

# REGULATORY IMPACT ASSESSMENT

## Mandatory Licensing of Special Procedures in Wales

### Overview of the Public Health (Wales) Act 2017: Part 4 – Special Procedures

1. This Part provides that certain individuals who perform special procedures in Wales are required to be licensed to do so by a local authority unless they are exempt. Special procedures are defined in the Act at section 57 as (a) acupuncture; (b) body piercing; (c) electrolysis; (d) tattooing.
  - Section 62 makes provision for criteria that are to be met for an application for a licence to be granted.
  - Section 63 makes provision about the conditions to which a licence will be subject.
  - Sections 65 to 68 set out the procedure for applying for a licence and for revoking a licence; and section 75 provides that a local authority must maintain a register of those individuals who are licensed.
  - Sections 69 to 74 make provision about approval of premises at which, or a vehicle in which, a special procedure is performed.
  - Section 76 enables a local authority to charge fees in relation to special procedure licences and approvals of premises and vehicles.
  - Sections 77 to 81 make provision about notices that may be served by a local authority in the case of a breach of the requirements of this Part, about compliance with notices and about appeals.
  - Section 82 makes provision about offences under this Part.

Sections 83 to 90 make general provision about the powers of local authorities to enforce the requirements of this Part, and sections 91 and 92 make provision about property retained under this Part.

2. These sections are to be enacted via regulations made through the Welsh Government legislative process, which are subject to public consultation and Senedd scrutiny before they can be passed and commenced. The draft regulations to be made are the subject of this document.
3. A Regulatory Impact Assessment (RIA) was completed for the Bill and was last published in May 2017. The preferred options that became law are set out below and have been updated where relevant to represent current procedures and costings.

4. There are no specific provisions in the Act which charge expenditure on the Welsh Consolidated Fund.

## Background

5. A number of cosmetic and therapeutic procedures have become increasingly popular over the last decade, both in Wales and further afield. These include acupuncture, body piercing, electrolysis and tattooing.
6. There are known and well reported health risks connected to these procedures defined within the Act as 'special procedures'. Infections at the site of the procedure can occur, which can in rare events go on to have disfiguring and life-threatening consequences. Improper and unhygienic practices may result in the spread of infectious diseases, such as bloodborne viruses<sup>1</sup>, that can affect the health of clients, as well as jeopardise the health of the practitioner themselves. Serious infection control deficiencies associated with a piercing and tattoo studio in Newport resulted in a number of customers suffering serious skin infections requiring in-patient care and reconstructive surgery, following piercings performed at the studio. A look-back exercise, affecting over 800 people, most of them young people, was also undertaken to identify any clients potentially infected with blood borne viruses<sup>2</sup>.
7. To reduce the risk it is therefore important that practitioners employ safe working practices, and particularly that good infection control practices are followed at all times, so that both clients and practitioners are adequately protected. Complications that can arise include swelling, infection, bleeding, allergic or toxic reactions to the substances used, as well as tears or other physical injury. Nerve damage and scarring may also occur if procedures are poorly performed. In relation to piercing, a survey carried out in England found that over a quarter of people who had a piercing procedure (other than of the earlobes) experienced complications, and around half of those who experienced complications considered them serious enough to seek further help<sup>3</sup>. The prevalence was higher among those aged 16 - 24, with health problems occurring with around a third of piercings. Although most problems associated with a piercing are usually minor and self-limiting, some complications are serious enough to require medical attention or admission to hospital, and there are individual cases of significant damage to health<sup>4</sup>. Poorly performed oral piercings can damage the tongue and teeth, cause airway obstruction through swelling, and affect speech<sup>5</sup>. Complications can be particularly serious for those

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<sup>1</sup> Hayes, MO, Harkness, GA. (2001) Body piercing as a risk factor for viral hepatitis: an integrated research review. American Journal of Infection Control. 29, 271-274

<sup>2</sup> Public Health Wales (2015) Newport tattooing and piercing concerns update. Available at: <http://www.wales.nhs.uk/sitesplus/888/news/37472/>

<sup>3</sup> Bone, A, Ncube, F, Nichols, T and Noah, ND. (2008) Body piercing in England: a survey of piercing at sites other than earlobe. BMJ, 336, 1426

<sup>4</sup> M. L. Armstrong, S. DeBoer and F. Cetta, "Infective endocarditis after body art: A review of the literature and concerns," Journal of Adolescent Health, vol. 43, no. 3, pp. 217-225, 2008. 93 BBC News online (2007) Belly stud 'almost killed teen' Available at: [http://news.bbc.co.uk/1/hi/wales/south\\_east/7020936.stm](http://news.bbc.co.uk/1/hi/wales/south_east/7020936.stm)

<sup>5</sup> L. R. Stead LR, Williams JV, Williams AC and Robinson CM (2006) An investigation into the practice of tongue piercing in the South West of England. British Dental Journal 200 103- 107

with underlying health conditions, and cases of individuals who have died following a piercing have been recorded<sup>6</sup>.

8. The risks associated with special procedures can be minimised by taking a number of steps. These include:
  - Good cleanliness of the premises where the procedure is taking place, and of the fixtures and fittings;
  - Hygienic practices by practitioners;
  - Having correct processes in place for cleaning, sterilisation or disposal of instruments, materials and equipment; and
  - Pre- and post-procedure consultations.

### **Current position**

9. Existing legislative controls in relation to special procedures aim to ensure that infection control arrangements are adequate and effectively carried out. The primary means of enforcing these arrangements is by use of the registration requirements in the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act'). In addition, there are other regulatory controls that contain provisions for the immediate prohibition of activities, or for the control of premises or things where a risk of significant harm to public health can be demonstrated.
10. The creation of a registration scheme under the 1982 Act is not mandatory. In addition, where local authorities have adopted the provisions, enforcement is often inconsistent across Wales. Many local authorities have not yet adopted the most recent Welsh Government model byelaws<sup>7</sup> relating to the cleanliness and hygiene of premises, practitioners and equipment.
11. Local authorities are only able to refuse an application for registration under the 1982 Act 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 majority of applications have to be approved.
12. Enforcement of the registration requirement relies on a local authority being able to prove that a person is 'carrying on a business'. This can be difficult as, for example, some practitioners may work from home. This situation has been exacerbated by the COVID-19 pandemic, with more practitioners choosing to work from their residential premises.
13. Registration under the 1982 Act is also not subject to a 'competency test' to require that those performing the procedures can demonstrate a level of hygiene and infection control knowledge that is appropriate. Neither is

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<sup>6</sup> BBC News online (2005) Lip piercing death 'misadventure'. Available at: [http://news.bbc.co.uk/1/hi/england/south\\_yorkshire/4429298.stm](http://news.bbc.co.uk/1/hi/england/south_yorkshire/4429298.stm) 96 BBC News online (2010) Caerphilly woman's infection death after tongue pierce. Available at: <http://www.bbc.co.uk/news/uk-wales-11543757>

<sup>7</sup> 7 Welsh Government website: <http://wales.gov.uk/topics/health/protection/communicabledisease/acupuncture/?lang=en>

there any requirement for consent forms, pre- and post-procedure consultation, aftercare advice or record keeping. It is considered, therefore, that the current registration scheme does not address the public health concerns and protect the public effectively, and there have been examples of unregistered practitioners being prosecuted<sup>8</sup>.

### **Purpose of the provisions**

14. In response to the perceived inadequacies with the current scheme, the Public Health (Wales) Act 2017 ('the Act') seeks to repeal the 1982 Act provisions and replace it with a compulsory, national licensing scheme for practitioners of specified special procedures in Wales. These provisions have been made in Part 4 and Schedule 3 of the Act. The scheme set out in Part 4 of the Act will mean that to perform any of the special procedures defined within the Act, an individual must be licensed and the premises or vehicle from which they operate approved. Individual licences and approvals will be valid for a period of three years. Temporary licences and approvals will also be available for exhibitions and events.
15. This scheme aims to better meet customer expectations and respond to the different business models within the sector. The intention is to ensure that individual practitioners practise to appropriate standards (for example relating to hygiene, record keeping and age verification), as well as ensure that special procedures are only carried out in suitable environments. The overall purpose is to ensure that where these special procedures are provided in Wales, they are carried out in a manner which is not potentially harmful to health.
16. The procedures defined in the Act as "special procedures" for the purposes of the licensing scheme are:
  - Acupuncture;
  - Body piercing;
  - Electrolysis; and
  - Tattooing.
17. The Welsh Government is aware that the area of special procedures is a quickly evolving one and is subject to a number of factors including changes in fashion trends. To ensure the legislation remains up to date and effective as new procedures are constantly being devised, the Act provides Welsh Ministers with a power to amend the list of special procedures. The Welsh Government is committed to running a further consultation on this matter in the future and, following that consultation, may pursue this via secondary legislation, subject to the affirmative procedure.
18. Following the establishment of the licensing scheme, it will be an offence for a practitioner to conduct any special procedures without a licence or to

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<sup>8</sup> <http://wales.gov.uk/topics/health/protection/communicabledisease/acupuncture/?lang=en>

perform them from premises or vehicles that are not approved. The Act does provide for exemptions to be made for these requirements, for example, to exempt members of specific professions (such as doctors, dentists and nurses) from needing a licence to practise special procedures, unless regulations provide otherwise. A power is also available for Welsh Ministers to exempt members of other specified professions via regulations, subject to the affirmative procedure.

19. Welsh Ministers will, by way of regulations, set licensing criteria and mandatory licensing conditions, so that standards of practice and enforcement of special procedures are consistent throughout Wales. The licensing criteria will specify, among other things, an individual's eligibility for a licence based upon their ability to demonstrate knowledge of infection control, first aid and their legal obligations - for example not to tattoo an individual who is under the age of 18 years. The mandatory licensing conditions will set out the requirements a licence holder must meet to retain their licence. These will include conditions relating to verification of age, infection control practices, standards of hygiene, first aid, pre- and post-procedure consultations and record keeping. The conditions will also prohibit a licence holder from performing a special procedure on an individual who is, or appears to be, intoxicated from drinks, drugs, or any other means.
20. The Act requires that licence holders and holders of premises/vehicles approvals will be under a duty to meet the requirements and to operate in accordance with the national conditions. This includes the display of licences and approval certificates which will assure consumers that the practitioner is licensed, and the premises/vehicle has been approved by the local authority for the performance of special procedures.
21. In addition, the Act provides that local authorities are to be responsible for enforcing the licensing requirements, and for keeping a register of special procedures licences issued by them that have not ceased to have effect and premises/vehicles that they have approved. A local authority must make the information on the register open to the public. Welsh Ministers can arrange for the duties imposed on local authorities to keep a register to be discharged by a single local authority. The single local authority would then keep a central register on behalf of the others. The register has the purpose of ensuring that anyone seeking to have one of the defined special procedures can search for information and know that the practitioner or business they choose has met the national standards.
22. The Act also creates a number of requirements and offences. To prevent the provision of special procedures without holding a licence, or a non-approved premises/vehicle being used for the provision of special procedures, a local authority can issue a stop notice that will apply anywhere in Wales. The local authority may also take action by issuing a remedial action notice if a licence holder or premises/vehicle contravenes one or more of their applicable mandatory conditions. This remedial action notice will order specific action and steps to be taken to rectify the issue

within 14 days. The Act provides local authority officers with the power to enter premises for the purpose of determining applications for licences or approvals, to carry out inspections and to enforce the requirements of the legislation.

23. 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, then the Act provides that 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. Similarly, the local authority can revoke the premises/vehicles approval. Where the local authority has taken action, such as issuing a stop notice, revoking a licence/approval 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.

### **Intended effect of the provisions**

24. Part 4 of the Act when commenced will introduce a scheme of mandatory licensing for those practitioners who provide special procedures in Wales, to which national standards will be attached and enforced by local authorities. The scheme aims to drive up standards in relation to the performance of special procedures and ensure an improved and consistent approach to the regulation of these procedures across Wales.
25. In addition to the benefits associated with improving standards of practice, individuals who wish to have one of the special procedures performed will also directly benefit by having improved access to information about the procedure before it is undertaken, as well as aftercare advice. People seeking to undergo these procedures will be able to assure themselves that the premises/vehicle they visit has been approved by the local authority for the performance of special procedures, and that the practitioner is competent to perform the procedure hygienically. They will also be able to access a register of licence holders and approved premises/vehicles for special procedures within their area, and those available across Wales. This will help improve transparency and ensure people in Wales are better informed about the practise of special procedures.
26. It is intended that most licence holders who perform special procedures, and the premises/vehicles where they are performed, will gain reputational benefits from the scheme. By meeting the requirements, they will be able to demonstrate to the public that they practise to appropriate standards of hygiene and cleanliness, as well as protecting themselves from health risks by undertaking appropriate infection control procedures. Public confidence and client understanding will be further enhanced by the requirement for practitioners to provide pre- and post-procedure consultations to ensure that people are fully aware of the risks connected with the particular procedure, including aftercare advice. This should

result in a lower incidence of infection if the aftercare advice provided is appropriately adhered to.

27. As well as improving client and practitioner safety, the Act will also provide local authorities with consistent and effective enforcement powers with which to inspect premises/vehicles and, where necessary, prevent unsafe practice.
28. Beyond this, the benefits of improved hygiene and cleanliness may extend to other procedures offered by practitioners, even though they are not covered by the requirements of the legislation.

### **Previous consultations**

29. The full text of previous consultations that were undertaken in respect of the Public Health (Wales) Act 2017 can be seen in the final Explanatory Memorandum and Regulatory Impact Assessment document<sup>9</sup>. The following section consists of extracts from that document as they applied to special procedures.

#### Public Health White Paper

30. The Public Health White Paper entitled Listening to you: Your health matters<sup>10</sup> was published in April 2014. This brought together a series of distinct yet related proposals for addressing priority public health issues through preventative approaches. The proposals were presented under three broad themes of improving health across the life course; building community assets for health; and regulation for health.
31. The proposals related to:
  - establishing a national tobacco retailers' register requiring businesses to inform enforcement authorities if they sell tobacco;
  - prohibiting smoking in certain open spaces (such as hospital and school grounds);
  - considering the creation of an offence of delivering tobacco products to a person aged under 18;
  - strengthening the role of LHBs in planning and delivering the number, location and type of pharmaceutical services required to meet the needs of their communities;
  - requiring local authorities in Wales to develop a strategy to address the provision of and access to toilets for public use; and
  - introducing a National Special Procedures Register, to cover acupuncture, body piercing, electrolysis and tattooing.

