

LICENSING COMMITTEE

Date of Meeting	Wednesday, 21 February 2024
Report Subject	Mandatory Licensing Scheme for Special Procedures
Report Author	Chief Officer: Planning, Environment & Economy

EXECUTIVE SUMMARY

To provide Members with an update regarding the forthcoming requirements for the Mandatory Licensing of Special Procedures.

RECOMMENDATIONS

1	To note the contents of the report and await further information and guidance from Welsh Government.
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REPORT DETAILS

2.00	BACKGROUND TO SPECIAL PROCEDURES
2.01	<p>The new licensing scheme for 'Special Procedures' is now proposed by Welsh Government to be introduced around October 2024 (precise date is yet to be confirmed), under Part 4 of the Public Health (Wales) Act 2017.</p> <p>Special Procedures include cosmetic piercing, tattooing (to include semi-permanent makeup), acupuncture, dry needling and electrolysis.</p> <p>The main requirements of this regime will include:</p> <ul style="list-style-type: none"> Practitioners must be licensed to carry out special procedures. It will be an offence to carry out special procedures without a licence; Business premises or vehicles must be approved. It will be an offence for a practitioner to perform any procedures from premises or vehicles that are not approved;

	<ul style="list-style-type: none"> • A full licence will last for three years and a temporary licence will last for seven days (to allow for events and conferences); • Licence conditions will cover a practitioner's competence, the premises, the equipment and practices used, advice given before and after the special procedure and the records kept.
2.02	Practitioners in this field will be required to demonstrate their competence to undertake these procedures through obtaining the new regulated Level 2 award in Infection Prevention and Control for Special Procedure Practitioners and being subject to inspection by Environmental Health Officers. In addition, they will have to provide a Basic DBS as part of their licence application.
2.03	The Welsh Government's intention through the introduction of this scheme is to reduce the health risks associated with these procedures. Most notably infections can occur at the site of the procedure and also improper and unhygienic practices may result in the spread of infectious diseases, such as blood-borne viruses.
3.00	IMPLICATIONS OF PROPOSED LICENSING SCHEME FOR SPECIAL PROCEDURES
3.01	The new regime will mean that local authorities are to be responsible for enforcing the licensing requirement of these practices and for keeping a register of special procedures licences issued by them.
3.02	<p>If a local authority is satisfied that a licence holder has failed to comply with a mandatory licensing condition or has been convicted of a relevant offence, it is proposed that it may revoke a special procedure licence, either in full or in so far as it relates to the performance of a particular special procedure.</p> <p>Where the local authority has taken action, such as issuing a stop notice, revoking a licence or refusing an application, an individual will have the right to make representations to the local authority and appeal to a Magistrates' Court against the decision.</p>
3.03	The 2017 Act is so written that appeals against refusals for premises and vehicle applications will be immediately committed to the magistrates' courts, unless the regulations make other arrangements. The draft regulations were published on 12 February 2024.
3.04	An individual may appeal to the Magistrates' Court against a local authority issuing a stop notice or a remedial action notice, or a refusal to grant a completion certificate.
4.00	IMPLICATIONS FOR LICENSING COMMITTEE
4.01	<p>Further information around governance arrangements is anticipated to be outlined imminently by Welsh Government.</p> <p>In the case of an application referred to the Licensing Committee for a decision, if the Licensing Committee determines that the application should not proceed further and be refused, the applicant will have the right of appeal to a Magistrates' Court and the Crown Court (if necessary). In all cases, if</p>

	<p>the appeal is granted, then the application will be assessed for approval, subject to all other parts of the application being in order. If the Licensing Committee's decision is upheld by the courts, then the application will be rejected.</p> <p>The same process will apply as for new applications.</p>
4.02	<p>It is anticipated that Members will be required to undertake training to enable them to determine applications as they could be subject to legal challenge. Welsh Government's Senior Environmental Health Advisor has offered to brief Members on these new requirements.</p>
4.03	<p>It is likely that a new sub-committee may be required to be established to determine licence applications.</p>

5.00	TRANSITIONAL ARRANGEMENTS & RESOURCE IMPLICATIONS
5.01	<p>There is an expectation from Welsh Government that much of this additional work will be absorbed into existing work programmes which may impact other areas of service delivery.</p>
5.02	<p>Practitioners who are currently registered under the existing requirements of the 1982 Act will still need to apply for their own special procedure licence and, if necessary, a premises/vehicle approval certificate. There will be no carry forward of existing registrations or 'grandfather rights' for special procedures practitioners who have been practising for a number of years.</p>
5.03	<p>Although concerns have been raised by local authorities following a recent consultation exercise regarding managing the influx of applications, Welsh Government still propose that there be a transition period of around six months. During this time, the 1982 Act will remain in force to allow existing practitioners to continue to practise while they are making their applications.</p>
5.04	<p>New entrants will not be permitted to register under the 1982 Act once Part 4 of the Act comes into force and therefore new practitioners will need to apply for a licence under the new scheme.</p>
5.05	<p>Anyone who has not obtained a licence and, where applicable, a premises/vehicle approval certificate by the end of the transition period will not be able to practise legally. There will be no exceptions to this requirement to obtain a licence/certificate and no extensions of time to this transitional period.</p>

6.00	CONSULTATIONS REQUIRED / CARRIED OUT
6.01	<p>A consultation on the principles for establishing a mandatory licensing scheme for special procedures as set out in Part 4 of the Public Health (Wales) Act 2017 ran between 25 January and 19 April 2023.</p>

	Although the summary of responses to this consultation was expected sooner, it was published in January 2024. This document sets out the responses received to the consultation and the Welsh Government's next steps.
6.02	Welsh Government's intention is to commence Part 4 of the Act and implement this licensing scheme by formulating new regulations.
6.03	The next, and final, consultation will give stakeholders the opportunity to review the draft regulations. This final consultation was published on 12 February 2024 and will run until 8 April 2024.

7.00	RISK MANAGEMENT
7.01	The additional pressures placed on Community and Business Protection due to these changes has been included within the Planning, Environment and Economy Risk Register.

8.00	APPENDICES
8.01	<p>Link to Welsh Government consultation which commenced on 12 February 2024:</p> <p>https://www.gov.wales/draft-regulations-and-statutory-guidance-mandatory-licensing-special-procedures (link to English language consultation).</p> <p>https://www.llyw.cymru/rheoliadau-chanllawiau-statudol-drafft-ar-drwyddedu-gorfodol-ar-gyfer-triniaethau-arbennig (link to Welsh language consultation).</p>

9.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
9.01	<p>Contact Officer: Sian Jones Community and Business Protection Manager</p> <p>Telephone: 01352 702132</p> <p>E-mail: sian-jones@flintshire.gov.uk</p>

10.00	GLOSSARY OF TERMS
10.01	<p>Electrolysis The removal of an individual's body hair by passing an electric current through the root by means of an inserted needle or probe.</p>

Tattooing

The insertion into punctures made in an individual's skin, or mucous membrane, of any colouring material designed to leave a semi-permanent or permanent mark (including micropigmentation). The definition of tattooing includes all forms of semi-permanent makeup, including microblading.

Body piercing

The perforation of an individual's skin or mucous membrane, with a view to enabling (a) jewellery, or (b) an object of a description prescribed in or under regulations, to be attached to, implanted in, or removed from the individual's body. The reference to perforating an individual's skin or mucous membrane in any way, includes (among other things) by way of puncture or incision.

Acupuncture

The insertion of needles into an individual's tissue for remedial or therapeutic purposes but excluding the insertion of needles into tissue for the purpose of injecting any substance. The definition for acupuncture includes dry needling.