

Environment & Economy Overview & Scrutiny Committee	
Date of Meeting	14 January 2025
Report Subject	Public Health (Wales) Act 2017 and the Introduction of Special Procedures' Licensing
Cabinet Member	Cabinet Member for Planning, Public Health and Public Protection
Report Author	Chief Officer (Planning, Economy, and Environment)
Type of Report	Operational

EXECUTIVE SUMMARY

The new licensing scheme for 'Special Procedures' was introduced on 29 November 2024, under Part 4 of the Public Health (Wales) Act 2017.

Special Procedures include cosmetic piercing, tattooing (to include semi-permanent makeup), acupuncture, dry needling and electrolysis.

Practitioners who are currently registered with Flintshire County Council have a nine-month transition period, commencing on 29 November 2024, to submit an application via Flintshire County Council's website and pay the appropriate fee. We expect to be granting approximately 150 licences and approval certificates.

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, in addition, improper and unhygienic practices may result in the spread of infectious diseases, such as blood-borne viruses.

Section 76 of Part 4 of the Public Health (Wales) Act 2017 allows local authorities that have issued a Special Procedures Licence or an Approved Premises Certificate to charge a fee. The amount of fee to be charged by a local authority is to be determined having had regard to the costs incurred or expected to be incurred by the authority.

The national fees concerning the new licensing scheme have been calculated across Wales based on the principles of cost recovery. These fees should cover the costs to Flintshire County Council of administering the scheme including officer time for the requisite inspections.

RECOMMENDATIONS

1	Members approve the delegation to officers of the Public Health (Wales) Act 2017, as set out in section 3.1 of this report.
2	That the Constitution to be amended accordingly to reflect this delegation.

REPORT DETAILS

1.0	LEGISLATIVE BACKGROUND
1.1	<p>The new licensing scheme for 'Special Procedures' was introduced on 29 November 2024, 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">ii Practitioners must be licensed to carry out special procedures. It will be an offence to carry out special procedures without a licence;iii 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;iiii A full licence will last for three years and a temporary licence will last for seven days (to allow for events and conferences);iiv Licence conditions will cover a practitioner's competence, the condition of the premises, the equipment and practices used, advice given before and after the special procedure and the records kept.
1.2	<p>Practitioners who are currently registered with Flintshire County Council have a nine-month transition period, commencing on 29 November 2024, to submit an application via Flintshire County Council's website and pay the appropriate fee. We expect to be granting approximately 150 licences and approval certificates.</p>
1.3	<p>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.</p>
1.4	<p>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, in addition, improper and unhygienic practices may result in the spread of infectious diseases, such as blood-borne viruses.</p>
2.0	FEES
2.1	<p>Section 76 of Part 4 of the Public Health (Wales) Act 2017 allows local authorities that have issued a Special Procedures Licence or an Approved Premises Certificate to charge a fee. The amount of fee to be charged by a local authority is to be determined having had regard to the costs incurred or expected to be incurred by the authority.</p>
2.2	<p>The national fees for new application and renewal fees have been set at the same level by all local authorities in Wales, which are based on the principles of Hemmings case law. As required by regulations these fees will collectively be</p>

	reviewed after one year from implementation and at the end of each subsequent three-year period.
2.3	Total fees for practitioners and premises are divided into application fee and compliance fee which is payable once the application has been granted. The application fee covers the cost of processing the application, inspection and issuing documentation. The compliance fee is a reasonable contribution to the running of the licensing scheme, advising licence holders, following up complaints, additional inspections, and ongoing support.
2.4	In accordance with Flintshire County Council's Income Generation Policy the Chief Officer and Cabinet Member for Planning, Public Protection and Public Health have approved the adoption of the fees. The fee schedule can be found in Appendix 1 of this report.