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<sup>9</sup> [pri-ld10796-em-r-e.pdf \(senedd.wales\)](#)

<sup>10</sup> <http://wales.gov.uk/consultations/healthsocialcare/publichealth/?lang=en>

National Special Procedures Register (this related to Parts 3 and 4 of the Act – ‘Special Procedures’ and ‘Intimate Piercing’, Parts 4 and 5 of the final Act)

32. 102 responses were received in respect of this proposal. The majority felt that current information, regulation and enforcement in relation to acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis do not protect the public effectively. This was a consistent message across responses from local authorities and Local Health Boards (LHBs).
33. A clear majority of respondents supported the establishment of a National Special Procedures Register, as this was commonly felt to have potential for achieving consistency of approach across Wales, helping individuals to make informed choices when deciding who to go to for a particular procedure, and ensuring practitioners and premises meet certain standards. There was also general agreement that local authorities would be best placed to administer and enforce the register.
34. Several respondents suggested that additional procedures should be considered for inclusion on the register. A wide number of procedures were referenced, including dermal fillers, chemical peels, colonic irrigation, Botox, scarification, branding, implants and tongue splitting. Conversely, some respondents argued that acupuncture should not be included on the register due to the other forms of regulation in operation in that area.
35. Several specific points of detail were addressed by the consultation questions. In response to these most respondents commented that it would be appropriate for the Welsh Government to be able periodically to amend the list of procedures covered by the register, in order to ensure it remains fit for purpose. A variety of views were offered in relation to registration fees, with a majority favouring a national approach and setting fees at a level which would not be prohibitive for small businesses and individual practitioners.
36. Among the other issues covered, a range of suggestions were provided for how frequently practitioners and businesses should be required to re-register, as well as suggestions for the composition of a ‘fit and proper persons’ test. Specific suggestions were also provided on information which could be covered by mandatory pre-and post-procedure consultation discussions.
37. The White Paper also continued previous discussions regarding the evidence of harm caused by cosmetic piercing, particularly the intimate cosmetic piercing of young people. While most respondents provided comments regarding health risks associated with cosmetic piercing in



general, a number also strongly advocated a prohibition on the intimate cosmetic piercing of children and young people.

## **Other consultations**

### Consultation on how to make cosmetic piercing safer for young people

38. Following a commitment to consult on how to make cosmetic piercing safer for young people, a consultation document was published in 2011<sup>11</sup>. 228 responses were received, and a summary of responses was then published<sup>12</sup>.
39. As a result of further policy work and consideration, elements of the previous proposal (such as that relating to a standardised consultation for all cosmetic piercing) were taken forward through the broader proposal for a National Special Procedures Register, which was consulted upon in the subsequent Public Health White paper. This was in recognition that the wider issues of improved regulation, information and enforcement apply more widely than just the cosmetic piercing industry.
40. In recognition of the ongoing support for restrictions in relation to the intimate piercing of children and young people which was illustrated in responses to the Public Health White Paper, this issue has also been addressed in the Public Health (Wales) Act 2017.

### Consultation by the Health and Social Care Committee of the Fourth Assembly

41. The Public Health (Wales) Act was firstly considered as a Bill by the National Assembly for Wales during the Fourth Assembly, following its introduction on 8 June 2015. Upon introduction the Bill comprised the following main components:
  - Restrictions on the use of tobacco and e-cigarettes in enclosed and substantially enclosed public and workplaces, with a regulation-making power to extend the restrictions to certain open spaces;
  - Creation of a national register of retailers of tobacco and nicotine products;
  - A regulation-making power to add to the offences which contribute to a Restricted Premises Order in Wales;
  - Prohibiting the handing over of tobacco and/or nicotine products to a person under the age of 18;
  - Creation of a mandatory licensing scheme for practitioners and businesses carry out 'special procedures', namely acupuncture, body piercing, electrolysis and tattooing;
  - Prohibiting the intimate piercing of persons under the age of 16 years;

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<sup>11</sup> <http://wales.gov.uk/consultations/healthsocialcare/cosmetic/?lang=en>

<sup>12</sup> <http://wales.gov.uk/consultations/healthsocialcare/cosmetic/?lang=en>

- Changing the arrangements for entry onto the pharmaceutical list of local health boards, to a system based on the pharmaceutical needs of local communities; and
  - Requiring local authorities to prepare a local strategy to plan how they will meet the needs of their communities for accessing toilet facilities for public use.
42. As part of the Assembly's scrutiny processes, the Bill was examined by a number of Committees of the National Assembly, with the then Health and Social Care Committee being the lead scrutinising Committee.
43. As part of its consideration of the Bill, the Health and Social Care Committee undertook a comprehensive stakeholder consultation exercise, during which it received written and oral evidence from a range of key stakeholders. A public survey was also undertaken as part of the Committee's work.
44. The Health and Social Care Committee published its report in November 2015<sup>13</sup>. It made 19 specific recommendations across different areas of the Bill as to how it could be strengthened. A number of these were addressed by later Government amendments to the Bill, for example the addition of new provisions relating to health impact assessments, and the addition of the tongue to the list of 'intimate body parts' to be covered by the prohibition of intimate piercing on persons aged under 16. Members of the Committee were unable to reach a consensus view about whether to support the Bill's restrictions on the use of e-cigarettes in public places, and so no specific recommendations were made about this topic in the report.

### **Power to make subordinate legislation**

45. The Act contains provisions to make subordinate legislation and issue determinations. Table 1 (subordinate legislation and guidance and byelaws) set out in relation to these:
- (i) The person upon whom, or the body upon which, the power is conferred;
  - (ii) The form in which the power is to be exercised;
  - (iii) The appropriateness of the delegated power; and
  - (iv) The applied procedure - that is whether it is "affirmative", "negative", or "no procedure", together with reasons why it is considered appropriate.
46. The Welsh Government is now consulting on the principles of the special procedures licensing scheme with a view to informing draft regulations and commence the provisions of Part 4 and Schedule 3 of the Act. This Regulatory Impact Assessment (RIA) forms part of the consultation

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<sup>13</sup> <http://www.senedd.assembly.wales/mglIssueHistoryHome.aspx?lId=12763>

materials. A further consultation will be run on the draft regulations themselves at an appropriate time, after which they will be laid before the Senedd Cymru for scrutiny.

**Table 1 – Powers contained in Part 4 of the Act – Special Procedures**

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
60(1)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to specify that a special procedures licence is required in order for exempted individuals (members of a profession set out in paragraphs (a) to (ga) of section 25(3) of the National Health Service Reform and Health Care Professions Act 2002) to undertake specified special procedures.	Affirmative	To provide additional security for the Assembly that specified special procedures will not be able to be performed by exempted individuals without full consideration and the opportunity for debate of whether these individuals should require a licence.  In addition, section 60(5) provides further detail in relation to these regulations.
60(3)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to exempt individuals who are not members of a profession specified in paragraphs (a) to (ga) of section 25(3) of the National Health Service Reform and Health Care Professions Act 2002, but who are members of a qualifying register, from the requirement to operate under the authority of a special procedures licence.	Affirmative	To provide additional security for the Assembly that the list of exempted practitioners will be fully considered with the opportunity for debate.  In addition, sections 60(4) and 60(5) provide further detail in relation to these regulations.
62(1)	Welsh Ministers	Regulations	Suitable for delegated powers as this requires the Welsh Ministers to prescribe the licensing criteria (which must include the requirements set out in section 62(2)) that must be met on an application for a special	Affirmative	To provide additional security for the Assembly that the licensing criteria – which could potentially be regarded as placing an onerous duty on those applying for a special procedures licence – will be fully considered with the opportunity for debate.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			procedures licence in order for the application to be granted.		Furthermore, section 64 states that before exercising this regulation making power, the Welsh Ministers must consult with persons who appear to be representative of the interests of those likely to be affected.
62(4)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to set out the requirements, before a licence is issued or renewed, for a local authority to follow in relation to the inspection of those premises or vehicles identified in a licence application.	Affirmative	To provide additional security for the Assembly that the licensing criteria – which could potentially be regarded as placing an onerous duty on local authorities –will be fully considered with the opportunity for debate.  Furthermore, section 64 states that before exercising this regulation making power, the Welsh Ministers must consult with persons who appear to be representative of the interests of those likely to be affected.
62(5)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to make different provision for different purposes in respect of the licensing criteria. This includes providing different descriptions of premises and vehicles, different descriptions of special procedures and the different circumstances in which a special procedure is performed.	Affirmative	To provide additional security for the Assembly that the licensing criteria – which could potentially be regarded as placing an onerous duty on those applying for a special procedures licence –will be fully considered with the opportunity for debate.  Furthermore, section 64 states that before exercising this regulation making power, the Welsh Ministers must consult with persons who appear to be representative of the interests of those likely to be affected.
63(1)	Welsh Ministers	Regulations	Suitable for delegated powers as this requires the Welsh Ministers to prescribe the mandatory licensing conditions that are to apply to	Affirmative	To provide additional security for the Assembly that the mandatory licensing conditions – which could potentially be regarded as placing an onerous duty on

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			those holding a special procedures licence. The mandatory licensing conditions must include the requirements set out in sections 63(2) and 63(3).		those holding a special procedures licence – will be fully considered with the opportunity for debate.  Furthermore, section 64 states that before exercising this regulation making power, the Welsh Ministers must consult with persons who appear to be representative of the interests of those likely to be affected.
63(5)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to make different provision for different purposes in respect of the mandatory licensing conditions. This includes providing different descriptions of premises and vehicles, different descriptions of special procedures and the different circumstances in which a special procedure is performed.	Affirmative	To provide additional security for the Assembly that the mandatory licensing conditions – which could potentially be regarded as placing an onerous duty on those holding a special procedures licence – will be fully considered with the opportunity for debate.  Furthermore, section 64 states that before exercising this regulation making power, the Welsh Ministers must consult with persons who appear to be representative of the interests of those likely to be affected.
66(10)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to amend the list of relevant offences under section 66(8) by adding, varying or removing a description of offence.	Affirmative	To provide additional security for the Assembly that the list of relevant offences – which could potentially prevent an applicant from holding a special procedures licence – will be fully considered with the opportunity for debate before being extended.
69(8)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to exempt specified premises or vehicles from the requirement to obtain approval from the local authority and to exempt a person,	Affirmative	To provide additional security for the Assembly that the list of excepted premises and vehicles will be fully considered with the opportunity for debate before being extended.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			premises or vehicle associated with an exhibition, entertainment or other event, from the requirement to obtain approval from the local authority.		
70(3)(a) or (c)	Welsh Ministers	Regulations	Suitable for delegated powers as this requires the Welsh Ministers to make regulations in relation to the approval of premises and vehicles in respect of the performance of a special procedure.	Affirmative	To provide additional security for the Assembly that the criteria that must be met, and the mandatory approval conditions to which approval is to be subject, will be fully considered with the opportunity for debate.
70(3) (b) or (d)	Welsh Ministers	Regulations	<p>Suitable for delegated powers as this requires the Welsh Ministers to make regulations in relation to the approval of premises and vehicles in respect of the performance of a special procedure.</p> <p>The regulations must specify the circumstances in which an application for approval is to be granted and make provision about appealing against refusal of an application.</p>	Negative	The subject-matter is relatively minor in the overall legislative scheme and is technical/administrative in nature. Also, the content of these provisions may need to be updated from time to time.
70(7)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to make provision about the way in which applications for approval of premises or vehicles must be made and dealt with. This includes the payment of a fee, the circumstances in which an application must not be granted or	Negative	The subject-matter is relatively minor in the overall legislative scheme and is technical/administrative in nature. Also, the content of these provisions may need to be updated from time to time.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			may be granted at the discretion of the local authority and the process for renewal of approval or variation of approval.		
70(8)	Welsh Ministers	Regulations	<p>Suitable for delegated powers as this enables the Welsh Ministers to make provision about how a local authority is to determine the amount of fee payable in respect of an application for approval and the consequences of failure to comply with a requirement to pay a fee.</p> <p>This provision provides further detail for how regulations under section 70(7) are to be made.</p>	Negative	The subject-matter is relatively minor in the overall legislative scheme and is technical/administrative in nature. Also, the content of these provisions may need to be updated from time to time.
70(9)	Welsh Ministers	Regulations	<p>Suitable for delegated powers as this enables the Welsh Ministers to make different provisions for different purposes to do with the approval of premises and vehicles in respect of the performance of a special procedure. This includes providing different descriptions of premises or vehicles, different descriptions of special procedures and the different circumstances in which a special procedure is performed.</p> <p>This provision provides further detail for how regulations under section 70 are to be made.</p>	Negative	The subject-matter is relatively minor in the overall legislative scheme and is technical. Also, the content of these provisions may need to be updated from time to time.



<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
71(4)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to make further provisions about the form and content of approval certificates.	Negative	The subject-matter is relatively minor in the overall legislative scheme and is technical. Also, the content of these provisions may need to be updated from time to time.
72(5)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to make further provisions about the notice of voluntary termination of approval, including the information to be included in the notice.	Negative	The subject-matter is relatively minor in the overall legislative scheme and is technical. Also, the content of these provisions may need to be updated from time to time.
76(4)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to make provision about the way in which a local authority is to determine the special procedure licence or premises or vehicle approval fee to be paid by an applicant.	Negative	The subject-matter is relatively minor in the overall legislative scheme and is technical. Also the content of these provisions may need to be updated from time to time.
76(5)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to make further provision in relation to the special procedure licence or premises/vehicle approval fee. This may include the way in which a fee is to be paid, repayment of a fee (or a proportion of it) in cases of overpayment, and recovery of a fee due to an authority and unpaid.	Negative	The subject-matter is relatively minor in the overall legislative scheme and is technical. Also, the content of these provisions may need to be updated from time to time.
93(1)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to amend the list of special procedures in section 57.	Affirmative	To provide additional security for the Assembly that the list of special procedures will not be amended without full consideration and the opportunity for debate.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
					<p>In addition, section 93(3) states that this power is to be exercised only if the Welsh Ministers consider—</p> <p>(a) that the procedure is one that is capable of being performed for aesthetic purposes, or for purposes that the Welsh Ministers consider to be therapeutic, and</p> <p>(b) that its performance for those purposes is capable of causing harm to human health.</p> <p>Furthermore, section 93(4) states that before exercising this regulation-making power, the Welsh Ministers must consult with persons who appear to be representative of the interests of those likely to be affected.</p>
94(1)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to amend the definition of “body piercing” by describing objects that may be attached to, implanted in, or removed from an individual’s body. In addition, an object or description of object may be prescribed by reference to (among other things) the part of the body on which the perforation is performed.	Affirmative	To provide additional security for the Assembly that the definition of “body piercing” will not be amended without full consideration and the opportunity for debate.

