

WELSH GOVERNMENT INTEGRATED IMPACT ASSESSMENT

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| Title of proposal: | Regulations to establish a mandatory licensing scheme for special procedures as defined in Part 4 of the Public Health (Wales) Act 2017 |
| Official(s) completing the Integrated Impact Assessment (name(s) and name of team): | Janette Cooper/Sarah Jones |
| Department: | Public Health Protection |
| Head of Division/SRO (name): | Peter Jones |
| Cabinet Secretary/Minister responsible: | Minister for Health and Social Services |
| Start Date: | |

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HOW TO COMPLETE THE INTEGRATED IMPACT ASSESSMENT

This template should be used to summarise the main impacts of the proposal. In completing it, you should consider how the proposal:

fits with the priorities and vision of the Programme for Government;
 can contribute to the social, cultural, economic and environmental well-being of Wales; and,
 might affect Wales and the people who live here, positively or negatively.

Full Impact Assessments

To conduct the Integrated Impact Assessment (IIA), you will need to use some, but not necessarily all, of the full impact assessments listed below and annexed at the back of this template. The Integrated Impact Assessment will guide you to the relevant full impact assessments you need to do.

| Annex | Full Impact Assessment |
|--------------|---|
| A | Children’s Rights Impact Assessment |
| B | Equality Impact Assessment |
| C | Rural Proofing Impact Assessment |
| D | D. Data Protection Impact Assessment |
| E | Welsh Language Impact Assessment |
| F | F. Biodiversity Impact Assessment |
| G | Socio-economic Duty Assessment |
| H | Health Impact Assessment Screening Tool |
| Section 4.4 | Justice System Impact Identification |

For other assessments which do not have an assessment template provided here (for example Health Impact Assessment and Strategic Environmental Impact Assessment), please see the accompanying guidance to this Integrated Impact Assessment for further information.

GUIDANCE AND SUPPORT FOR IMPACT ASSESSMENT

Please refer to the accompanying guidance document. The guidance includes information about the support available for impact assessment. An early conversation with an internal expert advisor will set you on the right path.

SECTION 1. WHAT ACTION IS THE WELSH GOVERNMENT CONSIDERING AND WHY?

(Please note that this Section will be published)

In narrative form, please describe the issue and the action proposed by the Welsh Government. How have you applied / will you apply the five ways of working in the Well-being of Future Generations (Wales) Act 2015 to the proposed action, throughout the policy and delivery cycle?

Please keep within 1,000 words. The kind of questions you should be looking to answer will include, for example:

‘Special procedures’ are defined in the Public Health (Wales) Act 2017 as acupuncture, body piercing, electrolysis and tattooing. These are non-surgical aesthetic or therapeutic procedures involving perforation of an individual’s tissue, skin or mucous membrane and insertion of needles, jewellery, objects or permanent/semi-permanent ink or pigments. These procedures are therefore capable of causing harm to human health.

The current legislative framework to ensure sustainable good standards of infection control and consistent enforcement is inadequate. Infection prevention and control standards for this industry are limited and not widely accepted by the sector. The Local Government (Miscellaneous Provisions) Act 1982 (‘the 1982 Act’) is the primary means of enforcing standards in this sector through the application of a registration scheme. However, the requirement for local authorities to adopt this scheme is voluntary and those that have adopted it cannot refuse registration of the individual or premises unless they have been convicted of an offence under Part VIII of the 1982 Act. We are not aware that this situation has ever occurred in Wales, thus all registrations must be approved unconditionally. In addition, where the registration scheme is in place many of those local authorities have not adopted the Welsh Government model hygiene byelaws. While these byelaws are limited in terms of providing robust infection prevention and control standards, they do enable a level of enforcement in relation to the cleanliness of premises, fittings, equipment and practitioners. Unfortunately, less than half of the local authorities who operate the registration scheme have adopted these byelaws.

Importantly, the 1982 Act does not require a ‘competency test’ for those performing the procedures to demonstrate an appropriate knowledge of hygiene and infection control. Neither is there any requirement for consent forms, pre- and post-procedure consultation, aftercare advice or record keeping. These requirements are considered to be fundamental to a robust infection prevention and control system.

There are other more generic regulatory controls which can in very specific circumstances be used to prohibit individuals, activities, or the use of a premises or thing where a risk of significant harm to public health can be demonstrated. This health protection legislation is cumbersome to apply and offers limited long-term protection of public health although local authorities have used this legislation to deal with illegal tattooists. Health and safety legislation is sometimes used by local authorities to controls risks associated with this industry, but the primary purpose of this legislation is occupational health and safety rather than infection control.

The Keogh Review in 2013 highlighted the limitations of the current legislative framework:

‘A person having a non-surgical cosmetic intervention has no more protection or redress than someone buying a ballpoint pens or toothbrush’.

The adverse health effects associated with special procedures as a consequence of inadequate infection control measures and inconsistent enforcement are well documented, these include bloodborne and bacterial skin infections of which some are associated antimicrobial resistance, allergic reactions and systemic diseases.

In response to the inadequacies with the current scheme, Part 4 and Schedule 3 of the Public Health (Wales) Act 2017 (‘the Act’) were passed with the intention of repealing the 1982 Act provisions and replacing them with a mandatory national licensing scheme for practitioners of the four specified special procedures in Wales.

To enact Part 4 and Schedule 3 of the Act, regulations need to be made to set out the detail of the mandatory licensing scheme and how it is to be operated by Local Authorities in order to provide a consistent approach across Wales. These regulations are the subject of this Integrated Impact Assessment.

Long term

What long term trends, challenges and opportunities might affect the proposal?

How does the proposal prevent / mitigate the bad effects in these trends or facilitate / make the most of the good effects?

Local authorities report that the number of new practitioners applying for registration continues to increase - in 2019, there were 1,627 registered practitioners and 1,008 registered premises; in 2022 there are now at least 3,516 registered practitioners and 1,868 registered premises. This increase reflects the continued popularity of these procedures, particularly tattooing, semi-permanent make-up, and body piercing. This increase is also reflected in practitioners operating illegally. These long-term trends emphasise the public health importance and urgency of this proposal being introduced into our legislation.

The challenges and opportunities that might have affected this proposal were addressed prior to the pandemic and since April 2022 have been strengthened. The key challenges were building and maintaining trust within the sector and establishing a positive working partnership with practitioners that were largely disengaged. Stakeholder involvement began in the Bill phase of the Act when they provided input into the consultation exercise and evidence to the Health Social Care and Sport Committee. Following the Act’s commencement in July 2017 this continued with face-to-face meetings with key players within each of the special procedure communities, visiting their businesses throughout Wales and holding national engagement conferences. Continuing conversations throughout the pandemic has cemented this relationship.

As a result of extensive proactive engagement, this proposal has been significantly informed by industry and regulators. The ‘bad’ effects of the current legislative system will

be addressed by introducing a specific mandatory licensing scheme that focuses on infection prevention and control, an approach that currently does not exist. The proposed licensing framework will address current inconsistencies in enforcement and will support a consistent approach for special procedure practitioners in terms of fees, the requirements of the application process and enforcement action against illegal practitioners. The proposed licensing conditions will assure a consistent infection prevention and control standard is maintained by all licensed practitioners. This in turn will mitigate adverse health effects currently associated with poor special procedure practices.