3.0 DELEGATED AUTHORITY

3.1 To deal efficiently with applications and enforcement, it is proposed that all of the executive powers within the Public Health (Wales) Act 2017 are delegated to the Chief Officer Planning, Environment and Economy (subject to the limitations described in paragraph 3.2 of this report) and without any restrictions on further delegation from the Chief Officer to appropriate operational officers. This includes but is not limited to those listed below. These are executive powers, and therefore are at the discretion of Cabinet to delegate.

Power to be Delegated by Cabinet	Public Health (Wales) Act 2017 Provisions
To issue a Special Procedures Licence where all the applicable licensing criteria is met.	Section 65(3)
To issue a refusal notice for a special procedure licence where the authority is not satisfied that all of the applicable licensing criteria are met but only where no representations under The Public Health (Wales) Act 2017 Schedule 3 paragraph 15 have been made following the issue of a "warning notice" that sets out what the authority proposes to do and why.	Section 65(2)
Where all the applicable licensing criteria is met, but the applicant has been convicted of a relevant offence, the power to decide whether the applicant's fitness to perform a procedure to which the application relates has been called into question	Section 66(3)

<p>to such an extent that it would be inappropriate to issue the licence in respect of the performance of that procedure but only where representations have not been made following the issue of a “warning notice” that sets out what the authority proposes to do and why.</p>	
<p>To determine the renewal of a Special Procedures Licence but only where representations have not been made following the issue of a “warning notice” that sets out what the authority proposes to do and why.</p>	Section 67
<p>To issue a revocation notice for a Special Procedure Licence in cases where the licence holder has failed to comply with an applicable mandatory licensing condition that the non-compliance presents, or could present, significant risk of harm to human health but only where representations have not been made following the issue of a “warning notice” that sets out what the authority proposes to do and why.</p>	Section 68
<p>To issue an approval certificate for a premises or vehicle.</p>	Section 70(1)
<p>To renew an approval certificate for a premises or vehicle. Set out in The Special Procedures Approved Premises and Vehicles (Wales) Regulations 2024 Part 12</p>	Section 70(7)
<p>To refuse an approval certificate for a premises or vehicle. Set out in The Special Procedures Approved Premises and Vehicles (Wales) Regulations 2024 Part 12</p>	Section 70(7)
<p>To take reasonable steps for bringing a voluntary termination notice to the attention of appropriate persons.</p>	Section 72(4)

	To issue a stop notice.	Section 77(2)
	Power to issue a remedial action notice in respect of a Special Procedures Licence.	Section 78(1)
	To issue a remedial action notice in respect of an Approved Premises Certificate.	Section 79(1)
	To issue a completion certificate in respect of a Special Procedure Licence or an Approved Premises Certificate.	Section 80(2)
	To carry out enforcement action and consultation in respect of intimate piercing.	Section 97
	Power to issue warning notices.	Sections 61, 65-67

3.2 There are certain powers associated with Special Procedures that cannot be delegated to officers, in such circumstances a number of new powers have been conferred to the Licensing Committee. Those are powers to determine certain matters where an officer cannot (e.g. where representations have been made) and powers to consider representations. The Public Health (Wales) Act 2017 expressly delegates these powers to the Licensing Committee and a detailed report outlining the implications of these changes will be presented to Licensing Committee at its next meeting.

Power Delegated to Licensing Committee	Public Health (Wales) Act 2017 Provisions
To issue a refusal notice for a special procedure licence where representations under The Public Health (Wales) Act 2017 Schedule 3 paragraph 15 have been made.	Section 65(2)
Where an applicant has been convicted of a relevant offence, to decide whether the applicant's fitness	Section 66 (3)

	to perform a procedure to which the application relates has been called into question to such an extent that it would be inappropriate to issue the licence in respect of the performance of that procedure in cases where representations have been made.	
	To determine the renewal of a Special Procedures Licence in cases where representations have been made.	Section 67
	To issue a revocation notice for a Special Procedure Licence and/or Approval Certificate in cases where the licence/Approval certificate holder has failed to comply with an applicable mandatory licensing condition that the non-compliance presents, or could present, significant risk of harm to human health and where representations have been made.	Section 68 and 73
	Power to consider representations following the issue of a “warning notice”	paragraph 15 – Schedule 3

