Official Report
Aithisg Oifigeil

DRAFT

Health, Care and Sport Committee

Comataidh na Slàinte, Cùram agus Spòrs

Wednesday 18 November 2026

Session 7

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HEALTH, CARE AND SPORT COMMITTEE
11th Meeting 2026, Session 7

CONVENER

*Helen McDade (Mid Scotland and Fife) (Reform)

DEPUTY CONVENER

*Jack Middleton (Aberdeen Central) (SNP)

COMMITTEE MEMBERS

*Heather Anderson (Dundee City West) (SNP)
*Adam Harley (Strathkelvin and Bearsden) (LD)
*Kayleigh Kinross-O'Neill (Edinburgh and Lothians East) (Green)
*Joe Long (Mid Scotland and Fife) (Lab)
*Paul McLennan (East Lothian Coast and Lammermuirs) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Angela Constance (Cabinet Secretary for Health and Care)

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Health, Care and Sport Committee

Wednesday 18 November 2026

[The Convener opened the meeting at 09:35]

Decision on Taking Business in Private

The Convener (Helen McDade): Good morning and welcome to the 11th meeting in 2026 of the Health, Care and Sport Committee. We have no apologies.

Our first agenda item is a decision on whether to take item 3 in private. Do members agree to do so?

Members *indicated agreement*.

Health Bill

09:36

The Convener: The second item is an oral evidence-taking session on a legislative consent memorandum and a supplementary LCM on the United Kingdom Government's Health Bill. I welcome the Cabinet Secretary for Health and Care and Scottish Government officials: Robert Henderson, head of health and social care intergovernmental and international relations, and Lucy McMichael, solicitor and head of branch, legal directorate.

I refer members to committee paper 1. I intend to allow up to 60 minutes for the item. I invite the cabinet secretary to make some opening remarks on the LCMs.

The Cabinet Secretary for Health and Care (Angela Constance): Good morning, convener, and thank you very much for giving me the opportunity to join you again this morning, which I appreciate.

I am very glad to provide the committee with information on the devolved aspects of the UK Government's Health Bill, on which we have secured a number of important amendments that protect the devolution settlement.

The bill is primarily about the organisation of health services in England, including the abolition of NHS England, and most of its provisions do not affect Scotland. However, a small number of measures engage legislative competence and therefore require the consent of our Parliament.

The provisions that we are concerned with today relate mainly to health information systems, data sharing, commissioning arrangements and certain workforce functions. The UK Government believes that the changes will support more effective co-operation across health systems and improve the operation of services that work across UK borders.

Since the bill is almost entirely concerned with England, my priority has been to protect devolved responsibilities and ensure that decisions affecting NHS Scotland continue to be taken in Scotland.

The bill, as originally introduced, did not provide sufficient safeguards in a number of areas. As a result, Scottish Government officials undertook extensive and detailed negotiations with officials in the Department of Health and Social Care over many months. The discussions secured a number of important amendments that significantly strengthened the bill from a Scottish perspective. I also took the opportunity to raise the matter with the Secretary of State for Health and Social Care, Yvette Cooper.

Most importantly, we have secured statutory consent requirements for Scottish ministers across the key provisions that affect devolved interests. The secretary of state will not be able to establish relevant information systems affecting Scotland, transfer functions to Scottish public bodies or enter into certain arrangements with Scottish health boards without Scottish ministerial consent.

Those amendments mean that decisions about NHS Scotland will continue to be taken in Scotland, with Scottish ministers retaining oversight where devolved services could be affected. Cross-border co-operation in health will take place through partnership and agreement, which is how it should be.

The amendments are particularly important in relation to health data. Members will rightly expect Scottish data to be handled in accordance with Scottish requirements and expectations. Through negotiation, we have secured safeguards that give Scottish ministers a formal role in decisions affecting relevant information systems and the use of information that is connected to Scotland. We have also secured powers to attach conditions relating to information requests, publication and disclosure. In practical terms, that provides protection against Scottish data being used in ways that we would not permit under Scotland's own governance and data-sharing arrangements, while still enabling appropriate co-operation where that is in the interests of patients.

No legislation of this kind is without its complexity, convener. Some of the operational detail relating to the provisions will be developed later. That is why securing robust safeguards and ongoing intergovernmental engagement has been so important throughout the negotiations.

Having secured the improvements, the Scottish Government considers that the provisions that require the consent of this Parliament strike an acceptable balance between enabling practical co-operation and protecting devolved decision making.

I am happy to answer any questions that the committee might have on the devolved aspects of the bill.

The Convener: Thank you very much, cabinet secretary. Is that clear to everyone? I see that no member wishes to ask a question. Cabinet secretary, it would appear that everyone is content with your explanation.

That concludes our evidence session. Thank you for coming.

Angela Constance: Thank you very much, convener. It has been a pleasure. [*Laughter*.]

The Convener: Before coming to the question of consent and our recommendation on the LCMs, I invite the clerk to give us an update— [*Interruption*.]

Stephen Imrie (Committee Clerk): I want to report to the committee on the DPLR Committee's consideration of the LCMs. Standing orders require lead committees, when considering LCMs, to take into account any reports from other committees, such as the DPLR Committee.

The DPLR Committee did not produce a report on LCM-S7-6 because there were no relevant provisions for it to consider. However, it has produced a report on the supplementary LCM, LCM-S7M-6a.

Yesterday, the DPLR Committee considered the regulation-making power for Scottish ministers that was added to the bill. The committee concluded that it was content, in principle, with that power and with it being subject to the affirmative procedure when it is used to amend, repeal or revoke primary legislation and subject to the negative procedure in all other cases.

Broadly speaking, the DPLR Committee was content with the situation as it stands. I pass back to you, convener, on the question of consent.

The Convener: Thank you. Heather, would you like to ask something?

Heather Anderson (Dundee City West) (SNP): Our committee paper says that the Health Bill is still under consideration in the House of Lords, so would we just agree to the approach in principle, subject to future changes to the bill?

Stephen Imrie (Committee Clerk): No. At this stage, the committee is making a recommendation to Parliament on whether to consent to the LCM, and the matter is then taken to the chamber. If there were further relevant changes to the bill, another supplementary legislative consent memorandum would come back to the committee.

The Convener: Is the committee content to recommend to the Parliament that consent be given for the relevant provisions covered by LCM-S7M-6 and LCM-S7M-6a?

Members *indicated agreement*.

The Convener: Are members content to delegate responsibility to me and the clerks to draft a short factual report to Parliament on the LCMs?

Members *indicated agreement*.

09:45

Meeting continued in private until 11:14.

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