**Schedule 3 – Further provision in connection with special procedure licences**

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Paragraph 4(4)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to make provision about the way in which the local authority is to determine the amount of the fee that is to accompany an application for a special procedure licence and make further provision about applications, including the way in which an application will be dealt with by the local authority. These regulations will be in addition to the details provided in Schedule 3, paragraphs 1, 2, 3 and 4.	Negative	The subject-matter is relatively minor in the overall legislative scheme and is technical /administrative in nature. Also, the content of these provisions may need to be updated from time to time.
Paragraph 5(3)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to make provision about the form and contents of special procedures licences. These regulations will be in addition to the details provided in Schedule 3, paragraphs 5(1) and 5(2).	Negative	The subject-matter is relatively minor in the overall legislative scheme and is technical/administrative in nature. Also, the content of these provisions may need to be updated from time to time.
Paragraph 21(4)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to make provision about the procedures applicable to a local authority licensing committee and their sub-committees.	Negative	The subject-matter is relatively minor in the overall legislative scheme and is technical. Also, the content of these provisions may need to be updated from time to time.

## Guidance and Byelaws

Section or Schedule of the Act	Power conferred on	Form	Power
66(11)	Welsh Ministers	Guidance	The Welsh Ministers must issue guidance to local authorities about matters to be taken into account in deciding whether an applicant's fitness to perform a special procedure has been called into question.

## Options

47. Three substantive options were originally considered, with the third split into two sub-options:
- Option one – Do nothing;
  - Option two – Develop and issue guidance in relation to best practice for acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis, and undertake an awareness-raising campaign;
  - Option 3A – Introduce a special procedures licensing scheme. This was the preferred option;
  - Option 3B – Introduce a special procedures licensing scheme with an added central register of all licensed practitioners and approved premises or vehicles providing special procedures in Wales.

## Costs and benefits calculated for the original Public Health (Wales) Bill

48. The costs and benefits associated with each option were produced using the best information available at the time. The information was prepared through discussion with key stakeholders, including local authorities, health boards and other agencies. The costs and benefits associated with each option were originally assessed over a five-year period from 2017-18 to 2021-22, with a longer period used in some cases. Where costs were expected to extend beyond the initial five-year period (i.e. recurrent costs) these were identified in the text.
49. Option 3A is the option that was preferred and pursued and was embodied in the Act, with provision made at section 75 of the Act for the central register element of option 3B to be pursued later if local authorities were in agreement to create a single all-Wales register.

## Options now under consideration in this RIA

50. As the Act received Royal Assent on 3 July 2017 and provision was made under Part 4 for a licensing system, the framework for which is set out on the face of the Act, the options for consideration in this RIA are limited. The options reviewed at this current time are:

**Option 1** – do nothing: i.e. do not commence any of the provisions of Part 4 of the Act and do not make the necessary subordinate legislation required under Part 4 and Schedule 3 of the Act;

**Option 2** – commence all sections of Part 4 and Schedule 3 of the Act and make the necessary subordinate legislation required.

51. Consideration has also been given as to whether there is an intermediate option to commence some sections of Part 4 and not others. As Part 4 of the Act sets out a unified licensing scheme, it would be difficult to commence some of the provisions and not others. It is therefore considered that there is no middle option, i.e. to only commence certain parts of Part 4 and make limited subordinate legislation as Part 4 is designed to work as a whole.
52. The costings given for the previous Options 1, 3A and 3B (now Option 2) are reviewed here as they were originally presented but updated with current costs. Some adjustment has also been made to take account of updated procedures, for example, less reliance on hard copy documents for communications.

## Costs and benefits

### Option 1 – Do Nothing

#### Description

53. There would be no change to the current legislation under this option. Local authorities' main powers for regulating businesses that carry out the procedures of acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis in their area are provided by the Local Government (Miscellaneous Provisions) Act 1982 ('1982 Act').<sup>14</sup> This Act includes the power to issue byelaws for the purpose of securing the cleanliness of registered premises and fittings, cleanliness of persons registered (and those assisting them) and the cleansing and sterilisation of equipment. Welsh Ministers have developed comprehensive model byelaws, which reflect current infection control guidance and industry best practice<sup>15</sup>. The powers provided by the 1982 Act are adoptive and therefore local authorities can choose which procedures are subject to their control and whether or not to issue byelaws.
54. All local authorities in Wales have adopted the relevant provisions in the 1982 Act and the Welsh Government is aware that seven have chosen to adopt the Welsh Government model byelaws. Other local authorities have byelaws in place; however, these vary in scope and content. For example, some local authorities have byelaws covering specific procedures, such as tattooing, whereas others have byelaws that apply to all procedures.
55. Local authorities have the ability to charge businesses that carry out any of the procedures a one-off fee for registration under the 1982 Act. The fee structures vary according to local authority. All local authorities charge a registration fee in relation to premises where the procedures are

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<sup>14</sup> Sections 14 and 15, Local Government (Miscellaneous Provisions) Act 1982  
<http://www.legislation.gov.uk/ukpga/1982/30>

<sup>15</sup> Welsh model byelaws for acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing, and electrolysis.  
<http://wales.gov.uk/topics/health/protection/communicabledisease/acupuncture/?lang=en>

performed, while some charge registration fees in respect of premises and individual practitioners.

56. The fee amount also varies between local authorities. For premises, the registration fee is between £50 and £198 (average £113); a personal registration fee is between £49 and £112 (average £69). Additional fees are also charged by local authorities for the variation of an existing registration<sup>16</sup>. These registration fees, in addition to the core funding provided to the local authority via the Revenue Support Grant (RSG) are currently used by local authorities to meet the costs of enforcement within this sector. Local authorities have identified that in 2022 there are currently about 3,516 personal practitioner registrations and 1,868 premises registrations across Wales.
57. The Health and Safety at Work etc. Act 1974<sup>17</sup> applies across Wales and makes general provision for workplace health, safety, and welfare. This legislation applies to all persons engaged in special procedures, including peripatetic workers who carry out treatments in the client's home.
58. As this is the baseline option, there are no additional costs. The following section provides an estimate of the costs currently incurred by the various parties.

## **Welsh Government**

59. There are no costs to the Welsh Government associated with supporting local authorities in relation to their powers under the 1982 Act.
60. In addition to the 1982 Act, local authorities have powers under the Public Health (Control of Disease) Act 1984 ('the 1984 Act') to apply to a Justice of the Peace to make a Part 2A order for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination. The order may relate to persons, things or premises. Since the powers came into force in 2010, some local authorities in Wales have used them to apply for an order if they perceive there is risk of infection or contamination where procedures, such as tattooing and cosmetic piercing, are being carried out in unhygienic conditions. In the 2017 RIA, it was indicated that the Welsh Government undertook an annual review of the use of these powers, using advice from local authority and medical professionals. It was estimated that this annual review cost £2,500 in staff time each year (based on £1,700 Welsh Government costs, £400 local authority costs and £400 Public Health Wales costs). Since the RIA was last published, the Welsh Government has rationalised how it scrutinises Part 2A orders and has moved to monitoring orders received from local authorities over a calendar year and publishing a list of orders received annually, which has a minimal cost using existing resources. The full list of all Part 2A orders

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<sup>16</sup> Information provided by local authorities

<sup>17</sup> Health and Safety at Work Act 1974 <http://www.legislation.gov.uk/ukpga/1974/37/introduction>

reported to the Chief Medical Officer is published bilingually on the Welsh Government website<sup>18</sup>.

## Local authorities

61. Local authorities are responsible for the control of businesses that undertake the procedures in commercial settings and undertake inspections and compliance work with these businesses to ensure they are working hygienically and within their statutory obligations (including their Health and Safety obligations).
62. As stated above, the Welsh Government is aware that seven local authorities have adopted the Welsh Government model byelaws as at August 2016. The cost per local authority of adopting these model byelaws was estimated to be approximately £5,000<sup>19</sup>. However, it has transpired that no additional local authorities have adopted the model byelaws in relation to acupuncture, body piercing, electrolysis and tattooing since 2017. They are not now likely to do so because of the special procedures regulations currently under consideration, therefore the cost to local authorities to adopt the model byelaws is zero.
63. The inspection regime varies according to the procedure undertaken and the level of risk. A local authority will undertake an initial inspection upon application for registration of premises. This inspection is estimated to cost around £115 and is recovered from the business applying for registration. Between 2019 and 2022, there were 860 new premises registrations which amounts to an average of 287 per year at an annual cost of £33,005. These costs are met by the registration fees paid by businesses and practitioners.
64. Annual compliance visits are based on local priorities and intelligence received, therefore not every premises is visited every year. It is difficult to put a figure on how many would be visited across Wales, but for this RIA, we have assumed that about half of all premises (other than new registrations) will be visited each year, which would be 934 premises. One compliance visit is estimated to cost £115. Across all local authorities, compliance visits are therefore estimated to cost approximately £107,410 per year.
65. Intelligence provided by local authorities indicates that complaints are predominately received in relation to businesses providing tattooing and cosmetic piercing. It is estimated there are 187 complaints in relation to businesses and practitioners performing these procedures per year<sup>20</sup>. The costs of investigation and follow-up work in relation to a complaint varies, depending on the complexity of each case. An estimate of the cost to a

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<sup>18</sup> [Health protection Part 2A orders 2010 to 2021 | GOV.WALES](#)

<sup>19</sup> *Based on information provided by local authorities*

<sup>20</sup> Based on local authority data which indicates complaints in relation to 10% of all registered businesses, based on 1868 premises



local authority of investigating a complaint is £1,900<sup>21</sup> per complaint, which equates to a total of approximately £355,300 annually across Wales. Regarding successful prosecutions, local authorities have the option of pursuing cost recovery. The following table sets out estimated inspection and compliance costs over five years.

**Table 2 - Local authority inspection and compliance costs (all-Wales) Existing Registration Scheme**

	2022-23	2023-24	2024-25	2025-26	2026-27
New registration initial inspections	£33,005	£33,005	£33,005	£33,005	£33,005
Compliance visit costs	£107,410	£107,410	£107,410	£107,410	£107,410
Complaints investigation costs	£355,300	£355,300	£355,300	£355,300	£355,300
<b>Total</b>	<b>£495,715</b>	<b>£495,715</b>	<b>£495,715</b>	<b>£495,715</b>	<b>£495,715</b>

66. Local authorities currently have limited powers to stop individuals who perform procedures without being registered, particularly if there is a risk to public health. Some local authorities have used powers in the 1984 Act<sup>22</sup> to apply for a Part 2A Orders to prevent a person from practising, for example tattooing, due to the risks they present to public health. In total, as of December 2022, 35 Part 2A orders had been made in relation to tattooing or piercing since the legislation was introduced in 2010. This gives an average of three per year, but to use an average would give a misleading figure of how many part 2A orders are pursued for special procedures. Local authorities are of the opinion that there is more likely to be two applications in every three years. The estimated cost to a local authority to seek and execute a Part 2A order is estimated to range between £800 and £3,000. This includes a £210 fee that some magistrates' courts have imposed on local authorities applying for an order. The table below shows the projected annual number of Part 2A orders over the next five years and the estimated costs associated with these.

<sup>21</sup> Based on data provided by local authorities

<sup>22</sup> Public Health (Control of Disease) Act 1984 as amended by Part 3 of the Health and Social Care Act 2008  
<http://www.legislation.gov.uk/ukpga/2008/14/part/3> The Health Protection (Part 2A Orders) (Wales) Regulations 2010.  
 Available on the Welsh Government website:  
<http://wales.gov.uk/topics/health/protection/communicabledisease/legislation/?lang=en>

**Table 3 - Public Health (Control of Disease) Act 1984 – Part 2a orders for tattooing and piercing (all Wales)**

	2022-23	2023-24	2024-25	2025-26	2026-27
Projected number of cases	2	0	0	2	0
Associated costs	£1,600-£6,000	0	0	£1,600-£6,000	0

67. The estimated total annual spend by local authorities is between £495,715 and £501,715 depending on whether any Part 2A orders are required in any year. The total annual spend amounts to a cost per local authority of between £22,533 and £22,805. However, approximately £80,780 of the total is recoverable from new practitioner and business registrations in the year through their registration fees, as set out under costs to practitioners and businesses resulting in the total adjusted annual spend by local authorities of between £414,935 and £420,935.

### Costs to the NHS

68. There are costs to the Welsh NHS as a result of treating complications arising from the procedures<sup>2324</sup>, such as bacterial skin infections, allergic reactions and the more common systemic illnesses that result from these adverse health effects, namely sepsis and anaphylactic shock. Most costs arise from tattooing and cosmetic piercing procedures. The following paragraphs provide an assessment of some of the costs for these procedures for illustrative purposes but as an accurate assessment of all costs is not available these have not been included in the summary table (Table 6) at the end of this option. Although there are costs to the NHS associated with treating complications following acupuncture, semi-permanent skin colouring and electrolysis<sup>25</sup>, these are considered to be minimal and have not been assessed.

69. It is known that cosmetic piercing can result in complications, such as swelling, infection, bleeding, allergy and tear or other injury<sup>26</sup>. Nerve damage and scarring may also occur if procedures are poorly performed. Although rare, complications from a cosmetic piercing can result in a hospital admission and may be particularly serious for those with underlying health conditions.

70. This study undertook a more detailed analysis of complications associated with body piercings in 16 to 24-year-olds and estimated that 5.1% of all piercings resulted in help being sought from a pharmacist, 3% from a GP, 0.6% requiring attendance at an A&E department and 0.9% requiring

<sup>23</sup> Sindoni, A et al, Health risks for body pierced community: a systematic review <https://doi.org/10.1016/j.puhe.2022.01.035>

<sup>24</sup> Sindoni A, et al. [Adverse effects related to tattoos in the community setting: a systematic review - PubMed \(nih.gov\)](#)

<sup>25</sup> BMJ 2001;323:486

<sup>26</sup> Bone A, Ncube F, Nichols T and Noah ND (2008) Body piercing in England: a survey of piercing at sites other than earlobe BMJ 336 1426

hospital admission. Those not seeking further help from NHS services are assumed to revisit the practitioner who performed the procedure. Assuming this pattern of access to NHS services is replicated across all age groups these data have been used as a basis to estimate the number of individuals accessing NHS services in Wales and the associated costs (table 4 below).

