

CEREDIGION COUNTY COUNCIL

Report to: Licensing Committee (Non-Statutory Committee)

Date of meeting: 21 March 2024

Title: General Update

Purpose of the report: To advise members of the anticipated introduction of a mandatory licensing scheme of 'special procedures' in Wales.

Background

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.

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).

The adverse health effects associated with special procedures are well documented. Poor hygiene practices result in bloodborne viral infection, bacterial skin infections, some of which result in sepsis and allergic reactions, which is often the outcome of insufficient consultation before the procedure is performed. These human health impacts are currently exacerbated by the outdated and inadequate regulatory framework in place.

The current legislative controls, i.e. Local Government Miscellaneous Provisions Act 1982 Part VIII, which offers a non-mandatory registration scheme, has proved to be ineffective in ensuring a consistent approach by all practitioners in Wales to operating safe working practises, or infection, prevention and control procedures.

New Special Procedures Licensing Scheme

A new licensing scheme for 'Special Procedures' will be introduced by Welsh Government in October 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.

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);
- 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.

Implication of New Mandatory Licensing Scheme

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.

There will be greater powers to enforce this legislation than those currently in place, as well as the ability to revoke a licence and immediately stop unsafe practices. Fines will be unlimited where a prosecution is successful.

A transitional period will be in place to allow special procedure practitioners and their premises to be assessed by Officers of Public Protection and moved to the new licensing scheme. The Council will be responsible for enforcing the licensing requirements and for keeping an up-to-date public register.

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. The implementation of this new legislation will have an impact upon resources and require additional training of relevant staff within Public Protection.

The Public Health (Wales) Act 2017 Part 4 – Special Procedures, will impact on approximately 22 businesses and 47 practitioners undertaking special procedures activities in Ceredigion with the implementation of a national mandatory licensing scheme.

It is expected that when the legislation comes into force, that there will be no 'grandfather rights' and there will be a requirement to hold both a premises and a personal licence. Licences will run for 3 years before requiring renewal and temporary 7-day licences will also be available to accommodate events.

Fees will be set on an all-Wales basis and funded on a cost recovery basis, charged after a licence or an approval certificate is granted and are intended to cover the cost of running the scheme, including support and advice to licence holders, enforcement, investigation of complaints, monitoring compliance and visits. Welsh local authorities are working to finalise the proposed practitioner licence and premises/vehicle approval fees.

The Act allows for further legislation to amend the list of special procedures so that the legislation stays up to date and can include other emerging treatments or those of concern in the future.

The aim of this legislation is to make those procedures safer for citizens who seek special procedures services, providing protection from possible harms to health, ensuring there is clear direction and support and also protection for practitioners providing such services; and create a robust licensing regime for Wales that will allow for consistency in enforcement.

Consultation

The next and final, consultation will give stakeholders the opportunity to review the draft regulations. This final consultation was published on 12 February 2024 and will run until 8 April 2024.

Implications for the Licensing Committee

Welsh Government has indicated that it expects 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.

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.

The role of the licensing committee in such licence application determinations is yet to be 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.

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.

Recommendation(s):

That Members note and comment on this report.

Reason for recommendation

To advise elected Members of the anticipated introduction in 2024 of this mandatory licensing scheme which will fall within the remit of Public Protection.

Policy Framework:	The statutory functions delivered by Public Protection in relation to this new licensing scheme is a fundamental element of Public Protection policy framework.
Corporate Priorities	<ul style="list-style-type: none">• Boosting the economy, supporting businesses and enabling employment
Finance and procurement implications:	Within budget
Service Area	Policy, Performance and Public Protection
Statutory Powers:	Local Government (Miscellaneous Provisions) act 1976
Background Papers	None
Corporate Lead Officer:	Alun Williams (Policy, Performance and Public Protection)
Reporting Officer:	Anne-Louise Davies (Trading Standards & Licensing Manager).
Date:	1 March 2024