

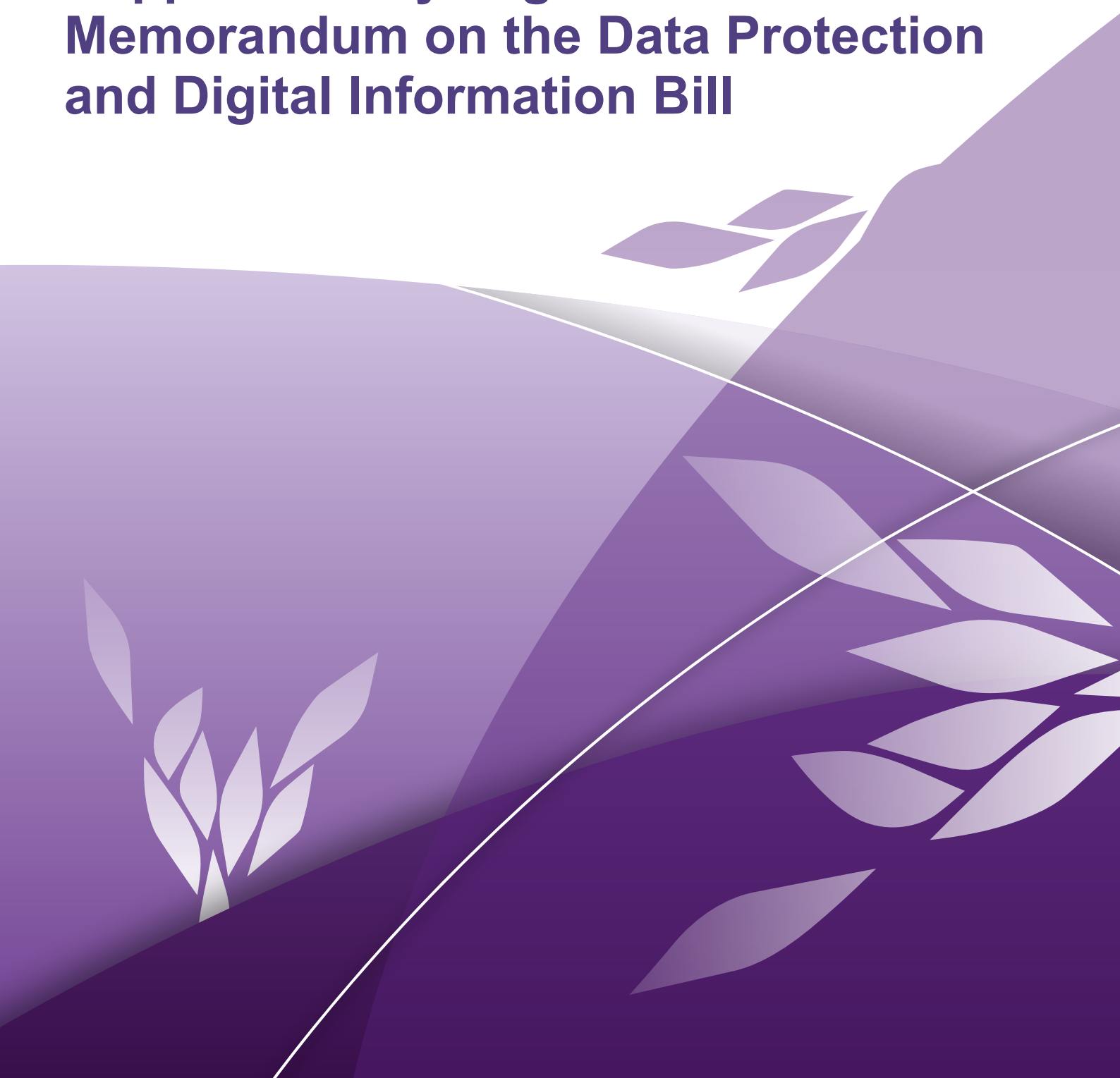


The Scottish Parliament
Pàrlamaid na h-Alba

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Social Justice and Social Security Committee

Supplementary Legislative Consent Memorandum on the Data Protection and Digital Information Bill



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Social Justice and Social Security Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Social Justice excluding matters relating to housing and tenants' rights.



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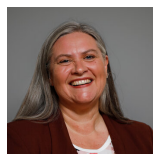
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Introduction

1. The [Data Protection and Digital Information Bill](#) was introduced in the House of Commons on 8 March 2023. This is the second iteration of the UK Government Bill, which was initially introduced on 18 July 2022.
2. The Scottish Government lodged a Legislative Consent Memorandum ("LCM") on 15 May 2023. The Bill was subsequently amended, and a Supplementary LCM was lodged on 14 September 2023.
3. The Scottish Government lodged a further Supplementary LCM ¹ for the Bill on 17 April 2024.
4. The Social Justice and Social Security Committee is the lead committee for this LCM.

Relevant clause

5. [Clause 128 and Schedule 11 of the Bill](#) would require third parties, such as banks, to provide information on accounts they hold linked to those in receipt of welfare benefits. This is linked to UK Government anti-fraud policy. The Bill provides that—

” The power may be exercised only for the purpose of assisting the Secretary of State in identifying cases which merit further consideration to establish whether relevant benefits are being paid or have been paid in accordance with the enactments and rules of law relating to those benefits.²

Scottish Government position

6. The Scottish Government is recommending legislative consent to the social security measures. The Scottish Government propose consent because—
- The implications are ‘theoretical’ only and unlikely to be applied to devolved benefits; and
 - If refusing consent led to DWP ending Agency Agreements that would put case transfer at risk.

Interaction with devolved competence

7. The Scottish Government considers the implications for devolved benefits to be 'theoretical' only, because—
 - Full roll out of the information seeking powers will not occur until Agency Agreements have ended; and
 - The initial focus is on Universal Credit, with no intention to use the powers for devolved agency agreement, benefits.
8. Carer and most disability benefits are expected to complete their transfer to Social Security Scotland by the end of 2025. One benefit, Scottish Disablement Allowance, will be managed permanently under Agency Agreement and there is (at time of writing) no timescale for Employment Injury Assistance.

Consideration by the Delegated Powers and Law Reform Committee

9. The Delegated Powers and Law Reform (DPLR) Committee considered the LCM at its meeting on 30 April 2024 and published its [report](#) on the LCM on 30 April 2024.
10. The DPLR Committee's report said—
 - ” it remains the case that the Secretary of State may make regulations within devolved competence, acting alone. There is no requirement for the Secretary of State to obtain consent or to consult with the Scottish Ministers before exercising the power.
11. Further to this, the report said the DPLR Committee notes—
 - ” there are no requirements to obtain Scottish Ministers consent when exercising these powersand that—
 - ” the Scottish Government considers it is unlikely that the powers will in practice be exercised in relation to devolved benefits.
12. The report concluded that the DPLR Committee did not want to draw the attention of the lead committee to the powers.

Recommendation

The Committee recommends that the Parliament agrees to the legislative consent motion in the terms outlined in the legislative consent memorandum.

Social Justice and Social Security Committee

Supplementary Legislative Consent Memorandum on the Data Protection and Digital Information Bill, 4th Report, 2024
(Session 6)

- 1 [Supplementary Legislative Consent Memorandum - Data Protection and Digital Information Bill](#)
- 2 [Schedule 11 inserting Schedule 3B to the Social Security Administration Act 1992](#)