71. Currently, there are no data about the number of people having a cosmetic piercing in Wales nor is there any specific evidence about the rate of health complications from cosmetic piercings, or from tattooing. As data from other countries are also limited, an estimate of the health costs has been based on the most relevant data available. The previous RIA made use of a study from the USA from 2006 to calculate how many of the population have tattoos, then used the figures from the Bone study to calculate how many people with complications presented at each type of health outlet for treatment.
72. Tattooing is the other main source of costs to the NHS from these special procedures. Published data from 2015 about the prevalence of tattooing in the UK suggests 18.7% of people have tattoos, (312 of 1,669) although this survey had a small sample number<sup>27</sup>.
73. The Royal Society of Public Health (RSPH) carried out a survey<sup>28</sup> of individuals who had experienced at least one special procedure (tattooing, micro blading/micro pigmentation, cosmetic piercing, acupuncture and electrolysis) in the previous five years.
74. While most respondents in this survey did not have any negative effects as a result of their procedure (82%), a significant minority (18%) did. Of those who had a negative side effect, 10% required medical treatment. This survey had a very small sample size of 886, and many of the details are not recorded, but some useful inferences can be drawn to inform these costings. It is implied that the age range was over 18 (the legal age for tattooing) and drew on both male and female respondents.
75. The latest available population statistics from the 2021 Census indicates that the population of Wales was 3,107,500 in 2021<sup>29</sup>. Census data does not correlate directly with the number of adults over 18, as it relies on grouping ages in five-year bands, the nearest start point being aged 15-19. Using this as the starting point, there is a total of 2,593,900 people over 15 in Wales.
76. Projecting the percentage from the YouGov survey referenced above of 18.7%, if this was applied to the population over 15, it could be inferred that 485,059 have had at least one of the special procedures listed. Applying the percentages from the RSPH survey, it can be inferred that 87,311 (18%) had complications and 8,731 of those (10%) required

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<sup>27</sup> YouGov [Survey Report \(d25d2506sfb94s.cloudfront.net\)](#) ]

<sup>28</sup> [RSPH | Skins and Needles](#)

<sup>29</sup> Population and household estimates, Wales - Office for National Statistics (ons.gov.uk)

medical treatment. Then, applying the percentages from the Bone study as to who presented at any particular health outlet to this number of 873, a rough indication of costs can be calculated as presented in table 4 below, although it should be borne in mind these are illustrative only.

77. However, it is not possible to attribute accurate costs for treatment due to the variations in pay for health professionals depending on point in pay scales, terms of NHS contract etc. The NHS Tariff<sup>30</sup> identifies unit costs for a wide range of medical interventions. The unit used is for “intermediate skin procedure, person over 19 years”. This unit covers attendance costs only as outpatient, or inpatient per day to a maximum of five days. The unit cost does not include other interventions such as tests, prescriptions, or disposables such as dressings.

Assumptions made: Pharmacist pay range<sup>31</sup> £33,706-£109,475, 37.5 hr week; GP pay based on contracted/salaried average<sup>32</sup> of £97,600, 37.5 hr week<sup>33</sup>. The quality standard of 10 mins per GP consultation<sup>34</sup> has been applied and has been used for the pharmacist consultation also.

**Table 4 - Costs of access to NHS services following special procedures**

Description of help sought following procedure	Number of those aged 15 and over seeking help each year n = 8,731	Unit cost	Yearly cost (£)
Consultation with a pharmacist 5.1%	445	£2.88 (4.6 minute consultation) £9.36 (10 minute consultation)	£1,282-£4,165
GP consultation and antibiotic treatment 3%	262	£20.74 for consultation and £2.20 for a seven-day course of oral antibiotics)	£6,010
Attendance at A&E 0.6%	52	Cost unknown. Used nearest relevant intervention on NHS Tariff for (intermediate skin procedure, person over 19) of £263.	£13,676
Hospital admission 0.9%	79	Non-elective inpatient short stay £1,026 (based on NHS Tariff for intermediate skin procedure, person over 19, per day to maximum of 5 days).	£81,054
<b>Total</b>		-	<b>£102,022-£104,905</b>

<sup>30</sup> NHS England, [NHS England » National tariff payment system](#)

<sup>31</sup> [Pharmacist | Health Careers](#)

<sup>32</sup> [GP Earnings and Expenses Estimates 2019/20 - NHS Digital](#)

<sup>33</sup> [General practice workforce: as at 31 December 2021 | GOV.WALES](#)

<sup>34</sup> [International variations in primary care physician consultation time: a systematic review of 67 countries | BMJ Open](#)

78. A number of other serious conditions can occur as a result of these procedures, as discussed below. Due to the relative rarity of such conditions occurring in Wales, the costs have not been included in calculations.
79. Any procedures involving skin penetration can potentially lead to the transmission of blood-borne viruses such as hepatitis B, hepatitis C and HIV<sup>35</sup>. The cost of treatment for these infections varies significantly but a course of treatment for hepatitis C<sup>36</sup> ranges between £26,726 and £40,090.
80. There are also serious complications which can arise from infections acquired during a procedure, such as pseudomonas infection associated with cartilaginous piercings, serious cases of which can require reconstructive surgery.
81. In unusual cases, where there have been significant deficiencies identified in a business's infection control practices, it may be necessary to undertake a client notification ("look-back") exercise. Such a look-back exercise is undertaken to identify any clients who may have been potentially infected with a blood borne virus and involves identifying clients via customer records to contact them and offer relevant testing. The Exercise Seren look-back was announced on 6 May 2015 and involved over 800 people, most of them young people. It was conducted in response to serious infection control deficiencies associated with a piercing and tattoo studio in Newport. These resulted in a number of customers suffering serious skin infections requiring inpatient care and reconstructive surgery following piercings at the studio. The total cost of the look-back exercise was estimated to be £240,159<sup>37</sup>. Costs of such exercises are likely to vary greatly from case to case and would predominantly fall to the NHS. However, due to the intermittent, unpredictable nature of look-back exercises, these costs have not been factored into annual costs for the NHS or local authorities. Although these costs would be incurred infrequently, each occurrence is likely to incur considerable expense.
82. Other complications – pain, discomfort, and anxiety – have costs to individuals as well as the NHS. Although the level of such complications cannot be quantified, any reduction in them would be of benefit to the NHS. Complications can be particularly serious for those with underlying health conditions and cases of individuals who have died following a cosmetic piercing have been recorded<sup>38</sup>.

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<sup>35</sup> Hayes, MO. Harkness, GA. (2001) Body piercing as a risk factor for viral hepatitis: an integrated research review. *American Journal of Infection Control*. 29, 271-274

<sup>36</sup> Based on NICE and BNF listed prices. ledipasvir-sofosbuvir (Harvoni) for treating chronic hepatitis C (August 2022)

<sup>37</sup> The Technical Report of a Blood-Borne Virus Look Back Exercise related to a body piercing and tattooing studio in Newport, South Wales. Aneurin Bevan University Health Board, 26th July 2016

<sup>38</sup> BBC News online (2005) Lip piercing death 'misadventure'. Available at:

[http://news.bbc.co.uk/1/hi/england/south\\_yorkshire/4429298.stm](http://news.bbc.co.uk/1/hi/england/south_yorkshire/4429298.stm) ; BBC News online (2010) Caerphilly woman's infection death after tongue pierce. Available at: <http://www.bbc.co.uk/news/uk-wales-11543757>

83. In addition to the treatment costs incurred by the NHS, any health complications from the procedures may also result in costs to employers in Wales if they result in sickness absence or reduced productivity. It has not been possible to quantify this economic cost.

### **Practitioners and businesses which carry out acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis**

84. Businesses which provide these procedures are currently required to pay a one-off registration fee. As set out above, the registration fees vary between local authorities. It is estimated there are an average of 287 premises registrations each year and 630 individual practitioner registrations per year. Using the average fees of £130 for premises registration and £69 for individuals, this would amount to £37,310 for the registration of new premises and £43,470 for the registration of new practitioners each year. The total annual cost to business of application fees is therefore estimated at approximately £80,780. Due to the variable charging mechanisms used by local authorities, such as the discretion about whether to charge for personal registrations, these numbers are illustrative only.

85. There is also a cost to new practitioners and businesses for the time taken to complete an application. Although local authority application systems vary, it is estimated an application takes approximately 30 minutes to complete. Assuming a gross hourly rate for practitioners of £19.63 (£15.10 with 30% added for on-costs)<sup>39</sup>, and using the same average numbers of registrations of 630 individual applications and 287 premises applications, it is estimated costs incurred amount to approximately £9,005 annually. However, some may be making an application for both practitioner and premises registration at the same time, and it is not possible to quantify this. There is currently no requirement to renew applications under the 1982 Act.

86. The total estimated annual cost to businesses of new registrations is therefore £89,785. There would be no other costs for businesses providing these procedures under this option.

**Table 5 – Practitioner and Business Costs**

<b>Costs (£)</b>	<b>2022-23</b>	<b>2023-24</b>	<b>2024-25</b>	<b>2025-26</b>	<b>2026-27</b>
Registration fees	£80,780	£80,780	£80,780	£80,780	£80,780
Application time cost	£9,005	£9,005	£9,005	£9,005	£9,005
<b>total</b>	<b>£89,785</b>	<b>£89,785</b>	<b>£89,785</b>	<b>£89,785</b>	<b>£89,785</b>

<sup>39</sup> ASHE 2020 revised edition Work Region Occupation Table 15.6a Hourly pay excluding overtime; (artist). [Earnings and hours worked, region by occupation by four-digit SOC: ASHE Table 15 - Office for National Statistics \(ons.gov.uk\)](#) 247 Hourly rates have been increased by a factor of 30% to £19.63 to incorporate on costs

## Summary of costs associated with Option 1 – Do nothing

Note: The NHS costs have not been included in the table, as they could only be partially estimated.

**Table 6 - Summary of costs associated with Option 1 – Do nothing**

Costs (£)	2022-23	2023-24	2024-25	2025-26	2026-27
<b>Welsh Government costs</b>					
Annual review of Part 2A Orders	0	0	0	0	0
<b>A - Total Welsh Government costs</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Local authority costs – table 2</b>					
New registration initial inspections	£33,005	£33,005	£33,005	£33,005	£33,005
Compliance visit costs	£107,410	£107,410	£107,410	£107,410	£107,410
Complaints investigation costs	£355,300	£355,300	£355,300	£355,300	£355,300
Part 2A Orders (Table 3)	£1,600 – £6,000	0	0	£1,600 – £6,000	0
Adoption of model byelaws	0	0	0	0	0
<b>Total local authority costs</b>	<b>£497,315- £501,715</b>	<b>£495,715</b>	<b>£495,715</b>	<b>£497,315- £501,715</b>	<b>£495,715</b>
<b>Value of registration fees</b>	<b>-£80,780</b>	<b>-£80,780</b>	<b>-£80,780</b>	<b>-£80,780</b>	<b>-£80,780</b>
<b>B - Local authority net costs **</b>	<b>£416,535- £420,935</b>	<b>£414,935</b>	<b>£414,935</b>	<b>£416,535- £420,935</b>	<b>£414,935</b>
** The one-off registration fees incurred by businesses and practitioners are used to offset local authority costs					
<b>Practitioner and Business costs – table 5</b>					
One-off registration fees	£80,780	£80,780	£80,780	£80,780	£80,780
Application time	£9,005	£9,005	£9,005	£9,005	£9,005
<b>C - Total Business costs</b>	<b>£89,785</b>	<b>£89,785</b>	<b>£89,785</b>	<b>£89,785</b>	<b>£89,785</b>
<b>Total Cost **</b>	<b>£506,320 - £510,720</b>	<b>£504,720</b>	<b>£504,720</b>	<b>£506,320 -£510,720</b>	<b>£504,720</b>
** The one-off registration fees incurred by businesses and practitioners have been included here as they are used to offset local authority costs.					

### Benefits

87. This option maintains the current policy position and as such there would be no additional benefits.

## Option 2 that became law – Introduce a special procedures licensing scheme, with a central register

### Description

88. This option involves Part 4 of the Act when commenced repealing the to create a compulsory, national licensing scheme for the practise of special

procedures in Wales. These special procedures are to be defined in the Act as acupuncture, body piercing, electrolysis and tattooing (which includes semi-permanent skin colouring). To perform any of these special procedures, an individual would need to be licensed and the premises (including vehicles) which they practice from approved. Local authorities would be responsible for assessing practitioners and inspecting premises to ensure they meet specified criteria before a licence could be granted or premises approved. It is anticipated the earliest that the licensing scheme would become operational is in 2024 – until this point, the existing registration scheme under the 1982 Act continues.

89. The Welsh Government will develop both statutory and non-statutory guidance in relation to special procedures to assist practitioners and businesses in understanding the legislation and its requirements. Three sets of guidance are planned altogether:
  - Statutory guidance that assists local authorities on the definition of a ‘fit and proper person’ under section 66(11);
  - Non-statutory guidance aimed at local authorities to assist local authorities with their enforcement of the legislation;
  - Non-statutory guidance aimed at practitioners and businesses to assist them in compliance with the new regulations and the operation of the scheme.
90. The development of these guidance documents will involve working with practitioners and businesses from the sector, local authorities, Public Health Wales and other interested parties. Copies will be made available online and the links would be distributed to local authorities and businesses and practitioners providing special procedures. The statutory guidance document will also be the subject of a public consultation exercise along with the draft regulations to be made.
91. The Welsh Government will provide training and guidance to local authorities about the content and enforcement of the legislation.
92. In addition, the Welsh Government will undertake an awareness raising campaign about the licensing scheme. The campaign will have two major components:
  - a. Raising awareness about the licensing scheme among practitioners and businesses.
  - b. Dissemination of information to the public to inform them of the licensing scheme and the risks of not using a licensed practitioner/ approved premises or vehicle for any special procedures they choose to have.
93. The licensing scheme proposed under this option will replace the registration scheme outlined under option one (i.e. under the 1982 Act). The costs outlined below will be incurred in place of the costs under option one.



## Costs

### Welsh Government

94. The Welsh Government has retained a specialist Environmental Health Officer on a full-time basis to advise on technical aspects of special procedures policy in developing this statutory scheme and to take forward various aspects of the special procedures work. This is a two-year secondment arrangement and costs the Welsh Government in the region of £84,000 per year.
95. There would be costs to the Welsh Government for the development, design and translation of two sets of non-statutory guidance (one aimed at practitioners and businesses, the other at local authorities), and a statutory guidance document for local authorities to assist in determining a 'fit and proper person'. The specialist secondee already referred to would provide significant input into drafting these three documents, so has already been costed. To produce all sets of guidance (25,000 words per document), it is anticipated it would take approximately three months of a 0.25 FTE senior executive officer (equating to £4,068) and three months of a 0.4 FTE Executive Officer (equating to £3,996). This would give a total cost of £8,064<sup>40</sup>.
96. It is anticipated that design and typesetting would require six weeks of a 0.5 FTE executive officer, which would cost approximately £2,498. It is estimated that translation and proofreading would cost approximately £7,500<sup>41</sup>. The total cost for the development, design and translation of guidance is therefore £18,062 and will be incurred in 2023-24.
97. When the RIA was last published in 2017, distribution was still largely dependent upon postage of hard copies of documents. Distribution of the guidance documents would now involve sending an electronic copy via email wherever possible to all premises undertaking special procedures in Wales. Downloadable versions of the guidance would also be available. It is therefore unlikely that printed copies of the guidance documents will need to be provided in any great quantity or posted in hard copy. Hard copies would be made available on request and printed and posted to order via standard Welsh Government printing and postage processes. It is difficult to estimate how many copies might be requested in this way but is anticipated to be very few and the cost would be absorbed in standard running costs.
98. The three sets of guidance would be updated every three years. It is anticipated that this would take approximately two weeks of a FTE higher executive officer's time, which would equate to approximately £2,146. Design and translation costs would amount to half the original costs, a total of £4,999. There would be no printing costs for the review as it would

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<sup>40</sup> Based on Welsh Government Staff Planning Costs

<sup>41</sup> Based on £75 per 1000 words for translation = £1875 per document £25 per 1000 words for proofreading= £625 per document

only be produced electronically. The total cost for each review would therefore be approximately £7,145, incurred every three years. The first review would take place in 2027-28.

