

REPORT TO:	Licensing Committee
DATE:	6 December 2023
LEAD OFFICER:	Head of Planning, Public Protection & Countryside Services
CONTACT OFFICER:	Glesni Owen, Public Protection Business Manager
SUBJECT:	To outline the requirements of the Mandatory Licensing of Special Procedures

1. **PURPOSE OF THE REPORT**

- 1.1 To inform members of the impending introduction of the Mandatory Licensing scheme for Special Procedures due to be implemented, in June 2024 as part of the provision of the Public Health (Wales) Act 2017 This new licensing scheme will make it a legal requirement for anyone undertaking activities which pierce the skin such as tattooing, piercing and acupuncture to have a license to operate. The current activities which are covered within “special procedures” are outlined in Appendix 1.
- 1.2 Welsh Government have indicated that they expect this regime to sit under licensing committee structures and are in the process of formulating a consultation document for consideration which outlines their expectations in terms of governance.

2. **EXECUTIVE SUMMARY**

- 2.1 To outline the implications of the forthcoming requirement of the Mandatory Licensing Scheme for Special Procedures.

3. **POWER TO MAKE THE DECISION**

- 3.1 The Local Government (Miscellaneous Provisions) Act 1976 / Public Health (Wales) Act 2017

4. **BACKGROUND INFORMATION**

- 4.1 In 2016 following a number of serious bacterial infections emanating from a tattoo/piercing studio in mid Wales, a recommendation was made by the Aneurin Bevan University Health Board Trust to Welsh Government for a licensing scheme for activities that pierced the skin.

4.2 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.

4.3 The new licensing scheme proposes to replace the current system of Registration under the Local Government Miscellaneous Provisions Act 1982 and compliance with the Denbighshire County Council By laws which were implemented on the 01/03/2012 (Appendix 2). This will bring Skin Piercing into a more structured and legally enforceable licensing regime, with associated guidance.

4.4 The main requirements of this regime will include:

- 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 seven days (to allow for events and conferences);
- The licence will have to be displayed in the premises where the special procedure takes place;
- 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.

4.5 **Current Position**

4.6 At present there is inconsistency in Wales with respect to the enforcement of these procedures. Although a number of local authorities have adopted byelaws which place a duty on skin piercing practitioners to adhere to minimum standards (which were adopted in Denbighshire and came into operation on the 01/03/2012), not all have followed this approach.

4.7 Currently there are approximately 50 premises registered for skin piercing and approximately 81 practitioners. All existing registered premises and practitioners will follow a transitional process into licensing and the local authority will be required to grant these licenses within 9-12 months of the application process opening in June 2024.

4.8 **Implications of Proposed Licensing Scheme for Special Procedures**

4.9 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.

- 4.10 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.
- 4.11 Practitioners in this field will be required to demonstrate their competence to undertake these procedures through undertaking training 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.
- 4.12 **Implications for Licensing Committee**
- 4.13 Under the Act, specific functions of the local authority have been delegated to its licensing committee. This provides for the licensing committee to hear representations and make decisions in relation to the following:
- The intention to refuse an application for a licence, i.e., if the local authority is not satisfied that all licensing criteria have been met
 - The intention to refuse an application for a licence, i.e., where relevant offences have been considered and the local authority is not satisfied that it would be appropriate to issue that licence
 - The intention to refuse a renewal of a licence
 - The intention to refuse variation of a licence
 - The intention to revoke a licence
 - The intention to designate an individual requiring them to have a licence.
- 4.14 Officers will make recommendations on these functions, however the licensing committee (or one of its sub-committees) will provide a level of oversight in these decisions. Committee members have experience in taking licensing decisions which may affect people's livelihood, and there is an established process in place to hear cases and process decisions.
- 4.15 In addition, to enable the licensing committee to take decisions in relation to

specific areas, these functions also enable the licensing committee to refer specified decisions back to the Officers and to sub-delegate decision making.

- 4.16 The Welsh Ministers may make regulations about the procedures applicable to licensing committees and their subcommittees in order that they can exercise their delegated functions, including public access and the availability of records. Welsh Government propose to consult on the detail of this in the next consultation, which is expected at the end of this year, which will be specific to the detail of the regulations.
- 4.17 The decisions that appear to be the most likely to be brought to the Licensing Committee's attention are where the applicant has a relevant previous conviction. The Officers on behalf of the local authority has a discretion whether to grant them a licence. The relevant test is whether the circumstances are such that the applicant's fitness to perform a special procedure has been called into question to such an extent that the licence should not be granted. Guidance and training will be provided to assist in making that decision.
- 4.18 Training will be provided to members to enable them to determine applications as they could be subject to legal challenge.
- 4.19 It is likely that a new sub-committee will be required to determine licence applications. We await further direction from Welsh Government on this matter.

5.0 **CONSULTATION**

- 5.1 None at present, although when the consultation document regarding governance arrangements is published it will be shared with Members of this committee. It is anticipated that the document will be published during December 2023.

6.0 **RECOMMENDATION**

- 6.1 To note the contents of the report and await further information from Welsh Government.
- 6.2 For members to participate in online training provided by Welsh Government on the role of Licensing Committee within the new legislation.