEGISLATIVE CONSENT MEMORANDUM

HEALTH BILL

Draft Legislative Consent Motion

1. The draft motion, which will be tabled by the Minister of Health, is:

“That this Assembly agrees that the provisions in clauses 2, 53, 55, 58 to 61, 63, 72, 74, 76 to 78, 85, 87 and 88 of, and Schedule 8 to, the Health Bill, as brought from the House of Commons on 9 September 2026, so far as those provisions deal with a devolution matter, should be considered by the United Kingdom Parliament.”

Background

2. This memorandum has been laid before the Assembly by the Minister of Health under Standing Order 42A(9)(a). The Health Bill was introduced in the House of Commons on 14 May 2026. The latest version of the Bill can be found at:

[Health Bill - Parliamentary Bills - UK Parliament](#)

3. A memorandum was laid on 29 May 2026 under the then Standing Order 42A(4)(b), as the Department required further time to complete its policy and legal analysis. That memorandum recorded the procedural position at that time and did not determine whether the legislative consent process was engaged or whether consent should ultimately be sought. The necessary analysis has now been completed, and consent is sought through this memorandum.

Summary of the Bill and its policy objectives

4. This Bill underpins a major transformation programme of the National Health Service (NHS) in England and is integral to the UK Government's investment and modernisation agenda to improve patient care as set out in the 10 Year Health Plan for England.
5. The Bill will primarily seek to improve patient safety and experience through a new Single Patient Record in England and put power and resources in the hands of frontline NHS organisations by abolishing NHS England and reducing national bureaucracy. It also reforms powers under the Medicines and Medical Devices Act 2021. Those reforms concern the regulatory framework administered by the Medicines and Healthcare products Regulatory Agency.
6. These reforms are described as necessary steps to reduce inefficiency, drive innovation and support early intervention to help people stay well for longer, strengthening the NHS for patients and staff, and deliver better value for taxpayers.
7. The Bill will aim at supporting plans to modernise the NHS by shifting power out into the system, redesigning the national centre so that it adds

real value and by ensuring, through the Single Patient Record, that information follows the patient to where and when they need it most.

Provisions which deal with a Devolution Matter

8. Most of the Bill sets out Provisions that apply to England, and are intended to ensure continuity and legal clarity for relevant administrative and information arrangements, including where these interact with cross-jurisdictional working.
9. Analysis has identified that Provisions within clauses 2, 53, 55, 58–61, 63, 72, 74, 76–78, 85, 87 and 88, and Schedule 8, deal with or impact on a devolution matter and are therefore within the legislative competence of the Assembly. Clause 54 was considered but is not included because it concerns health and social care services in, or in respect of, England and does not confer a function, duty, cost or liability on a Northern Ireland body.
10. Clause 2 – this clause enables the Secretary of State to transfer NHS England property, rights and liabilities to specified bodies. While it does not itself alter a Northern Ireland body's functions, rights, liabilities or costs, a transfer scheme may affect an NHS England contract, liability, cost, data arrangement or function involving a Northern Ireland body, including by changing the body with which it deals.
11. Clause 53 – this clause preserves the statutory route for disclosure and onward disclosure of confidential or commercially sensitive information about medicines and other health service products following the abolition of NHS England. That information may support pricing, supply, procurement, reimbursement and service delivery within the Northern Ireland HSC system.

12. Clause 55 and Schedule 8 – Clause 55 and Schedule 8 transfer NHS England information-system functions to the Secretary of State, extend Chapter 2 of Part 9 of the Health and Social Care Act 2012 to Northern Ireland and update powers relating to information systems and the collection, analysis, publication and disclosure of information. They provide a clearer statutory footing for systems and functions operated for Northern Ireland health and social care purposes, support continuity of information services in the United Kingdom, the Channel Islands and the Isle of Man.
13. Clause 58 – this clause allows the Secretary of State to provide information-processing services or facilities to a Northern Ireland department or specified Northern Ireland health body under agreed arrangements. Participation is voluntary and the terms may address payment, information governance, data-controller responsibilities, service standards, liabilities and termination.
14. Clause 59 – this clause allows the Secretary of State and a Northern Ireland department to agree arrangements under which the Secretary of State commissions services or facilities for the purposes of the Northern Ireland HSC system. Northern Ireland retains control over whether an arrangement is made, its scope and any funding committed. Matters such as patient responsibility, quality, complaints, costs and liability would be addressed in the terms and governance of each arrangement.
15. Clause 60 – this clause enables voluntary arrangements between the Secretary of State and a Northern Ireland department concerning health and social care workforce education and training functions and related services or facilities. It supports continued participation in UK-wide postgraduate education, recruitment and allocation arrangements.