Prevention

How does the proposal support the breaking of negative cycles such as poverty, poor health, environmental damage and loss of biodiversity?

Does the proposal treat a symptom or the underlying cause? If so how? If it treats a symptom, what can be done about the underlying cause?

How could the proposal minimise its own negative impacts e.g. minimising waste and resource use, emissions and impact on air quality, negative impact on social / community cohesion?

As the proposal deals with licensing special procedures practitioners and premises to a consistent standard, there is no effect on cycles of poverty, poor health, environmental damage and loss of biodiversity nor on minimising waste and resource use, emissions and impact on air quality, or negative impact on social/community cohesion. It will, however, help protect those more vulnerable members of our society by enabling them to make better informed decisions when considering using special procedure services.

Given the popularity of special procedures such as body piercing and tattooing, the overall purpose of the proposal is to ensure that these special procedures are carried out in a manner which is not potentially harmful to health and to safeguard members of the public services from exposure to skin infections and injury.

To ensure longevity in terms of protecting the health of clients, assuring a consistent approach to enforcement and maintaining national industry standards, this proposal treats the underlying cause:

The licence and approval conditions with supporting guidance will set the infection prevention and control standards. The standards are informed from a systematic literature review which identified factors that contributed to adverse health effects.

The requirements of Part 4 of the Act and the licensing criteria will assure the standard of infection prevention and control knowledge and competency required by practitioners to operate legally, enabling them to understand 'why' and 'how' they can achieve and maintain the standards.

The licensing framework will enable consistent and effective enforcement by being specific to infection prevention and control. This will provide enforcement officers with a range of powers to mitigate poor practices and non-compliance that is proportionate to the risk.

Integration

How could this proposal connect and contribute to different public policy agendas and generate multiple benefits e.g. how can a transport project support improvements in health, culture or worklessness?

What practical steps have you taken to integrate your proposal with the Programme for Government, well-being objectives and plans, as well as those of other public bodies and Public Service Boards, to maximise the proposal's contribution across the seven well-being goals?

The legislation related to Part 4 of the Act will provide a more consistent and robust licensing system for the four named special procedures to be administered by local authorities, and a centralised register of practitioners that covers all 22 local authorities is proposed. These are related to the following Programme for Government commitments:

- Strengthen the autonomy and effectiveness of local government to make them more successful in delivering services.
- Reduce the administrative burden on local authorities.

Collaboration

- ◆ Who are the partners that have a shared interest in this proposal?
- ◆ How have those partners been involved in developing the proposal and planning its delivery, and what contribution will they make to it?

There are two key partners that share an interest in this proposal: local authorities and the special procedures sector are the key partners in the proposal:

1. Local authority environmental health departments have a shared interest in the proposed legislation, as they will administer the mandatory licensing scheme for their areas. This will include determining applications, inspecting premises, providing advice, and taking any enforcement action where necessary. Local authority officers have been involved with the formulation of the details of the proposed mandatory licensing scheme via a Special Procedures Task and Finish Group led by a specialist environmental health officer seconded to the Welsh Government for the purpose. This Group has considered and advised on points of policy or delivery to inform the drafting of the consultation document, of which this IIA is part. In addition, local authorities are regularly updated through established professional networks: the Communicable Disease Expert Panel; the Health and Safety Expert Panel; the Licensing Expert Panel and the Directors on Public Protection Wales group. It is expected that local authorities will be key responders to this consultation exercise.
2. The special procedures sector has a shared interest, as the proposed legislation will impact their businesses as they will be required to comply with the requirements of the mandatory licensing scheme. This sector has been involved in this process since

development of the Bill, through both associations representing each of the special procedures and individual practitioners. Between 10 December 2018 and 18 March 2019, three national engagement conferences took place at which 341 stakeholders participated. This involvement continues to progress and there is now a growing National Practitioners Network. This is used regularly to discuss matters raised as part of the drafting of the consultation document and regular practitioner newsletters are sent to this network. Local authorities also circulate these newsletters to the wider special procedures community they have contact with. It is now expected that this trusted relationship will result in notable participation in this consultation exercise.

Involvement

- ◆ How have people affected by the proposal been involved in developing it?
- ◆ What matters to the people affected by the proposal and how might they be involved in its delivery?

There has been extensive engagement with practitioners of all four specified special procedures, and with local authority environmental health representatives since the Act was passed in 2017. This engagement has informed the principles of the licensing scheme that are the subject of the drafting of the consultation document, and this integrated impact assessment.

Local authorities have been involved through:

- The establishment of a Task and Finish Group with representation from all regions of Wales, and the three relevant specialist Communicable Disease, Health and Safety and Licensing Expert Panels.
- Regular updates and discussions at meetings of the established professional groups.
- Circulation of written briefing to local authority partners.
- Presenting at national conferences.

Special procedures practitioners have been involved by:

- Hosting national engagement conferences.
- Establishing and maintaining a National Practitioner Network which operates through e-mail dialogue, virtual meetings, visits to practitioners' businesses, face to face meetings, regular publication of a Practitioners Newsletter, presenting at national conferences.
- Building trusted relationships with relevant special procedure associations.

Consistency of approach across Wales between local authorities and equality of treatment between applicants has been identified as being important to practitioners and local authority enforcement officers alike. Practitioners particularly are keen to ensure that a more robust licensing scheme will take unscrupulous practitioners and amateurs out of the market; local authorities would also like to have more effective ways of dealing with those same unscrupulous practitioners who operate illegally or have unsafe working practices.

Both groups have expressed their concern that these regulations are brought in at the earliest opportunity to both protect the health of their clients, remove uncertainty and create a long-needed consistent approach for businesses. This is reflected in their active engagement in discussions on points of practice and enforcement which have informed the drafting of the consultation document.

In addition to the five ways of working above, consider the following areas:

Impact

- ◆ What are the main arguments for and against the proposal? Please refer to evidence; acknowledge significant gaps in our knowledge and describe any plans to fill them.
- ◆ How widely have you explored these arguments through involvement and collaboration?

The evidence for introduction of a mandatory licensing scheme was fully explored through the consultation and impact assessment process that was undertaken for the Public Health (Wales) Act 2017. The licensing scheme requirements are set out on the face of the Act and were passed by the Senedd following scrutiny and debate. It is therefore difficult to make any argument against the proposed licensing scheme, as it has already been set out in law. It is however worth emphasising the main arguments for this proposal:

- The adverse health effects associated with special procedures because of inadequate infection control measures and inconsistent enforcement are well documented and continue to be reported, these include bloodborne and bacterial skin infections of which some are associated antimicrobial resistance, allergic reactions and systematic infections.
- The threat to public health around the shortcomings of the current system was evidenced by the serious outbreak of *Pseudomonas* in November 2014 in a Newport tattoo and body piercing establishment. That outbreak affected a considerable number of patients (young persons between the ages of 13 and 16) and saw some of those patients admitted to hospital with severe post-piercing infections requiring surgery, and in some cases reconstruction. The Seren look-back exercise into that outbreak (testing 841 clients from the studio) cost the NHS more than £240,000. This outbreak highlighted the vulnerability of young people to these practices and the impact of infections known to be resistant to antibiotics.
- Prior to the pandemic, a further two outbreaks occurred in Wales, also with a bacterium known to have antibiotic resistant strains – *Mycobacterium chelonae* and both associated with tattooing. These outbreaks highlighted the need for practitioners to have a basic level of competency in infection control and a need for industry guidance for standard infection control precautions in this sector. Neither of these can currently be enforced and both of which are requirements of Part 4 of the Act.
- The continuing increase in practitioners operating in Wales increases the risk of infection to clients while we continue to operate under the current legislative framework.

