

<b>Report to</b>	Cabinet
<b>Date of meeting</b>	22 <sup>nd</sup> October 2024
<b>Lead Member / Officer</b>	Alan James, Lead Member for Local Development and Planning
<b>Head of Service</b>	Emlyn Jones, Head of Planning, Public Protection and Countryside Services
<b>Report author</b>	Glesni Owen, Public Protection Business Manager
<b>Title</b>	Fee Charging Provisions and Delegated Authority - Mandatory Licensing Scheme for Special Procedures

## **1. What is the report about?**

- 1.1. The report is about the setting of appropriate fee structure and a scheme of delegated authority for the Public Health (Wales) Act 2017 ("the Act") in respect of Special Procedure Mandatory Licensing. The activities covered by Special Procedures Mandatory Licensing are outlined in Appendix 1.

## **2. What is the reason for making this report?**

- 2.1. To seek Cabinet approval to adopt the national agreed fees structure for the new Special Procedure Mandatory Licensing Scheme coming into force on the 29th of November 2024 in accordance with Public Health (Wales) Act 2017.
- 2.2. For Cabinet to delegate the powers contained in the Public Health (Wales) Act 2017 to the Head of Planning, Public Protection and Countryside Services.

## **3. What are the Recommendations?**

- 3.1. That Cabinet adopt the national agreed fees structure for the new Special Procedure Mandatory Licensing Scheme as set out in Table 1 of Appendix 2.

- 3.2. That Cabinet delegate the functions under the new Regulations to the Head of Planning, Public Protection and Countryside Services as set out in Appendix 3.
- 3.3. That Cabinet authorise the Head of Planning, Public Protection and Countryside Services to amend the fees and charges in line with the statutory scheme, as applicable, going forwards.
- 3.4. That Cabinet confirms that it has read, understood and taken account of the Well-being Impact Assessment (Appendix 4) as part of its consideration.

## **4. Report details**

- 4.1. The current legislative framework for Special Procedures is inadequate. The Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") 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.
- 4.2. The Public Health (Wales) Act 2017 received Royal Assent on 3 July 2017. Part 4 of the Act set out the requirements for a mandatory licensing scheme for practitioners carrying out 'special procedures' in Wales.
- 4.3. 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.
- 4.4. 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 for new application and renewal fees were endorsed by Directors of Public Protection Wales (DPPW) in November 2023,

the variation and other fees were endorsed by DPPW in August 2024. DPPW is the collective organisation of officers responsible for leading local authority public protection services in Wales. 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.

## **5. How does the decision contribute to the Corporate Plan 2022 to 2027: The Denbighshire We Want?**

- 5.1 A nationally agreed fees structure ensures consistency of costs for businesses which may operate within this authority and beyond. The new scheme allows for a level playing field for all businesses undertaking special procedures.
- 5.2 Ensuring that we recover our costs in implementing the new licensing scheme and that powers are delegated to the most appropriate Officers who are knowledgeable and trained in implementing this new legislation.

## **6. What will it cost and how will it affect other services?**

- 6.1 The national fees concerning the new licensing scheme have been calculated based on the principles of cost recovery. 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 where a deficit or surplus is identified.
- 6.2. The work will be contained within existing resources in Public Protection and there will be no impact on other services.

## **7. What are the main conclusions of the Well-being Impact Assessment?**

- 7.1. The new legislation allows local authorities to charge a fee to those businesses and individual who wish to undertake special procedures. These fees are charge on a cost recovery basis and will be reviewed in 12 months' time to ensure those fees are proportionate to the work undertake to implement the scheme. Business and individuals impacted by the new legislation may decide to stop undertaking these treatments, however this could increase business for other within the sector.

7.2. Could increase unlicensed premises/practitioners which could increase the need for enforcement intervention.

7.3. Officers duly authorised with appropriate powers to take enforcement action as necessary

7.4. Drive up standards in existing and new businesses.

## **8. What consultations have been carried out with Scrutiny and others?**

8.1. Fees for the special procedure licensing regime have been calculated by the Special Procedures Implementation Group ("SPIG") and approved by Director of Public Protection Wales ("DPPW") to be consistently applied by local authorities across Wales.

## **9. Chief Finance Officer Statement**

9.1. As set out within the report the revised fee structure is designed to ensure consistency of costs for businesses, but also principles of cost recovery for local authorities in line with our own fees and charging policy. It will be important to review income and costs after the first year of implementation and to feed that information into the national review of fees.

## **10. What risks are there and is there anything we can do to reduce them?**

10.1. The risk could be that the costs of licensing could make some practitioners decide to stop undertaking special procedure treatment if the cost out ways the income from those treatments.

## **11. Power to make the decision**

11.1. 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

11.2. Section 13 of the Local Government Act 2000, executive function of Cabinet to delegate powers.