99. Training sessions would be provided to EHOs or other relevant local authority staff to support them in their enforcement of the legislation:
- 1 x three-hour enforcement officer workshop (one senior and one district EHO to attend from each local authority)
  - 1 x two-hour licensing officer workshop (one licensing officer to attend from each local authority) 1 x one-hour workshop for local authority licensing committees
  - 1 x three-hour technical webinar focussing on infection prevention and control measures and special procedure practices. This would be a resource available to local authority officers to update/refresh their competence (likely attendees – district officers who inspect businesses).
100. The training would be delivered online by the specialist secondee. It is anticipated that four sessions would be held, and these training sessions would take place in 2023.
101. Costs identified in the original RIA in relation to this training were based upon delivery of the courses being contracted out to a training supplier, and delivered in person at different venues, with paper copies of course materials being produced. The original cost of the development of course material and hand-outs was calculated as approximately £1,600, and the cost of running the four sessions with 35 people attending each as approximately £3,200, giving a total cost of £4,800. As the course would now be delivered online by the specialist secondee with downloadable materials, the cost to the Welsh Government is negligible beyond those already accounted for in staff costs.
102. We also consider that it would be prudent for the specialist secondee to deliver train-the-trainer workshop for a number of specialist environmental health officers (to a maximum of eight), thereby ensuring that local authorities are sufficiently equipped to take the scheme forward with other members of staff.
- 1 x two-hour train-the-trainer workshop (Specialist EHOs, maximum of eight who would support neighbouring local authorities).
103. Again, these would be delivered online with downloadable materials, so the cost to the Welsh Government is already covered in the secondee cost. There would be a staff time cost to local authorities for the relevant people to attend the courses, but as they would be online, there will be no travel and subsistence costs payable. The time required to attend training would be incorporated into annual continuing professional development training time.

104. The awareness-raising campaign would focus on informing practitioners and businesses, as well as the public, of the licensing scheme. As the legislation includes new offences, it is envisaged an extensive communications package would be required, to be largely managed in electronic formats, though some print materials such as posters may be considered. To communicate with practitioners and businesses providing special procedures, the Welsh Government would request that local authorities communicate directly with those who would be subject to the legislation via email wherever possible, prior to the legislation coming into force. Local authorities currently register those providing these procedures and therefore those contact details would be used. Because of GDPR restrictions that have been introduced since the original RIA was developed, the Welsh Government would not be able to request the lists of practitioners from local authorities to communicate directly with the target audience.
105. The Welsh Government does have access to stakeholder groups for both local authorities and the special procedures industry, and so would be able to utilise these groups to disseminate information.
106. News stories would be provided to trade journals and other stakeholder networks, as well as social media and targeting relevant websites would further raise awareness among the trade. Wider communications work would focus on alerting the public, including young people and parents, of the possible health issues surrounding special procedures and the importance of ensuring the practitioners/business visited for an acupuncture, body piercing, electrolysis or tattooing procedure are licensed and the premises/vehicle they operate from are approved.
107. The online public register element of the mandatory scheme will also need to be publicised when the first licences and approvals are issued, to alert the public to the availability of this resource that they can consult. This may include public relations, and we will utilise existing Welsh Government social media channels and work with industry-specific representative organisations. This work in total is estimated to cost up to £10,000 and would be a one-off cost incurred towards the end of 2023 in the run up to the mandatory licensing scheme coming into force, and the first half of 2024 when the first practitioner licences and premises/vehicle approval certificates are issued.
108. Although it is anticipated that the communications costs would be incurred in 2023 and 2024, consideration will be given to the need to repeat communications work at a later date, in order to maintain or enhance awareness of the new legislation. The precise costs associated with this work would depend upon the outcome of the review and are therefore currently unknown.

**Table 7 – Option 2 Costs to Welsh Government**

	2022-23	2023-24	2024-25	2025-26	2026-27
Specialist Seconded	£84,000	£84,000	0	0	0
Staff Costs to develop or review guidance	0	£8,064	0	0	£7,145
Design and translation	0	£9,998	0	0	£4,999
Delivery of training for EHOs	0	0	0	0	0
Publicity	0	£10,000	0	0	0
<b>Total costs</b>	<b>£84,000</b>	<b>£112,062</b>	<b>0</b>	<b>0</b>	<b>£12,144</b>
*registration costs incurred under the existing scheme (option 1)					

## Local authorities

109. The legislation will require local authorities to enforce the requirements of the licensing scheme. Local authorities would be required to licence those individuals they consider meet the defined criteria and to monitor their adherence to the licensing conditions, as well as to approve premises/vehicles from which special procedures can be performed. In addition, local authorities will be required to enforce the legislation when necessary, including taking forward action to prevent special procedures being undertaken by unlicensed practitioners and in unapproved premises/vehicles. As detailed in option one, local authorities already have limited powers to control businesses providing acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis, and already undertake enforcement activity in relation to these businesses. However, the new licensing scheme will introduce more stringent requirements to protect public health and therefore it is expected that enforcement activity in relation to these procedures will need to increase.

110. There would be an initial staff time cost for local authorities to attend online training sessions on the new legislation and enforcement, as identified in paragraphs 98-102 above. The training is anticipated to be delivered as in the table below. The hourly rates used to calculate the staff fees have been provided by local authorities:

- Licensing Manager £53.54
- Environmental Health Officer (EHO) £42.73
- Licensing Officer £26.91

111. It is therefore likely to cost local authorities £11,215 in staff time, incurred in the latter half of 2023-24.

112. There will also be a short workshop for the elected members of local authorities who make up the members of the licensing committees. Attendance at this workshop would comprise part of their committee duties, so are not costed.

<b>Local authority training – staff time costs</b>	<b>2023-24</b>
1 x 3 hours enforcement officer workshop – 1 senior and 1 district EHO x 22	£6,354
1 x 2 hours licensing officer workshop – 1 x 22	£1,184
1 x 1 hour workshop for licensing committees	0
1 x 3 hours technical webinar – 1 district EHO x 22	£2,820
1 x 2 hour train the trainer – specialist EHOs, maximum 8	£857
<b>Total</b>	<b>£11,215</b>

113. It is the intention of the mandatory licensing scheme that the costs of processing applications are covered by the application fee that is charged. In addition, because of the Hemmings v Westminster Supreme Court judgment, a separate fee to fund the overall running of the scheme will be charged to practitioners who have been licensed and premises/vehicles that have been approved. These fees will cover visits and advice to licensed practitioners and approved premises/vehicles, compliance activities in relation to issuing notices and any follow-up work, maintaining the public register and taking action against unlicensed practitioners and premises.

114. We have used the following information from local authorities upon which to base the costings in this section.

Estimated number of practitioners in Wales 2022	3,516
Estimated number of premises in Wales 2022	1,868
Average number of new practitioner registrations per year	630
Average number of new premises registrations per year	287
Example cost of mandatory practitioner licence	£150
Example cost of compliance fee – practitioner	£125
Example cost of mandatory premises/vehicle certificate	£220
Example cost of compliance fee – premises/vehicle	£125

115. The estimated numbers of current practitioners and premises/vehicles given above have been provided by local authorities based on the number of registrations they have received under the current registration scheme, although registrations may have been distorted over the pandemic and more people registered to work for themselves. Local authorities currently consider that roughly 5% of these numbers will not apply for the mandatory scheme for a number of reasons: a number of practitioners who would not need to apply for registration under the new scheme as they would hold exemptions as members of regulated professions. In addition, there will be others who will not apply for licensing as they have

since gone out of business, intend to retire, or will stop doing special procedures if they consider it is not cost effective to continue.

116. We have given the example costs of the mandatory licences/approval certificates and compliance fees by way of illustration, based on information on current costs provided by local authorities. The actual fees for the mandatory scheme have not yet been set, so may be more in practice. It is intended that the application fees for the scheme will cover the cost of processing, therefore the illustrative fee is used as a proxy for the local authority cost.

### Licensing practitioners

117. With regard to the licensing of individual practitioners, local authorities would be required to consider and process an application and if agreed, produce and issue a licence. The legislation requires the licence to contain a photograph of the licence holder; the cost of producing a photographic licence is included in the application fee. In some cases, the local authority may need to meet the applicant to discuss their application, but this would be decided on a case-by-case basis. Accordingly, no cost estimate has been included for such discussions.
118. It is estimated there are currently 3,516 (formerly 2,086) individuals performing special procedures in Wales<sup>42</sup>. If approximately 5% of existing registered practitioners did not pursue practitioner licensing further, this would mean 3,340 existing practitioners would apply, starting towards the end of the 2023-24 financial year. If each of these made an application and passed the licensing process, it is estimated it would cost local authorities £501,000 to process and issue personal licences. This would be incurred shortly following the licensing scheme becoming operational in the calendar year 2024. It has been assumed that there will be an average of 630 applications from new practitioners each year for the whole of Wales, resulting in licence costs to process these new practitioners of £96,000 per annum the start of the calendar year 2024. As the practitioner licences would be valid for three years, these costs would recur for each practitioner on a three-yearly basis, depending on their start date.
119. It is assumed that for the 630 new registrations every year, a similar number of the original cohort of existing practitioners would cease trading. Therefore, of the original 3,340 practitioners who gained licences in 2023-24, there would be 1,460 still in business applying to renew their licences in 2026-27 at a cost to the local authorities of £219,000.
120. In addition, local authorities will undertake compliance visits to all licensed practitioners during the three-year lifetime of the licences. Based on an estimated cost of £115 per visit, it will cost local authorities £128,033

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<sup>42</sup> Based on information provided by local authorities

spread over three years to visit each practitioner up to the end of the first licensing period. The figure drops to £167,900 a year for the next three-year cycle, as it is assumed for costing purposes that 1,460 of the original cohort will remain in practice. For the purposes of demonstrating the renewal application cost, this figure has not been apportioned over three years as before but is shown in the 2026-27 financial year.

121. It has been assumed that any new applicants each year will be visited within the year of application, which will add a further £72,450 a year to the local authority costs.

### Approving premises and vehicles

122. In order to approve premises/vehicles from which special procedures are performed, it is expected that the local authority would process the application and undertake an inspection visit. If the premises/vehicle meets the required conditions, it would be approved by the local authority and an approval certificate issued for display. It is anticipated the cost to the local authority would be around £220 per premises/vehicle approval<sup>43</sup>. It is estimated that there are currently 1,868 premises/vehicles from which the defined special procedures are currently performed in Wales<sup>44</sup>. As with the existing practitioners, local authorities consider that approximately 5% of existing registered premises/vehicles will not apply for premises/vehicle approval under the new scheme for a range of reasons. This means that approximately 1,775 will apply in 2023-24. Assuming that all of this cohort are approved, it is estimated the cost to local authorities to process and issue premises/vehicle approvals would be £258,500 in 2023-24, which includes the first calendar year of operation of the scheme from 1 January 2024.
123. As the premises/vehicle approval would be valid for three years, these costs would recur on a three-yearly basis. However, for the purposes of cost calculations, the overall number of existing premises/vehicles requiring renewal in the third year would not increase as it has been assumed that an equal number of businesses will cease trading and start up each year. Therefore in these costings, of the original 1,775 premises/vehicles that applied in 2023-24, it is assumed that 914 would still be in business in 2026-27 to apply for renewal, at a cost to local authorities of £201,080. However, this is based on the application processing cost of £220 remaining the same after three years.
124. Using the estimated number of current premises/vehicles registered and the compliance/inspection visit cost of £115, it will cost a total of £204,125 to visit all existing premises/vehicles in the first year of the scheme in order to inspect them and approve them under the new scheme. It is anticipated that there will be 914 of this original cohort still in business that

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<sup>43</sup> Figure provided by local authorities

<sup>44</sup> Based on information provided by local authorities

will require a renewal visit of their premises/vehicle approval certificate in 2026-27 at the cost to local authorities of £105,110.

Compliance of practitioners and premises

125. Local authorities would also be responsible for monitoring compliance with the legislation during the duration of the licence or premises/vehicle approval. This would involve working with licence holders and approved premises/vehicle owners to ensure compliance. As is the case under the current registration scheme, it is expected that local authorities will undertake risk-based compliance visits. It is expected that all premises/vehicles will be visited a second time in the three-year period of their approval at a similar cost. Therefore, these overall costs of £204,125 have been apportioned across three years, as some premises/vehicles would be revisited in the same year as their initial approval visit. Across all local authorities, compliance visits are therefore estimated to cost approximately £68,042 a year. As it is assumed that there would be 914 remaining of the original cohort of premises/vehicles in 2026-27, and assuming the cost of compliance visits remained the same, the total cost for the following three years would be £105,110, and as before has not been apportioned.
126. It has been assumed that there will be 287 new premises/vehicles opened per year, resulting in costs for processing these new businesses' applications of £63,140 per annum from the end of the 2023-24 financial year. In addition, each new premises/vehicle that is approved will also be visited at least once more in their three-year approved period to ensure their compliance with their approval conditions. At £115 per compliance visit, this will cost £33,005. Once again, the assumption has been made that the cost of visiting will not have changed in 2026-27.
127. The overall costs to local authorities for processing premises/vehicle applications are likely to be overestimates, because of the assumption that all applications will be approved, thereby necessitating visits. It is unlikely that every premises/vehicle application will be approved, but equally, it is not possible to say with any certainty how many new premises/vehicles will start up or existing ones go out of business.

