



Delegated Powers and Law Reform Committee

Maree Todd MSP
Minister for Social Care, Mental Wellbeing and Sport

22 April 2025

Dear Minister

Care Reform (Scotland) Bill after Stage 2

The Delegated Powers and Law Reform Committee considered the above Bill at its meeting on Tuesday, 22 April, and agreed to ask the following questions in relation to the delegated powers contained in the Bill.

Section 36(1): Power to provide for an information sharing scheme for public health and social care services

Section 36 provides the Scottish Ministers with a power to make regulations to establish a scheme for sharing information between public health and social care services. Section 36(2) clarifies that those regulations may: (a) require one person to supply information to another person and (b) create civil and criminal sanctions for those who fail to comply with its requirements.

In the DPM at Stage 1, the Scottish Government accepted that this is a broad power which deals with the very sensitive matter of sharing personal information.

The Scottish Government did not include the revised section 36 in its supplementary Delegated Powers Memorandum ("sDPM"). However, the Committee noted that the provision has been amended during Stage 2 in that the definitions for the services relating to this scheme no longer specify the National Health Service and the National Care Service. Instead, subsection (3) provides that the scheme may apply to any service which is provided under a list of prescribed functions.

Given these amendments, the Committee asks the Scottish Government:

- (a) If it has any explanation or further comment to provide in relation to the amendments made to this delegated power during the course of Stage 2 of the Bill; and
- (b) if it considered establishing this scheme on the face of the Bill, particularly given the removal of the National Care Service element, in order that the Parliament may properly debate and scrutinise the proposals for the creation of such a scheme?

Contact: Delegated Powers and Law Reform Committee, The Scottish Parliament, Edinburgh, EH99 1SP.

Email: dprr.committee@parliament.scot.

We welcome calls through Relay UK and in BSL through Contact Scotland BSL.

The Committee also asks whether the regulations resulting from this power will include a requirement that the individual to which the information relates consents to the sharing of such information? And if so, does it anticipate this will be an opt in/opt out procedure?

Finally, it asks the Scottish Government to give examples of any similar information sharing protocols.

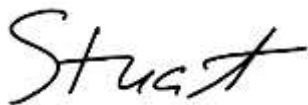
Section 37C(2): Power to provide civil sanctions for breach of compliance with information standards

Section 37C(2) provides a power for the Scottish Ministers to make regulations setting out a civil sanction for persons who breach their section 37C(1) duty to comply with the information standards.

In relation to the above section, the Committee asks why it was not considered appropriate to set out the civil sanctions on the face of the Bill? While the list of who might be covered by the sanctions is broad, it is already determined by section 37B(1). Might it be possible to set this out ahead of Stage 3 (perhaps even with a power to modify this list, as required by developments in technology or to the list of persons subject to the duty)?

I would be grateful if you could please email your response to these questions to: dplr.committee@parliament.scot, by **Friday, 2 May**.

Yours sincerely



Stuart McMillan MSP
Convener