- Inadequacies in the current legislative system require a one-off registration of special procedure practitioners “as of right”, without any test of competence. Supplementary health and safety and health protection legislation has proved insufficient in effectively dealing with the infection risks associated with special procedures. This poses an ongoing risk to public health until the special procedures provisions within the Public Health (Wales) Act 2017 are introduced and the outdated legislation repealed by the new Act’s provisions.

It remains for regulations to be made and Part 4 and Schedule 3 of the Act to be commenced to bring the licensing scheme into being. As the Act provides for a set of related regulations to be made for a unified mandatory scheme, there are therefore only two options available – to do nothing and leave Part 4 and Schedule 3 uncommenced, or to commence Part 4 and Schedule 3 and make the necessary regulations. There is no realistic half-way option of commencing some sections and not others as it would be difficult to separate out any sections of Part 4 and Schedule 3 as stand-alone items. These two options are fully discussed in the Regulatory Impact Assessment. Not to commence Part 4 and Schedule 3 would mean that the unsatisfactory situation outlined in the introduction above would continue. There would also be reputational damage to the Welsh Government as there is high stakeholder expectation that this licensing scheme will be introduced.

To proceed with the proposals as intended will fulfil those stakeholder expectations and complete the legislative work, the foundation for which was established in 2017 in Part 4 and Schedule 3 of the Act. This would have the effect of establishing a fairer and more robust licensing scheme and better safeguard members of the public from practitioners who operate illegally and have little regard for infection prevention and control.

Since the Act was passed in 2017, there has been extensive engagement with practitioners of the four specified special procedures, and with local authority public health and environmental health representatives. This engagement has and continues to inform the principles of the licensing scheme that are the subject of the current consultation, and this integrated impact assessment.

Costs and Savings

- ◆ What will the proposal cost and how will it be funded?
- ◆ How might costs be reduced through involvement and collaboration, across Welsh Government and/or with external stakeholders?
- ◆ Are there savings and how will these be realised?

Costs have been provided in a full Regulatory Impact Assessment, which has been published separately to this Integrated Impact Assessment.

Mechanism

- ◆ **Is legislation proposed? If so you will probably need to complete a** Regulatory Impact Assessment. You can use the output of this Integrated Impact Assessment to help you.

Yes, implementation of the mandatory licensing scheme requires consulting upon and finalising a set of related regulations. The draft regulations will be informed by the consultation process of which this Integrated Impact Assessment is a part. A Regulatory Impact Assessment has been completed for this work and is also included in this consultation. Comments are invited from stakeholders, practitioners, local authorities and members of the public on the principles of the proposed licensing scheme as set out in the consultation document, this Integrated Impact Assessment and the Regulatory Impact Assessment.

The final drafts of the regulations to be made will be the subject of a further public consultation.

SECTION 2. WHAT WILL BE THE EFFECT ON SOCIAL WELL-BEING?

2.1 PEOPLE AND COMMUNITIES

How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal affect people and communities?

For example:

- ◆ Particular individuals, groups of people or communities
- ◆ People living in, working in, or linked to particular places
- ◆ Consumers of a particular product or service
- ◆ Workers, in general or in a specific sector, and the goal of promoting decent work (as per section 4 of the Well-being of Future Generations (Wales) Act 2015)

There is likely to be a significant positive impact on consumers of the services of the four named special procedures, as the proposed mandatory licensing scheme is intended to establish a consistent standard of infection prevention and control throughout Wales. This will include legal responsibilities for all relevant practitioners and the persons responsible for the premises where they perform those procedures. The overall aim is to prevent members of the public from being exposed by practitioners to the risk of skin and bloodborne infections through poor hygiene and infection control practices. Two critical legal requirements that give clients additional protection are the introduction of a 'client consultation' process undertaken before performing the special procedure and the provision of aftercare advice.

Practitioners will also be affected in that the mandatory scheme is intended to set a consistent standard of infection prevention and control across each special procedure. All existing practitioners will be required to apply for the new scheme and will need to meet the required standards in order to continue in practice. While this process supports a level playing field for businesses, it may have an initial negative impact on some practitioners in that they may need to make alterations to their practice in order to meet the new requirements, or they may not meet the requirements and their applications will ultimately be refused. However, the overall intention is to provide a safer working practice for the public and practitioners, and to provide a more robust enforcement system to better deal with poor practice and illegal operators.

2.2 Children’s Rights

Ministers are required to have due regard to the United Nations Convention on the Rights of the Child when exercising any of their functions.

As you work through the Integrated Impact Assessment you should determine whether a full Children’s Rights Impact Assessment is required. **If you consider it is not required, you should give your reasons here. Otherwise, complete the full Children’s Rights Impact Assessment at annex A below.** For further guidance on this process, please see the Children’s Rights Impact Assessment Flowchart.

Children and young people under the age of 18 are prohibited from obtaining tattoos under the Tattooing of Minors Act 1969 and intimate piercings as defined in Part 5 of the Public Health (Wales) Act 2017. Children and young people are not prohibited through legislation from obtaining non-intimate piercings (such as ear piercing, for example), electrolysis or acupuncture. The proposed legislation aims to put in place a robust scheme for approving and recording licenced practitioners who will be aware of the law as it applies to people under 18. Proposals in this consultation include requiring a parent/guardian to be present at the initial consultation to give consent, if a person under 18 wants a procedure not otherwise prohibited by legislation, thereby protecting children’s rights not to come to harm.

In addition, further indirect protection is given to children and young people to remove as far as possible access to unscrupulous practitioners who may not be registered and may operate under unsafe and unhygienic conditions or may be people who should not have contact with people under the age of 18. Young people may consider going to these practitioners to obtain tattoos or intimate piercings illegally and/or at a reduced price. The mandatory licensing scheme will require all practitioners to undertake a DRB check and to have passed an infection prevention and control course as part of the application process. The overall intention of the mandatory scheme is to enforce a consistent standard across all practitioners and make it easier to prosecute practitioners who operate illegally.

A CRIA was completed for the Public Health (Wales) Act 2017 as part of the Bill process. As this document is no longer available online, a new CRIA has been done informed by the previous version. This is attached at Annex A.

The Children's Rights Scheme sets out the arrangements the Welsh Government has in place to have due regard to the UNCRC, all officials should familiarise themselves with its content.

All Children’s Rights Impact Assessments, alongside section 1 and section 8 of your Integrated Impact Assessment, are published on the Welsh Government website. You must consider the subject matter and the expectations of your anticipated audience to decide whether your Children’s Rights Impact Assessment is published bilingually – the Welsh Language Standards team can assist you with this decision, please email them on Safonau.Standards@gov.wales to discuss.