4.00	RESOURCE IMPLICATIONS
4.01	The national fees concerning the new licensing scheme have been calculated across Wales based on the principles of cost recovery. These fees should cover the costs to Flintshire County Council of administering the scheme including officer time for the requisite inspections.
4.02	As required by regulations, these fees will collectively be reviewed after one year from implementation and at the end of each subsequent three-year period. The licence fees can be adjusted in future where a deficit or surplus is identified which is in accordance with the case law R (on the application of Hemmings(t/a Simply Pleasures Ltd) and others) v Westminster City Council [2015].

5.00	CONSULTATIONS REQUIRED/CARRIED OUT
5.01	There is no requirement with respect to this report. Welsh Government have previously undertaken an extensive consultation process with respect to Special Procedures.

6.00	INTEGRATED IMPACT ASSESSMENT
6.01	This report is to approve the scheme of delegated authority for the Public Health (Wales) Act 2017 in respect of special procedure licensing. An integrated impact assessment is therefore considered unnecessary.
7.00	RISK MANAGEMENT
7.01	The Public Health (Wales) Act 2017 will place a statutory duty on local authorities in Wales to administer and enforce the special procedures licensing scheme. To ensure that the local authority can fulfil this statutory obligation efficiently, an appropriate fee structure and scheme of delegated powers is required to be adopted.
8.00	APPENDICES
8.01	The fee structure is included as part of this report, in Appendix 1.
9.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
9.01	<p>Contact Officer: Sian Jones - Community and Business Protection Manager/ Gill Hulme - Health, Safety and Environmental Control Manager</p> <p>Telephone: 01352 702132/ 01352 703385</p> <p>E-mail: sian-jones@flintshire.gov.uk; gill.hulme@flintshire.gov.uk</p>
10.00	GLOSSARY OF TERMS
10.01	Not required

APPENDIX 1

Fees

All fees relating to the mandatory licensing scheme have been agreed by all 22 LAs in Wales for at least the first year of operation of the scheme, and will be the same in every LA:

All first applications

For a 3-year special procedure licence (for individual practitioners)	
application fee payable at the time the application is submitted.	£159
compliance fee, payable after a licence has been granted.	£44
For a 3-year premises/vehicle approval certificate	
application fee payable at the time the application is submitted.	£244
compliance fee, payable after an approval certificate has been granted.	£141
Renewal Applications* (due 3 years after date of grant of first licence)	
For a special procedure licence renewing for the following 3 years:	
application fee payable at the time the renewal application is submitted.	£147*
compliance fee, payable after a renewed licence has been granted	£41*
For a premises/vehicle approval certificate renewing for the following 3 years:	
application fee payable at the time the renewal application is submitted.	£204*
compliance fee, payable after a renewed approval certificate has been granted.	£141*
* Indicative fees only – these are subject to review and may change before a practitioner reaches the end of their existing 3-year licence period which is when they will then need to submit a renewal application for a further 3-year period.	
Variation to a Licence and Replacement Licence	
Special Procedure Licence - Variation (Add new procedure)	£131
Special Procedure Licence - Variation (Change of detail)	£26
Special Procedure Licence - Replacement Licence	£13
Variation to an Approval Certificate and Replacement Approval Certificate	
Approved premises / vehicle - Variation (Add new procedure)	£189
Approved premises / vehicle - Variation (Structural change)	£189
Approved premises / vehicle – Variation (Change of detail)	£26
Approved premises / vehicle - Replacement Certificate	£13
Fees for Temporary Events	
Temporary Special Procedure Licence and Temporary Approval Certificate	
Temporary Special Procedure Licence (per individual)	£92
Approved premises/ vehicle -Temporary Approval (Convention/main purpose)	£680
Approved premises/ vehicle - Temporary Approval (Ancillary event)	£385