16. Clause 61 – this clause allows the Secretary of State to direct an English public body to deliver functions under a commissioning or education and training arrangement made under clause 59 or 60. Where the arrangement concerns Northern Ireland, the direction determines the delivery body.
17. Clause 63 – this clause defines the terms “Northern Ireland health service” and “*Northern Ireland health bodies*” for the purposes of clauses 58 to 62. The definitions determine which bodies may participate in the information, commissioning and workforce arrangements.
18. Clause 72 – this clause amends the Medicines and Medical Devices Act 2021 to broaden the use of references to external agreements, standards or documents, including references capable of accommodating future updates. This is intended to keep the regulatory framework aligned with scientific, technical and international developments.
19. Clause 74 – this clause updates powers for disclosure of medicines information to relevant UK and international partners to support regulatory cooperation, safety monitoring and effective responses to emerging risks, subject to applicable confidentiality and data-protection safeguards.
20. Clause 76 – this clause reforms consultation requirements before regulations are made under the Medicines and Medical Devices Act 2021, allowing a more proportionate approach for minor or technical changes while retaining consultation with persons and organisations having a substantial interest where appropriate.
21. Clause 77 – this clause changes the Parliamentary procedure for specified medicines and medical devices regulations, allowing a limited category of minor, technical or administrative changes to use the negative procedure while retaining the affirmative procedure for more significant policy changes.

22. Clause 78 – this clause provides for the Parliamentary procedure applicable to certain medical-device fees regulations, permitting proportionate updating of regulatory fees, including cost-recovery changes.
23. Clause 85 – this clause permits the Secretary of State to make consequential, supplementary, incidental, transitional or saving provision, including amendments to Northern Ireland legislation. Fifteen Northern Ireland Statutory Rules have been identified, 13 within the Department of Health’s responsibility and one each within the responsibilities of the Department for Communities and Department for the Economy. The amendments principally substitute “Secretary of State” for “NHS England”.
24. Clauses 87 and 88 – these are standard Bill provisions which indicate respectively the extent of the Act and when the Act will come into force, including in relation to those provisions that deal with a devolution matter.

Tabled Amendments

25. Clause 2 – In clause 2, where a transfer scheme provides for the transfer of any property, rights or liabilities of NHS England to a Northern Ireland public body, the Secretary of State may not make the scheme without the consent of a Northern Ireland department.
26. Clause 55 and Schedule 8 – In clause 55 and Schedule 8, the Secretary of State may establish and operate an information system relating to health and social care in Northern Ireland only with the consent of the Department of Health, which may impose conditions concerning requests for, and the publication or disclosure of, information.

Reasons for utilising the Bill rather than an Act of the Assembly

27. This Bill is the UK Government's principal legislative vehicle for health and social care reforms in England, including the abolition of NHS England, and is the most effective mechanism because the Provisions engaging the LCM process form part of the abolition and transfer of NHS England functions and amend interconnected UK legislation.
28. The Bill amends a number of existing Acts, most notably the National Health Service Act 2006 and the Health and Social Care Act 2012, and the majority of the Provisions of the Bill extend to England and Wales and apply to England only; some Provisions will extend to the whole of the UK. The Bill is also being used as a vehicle to reform significant MHRA powers through amendments to the Medicines and Medical Devices Act (MMDA) 2021.
29. Separate Assembly legislation would be slower, risk gaps and create the possibility of mismatched commencement or legal frameworks. Approving the LCM would ensure an orderly and seamless transition, and preserve operational continuity following the abolition of NHS England, whilst ensuring that future Northern Ireland participation in services or arrangements will remain agreement-based and subject to Northern Ireland accountability and governance.
30. It has also been identified that Northern Ireland Secondary Legislation will be impacted, and the Bill provides a power to make regulations dealing with matters consequential on the Act, including amendment of Northern Ireland legislation where the amendments are minor and technical. A number of Northern Ireland Statutory Rules have been identified, and will need consequential technical updates, mainly the replacement or removal of references to NHS England and National Health Service Commissioning Board, and the Bill would be the most efficient mechanism.

Consultation

31. The policy development underpinning the Bill was undertaken primarily in England, including through the Change NHS public portal which captures the views of the general public and has reportedly generated over 250,000 contributions from staff and members of the public since it opened in October 2024.
32. The UK Government also reported targeted engagement informing Bill-related measures, including engagement underpinning the Dash Review on patient safety, and national public engagement on health and care data supporting the Single Patient Record policy.

Human Rights and Equality

33. The former Secretary of State for Health Wes Streeting MP has made a statement under section 19(1)(a) of the Human Rights Act 1998 that, in his view, the Provisions of the Health Bill are compatible with the Convention rights.
34. The UK Government has published an Equality Impact Assessments Summary and related equality impact assessments for key policy areas within the Bill, considering impacts against the Equality Act 2010 Public Sector Equality.

Financial Implications

35. No immediate material financial impact has been identified. The UK Government has published impact assessments for the Bill's measures and notes that several proposals include enabling powers which do not have quantifiable benefits or costs, meaning the scale of potential benefits and costs will depend on subsequent policy decisions.
36. Future arrangements with Northern Ireland may include agreed payments and will be subject to normal affordability, business-case and governance requirements.

Summary of Regulatory Impact

37. The UK Government has indicated that where proposals affect business, an analysis has been developed in line with the Better Regulation Framework and accompanied by appropriate regulatory appraisal.

Engagement to date with the Committee for Health

38. The Committee for Health was briefed by officials on 8 October 2026 on the wider background of the Bill, policy position in relation to the Clauses aforementioned and ongoing Legislative Consent Motion process.

Conclusion

39. The Minister of Health is of the view that, in the interest of good government, it is appropriate to deal with the Provisions identified in this memorandum in this UK Bill, as it is the most efficient vehicle to ensure the

continuity and efficient administration of existing arrangements and remain compatible with Northern Ireland devolved autonomy. The Minister therefore recommends that the Assembly agrees the draft Legislative Consent Motion.

Department of Health

27 October 2026