If you decide **not** to translate your Children’s Rights Impact Assessment it is important you discuss this with the Standards team and record your decision and reasons.

All completed Children’s Rights Impact Assessments must be sent to the CRIA@gov.wales mailbox.

2.3 Equality

The Equality Impact Assessment will support you to consider the impact of your proposal on people with protected characteristics.

Completing the Equality Impact Assessment is mandatory. The assessment is available at **annex B** below.

An Equality Impact Assessment was completed for the Public Health (Wales) Act 2017 as part of the Bill process. As this document is no longer available online, a new Equality Impact Assessment has been completed for this legislation, informed by the previous version, and can be seen at Annex B. Comments are invited from stakeholders, local authorities, and members of the public as part of the consultation process.

2.4 Rural Proofing

How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal impact on rural individuals and communities?

For example:

- ◆ Have you considered the specific needs of people living and working in sparsely populated areas?
- ◆ What will be the impact for people in geographic isolation?
- ◆ How will the proposal affect access to services for rural people?
- ◆ What will be the impact on older people? (Rural communities often have an ageing population.)
- ◆ What will be the impact on housing? (Rural communities often lack affordable housing.)
- ◆ What will be the impact on the Welsh language? (Some rural communities are predominantly Welsh speaking.)
- ◆ What will be the impact on in-work poverty and fuel poverty?
- ◆ What will be the impact on rural businesses? (These are often mainly micro and small businesses.)

If the impacts you have identified are significant enough to warrant a more detailed assessment then you should complete a full Rural Proofing Impact Assessment, at annex C below
Please explain your decision about whether or not to conduct a full rural proofing impact assessment.

The proposed mandatory licensing scheme will apply equally to all practitioners of the four named special procedures, wherever they are in Wales, and wherever their client base is located. There is therefore no particular disadvantage to rural practitioners or clients. The licensing scheme allows for practitioners to be mobile and to obtain a premises approval certificate for vehicles if that is the preferred method of delivery. The licensing scheme also allows practitioners to work from more than one approved premises or vehicle and to operate from a self-contained, fit for purpose, designated room/accommodation that forms part of their home. Stakeholder engagement groups and networks have full representation from practitioners and local authorities operating in rural areas. It is therefore considered that there is no specific impact on rural individuals, communities, or businesses.

2.5 Health

2.5a How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal impact health determinants?

Please consider:

- ◆ Lifestyles
- ◆ Social and community influences on health
- ◆ Mental wellbeing
- ◆ Living/environmental conditions affecting health
- ◆ Economic conditions affecting health
- ◆ Access and quality of services
- ◆ Macroeconomic, environmental and sustainability factors

There is likely to be a significant positive impact on lifestyles, social/community influences on health and access and quality of commercial services. The mandatory licensing scheme is broadly supported by special procedure communities, who wish to see a standard of responsible practice and infection control applied across all disciplines. The proposal therefore would establish this standard and provide a legal framework to support its enforcement. The standards proposed have been directly informed by lessons learned from incidents and outbreaks associated with failures in infection control and intelligence from local authorities on the practical implementation of control measures. The intention is to facilitate a decline in those adverse health effects previously associated with this sector. In addition, the proposed licensing scheme will enable local authorities to deal more effectively with illegal practitioners through a process of prohibition and prosecution with unlimited fines. This will provide a better quality of service for clients and an improved competitive business environment for practitioners. It is hoped that there will be a positive

social influence in these communities in that it will become unacceptable to undercut responsible practitioners.

2.5b. Could there be a differential health impact on particular groups?

Please consider:

- ◆ Age related groups
- ◆ Income related groups
- ◆ Groups who suffer discrimination or other social disadvantage
- ◆ Geographical groups

If the impacts you have identified are significant enough to warrant it, you should conduct a more detailed health impact assessment. There is further information in the guidance that accompanies this form. **Please explain your decision about whether or not to conduct a more detailed health impact assessment.**

A Health Impact Assessment screening questionnaire has been completed for this Integrated Impact Assessment and is attached at Annex H. On balance, it is considered that a full Health Impact Assessment is not required, as although there are positive and negative effects on some limited groups, the overall effect of the proposal is to establish a consistent standard of infection prevention and control across all groups thus providing protection to all sectors of the Welsh population.

2.6 Privacy

Will the proposal involve processing information that could be used to identify individuals?

Yes, the proposal involves an application and registration process to licence special procedures practitioners and to issue premises and vehicle approval certificates for specific special procedures. This will require local authorities to collect data about each applicant, including identity verification, convictions and other sensitive data related to an individual as part of the application process. Successful applicants will have the details of their practitioner's licence and/or premises/vehicle approval certificate published in a public central database which will be kept on an all-Wales basis. The data to be recorded is set in primary legislation. Local authorities have experience of collecting and storing data of this kind securely for a range of comparable licensing schemes.

A full Privacy Impact Assessment was completed for the Public Health (Wales) Act 2017 as part of the Bill process. As this document is no longer available online, it has been used to inform the Data Protection Impact Assessment annexed to this document.

If YES, then you must complete the Data Protection Impact Assessment annex D below.

The full Data Impact Assessment is provided in this document at Annex D, and comments are invited from stakeholders, local authorities, and members of the public as part of the consultation process.

SECTION 3. WHAT WILL BE THE EFFECT ON CULTURAL WELL-BEING AND THE WELSH LANGUAGE?

3.1 Cultural Well-being

The Well-being of Future Generations (Wales) Act 2015's goal for culture is 'A society that promotes and protects culture, heritage and the Welsh language and which encourages people to participate in the arts and sports and recreation'. Culture includes museums, archives, libraries and the arts; heritage includes the built historic environment as well as intangible heritage such as traditions; arts encompasses performance and creative sectors including music, literature, theatre and art, while sports and recreation include both elite and community sports as well as opportunities to participate in wider outdoor recreation.

3.1a How can the proposal actively contribute to the goal to promote and protect culture and heritage and encourage people to participate in the arts sports and recreation? (for Welsh Language see section 3.2)

Tattooing and body piercing are considered creative industries with their own culture and community. A number of reputable practitioners from Wales are highly sought after and have clients throughout the United Kingdom and Europe. Several national conventions are held in Wales every year, some of which attract practitioners from around the world. The proposed licensing scheme aims to support the work of reputable, creative practitioners by providing a competitive business environment where equal standards are applied to all and the licensing scheme supports the day-to-day industry as well as temporary events. Clients benefit from being assured that their industry is properly regulated, and the proposed central register of licensed practitioners will give potential clients and visitors to Wales the additional opportunity to readily access information on licensed practitioners operating throughout Wales. This will have a positive effect on the tattooing and body piercing culture in our Welsh communities.

3.1b Is it possible that the proposal might have a negative effect on the promotion and protection of culture and heritage, or the ability of people to participate in arts, sport and recreation? If so, what action can you take to avoid or reduce that effect (for example by providing alternative opportunities)?

It is not anticipated that there will be any negative effect on culture or heritage issues.

3.2 Welsh Language

Completing the Welsh Language Impact Assessment is mandatory.

The assessment is available at **annex E** below.