**Table 8 - Licensing scheme administration costs – local authorities**

	2022-23	2023-24	2024-25	2025-26	2026-27
Number of existing practitioners	3,516	3,340	2,710	2,090	1,460
Number of existing premises/vehicles	1,868	1,775	1,488	1,201	914
Existing practitioners – application		£501,000	0	0	£219,000
Existing practitioners – compliance visit		£42,678	£42,678	£42,678	£167,900 **



New practitioners applications– 630 a year		£96,000	£96,000	£96,000	£96,000
New practitioners compliance visit		£72,450	£72,450	£72,450	£72,450
Existing premises/vehicles – application		£258,500	0	0	£201,080
Existing premises/vehicles – application visit		£204,125	0	0	£105,110
New premises/vehicles applications – 287 a year		£63,140	£63,140	£63,140	£63,140
New premises/vehicles application visit		£33,005	£33,005	£33,005	£33,005
<b>Subtotal applications/visits</b>		<b>£1,270,898</b>	<b>£307,273</b>	<b>£307,273</b>	<b>£957,685</b>
Existing premises/vehicles – compliance visit		£68,042	£68,042	£68,042	£105,110 **
New premises/vehicles - compliance visit		£33,005	£33,005	£33,005	£33,005
<b>Subtotal compliance visits</b>		<b>£101,047</b>	<b>£101,047</b>	<b>£101,047</b>	<b>£138,115</b>
<b>Total costs</b>	<b>£48,790 *</b>	<b>£1,371,945</b>	<b>£408,320</b>	<b>£408,320</b>	<b>£1,095,800</b>
*registration costs incurred under the existing scheme (option 1)					
**The cost for these compliance visits would be apportioned over the next 3 years of the renewed licences/approvals					

128. Should a local authority refuse to grant, renew or vary a practitioner licence or premises/vehicle approval certificate, it would have to issue a notice to the applicant. In the case of a practitioner licence, the applicant could then make representations to the local authority's licensing committee, and if the committee refused the application, the applicant could appeal against the committee's decision to a magistrates' court. In the case of a refusal of an application relating to a premises/vehicle approval certificate, the applicant has the right of appeal directly to the magistrates' court and if refused, to the Crown court. It is anticipated that this process will be set out within regulations.
129. Local authorities consider that approximately 5% of all practitioner applications will be appealed through the licensing committees, and a similar percentage of premises/vehicle application appeals will be heard by the magistrates' courts.
130. Local authorities have estimated that it would cost them approximately £166 to handle each appeal as the local authority staff cost of processing each appeal is the same regardless of whether it is heard initially by the licensing committee or the magistrates court.
131. This would give the following numbers of appeals: in 2023-24, 167 existing practitioners costing £27,722 and in 2026-27, 73 of the remainder of the existing cohort would appeal refusals of renewal of their licences, costing £12,118 respectively. In addition, 32 new practitioners would appeal each year at a cost to local authorities of £5,312.
132. It is not known how many practitioners would take appeals to the magistrates' court if they were unsuccessful at the licensing committee.

Enquiries made of London boroughs in respect of the London licensing scheme for special procedures suggest that less than 2% require action by the boroughs and go before the courts. This would give figures of three existing practitioners in 2023-24 costing £498, one in 2026-27 and less than one new applicant practitioner per year, costing £166 each.

133. As previously stated, the first stage of appeal for premises/vehicle applications that are refused will be to the magistrates court, and local authorities consider that 5% will appeal in this way. In 2023-24, there would be 89 persons in control of premises/vehicles appealing, costing £14,774 and in 2026-27, of the remainder of the existing cohort, 46 would appeal refusals of renewal of their approval certificates costing £7,636. In addition, two new applicants for premises/vehicles approval would appeal each year at a cost to local authorities of £332.
134. The second stage of appeals if a person in control of premises/vehicles lost an appeal in the magistrates' court would be to the Crown court. Applying the same percentage of 2% identified by the London boroughs, this would give a number of two existing premises/vehicles in 2023-24, 1 in 2026-27 for renewal; and one new premises/vehicle each year. It is considered that even this may be an overestimate of the numbers which may go to appeal. A summary table of numbers anticipated to go to appeal in the courts and associated costs are given in tables 9 and 10.
135. The cost to the magistrates' courts for dealing with appeals and hearing prosecutions are discussed in the Justice System Impact section of this RIA.

#### Enforcement costs - notices

136. If a local authority had concerns (raised for example during a compliance visit or via a complaint) that a licence holder or an approved premises/vehicle was contravening their mandatory licensing/approval conditions, it could issue a stop notice or a remedial action notice (RAN) to the licence holder or the person holding the premises/vehicle approval certificate to require specified action, depending on the severity of the risk to public health. There would be a compliance period of at least 14 days within which the prescribed action must be taken to avoid committing an offence.
137. Local authorities would also have the power to prevent special procedures /vehicles being carried out by unlicensed persons or in unapproved premises. Local authorities would need to identify unlicensed individuals and then issue a stop notice, which would have the effect of prohibiting the performance of a special procedure. Using the experience of the London boroughs, we consider that approximately 2% of all practitioners and premises/vehicles will require to have either a RAN or a stop notice served upon them each year. Welsh local authorities have costed issuing all notices at £23 each. Using the diminishing numbers of existing

practitioners and premises/vehicles year on year given in the previous table (table 8) added to the number of new entrants each year, provides the annual costs presented in table 10 'Enforcement and other administrative costs'.

138. Practitioners and persons in control of premises/vehicles will have the ability to appeal any notice that is served upon them, and any such appeal would be heard by the magistrates' court. Local authorities' experience through nearest comparable licensing schemes is that very few individuals appeal against notices. We have therefore applied a percentage of 2% of the number we have calculated as requiring notices at the cost of £166 each as given before. The following summary table breaks down the numbers of each type of application at each stage of appeal and enforcement action.

**Table 9 – Summary table of appeals and enforcement processes**

	current	5% will not apply	2023-24 Start	2024-25	2025-26	2026-27 Renew
Estimated number of practitioners in Wales 2022	3,516	3,340	3,340			
Estimated number of premises/vehicles in Wales 2022	1,868	1,775	1,775			
Annual reduction (by 630 a year) – existing practitioners				2,710	2,090	1,460
Annual reduction (by 287 a year) – existing premises/vehicles				1,488	1,201	914
Average number of new practitioner registrations per year	630	---	630	630	630	630
Average number of new premises/vehicles registrations per year	287	---	287	287	287	287
5% practitioners 1 <sup>st</sup> stage appeal to the licensing committee	existing	---	167	0	0	73
	new		32	32	32	32
2% of that 5% practitioners 2 <sup>nd</sup> stage appeal to the magistrates	existing		3	0	0	1
	new		1	1	1	1
5% premises 1 <sup>st</sup> stage appeal to the magistrates	existing		89	0	0	46
	new		2	2	2	2
2% of that 5% premises 2 <sup>nd</sup> stage appeal to the crown court (percentage is less than 1)	existing		2	0	0	1
	new		1	1	1	1
2% will have notices (all types, annually) - practitioners	existing		167	136	105	73
- practitioners	new		32	32	32	32
- premises/vehicles	existing		89	74	60	46
- premises/vehicles	new		14	14	14	14
2% of that 2% all practitioners/ premises/ vehicles will appeal notices			6	5	4	3

### Preventing unlicensed activity

139. Local authorities currently use powers under the 1984 Act to apply for a Part 2A Order to prevent a person from carrying out unregistered tattooing or piercing activities. It was estimated in Option 1 that two Part 2A Orders are applied for and granted in a three-year period in relation to these practices.
140. This option of introducing a mandatory special procedure licensing scheme in Wales which is now under consideration would provide more comprehensive powers to deal with prohibited activity, via a more straightforward process. While the process set out under this option would be different to that provided for by the 1984 Act, there would be parallels in relation to the cost of investigating and executing a Part 2A Order. We have applied the two cases in three years figure in Table 10. It is therefore estimated the costs associated with preventing unlicensed/unapproved activity in the first year would be at least £1,600-£6,000 per case (depending on the complexity of the case)<sup>45</sup>.
141. It is assumed that as businesses and the public would become more familiar with the legislation over time, and that this would drive up standards, leading to a reduction in the number of stop notices and RANs issued year-on-year until 2026-27, after which the number issued would level off.
142. Some of these costs could be met if a magistrates' court awarded a contribution towards the prosecution costs to the local authority if the case was successful. However, the court could also order the local authority to compensate an individual for loss of income. These costs have not been included as they are difficult to estimate due to their variability.

### **Public Register**

143. The original RIA gave an option for the duty on local authorities to keep a public register to be discharged by the creation of one central register to which all local authorities contribute. Local authorities have indicated that they wish to exercise this option, and this is discussed further on in this RIA. There would be a cost to maintain the information and ensure it is up to date. The administrative cost to local authorities to maintain the accuracy of their data has been costed at £30 per registration, so using the figures previously given for initial registrations and annual new registrations demonstrated in the table below (table 10), it is estimated to cost approximately £180,960 in the first year, £98,730 in the third year (when renewals would be recorded) and £27,510 for new registrations every year.

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<sup>45</sup> Based on the costs associated with current Part 2A Orders

144. There would also be other local government staff costs associated with the guidance, raising general awareness and dealing with ad hoc queries about the new legislation. Attending training on the new scheme has been costed separately. It is estimated this work would be greater in the run up and during the first year following the introduction of the new legislation, and in total would amount to no more than the equivalent of a month of a FTE EHO per local authority each year in the first two years, reducing to half this for subsequent years. This would equate to approximately £139,129 (£6,324.04 per local authority) in 2023-24 and 2024-25, with the cost reducing to approximately £69,564 (£3,162.02 per local authority).

**Table 10 - Local authority Enforcement and other administrative costs**

	2022-23	2023-24	2024-25	2025-26	2026-27
<b>Reference figures:</b>					
Number of existing practitioners	3,516	3,340	2,710	2,090	1,460
Number of existing premises/vehicles	1,868	1,775	1,488	1,201	914
Number of new practitioners		630	630	630	630
Number of new premises/vehicles		287	287	287	287
Appeals to licensing committee – existing practitioners n= 167, 73	0	£27,722	0	0	£12,118
Appeals to licensing committee – new practitioners n= 32	0	£5,312	£5,312	£5,312	£5,312
<b>subtotal</b>		<b>£33,034</b>	<b>£5,312</b>	<b>£5,312</b>	<b>£17,430</b>
Appeals to magistrates – existing practitioners n= 3, 1	0	£498	0	0	£166
Appeals to magistrates – new practitioners n = 1	0	£166	£166	£166	£166
Appeals to magistrates – existing premises/vehicles n = 89, 46	0	£14,774	0	0	£7,636
Appeals to magistrates – new premises/vehicles n = 2	0	£332	£332	£332	£332
Appeals to crown court-existing premises/vehicles n = 2, 1	0	£332	0	0	£166
Appeals to crown court – new premises/vehicles n= 1	0	£166	£166	£166	£166
<b>subtotal</b>		<b>£16,268</b>	<b>£664</b>	<b>£664</b>	<b>£8,632</b>
Issuing stop notices and RANS on existing and new practitioners/premises/vehicles	355,300*	(n=302) £6,946	(N= 256) £5,888	(N=211) £4,853	(N= 165) £3,795
Appeals to magistrates against notices – all practitioners, all premises/vehicles	0	(N=6) £996	(N=5) £830	(N=4) £664	(N=3) £498
Preventing unlicensed activity	£1,600– £6,000 **	£1,600– £6,000	0	0	£1,600– £6,000
Maintenance of data on register	0	£180,960	27,510	27,510	98,730

Other general costs	0	£139,129	139,129	69,564	69,564
<b>subtotal</b>	<b>£356,900– £361,300</b>	<b>£329,631– £334,031</b>	<b>£173,357</b>	<b>£102,591</b>	<b>£174,187– £178,587</b>
<b>Total costs</b>	<b>£356,900– £361,300</b>	<b>£378,933– £383,333</b>	<b>£179,333</b>	<b>£108,567</b>	<b>£200,249– £204,649</b>
* complaints investigation cost under existing registration scheme (option 1 – table 2)					
**cost range of pursuing Part 2A Orders (option 1 – Table 3)					

145. This option would enable local authorities to set reasonable fees to cover the costs of administering applications in line with the Hemmings v Westminster Supreme Court judgment<sup>46</sup>, and to separately charge licence holders a fee for the cost associated with running and enforcing the mandatory licensing scheme. There would therefore be a significant degree of cost recovery available to local authorities in administering the scheme. Licensing/approval fees, in addition to the core funding provided to local authorities via the RSG, would meet the cost of running the licensing scheme. Practitioners and businesses which carry out special procedures (acupuncture, body piercing, electrolysis and tattooing).

### **Practitioners and businesses which carry out special procedures (acupuncture, body piercing, electrolysis and tattooing)**

146. Practitioners and people who are in control of premises/vehicles would be likely to incur costs from time spent familiarising themselves with the new requirements and associated guidance for applicants. Although the guidance is estimated to be approximately 25,000 words in length, it would outline the recommended practices for each special procedure in detail. It is therefore unlikely practitioners would be required to read the whole document in detail. It is assumed practitioners and people who are in control of premises/vehicles would only read the guidance relevant to the procedure(s) they perform – estimated to be a quarter of the total guidance. Failing to comply with the new legislation could lead to a prosecution, therefore it is envisaged that a longer period would be required for this familiarisation work (three hours) than with option two. However, the other assumptions relating to this work outlined for option two are considered to remain relevant. This would suggest a total cost for this familiarisation work.

147. We have previously estimated that an approximate total of 3,340 practitioners of those who are currently registered (formerly 2,086) and 380 new practitioners, and 1,775 existing premises/vehicles are likely to apply for the new scheme in 2023-24. In addition, as given previously, it is estimated there would be 630 new practitioners and 287 new premises/vehicles each year. Using the hourly rate plus on costs given previously under Option 1, the cost to each practitioner and one person in control per premises/vehicle can be calculated as £58.89. Scaling this up by the total numbers we have used for people who will apply in 2023-24

<sup>46</sup> R (on the application of Hemming (t/a Simply Pleasure Ltd) and others) (Respondents) v Westminster City Council (Appellant) - The Supreme Court

totals £301,222 for existing applicants, £54,002 for new applicants. There would be ongoing annual costs for new practitioners and people in control of premises/vehicles to familiarise themselves with the new legislation of £54,002.

148. The guidance would be updated every three years at which time practitioners and people in control of premises/vehicles who have remained in business may incur some costs from familiarising themselves with the revised guidance and in implementing any required changes. It will be recalled from the previous table (table 8) that it is assumed that of the original cohort of practitioners and premises/vehicles, 2,374 in total remain in business in 2026-7. Using the same formula, this would give a total cost to these remaining practitioners and persons in control of premises/vehicles of £139,805. However, as this would be a revision of guidance it is anticipated that costs would be no more than half this amount at an estimated £69,902. The first update is expected to take place in 2026-27.
149. It should be noted that there will be an element of double counting in these figures, as a proportion of practitioners will also be the person in control of a premises/vehicles and will therefore be applying for both a practitioner licence and a premises/vehicle approval. There is also the business model where the person in control of a premises/vehicle does not actually perform special procedures themselves. It is not possible at this stage to be able to identify what proportion of applicants will have this dual status.

