

COMMITTEE	GENERAL LICENSING COMMITTEE
DATE:	4 DECEMBER 2023
TITLE:	NEW MANDATORY LICENSING SCHEME - SPECIAL PROCEDURES
PURPOSE :	INTRODUCTION TO NEW REQUIREMENTS - AND ROLE OF LICENSING COMMITTEE
AUTHOR:	HEAD OF ENVIRONMENT

1.0 BACKGROUND

- 1.1 A new licensing scheme for 'Special Procedures' will be introduced by Welsh Government around June 2024 (precise date is yet to be confirmed), under Part 4 of the Public Health (Wales) Act 2017. Special Procedures include tattooing, semi-permanent skin colouring, cosmetic piercing, acupuncture, dry needling and electrolysis.
- 1.2 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
- 1.3 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.

2 CURRENT SITUATION

- 2.1 At present, if an individual wishes to practise acupuncture, tattooing, semipermanent skin colouring, cosmetic piercing or electrolysis they are required to apply to be registered with their local authority. The requirement to register is set out within Part 8 of the Local Government (Miscellaneous Provisions) Act 1982 Under the 1982 Act, Welsh Government published model byelaws in respect of certain matters which govern safe hygiene practices in these types of procedures, but enforcement options under these provisions are limited , even in Local Authorities who have wholly adopted the model standards into Local by-laws.
- 2.2 A further consideration is that currently local authorities are only able to refuse an application for skin piercing registration under the Local Government (Miscellaneous Provisions) Act 1982 if the applicant has already had a previous registration cancelled by the courts as a result of being found guilty of an offence (such as breaching a byelaw on hygiene).

3 IMPLICATION OF NEW MANDATORY LICENSING SCHEME

- 3.1 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.
- 3.2 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 may revoke a special procedure licence, either in full or in so far as it relates to the performance of a particular special procedure. Where the local authority has taken action, such as issuing a stop notice, revoking a licence or refusing an application, an individual has the right to make representations to the local authority and appeal to a magistrates' court against the decision.
- 3.3 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.
- 3.4 Those practitioners who are currently registered will need to transition to the new system. Time will be allowed for them and their premises to be assessed by officers and transferred to the new licensing system
- 3.5 There is an expectation from Welsh Government that much of this additional work will be absorbed into existing work programmes within Environmental Health and Licensing, which may impact other areas of service delivery

4. IMPLICATIONS FOR THE LICENSING COMMITTEE

- 4.1 Welsh Government have indicated that they expect this regime to sit under licensing committee structures and have been formulating a consultation document for consideration which outlines their expectations in terms of governance. Officers will notify Members of this Committee when the consultation document is published. It is anticipated that contentious applications will be subject to sub-committee determination , and that there will be a right of appeal to a licensing sub committee or Magistrates court for applicants refused a practitioner licence
- 4.2 It is also anticipated that Members will be required to undertake training to enable them to determine applications as they could be subject to legal challenge. Dr Sarah Jones, Senior Environmental Health Adviser who has been leading on the development of the licensing scheme for the Welsh Government will be providing committee members with an introduction to the scheme via Zoom during this committee meeting today.
- 4.3 The role of the licensing committee in such Licence application determinations is yet to prescribed within specific Hearings Regulations ; and this committee will be informed of any developments in this respect, as further direction from Welsh Government on this matter.
- 4.4 When the situation becomes clearer in respect of the role of the licensing committees , the Monitoring Officer will review what mechanisms will be required to be adopted in to the Council's constitution , as well as determining delegated powers required for officers.