SECTION 4. WHAT WILL BE THE EFFECT ON ECONOMIC WELL-BEING?

Supporting growth in the Welsh economy, and through this tackling poverty, is at the heart of the Welsh Government's Programme for Government.

4.1 Business, the general public and individuals

How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal impact business and the public?

You need to make an overall assessment based on the best available evidence of monetary and non-monetary, short and long term costs and benefits. You should consider how businesses of different types and the public in general (individuals and households) will be affected. You should establish which groups or sectors will be disadvantaged and which will benefit. All costs and benefits should be considered over an appropriate time frame.

All public assistance provided to organisations involved in economic activity must comply with State Aid rules. (Section 6, The Socio-economic Duty impact assessment may provide a source of information).

A Socio-Economic Impact Assessment has been completed, and is attached at Annex G. A Competition Assessment is included in the draft Regulatory Impact Assessment, which is published separately.

4.2 Public Sector including local government and other public bodies

How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal impact the public sector?

You need to make an overall assessment based on the best available evidence of monetary and non-monetary, short and long term costs and benefits. You should consider how different types of public sector bodies will be affected. All costs and benefits should be considered over an appropriate time frame.

The proposed licensing scheme will be operated by local authorities through their environmental health and licensing departments. Local authorities have reported, and it is the view of the team drafting the consultation document, that there will be a significant positive impact arising from the proposed scheme, in that it:

- will replace an outdated registration scheme;
- will establish mandatory requirements for all applicants across Wales;

- will provide a consistent, robust framework for local authorities to determine applications, and
- will provide a framework of regulatory functions that will support reactive and proactive inspection and enforcement of the special procedure sector.

Overall, the licensing scheme will enable the more efficient and more productive regulation of this industry. The legal framework will be set up to address the risks associated with this sector and the enforcement powers necessary to enable a proportionate approach to be applied to protect the public using these services.

There may be a short-term moderate negative impact on local authorities as the scheme is established, in that new processes and procedures will have to be implemented. However, engagement with local authority representatives since the parent Act was passed in 2017 has indicated that the anticipated benefits far outweigh any short-term negative effects of changing schemes. Further, the introduction of this scheme will be supported by stakeholder training.

A Regulatory Impact Assessment and Competition Assessment has been completed for this proposal and has been published separately. Comments are invited from stakeholders, local authorities, and members of the public through the consultation process.

4.3 Third Sector

How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal impact third sector organisations and what they do?

For example:

- ◆ What contribution are third sector organisations already making to achieving the aims of the proposal? What role will they play in future as a result of the proposal?
- ◆ Do third sector organisations already receive public funding for this or similar work?
- ◆ Will the proposal impact on people already receiving a high level of support from the third sector?
- ◆ Are any aspects of this proposal due to be, or already are, delivered by the third sector?
- ◆ Does any aspect of the proposal rely on volunteering for its delivery?
- ◆ Does any aspect of the proposal impact on community facilities / assets which third sector organisations use or own?

It is considered that there will be a neutral impact on third sector organisations, as the proposed licensing scheme is unlikely to apply to them in any great capacity, the majority of practitioners operating on a business basis.

4.4 Justice Impact

Please answer the following in relation to your proposal:

♦ **Are you bringing forward new primary legislation?**

No – the primary legislation has already been passed. The proposals will be enacted through secondary legislation. A Justice System Impact Identification form was completed as part of the Bill process.

♦ **Are you creating, removing or amending an offence?**

Only in as far as the offences set out in the parent Act will be commenced.

♦ **Could your proposal result in any other impact on the justice system e.g. through increased litigation, need for legal aid, appeal against a decision of a public body?**

Yes – unsuccessful applicants for licensing under the proposed mandatory scheme will have the right of appeal to the Magistrates Court.

If YES to any of the above then you need to identify the impacts on the justice system. Please complete the Justice System Impact Identification, on the Justice intranet page.

A full Justice System Impact Identification Assessment has been made and reported to the Ministry of Justice as part of the present consultation process. The outcome will be recorded in the final Regulatory Impact Assessment.

(Please be aware that, for new primary legislation, a Justice impact assessment **must** be completed and published. The Justice Policy Team will support and advise you through this process and the information you record in your **Justice System Impact Identification** will help you.)

SECTION 5. WHAT WILL BE THE EFFECT ON ENVIRONMENTAL WELL-BEING?

Under Section 9 of the Environment (Wales) Act 2016, the Welsh Ministers are required to prepare, publish and implement a natural resources policy and to take all reasonable steps to implement it and to encourage others to take such steps. The [Natural Resources Policy](#) was published in August 2017.

You will need to consider and, where required, complete the following assessments to ensure all reasonable steps have been taken:

| | | |
|--|---|----------------------|
| Required for all proposals: | <ul style="list-style-type: none"> Natural Resources Policy national priorities, challenges and opportunities | 5.1a 5.1b |
| Required for all proposals | <ul style="list-style-type: none"> Biodiversity | 5.2 and Annex F |
| Required for all proposals | <ul style="list-style-type: none"> Climate Change | 5.3 |
| Certain plans and programmes requiring SEA under the Environmental Assessment of Plans and Programmes (Wales) Regulations 2004 | <ul style="list-style-type: none"> Strategic Environmental Assessment <p>Not applicable to this proposal</p> | 5.4 and IIA Guidance |
| Proposals which may affect a Special Area for Conservation or a Special Protected Area (SAC/SPA): | <ul style="list-style-type: none"> Habitats Regulations Assessment <p>Not applicable to this proposal</p> | 5.5 and IIA Guidance |
| Certain projects relating to town and country planning; transport; agriculture; forestry; marine, land drainage; and electricity which require EIA under the various EIA Regulations | <ul style="list-style-type: none"> Environmental Impact Assessment <p>Not applicable to this proposal</p> | 5.6 and IIA Guidance |

5.1 Natural Resources

5.1a How will the proposal deliver one or more of the National Priorities in the Natural Resources Policy (NRP)?

- Delivering nature-based solutions;
- Increasing renewable energy and resource efficiency; and in doing so,
- Taking a place based approach.

This is not applicable to the proposal to establish a mandatory licensing scheme for practitioners of designated special procedures.

5.1b Does the proposal help tackle the following national challenges and opportunities for the sustainable management of natural resources?

- ◆ Reverse the decline in biodiversity – by developing resilient ecological networks;
- ◆ Safeguard and increase carbon stores in soils and biomass;
- ◆ Maintain productive capacity, in particular by improving soil quality and biosecurity;
- ◆ Reducing the risk of flooding;
- ◆ Supporting climate change mitigation and adaptation through ecosystem approaches;
- ◆ Reducing noise pollution and pollution levels in our air, and enhance air quality;
- ◆ Improve the quality and ensure the quantity of our water;
- ◆ Taking action to reduce the pressures on natural resources, such as through resource efficiency and renewable energy;
- ◆ Supporting preventative approaches to health outcomes, with a particular focus on key public health issues of transport related air and noise pollution, tackling physical inactivity and mental health;
- ◆ Supporting action to tackle health and economic inequalities;
- ◆ Supporting community cohesion; and,
- ◆ Supporting secure and stable employment.

