

COMMITTEE	CENTRAL LICENSING COMMITTEE
DATE:	11 NOVEMBER 2024
TITLE:	NEW MANDATORY LICENSING SCHEME - SPECIAL PROCEDURES
PURPOSE :	1. BRIEFING NOTE ON THE ROLE OF LICENSING COMMITTEE AND FEES STRUCTURE 2. TO APPROVE THE DELEGATION OF STATUTORY FUNCTIONS TO THE CENTRAL LICENSING SUB-COMMITTEE
AUTHOR:	HEAD OF ENVIRONMENT

1.0 BACKGROUND

- 1.1 Members will recall that this committee in its meeting on the 4th of December 2023 was informed of the introduction of a new licensing scheme for 'Special Procedures' by Welsh Government in 2024. (previous committee report can be seen in the appendix) .
- 1.2 The current legislative framework for Special Procedures is inadequate. The Local Government (Miscellaneous Provisions) Act 1982 is the primary means of enforcing standards in this sector through the application of a registration scheme. However, the requirement for local authorities to adopt this scheme is voluntary and those that have adopted it cannot refuse registration of the individual or premises unless they have been convicted of an offence under Part VIII of the 1982 Act. Importantly, the 1982 Act does not require a 'competency test' for those performing the procedures to demonstrate an appropriate knowledge of hygiene and infection control
- 1.3 The intention of the licensing scheme is to improve and sustain standards of infection prevention and control in the special procedures industry and assure the safety and health of clients and practitioners alike.
- 1.4 Special Procedures include tattooing, semi-permanent skin colouring, cosmetic piercing, acupuncture, dry needling and electrolysis; and the new licensing scheme will be mandatory. Dr Sarah Jones , Environmental Health presented the principles behind this licensing scheme to the committee in December 2023, and a copy of her presentation can be seen in the appendix .
- 1.5 The date for implementation of this scheme has been confirmed to be the 29th of November; Regulations governing all aspects of the scheme will come in to force on this date, under Part 4 of the Public Health (Wales) Act 2017; including The Special Procedures (Wales) Regulations 2024 and the Special Procedures Licensing Committees (Wales) Regulations 2024

2.0 HOW THE LICENSING SCHEME IS TO BE ENFORCED

- 2.1 The new regime will mean that local authorities are to be responsible for enforcing the licensing requirements and for keeping a register of special procedures licences issued by them.
- 2.2 Special Procedures Practitioners will be required to demonstrate their competence to undertake these procedures through undertaking training and being subject to inspection by Public Protection Officers (Environmental Health Officers.) In addition, they will have to provide a Basic DBS as part of their licence application.
- 2.3 The main requirements of this regime will be as follows:
- 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
 - A full licence will last for three years and a temporary licence will last for 7 days (to allow for Events and conferences)
 - The Licence will have to be displayed at the premises where special procedures takes place
 - Licence conditions will cover a practitioner's competence , the premises , the Equipment and practices used, advice which must be given before and after the special procedure , and records to be kept.
 - Practitioners will be required to undergo specific training
- 2.4 Those practitioners who are currently registered will need to transition to the new system. 3 months will be allowed for them and their premises to be assessed by officers and transferred to the new licensing system

3.0 ROLE OF THE LICENSING COMMITTEE

- 3.1 Under the Local Government Act 2000 any functions that are not specifically delegated by legislation to the Licensing Committee, becomes by default the responsibility of the Cabinet .
- 3.2 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. All Local Authorities in Wales have been consulted on the proposed fees , which have been calculated in accordance with cost recovery principles by the All Wales Special Procedures Implementation Group and approved by Public Protection Wales. The Cabinet will approve the setting of fees structure and appropriate fees , and the scheme of delegated authority for the Act. Details of the fees to be approved by Cabinet are included in the appendix to this report
- 3.3 The 2017 Act (paragraph 21, Schedule 3) delegates specific functions to the licensing committee of the authority established under the Licensing Act 2003 (i.e. the Central Licensing Committee), and allows the Committee to make decisions in relation to those functions. These functions relate to situations where representations have been received in response to a Warning Notice issued by the Authority.

The Act provides that the licensing authority must issue a Warning Notice when it intends to carry out any of the following actions:

- Refuse an application for a special procedure licence;
- Refuse an application to vary a special procedure licence (in respect of adding a special procedure to the special procedure licence authorising the performance of that procedure);
- Refuse an application to renew a special procedure licence;
- Designate an individual as a person requiring a special procedure licence;
- Revoke a special procedure licence;
- Revoke an approval certificate.

The Warning Notice will be issued by the Public Protection Officers but the recipient will be entitled to make representations to the Authority in response. If representations are made then the Licensing Committee is required to consider those representations and decide whether or not the action set out in the Notice should be taken.

- 3.4 The Special Procedures Licensing Committees (Wales) Regulations 2024 (see appendix) outline the circumstances in which a hearing must be held and make provisions for the procedures to be followed by Licensing Committee.
- 3.5 The Act enables the Licensing Committee to sub-delegate the functions delegated to it, to a sub-committee established by it under Licensing Act 2003 i.e. the existing Central Licensing Sub-committee. A decision of the Committee would be required to do this. The Central Licensing Sub-committee system is well-established and members are experienced in considering and deciding upon applications under the Licensing Act 2003. It is recommended therefore that the functions under the 2017 Act are delegated to the Sub-committee.
- 3.6 Decisions to approve applications for a licence where the appropriate standards are met will be delegated to officers .

Recommendation

To Approve the sub-delegation of the functions delegated to the Central Licensing Committee under the Public Health (Wales) Act 2017 to the Central Licensing Sub-committee.