**Table 11 – practitioner familiarisation cost**

	<b>2022-23</b>	<b>2023-24</b>	<b>2024-25</b>	<b>2025-26</b>	<b>2026-27</b>
Familiarisation costs– existing practitioners and premises /vehicles	0	£301,222	0	0	0
Familiarisation costs – new practitioners and premises/vehicles	0	£54,002	£54,002	£54,002	£54,002
Review familiarisation costs	0	0	0	0	£69,902
<b>Total cost</b>	<b>0</b>	<b>£355,224</b>	<b>£54,002</b>	<b>£54,002</b>	<b>£123,904</b>

150. Practitioners and people in control of premises/vehicles would be required to apply to the local authority for a practitioner licence or premises/vehicle approval. This application process is expected to be straightforward and, in most cases, would be carried out online. While the intention would be to keep the application process as simple as possible, there would be some degree of staff time involved in completing an application.

151. The previous RIA assumed that the practitioner licence application form would take approximately 30 minutes to complete and the premises/vehicles approval application 1.5 hours. However, work that has been done subsequently suggests that completion of each form and the collection of necessary supporting documentary evidence is likely to take 1.5 hours per application form to complete at a cost of £29.45 per applicant. Although there is common information that would be included in both types of form, the information and documentary evidence is different for practitioners to premises/vehicles, so a person applying for both types of licensing may take the same amount of time on each. As stated previously, it is not possible to quantify how many people will be applying for both. The legislation would require a practitioner's special procedures licence to contain a photograph of the licence holder. In some cases, this may require the applicant to visit the local authority office to have the photograph taken. Using the numbers of practitioners, premises/vehicles and hourly rates from the previous table, the cost of completion of the forms can be calculated.
152. In addition, local authorities will have the power to request a practitioner to provide a Basic Disclosure and Barring Service (DBS) Certificate as part of the application process, and it is proposed that a person in control of a premises should also provide a basic DBS certificate. The cost of applying for such a certificate is £18, which has reduced from the £25 quoted in the previous RIA<sup>47</sup>. This cost will be applicable for each new application or renewal of an application. Therefore, this cost will apply on the initial application and then every three years on renewal.
153. It is estimated costs incurred through making applications in 2023-24 for existing practitioners and people in control of premises/vehicles would amount in total to approximately £242,707. There would be annual costs for the completion of new applications of £43,512. Renewal of licences would take place every three years, although it is assumed the cost to business for the completion of applications would be halved as the process would be more straightforward, being based on updating information, in addition to the reduced number of this cohort still in business.

**Table 12 – Opportunity cost of application completion**

	2022-23	2023-24	2024-25	2025-26	2026-27
Existing practitioners and premises/vehicle applications (n=5115)	0	£150,637	0	0	0
Renewal of practitioner licence/premises/vehicles approval (n= 2,374)	0	0	0	0	£34,957
Basic DBS certificate – existing practitioners and premises/vehicles	0	£92,070	0	0	£42,732

<sup>47</sup> Request a basic DBS check - GOV.UK [www.gov.uk](http://www.gov.uk)



<b>Subtotal</b>	<b>0</b>	<b>£242,707</b>	<b>0</b>	<b>0</b>	<b>£77,689</b>
New practitioner and premises/vehicles applications (n=917)	£89,785	£27,006	£27,006	£27,006	£27,006
Basic Disclosure Certificate– new practitioners and premises/vehicles	0	£16,506	£16,506	£16,506	£16,506
<b>Subtotal</b>	<b>£89,785</b>	<b>£43,512</b>	<b>£43,512</b>	<b>£43,512</b>	<b>£43,512</b>
<b>Total costs</b>	<b>£89,785*</b>	<b>£286,219</b>	<b>£43,512</b>	<b>£43,512</b>	<b>£121,201</b>
*cost under existing registration scheme (option 1)					

154. In addition to the staff time involved in following the application process, there would be an application fee to obtain a practitioner licence or approval of premises/vehicles. The fee structure has previously been discussed in the 'local authorities' section for this option and it has been proposed that these would be agreed and set by local authorities fees for the whole of Wales in line with the Hemming judgment. These fees have not yet been discussed and agreed, so for illustrative purposes only, an example cost for a practitioner licence would be £150 and an example cost for a premises/vehicle approval would be £220.

155. Because of the Hemming v Westminster judgment, the running costs of the scheme as a whole have to be charged separately to those practitioners and premises/vehicles who are licensed/approved, in the form of a 'compliance fee'. Illustrations of these fees for the purpose of these costs calculations are £125 for a practitioner and £125 for a premises/vehicles. All existing practitioners and persons in control of premises/vehicles will need to apply under the new scheme. This would amount to an initial total cost to them of £1,530,875, which would be incurred in 2023-24. Assuming 630 new practitioners starting each year and 287 new premises/vehicles, there would be ongoing annual costs of £272,265 for new licences and approvals.

156. Renewal of practitioner licences and premises/vehicles approval certificates would take place every three years as detailed in table 13 below. These are likely to attract the same application and compliance fees as initial applications, although these have not yet been worked out. Using the figures as before, the cost of renewal for those original practitioners and people in control of premises/vehicles still in business in 2026-27 are likely to be in the region of £905,200.

**Table 13 – application and compliance costs**

	<b>2022-23</b>	<b>2023-24</b>	<b>2024-25</b>	<b>2025-26</b>	<b>2026-27</b>
Existing practitioner application costs n=3340	£89,785*	£501,000	0	0	0
Existing practitioner	0	£417,500	0	0	0

compliance charge n =3340					
Renewal costs practitioners N=1460	0	0	0	0	£401,500
Existing premises/vehicles application costs n=1775	0	£390,500	0	0	0
Existing premises/vehicles compliance charge n=1775	0	£221,875	0	0	0
Renewal costs premises/vehicles N=1460	0	0	0	0	£503,700
<b>subtotal</b>	<b>£89,785*</b>	<b>£1,530,875</b>	<b>0</b>	<b>0</b>	<b>£905,200</b>
New practitioner applications n=630	0	£94,500	£94,500	£94,500	£94,500
New practitioner compliance fees n=630	0	£78,750	£78,750	£78,750	£78,750
New premises/vehicles application costs n=287	0	£63,140	£63,140	£63,140	£63,140
New premises/vehicles compliance charge n=287	0	£35,875	£35,875	£35,875	£35,875
<b>subtotal</b>	<b>0</b>	<b>£272,265</b>	<b>£272,265</b>	<b>£272,265</b>	<b>£272,265</b>
<b>Total costs</b>	<b>£89,785 *</b>	<b>£1,803,140</b>	<b>£272,265</b>	<b>£272,265</b>	<b>£1,177,465</b>
* cost under existing registration scheme (option 1)					

157. It is expected there would be a high compliance rate with the legislation. Contraventions of the legislation, such as performing special procedures without being licensed or breaching the conditions of a licence would result in a stop notice or a Remedial Action Notice (RAN) depending on circumstances. Breaches of both types of notice are subject to an unlimited fine to reflect the seriousness of the offence. It is not possible to provide a definitive figure as to the fines that would be given as magistrates' courts would have a wide discretion; however, for the purposes of this exercise a £5,000 fine has been used to calculate costs.

158. It was estimated earlier (in Table 9) there could be approximately 302 cases of a person being issued with a stop notice or a RAN in the first year. The previous RIA estimated that approximately 20% of these would result in a fine – 60 in total, giving a total annual cost of up to £300,000. It was also estimated in the same table that there would be a reduction in the number of stop notices and RANs issued year on year due to the assumed diminution of the number of the existing cohort of practitioners and premises/vehicles year on year. This would give a total of 33

receiving fines in 2026-27 at a cost of £165,000. The proceeds from these fines would be retained by HM Courts and Tribunals Service. It is envisaged there would be minimal appeals against stop notices or RANs.

159. In addition, any practitioner or person in charge of a premises/vehicles who wishes to appeal to the magistrates' court against a refusal of application or against a notice (as set out in Table 9) may be charged a fee by the Courts Service. This fee would be to register the appeal, and a further hearing fee may also be applied, and the appellant will have to pay these costs. Discussions are ongoing with the Ministry of Justice under a Justice System Impact Identification consultation, so details on any fees that may be payable are not yet available. By way of indication, the current Civil and Family Court fee<sup>48</sup> to lodge an appeal in the County Court is £151 (excluding any applicable hearing fees), and this amount has been applied to the numbers bringing appeals previously identified in Table 9.
160. As the issue of court fees has not been settled, the totals in the following table 14 have not been included in the overall summary totals at the end of this document.

**Table 14 – cost to practitioners and businesses – court fees and fines**

	2022-23	2023-24	2024-25	2025-26	2026-27
fines (all practitioners and premises/vehicles)	0	N=60 £300,000	N=51 £255,000	N=42 £210,000	N=33 £165,000
Court fees – appeals to magistrates	0	N=101 £20,301	N=8 £1,208	N=7 £1,057	N=53 £8,003
Court fees – appeals to crown court	0	N=1 £151	N=1 £151	N=1 £151	N=1 £151
Total fines *	0	£300,000	£255,000	£210,000	£165,000
Total fees *	0	£20,452	£1,359	£1,208	£8,154
*illustrative amounts only– value of fines and fees may vary substantially					

161. It is anticipated that in the vast majority of cases, practitioners and people in control of premises/vehicles would work with the local authority to fulfil the recommended action and comply with any notices served. As the cost to individual businesses of remedial action could vary greatly, and is currently largely unknown, it has not been estimated here.

<sup>48</sup> EX50 - Civil and Family Court Fees (publishing.service.gov.uk)

## Competition Assessment

162. All existing practitioners and people in control of premises/vehicles will be required to apply for licensing and/or approvals of premises/vehicle as well as new entrants. It is expected that the application and compliance fees will be the same across all local authorities in Wales, therefore all applicants will be subject to the same charges. Any costs incurred by businesses in respect of training or in equipping a premises to meet a standard required for approval would be proportional to the size of the business, so it is anticipated that any impact on competition would be minimal. Furthermore, better regulation may increase confidence in the special procedures sector in Wales and generate additional custom.

### Preferred option 2: commence all provisions of Part 4 and Schedule 3

The competition filter test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	Initially re workplace equipment etc?
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	Possibly some go out of business?
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

### Notes

**Q4:** The proposed legislation does not allow for grandfather rights (i.e. exemptions) for existing practitioners and businesses. All practitioners who are currently operating and all owners of premises or vehicles used for the

specified special procedures will need to apply for licences and premises certificates under the proposed new scheme. As the standard of competence to be demonstrated and the licensing conditions are significantly more rigorous than the existing registration scheme allows, it is possible that some practitioners and businesses will find the new licensing scheme financially challenging, and some may not ultimately get through the licensing process. Significant work has been done with existing practitioners to ensure that they are aware of future standards that will be required, and many are already meeting those standards.

**Q5:** for the reasons outlined in Q4 above, it is possible that the number of licensed practitioners and premises will change because of the proposed licensing scheme in the short term following the introduction of the scheme

## **Courts**

163. Appeals in relation to the legislation – such as an appeal against a refusal to grant a practitioner licence that has already been before the licensing committee, or refusal of a premises/vehicle approval application or against fines levied in relation to enforcement action such as contravention of a RAN – could be made to the magistrates' court. However, it is expected local authorities would assist practitioners and businesses and provide the opportunity for them to become compliant with the legislation before any further action was taken. As many representations would be heard in the first instance by a local authority's licensing committee, it is expected that a small number of appeals would be made to a magistrates' court – the anticipated numbers each year are set out in Table 9 and diminish in number each year from 102 in 2023-24 to 54 in 2026-27.

## **Justice System Impact Identification**

164. A Justice System Impact Identification (JSII) form has been completed for the mandatory licensing scheme as a whole to identify the impact upon the magistrates' courts of hearing appeals and the justice system as a whole. The Ministry of Justice has been sent a copy of the JSII, as part of a separate consultation with them to identify a detailed costing framework of the cost for these appeals. These costings and the outcome of this separate consultation with the Ministry of Justice will be included in the final version of this RIA. This will also inform the Justice Impact Assessment to be included in the final Explanatory Memorandum to the regulations to be made in respect of the mandatory licensing scheme.

**Table 15 – summary of costs associated with option 2**

Sector	Year				
	2022-23	2023-24	2024-25	2025-26	2026-27
<b>Welsh Government costs (table 7)</b>					
Specialist Seconded	£84,000	£84,000	0	0	0
Staff costs to develop/ review of the guidance	0	£8,064	0	0	£7,145
Design and translation	0	£9,998	0	0	£4,999
Training sessions for EHOs	0	0	0	0	0
Publicity	0	£10,000	0	0	0
<b>Total cost to Welsh Government (A)</b>	<b>£84,000</b>	<b>£112,062</b>	<b>0</b>	<b>0</b>	<b>£12,144</b>
<b>Local authority costs – administration - table 8</b>					
Staff time for training	0	£11,215	0	0	0
Practitioner and Premises/vehicle applications and related visits	0	£1,270,898	£307,273	£307,273	£957,685
Annual compliance visits	0	£101,047	£101,047	£101,047	£138,115
<b>Enforcement and other administrative costs – (table 10)</b>					
Appeals to licensing committee	0	£33,034	£5,312	£5,312	£17,430
Appeals to magistrates/crown courts	0	£16,268	£664	£664	£8,632
Issuing stop notices and RANS		£6,946	£5,888	£4,853	£3,795
Appeals against notices	0	£996	£830	£664	£498
Preventing unlicensed activity	0	£1,600–£6,000	0	0	£1,600–£6,000
Maintenance of data on register	0	£180,960	£27,510	£27,510	£98,730
Other general costs	0	£139,129	£139,129	£69,564	£69,564
<b>Total cost to local authorities (B)</b>		<b>£1,762,093–£1,766,493</b>	<b>£587,653</b>	<b>£516,887</b>	<b>£1,296,049–£1,300,449</b>
<b>Costs to Practitioners and people in control of premises/vehicles - (Tables 11 - 14)</b>					
Guidance familiarisation costs	0	£355,224	£54,002	£54,002	£123,904
Application opportunity costs	0	£286,219	£43,512	£43,512	£121,201
Application fees and scheme charges- (table 13) ‡	0	£1,803,140	£272,265	£272,265	£1,177,465

finest (illustrative amounts only- table 14)	0	£300,000	£255,000	£210,000	£165,000
<b>Total cost to practitioners/ premises/vehicles (C)</b>	<b>0</b>	<b>£2,744,583</b>	<b>£624,779</b>	<b>£579,779</b>	<b>£1,587,570</b>
<b>Subtotal cost (A+B+C)</b>	<b>0</b>	<b>£4,618,738-£4,623,138</b>	<b>£1,212,432</b>	<b>£1,096,666</b>	<b>£2,895,763-£2,900,163</b>
Adjustment for receipts from application and compliance fees (minus D) ‡	0	-£1,803,140	-£272,265	-£272,265	-£1,177,465
<b>Total cost Option 2 (A+B+C minus D)</b>	<b>0</b>	<b>£2,815,598-£2,819,998</b>	<b>£940,167</b>	<b>£824,401</b>	<b>£1,718,298-£1,722,698</b>
Option 1 costs as comparison	£506,320-£510,720	£504,720	£504,720	£506,320-£510,720	£504,720
<b>Costs additional to Option 1</b>	<b>0</b>	<b>£2,310,878-£2,315,278</b>	<b>£435,447</b>	<b>£318,081-£313,681</b>	<b>£1,213,578-£1,217,978</b>
Notes * complaints investigation cost under existing registration system (option 1 – Table 2 ) ** cost range of pursuing Part 2A Orders (option 1 – Table 3) ‡ one-off registration and compliance fees incurred by practitioners and premises/vehicles are paid to local authorities and used to off-set the costs incurred in administering the licensing scheme. These are therefore shown as a credit and are deducted from the total to avoid double counting. ◇costs under existing registration scheme (option 1)					

## Benefits

### NHS savings

165. The main benefit of the licensing scheme is savings to the NHS, in terms of treatment costs, and to individuals' health. As explained earlier, there are known and well-reported health risks, which are associated with skin piercing procedures. Under option one, it was estimated the complications associated with tattooing and cosmetic piercing result in a minimum annual cost to the NHS of £183,533 to £193,554. Any reduction in the complications arising from special procedures would result in a reduction in costs to the NHS.
166. Any avoided complications would also lead to QALY gains for individuals, although they cannot be quantified here. One QALY is valued at £60,000. The cumulative net cost of option 2 over and above maintaining the status quo outlined in option one is between £4,277,984 and £4,282,384 over a five-year period. The licensing scheme would need to lead to 71 QALY gains to be cost neutral.