These are not in the main applicable to the proposal to establish a mandatory licensing scheme for practitioners of specified special procedures. The proposal does support a preventative approach to health outcomes, in that all practitioners will be required to undertake an accredited infection control course as a pre-requisite to making an application for a licence. In addition, all practitioners of the specified special procedures will be subject to the same licensing conditions across Wales, both for general requirements and those specific to the special procedure they will be licenced for. These mandatory conditions include infection control and prevention procedures. These requirements are intended to ensure that the health of individual clients is protected against infection acquired as a result of a special procedure and to protect against public health issues arising from an outbreak of infection associated with a particular practitioner or premises.

Under the existing registration scheme, the fees charged for registration vary widely between local authorities across Wales. In addition, there are inconsistencies in enforcement between local authorities. This situation provides a moderate element of economic inequality between practitioners in different localities. The mandatory scheme will provide for national fees to be set for licensing and for a national standard for compliance and enforcement to be established, which will ensure that these inequalities are addressed.

5.2 Biodiversity

To demonstrate compliance with Section 6 of the Environment (Wales) Act 2016, you must complete the F. Biodiversity Impact Assessment, at annex F below.

This is not applicable to the proposal to establish a licensing scheme for practitioners of specified special procedures. The assessment is included at Annex F.

5.3 Climate Change

Climate change has been identified as one of the biggest threats facing our future generations. We need to reduce our emissions through decarbonisation action (5.3a) and to adapt to the impacts of climate change by increasing our resilience (5.3b).

5.3a Decarbonisation

How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal affect emissions in Wales?

- ◆ To help you consider the impacts of your proposal on emissions it would be useful to think about whether your policy, either directly or indirectly impacts on land use, how we transport people/goods, buildings and infrastructure, waste, business and industry, Public Sector assets, energy demand and use.
- ◆ In some cases, especially in the cases of minimal impact it may be difficult and not appropriate to quantify the impact on emissions. In this case, qualitative analysis and narrative to show consideration is acceptable.

If the impacts you have identified are significant then you should undertake an assessment using the HM Treasury Green Book Greenhouse Gas valuation methodology. **Please explain your decision about whether or not to conduct a more thorough assessment of the effect on emissions.**

This is not applicable to the proposal to establish a licensing scheme for practitioners of specified special procedures. There is nothing in the proposals that will have any impact on existing emissions, either positive or negative.

5.3b Adaptation

How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal affect ability to adapt to the effects of climate change?

Adapting to climate change means being prepared for effects such as increased temperatures, stronger winds, rising seas and more rain. Does the proposal help adapt to these changes or might it make matters worse?

This is not applicable to the proposal to establish a licensing scheme for practitioners of specified special procedures.

5.4 Strategic Environmental Assessment (SEA)

Refer to the integrated impact assessment guidance and relevant onward links to determine whether a Strategic Environmental Assessment is required.

Please explain your decision about whether or not an SEA is required by law.

This is not applicable to the proposal to establish a licensing scheme for practitioners of specified special procedures.

5.5 Habitats Regulations Assessment (HRA)

Refer to the integrated impact assessment guidance and relevant onward links to determine whether a Habitats Regulations Assessment is required.

Please explain your decision about whether or not an HRA is required by law.

This is not applicable to the proposal to establish a licensing scheme for practitioners of specified special procedures.

5.6 Environmental Impact Assessment (EIA)

Refer to the integrated impact assessment guidance and relevant onward links to determine whether an Environmental Impact Assessment is required.

Please explain your decision about whether or not an EIA is required by law.

This is not applicable to the proposal to establish a licensing scheme for practitioners of specified special procedures.

SECTION 6. SOCIO-ECONOMIC DUTY WHAT WILL BE IMPACT ON SOCIO-ECONOMIC DISADVANTAGE?

6.1 The Socio-economic Duty.

The socio-economic duty requires relevant public bodies, including Welsh Ministers to have due regard to the need to reduce inequality of outcome that results from socio-economic disadvantage. This duty applies only to decisions which are of a strategic nature.

To access statutory guidance and further resources please visit the dedicated [website page](#).

To demonstrate that that 'due regard' has been given, an audit trail of evidence is kept for all decisions made under the Duty. This impact assessment will form part of this evidence trail. Please set out how you have considered socio-economic impacts, and how you have engaged others in this assessment.

Making the regulations to establish the mandatory licensing scheme does not constitute a strategic decision of the Welsh Ministers as defined in the statutory guidance on the Socio-economic Duty:

'In general, strategic decisions will be those which affect how the public body fulfils its intended statutory purpose (its functions in regards to the set of powers and duties that it uses to perform its remit) over a significant period of time and will not include routine 'day-to-day' decisions'.

The overall strategic decision to create primary legislation to regulate the specified special procedures was taken some time ago, culminating in the passing of the parent Public Health (Wales) Act 2017. The proposed regulations will provide the detail necessary to establish and run the mandatory licensing scheme. This will complete the delivery of the original strategic aim of improving health safeguarding and outcomes for clients of these services by better regulation of this sector. As the Socio-Economic Duty is not applied retrospectively, it is not considered necessary to revisit the strategic aims of the Act.

SECTION 7. RECORD OF FULL IMPACT ASSESSMENTS REQUIRED

You have now decided which areas need a more detailed impact assessment. Please list them below.

| Impact Assessment | Yes/No | If yes, you should |
|------------------------------------|--------|--|
| Children's rights | Yes | Complete the Children's Rights Impact Assessment below |
| Equality | Yes* | Complete the Equality Impact Assessment below |
| Socio-economic Duty | Yes | Complete the Socio-economic Duty Assessment below |
| Rural Proofing | No | Complete the Rural Proofing Impact Assessment below |
| Health | Yes | Refer to the Integrated Impact Assessment Guidance |
| Privacy | Yes | Complete the D. Data Protection Impact Assessment below |
| Welsh Language | Yes | Complete the Welsh Language Impact Assessment below |
| Economic / RIA | Yes | Refer to the Integrated Impact Assessment Guidance |
| Justice | Yes | Complete the Justice System Impact Identification form on the intranet |
| Biodiversity | Yes* | Complete the F. Biodiversity Impact Assessment below |
| Climate Change | No | Refer to the Integrated Impact Assessment Guidance |
| Strategic Environmental Assessment | No | Refer to the Integrated Impact Assessment Guidance |
| Habitat Regulations Assessment | No | Refer to the Integrated Impact Assessment Guidance |
| Environmental Impact Assessment | No | Refer to the Integrated Impact Assessment Guidance |

* Mandatory for all proposals in order to meet statutory obligations.

You should undertake the impact assessments identified (engaging with the internal expert advisors and other experts as necessary) before moving on to Section 8. Conclusion.

SECTION 8. CONCLUSION

(Please note that this section will be published)

8.1 How have people most likely to be affected by the proposal been involved in developing it?

Please keep within 250 words.

Not only is it our duty to engage and consult in certain circumstances, but there is clear evidence that involving the public and stakeholders is central to successful policy and delivery. In keeping with the Well-being of Future Generations (Wales) Act 2015, we are committed to involving people. Please describe how you have involved:

- Children and their representatives;
- People with protected characteristics under the Equality Act 2010;
- Welsh speakers and Welsh language specialist groups; and,
- Other people who may be affected by the proposal.

The original legislative proposals for the Public Health (Wales) Act 2017 were consulted upon as part of the Public Health White Paper, between 2 April and 24 June 2014. A children and young person's (CYP) version of the document and feedback form was produced to help maximise engagement with young people. In addition to the White Paper webpage, the CYP document was issued to schools via the Welsh Network of Healthy School Schemes and was also discussed at Funky Dragon's Youth Ambassador Conference in April 2014.

The White Paper consultation included a specific question (No. 46) asking for responses about the potential impacts of the proposal on human rights and the protected characteristics as prescribed within the Equality Act 2010 and invited comments on impact on the Welsh language. Bilingual public and stakeholder engagement events were also held as part of the consultation process.

Since the passing of the Act, there was extensive engagement pre-pandemic with practitioners and their representative associations of all the four specified special procedures, and with local authority officers through workshops, national conferences, informal visits and meetings and regular briefings and newsletters. Since resuming the work required to enact Part 4 and Schedule 3 of the Act, the local authority Special Procedures Task and Finish Group and the National Practitioners Network have been reconvened. Both groups include Welsh speakers and representation from all regions of Wales. As a result of extensive proactive engagement this proposal has been significantly informed by industry and regulators.

8.2 What are the most significant impacts, positive and negative?

Please keep within 750 words.

This section should be used to help complete section 6 of the MA template.

Summarise the most significant impacts for the people, culture and Welsh language, economy and environment of Wales, expected as a result of the proposed action. Describe the themes that emerged from involving people. Refer to the seven well-being goals and the Welsh Government's well-being objectives. Contrast with the impact of current Welsh Government action if appropriate.

Programme for Government: There is no direct read-across with the ten well-being objectives.

The legislation related to Part 4 and Schedule 3 of the Act will provide a more consistent and robust licensing system for the four named special procedures to be administered by local authorities, and a centralised register of practitioners that covers all 22 local authorities is proposed. These are related to the following Programme for Government commitments under the Finance and Local Government heading:

- Strengthen the autonomy and effectiveness of local government to make them more successful in delivering services.
- Reduce the administrative burden on local authorities.

People: There is likely to be a significant positive impact on consumers of the services of the four named special procedures, in that the proposed mandatory licensing scheme is intended to establish a consistent standard of infection prevention and control across all relevant practitioners and across the whole of Wales. The overall aim is to prevent members of the public from being exposed to the adverse health effects associated with special procedures as a consequence of inadequate infection control measures and inconsistent enforcement. These include bloodborne and bacterial skin infections of which some are associated with antimicrobial resistance, allergic reactions, and systematic infections. These infections are well documented and continue to be reported.

Practitioners will also be affected in that the mandatory scheme is intended to set a consistent standard of infection prevention and control across each special procedure. All existing practitioners will be required to apply for the new scheme and will need to meet the required standards in order to continue in practice. This may have an initial negative impact on some practitioners in that they may need to make alterations to their practice in order to meet the new requirements, or they may not meet the requirements and their applications will ultimately be refused. However, the overall intention is to provide a safer working practice for the public and practitioners, and to provide a more robust legal framework which supports a consistent approach to enforcement which is better able to

deal with poor practice and illegal operators. Thus, providing a more competitive and equitable business environment.

Culture: No significant impact, positive or negative.

Welsh language: No significant impact, positive or negative.

Economy: There may be some initial negative impact in that practitioners of the four special procedures tend to be small businesses and all existing practitioners and businesses will have to apply for the new licensing scheme. This will have an initial cost for application. There may possibly be some existing practitioners or businesses who do not ultimately gain licences, in which case they will not be able to operate legally. However, it is anticipated that extensive engagement with special procedures practitioners throughout this process will help mitigate this impact and a national mandatory licensing scheme also supports one transparent standard for all businesses supported by a more consistent approach to enforcement throughout Wales.

Environment: No significant impact, positive or negative.

8.3 In light of the impacts identified, how will the proposal:

- maximise contribution to our well-being objectives and the seven well-being goals; and/or,
- avoid, reduce or mitigate any negative impacts?

Please keep within 750 words.

What action can the Welsh Government take to promote biodiversity, children's rights, equalities, the Welsh language or another of the areas covered by your impact assessments?

What action can the Welsh Government take to strengthen its contribution to a particular goal or to contribute to additional goals?

What action can the Welsh Government take to avoid, reduce or mitigate a negative impact?

If no action is to be taken to avoid, remedy or mitigate a negative impact then please explain why.

A Healthier Wales: A society in which people's physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood. This proposal contributes to this well-being objective in that the proposed licensing scheme aims to improve standards of infection prevention and control in the four special procedures industries that are enforceable and consistent across all practitioners in Wales. Any clients will therefore be protected against the risk of exposure to skin and bloodborne infections.

Biodiversity: No significant impact, positive or negative.

Children’s Rights: Positive impact. The proposed legislation aims to put in place a robust scheme for approving and recording licenced practitioners who will be aware of the laws on intimate piercing and tattooing as they apply to people under 18 and will be required to obtain a DRB check as part of the application process.

Children under 18 are currently not legally prevented from obtaining non-intimate piercings, acupuncture, or electrolysis on any part of the body. The mandatory scheme will require pre-treatment consultations including age checks and a requirement that anyone under 18 will need the consent of their parent/guardian to the procedure, and that person will need to be present at the pre-treatment consultation and the treatment itself. The mandatory licensing conditions will also prevent children under 18 from obtaining acupuncture or electrolysis on intimate body parts even with parental/guardian consent in the types of premises to be licenced under this scheme. The only exception will be for legitimate medical treatment under the direction of a medical practitioner.

We also recognise that young people of the ages 16–18 are capable of giving their own informed consent, so we have proposed that they should not require parental consent for piercings of the eyebrow, lip, nose and ear cartilage. We recognise that this will need to be consistent with our rationale regarding tattooing on the face and neck being subject to additional pre-treatment consultation, (although tattooing is prohibited for anyone under the age of 18), but we wish to balance this autonomy of young people to make such decisions against an unintended consequence of them resorting to self-piercing.

We consider that all these measures will protect children’s rights not to come to harm.

Equalities: No significant impact, positive or negative.

Welsh language: No significant impact, positive or negative. All materials relating to the mandatory licensing scheme will be available in Welsh.

8.4 How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

Please keep within 250 words

What plans are in place for post implementation review and evaluation?

Post implementation review and evaluation is intended through established local authority networks. Much of the data collected on the proposed central register will be anonymised and used for this purpose and will include numbers of newly licensed practitioners and approved premises as well as monitoring enforcement action, complaints and allegations of infection.

It may be challenging to assess the overall health impact of establishing the licensing scheme in that where individuals report infection following a procedure, each case may not be directly attributable to a practitioner or premises. However, monitoring and collecting

data on compliance with standards over the duration of the three-year licence period will give an indication of risk reduction. It is anticipated that there will be fewer incidences of clusters of infections related to a practitioner or premises, as has been seen in the past.

SECTION 9. DECLARATION

Declaration

I am satisfied that the impact of the proposed action has been adequately assessed and recorded.