## Other benefits

167. It is considered the current legislation is inadequate to sufficiently protect the public – this view was supported by stakeholder responses to the Public Health White Paper consultation<sup>49</sup>. The licensing scheme under this option would impose requirements on practitioners and businesses, which would be expected to drive up standards and ensure all special procedures are undertaken in a safe and appropriate manner. As the legislation would also provide appropriate enforcement mechanisms, it is expected that local authorities would find they are able to deal with contraventions in a more straightforward way and therefore more effectively safeguard public health. In addition, it is unlikely local authorities would need to pursue Part 2A Orders as they would have more effective mechanisms to deal with unauthorised practices.
168. Most licence holders who perform special procedures and the premises/vehicles where they are performed would also gain reputational benefits. By meeting the licensing requirements, they would be able to independently demonstrate to the public that they meet appropriate standards of hygiene and cleanliness as well as undertaking appropriate infection control procedures.
169. The communications package outlined earlier would be important in making practitioners, businesses and the public aware of the licensing scheme. Public knowledge about the dangers of using unlicensed practitioners and unapproved premises – and of undertaking the procedures themselves or from an untrained friend – would increase. As local authorities would be required to make information available to the public about the licences they have issued and the premises/vehicles they have approved, anyone seeking to have a special procedure would be able to find out from their local authority's website which practitioners and premises/vehicles have met the national standards. This would help to further improve transparency and ensure people are better informed.
170. In addition to the potential NHS savings identified above, the licensing scheme may have wider economic benefits if an improvement in standards within the sector results in fewer instances of workplace absence due to complications following a procedure.

### **Option 2B - Introduce a special procedures licensing scheme with a central register of all licensed practitioners and approved premises/vehicles providing special procedures**

171. In addition to the compulsory, national licensing scheme detailed in option 2A, this option now includes the previous Option 3B from the original RIA, which proposed the development of an online national register of all licensed practitioners and approved premises (including vehicles)

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<sup>49</sup> <http://wales.gov.uk/consultations/healthsocialcare/publichealth/?lang=en>



providing the four named special procedures in Wales. Since the original RIA was published, the Welsh local authorities have agreed that it would be preferable to create one central register, and all contribute to its data and maintenance. The central register will be hosted by a lead local authority and will be available to all local authorities for enforcement purposes and be available to view by members of the public.

172. The lead local authority acting on behalf of all 22 local authorities has tendered for the necessary IT services to build and test the register according to the requirements of the Act on behalf of all 22 local authorities, and will undertake the necessary liaison role to introduce the use of the register for recording purposes to all the other local authorities. At the time of this consultation, a grant has been agreed by the Welsh Ministers to fund the necessary IT work to build the required database and online portal. Once the database and portal has been built and is ready for use, local authorities will collectively fund the maintenance of the database through the application and compliance fee receipts from the scheme.
173. Some of the staff costs and training associated with the register have already been accounted for in paragraph 111 and Table 10, as have the receipt credits from the scheme, so this section is only concerned with costs additional to those already identified.

## **Costs**

### **Welsh Government**

174. There is an initial cost to the Welsh Government to grant fund the IT work to develop and test the online register. This grant has been agreed in the sum of £89,950 to fund the initial cost of development has been agreed in the total sum of £75,950, to be split equally between 2022-23 and 2023-24.
175. Staff time would be required to manage the funding for development of the register. It is estimated that this would require approximately three weeks' of a FTE higher executive officer's time, costing approximately £3,219 split between 2022-23 and 2023-24.
176. Considerable staff time was taken in determining the funding request, obtaining the necessary clearances from internal governance teams and obtaining the agreement to the funding from the Welsh Ministers. This took place throughout 2022 and is difficult to quantify so is not included in the costings.

## Local authorities

177. Considerable staff time was taken by the lead local authority in running the tendering process for the IT contract, selecting the successful company and liaising with them, submitting the funding request and obtaining the funding from the Welsh Government. This took place over a number of years as the process was interrupted by the pandemic and resumed throughout 2022. It is therefore difficult to quantify the cost to the lead authority as this work would have been absorbed in existing staff costs so is not included in the costings.
178. Staff time would be required by the lead authority to manage the contract for the IT work with the company which has been selected by tender and to provide project management to ensure the register was delivered according to the requirements of the Act and according to deadlines. Staff time would also be required to be trained on the use of the database that drives the register. At present the time and staff cost to the lead authority has not been quantified by them, so is currently unknown, but will be included in the final version of this document.
179. Training for local authority staff (which will include the use of the database) and maintenance of data on the register have already been accounted for in the local authority costs in Table 10.
180. Once the central register is established, each local authority will be required to maintain the data relevant to its area, and update it as necessary. The details of each practitioner licence or premises/vehicles approval will be added to the database as they are granted. Because all existing practitioners and people in control of premises/vehicles are required to apply for the new scheme, this means that the bulk of registrations will occur in 2023-24, after which time new licences/approvals and variations to existing licences/approvals will be added as they are processed. Renewal applications would be received every three years, which would require amendment of existing records. Costings for maintenance of the register have already been included in Table 10.
181. In addition to the development costs there would be ongoing ICT management costs to cover maintenance issues, such as back up to avoid data loss, server costs, and costs to resolve technical issues. The tendered contract has identified that there would be a recurrent annual fee of £24,000 for IT licences and technical support, which has been costed on an all-Wales basis. It is the intention that these ongoing costs would be offset by receipts from the scheme licence fees, to be shared between local authorities. These would be incurred annually from the end of 2022-23, as the local authorities start approving practitioners and premises/vehicles.
182. The receipt credit to local authorities has been calculated and accounted for in Table 15.

**Practitioners and businesses which carry out special procedures (acupuncture, body piercing, electrolysis and tattooing)**

183. There would be no additional costs to practitioners and businesses in relation to the register. There would be no need to provide any information beyond the requirements set out in the licensing scheme, as the register and its database will only contain the details of each licence/approval certificate, not the persons holding them, other than their name and business premises/vehicles address (where relevant).

**Table 16 – summary of additional costs associated with option 2B**

	2022-23	2023-24	2024-25	2025-26	2026-27
<b>Welsh Government</b>					
Management of central register grant funding	£1,610	£1,610	0	0	0
Value of grant	£44,975	£44,975	0	0	0
<b>Total cost Welsh Govt</b>	<b>£46,585</b>	<b>£46,585</b>	0	0	0
<b>Local authorities</b>					
Lead authority management of IT contract	0	0	0	0	0
<b>Total cost to local authorities</b>					
<b>Total cost (additional to costs previously identified in Table 10 and table 15 )</b>					

**Benefits**

**NHS savings**

184. Any NHS savings have been outlined under option 2.

**Local authorities**

185. All information in relation to practitioner licences and premises/vehicle approvals would be located within one central database. This will discharge the duty on each local authority to keep a register and will provide economy of scale for local authorities in that the work to establish and maintain the register will be shared. with enforcement information available for viewing by all local authorities in Wales. It is anticipated that a central register would help local authorities in their monitoring and enforcement responsibilities. This would particularly be the case with

respect to practitioners operating across local authority boundaries. This benefit is not able to be quantified.

### **Practitioners and businesses which carry out special procedures (acupuncture, body piercing, electrolysis and tattooing)**

186. The central register would assist practitioners and people in control of premises/vehicles to raise awareness of their status as having met the licensing requirements and enable potential clients to contact them. If a practitioner, person in control of a premises/vehicle or member of the public became aware of a person acting in contravention of the legislation, they would be able to check the central register and inform the local authority. The mandatory scheme is designed to allow practitioners to work anywhere in Wales in approved premises/vehicles, so provides greater flexibility than the registration scheme outlined in Option 1.

### **The public**

187. The public would have access to a central accessible, searchable facility in both Welsh and English covering the whole of Wales from which to find a practitioner working in their area who is licensed, or premises/vehicles which have been approved.

### **Summary and preferred option**

188. **Option 1** maintains the status quo and does not meet the policy objective. It continues the position whereby there is an inconsistent approach to enforcement adopted by local authorities. The powers which are available to control businesses providing acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis are considered insufficient to protect public health.

189. **Option 2** proposes mandatory licensing of practitioners who provide the four named special procedures in Wales, and the premises/vehicles from which they are performed. National standards would be applied through mandatory licensing conditions, infection prevention and control training, a consistent application and approval process and fee structure and enforcement framework. It aims to improve standards create a level playing field for reputable businesses and ensure an improved and consistent approach to the regulation of these procedures across Wales. The supporting guidance documents and communications activity are considered to provide the best balance between cost and the likelihood of achieving the policy objective and the resulting tangible and intangible benefits for clients, the NHS, practitioners and businesses.

190. The previous RIA gave the opinion that pursuing a central register immediately had limited benefits for local authorities, businesses and the public, in that it increased the ease with which information could be

accessed. However, it has since been decided by local authorities acting together that, as the mandatory information to be included in the register is set out in the Act, it was preferable to build the register in advance of commencing the legislation and introducing the mandatory scheme, and this work has commenced. This has a number of advantages. The register will be tested and made ready, and local authorities will be able to familiarise themselves with its use ahead of live applications for licensing/approval registration being made. Any guidance and promotional materials will be able to reference the public facing part of the register, thereby avoiding the need to promote it separately.

### **Consultation on this RIA**

191. This RIA forms part of the documents that are presented for public consultation. All stakeholders are invited to comment on this RIA and the related Integrated Impact Assessment. Responses to the consultation will be used to inform the draft regulations, which will be the subject of a further consultation exercise on the draft regulations to be made and scrutiny by the Senedd.

### **Integrated Impact Assessment**

192. A full Integrated Impact Assessment has been completed for these regulations and can be seen here: <https://www.gov.wales/mandatory-licensing-special-procedures-wales>

### **Post implementation review**

193. Post implementation review forms an integral part of this proposal. The purpose of the regulations to be made is to set the details of the mandatory licensing scheme for special procedures in Wales with the intention of:

1. providing a consistent and more effective legal framework for local authorities to regulate this industry.
2. raising consistent standards of infection prevention and control in this sector.
3. providing better safeguards to members of the public who wish to use these services and thereby reducing adverse health impacts associated with special procedures.

194. We anticipate that points 1 and 2 will be a relatively straightforward part of the review because of the systems that we have already set up to facilitate this. Our well-established local authority and practitioner networks have indicated that they will support this work.

195. The local authority public protection network comprises of specialist expert panels that report into a national group of heads of environmental health which is overseen by the Directors of Public Protection. This framework facilitates partnership working and supports local authorities in committing to national decisions on a range of public protection disciplines. All 22 local authorities have committed to this for the implementation and review of the special procedures licensing scheme.
196. Section 75 of the Act requires all Welsh local authorities to maintain and publish a register of all licensed special procedure practitioners and approved premises/vehicles. The Act also allows for Welsh Ministers to make arrangements for a central register to be set up and maintained on an all-Wales basis by one local authority on behalf of all 22 Welsh local authorities. This has the benefit of ensuring that a consistent set of data is collected by all 22 local authorities and the data published by each local authority is available in one place. The register will therefore cover the whole of Wales and will be available online for the public to consult. It is this data that will form the foundation of the post implementation review.
197. Data associated with the enforcement and compliance of the licensing scheme will be monitored for the first year of operation on a quarterly basis to ascertain the progress of the transition phase and provide the baseline number of licensed practitioners and approved premises/vehicles. It is anticipated that the majority of applications will be received in the first nine months of the scheme's operation as this is the length of time that current practitioners and people in control of premises will have to make their applications to transition from the old registration scheme to the new scheme. The database that will drive the online central register will be utilised to generate these statistics.
198. Appraisal of the data from the first 12 months of this review will determine the frequency of data collection in the second year of its operation. We anticipate that data will be reviewed both on a national and local basis and by type of special procedure. This approach will help inform the need for any targeted education, promotional or enforcement interventions.
199. The Act requires special procedure practitioners to undertake a consultation with their client before and after a special procedure is performed this includes keeping a record of the aftercare advice given, including steps the client should take to prevent infection. These practices along with others will be monitored by local authorities and therefore could be collected as part of the enforcement review.
200. Point 3 will present more challenges but may be achievable through utilisation of established links with Public Health Wales ~~who together with~~ and local authority communicable disease teams who investigate cases and outbreaks of infection associated with special procedures.
201. Consideration will be given as to whether the practitioner network, expert panels and colleagues in relevant university disciplines would be able to

assist in assessing the benefits of the licensing scheme to businesses and the health of their clients.

202. It has been the intention to run a further public consultation with a view to identifying other special procedures that should be included in the mandatory scheme. The intention has been to do this once the proposed licensing scheme is established to allow local authorities sufficient time to operate the scheme with the four named procedures. It is likely that any unintended consequences or operational issues will be identified by local authorities within this period, which may require adjustment of the guidance or regulations. This is usual with any new scheme, and Welsh Government officials will be receptive to feedback from local authorities in this regard.
203. It would be logical to review the scheme as a whole at the same point to ascertain whether it is achieving the policy objectives of improving infection prevention and control standards within the industry and effectively curb the activities of those practitioners who operate illegally.