Name of Senior Responsible Officer / Deputy Director:

Peter Jones, Deputy Director

Department:

Health Protection Division

Date: 14 October 2022; revisions 9 January 2023

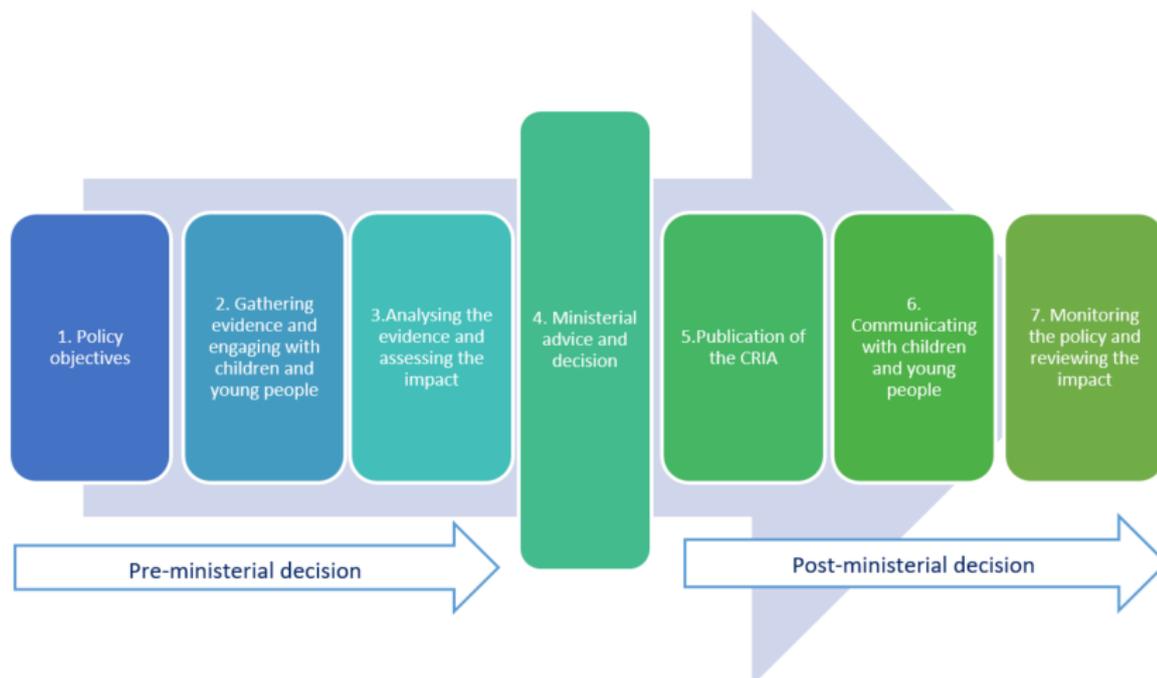
FULL IMPACT ASSESSMENTS

A. CHILDREN’S RIGHTS IMPACT ASSESSMENT

All completed Children’s Rights Impact Assessments must be sent to the CRIA@gov.wales mailbox. The Rights of Children and Young Persons (Wales) Measure 2011 places a duty on the Welsh Ministers to pay due regard to the United Nations Convention on the Rights of the Child (UNCRC) and its Optional Protocols when exercising any of their functions.

Please note we have an established Children’s Rights Advisory Group (CRAG), comprising the Children’s Commissioner for Wales’s office, UNICEF, the Wales Observatory on Human Rights of Children and Young People, and Children in Wales, who can be used to discuss or test your draft CRIA. Please contact the Children’s Branch CRIA@gov.wales for further information.

The CRIA process is the agreed mechanism officials should use to support Ministers to meet this duty and ensure they give balanced consideration to children’s rights in their decision making. A CRIA should be used to inform ministerial advice and must be completed prior to a ministerial decision being made. Once a decision has been reached, your CRIA must also be published.



For further advice and guidance on the CRIA process, please consult the Children’s Rights Manual for Staff or contact the Children’s Branch CRIA@gov.wales

1. Policy objectives

- What decision are you impact assessing?

The Public Health (Wales) Act 2017 ('the Act') Part 4 and Schedule 3 seeks to establish a mandatory national licensing scheme for practitioners of specified special procedures in Wales, defined as acupuncture, body piercing, electrolysis and tattooing. The scheme set out in Part 4 of the Act will mean that in order to perform any of these defined special procedures, 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.

This proposed 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 practice to appropriate standards (for example relating to hygiene, record keeping and age verification), as well as to ensure that the named 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. The Act also provides that local authorities are to be responsible for enforcing the licensing requirements, and for keeping a register of special procedures licences and approvals issued by them that have not ceased to have effect. A local authority must make the information on the register open to the public.

Part 4 and Schedule 3 of the Act require regulations to be made to set licensing criteria and mandatory licensing conditions, and to provide the operational details of the scheme, so that standards of practice and enforcement of special procedures are consistent throughout Wales. These regulations are the subject of this Integrated Impact Assessment.

Gathering evidence and engaging with children and young People

- What existing research and data on children and young people is available to inform your specific policy? Your policy objective may impact on other policy areas – discussions with other policy teams will be an important part of the impact assessment process ensuring you have gathered a range of information and evidence.
- Using this research, how do you anticipate your policy will affect different groups¹ of children and young people, both positively and negatively? Please remember policies focused on adults can impact children and young people too.
- What participatory work with children and young people have you used to inform your policy? If you have not engaged with children and young people, please explain why.²

¹ You may, for instance, consider how your policy would affect the following groups of children and young people differently: early years, primary, secondary, young adults; children with additional learning needs; disabled children; children living in poverty; Black, Asian and minority ethnic children; Gypsies, Roma and Travellers; migrants; asylum seekers; refugees; Welsh-language speakers; care experienced children; LGBTQ+ children. Please note that this is a non-exhaustive list and within these cohorts there will not be one homogenous experience.

² Article 12 of the UNCRC stipulates that children have a right to express their views, particularly when adults are making decisions that affect them, and to have their opinions taken into account.

As part of the Public Health White Paper consultation (which ran from 2 April – 24 June 2014) a children and young person's (CYP) version of the document and feedback form was produced to help maximise engagement with young people. This was available on the White Paper webpage and was issued to schools via the Welsh Network of Healthy School Schemes. The White Paper was also discussed at Funky Dragon's Youth Ambassador Conference in April 2014.

39 CYP response forms were returned. Many of these reflected group discussions and collectively represented the views of approximately 280 children and young people. Amongst those responses which commented specifically on the proposal for introducing a national special procedures register, levels of support were generally high - with this being one of the White Paper proposals which children and young people felt would be most likely to make a positive difference.

Furthermore, the Children's Commissioner was supportive of the proposal, noting the current inconsistency in arrangements across Wales. The response also noted the role that the register could have in the context of safeguarding children and young people, as it could ensure that premises and the practitioners working within them are as safe and clean as possible.

A full CRIA was completed for the Public Health (Wales) Act 2017 as part of the bill process.

We have not engaged with children and young people because this proposal is to draft regulations that will provide the operational detail required to establish a mandatory licensing scheme for the four special procedures as set out in the Public Health (Wales) Act 2017 Part 4 and Schedule 3. As any practitioner or operator of any affected business will have to be at least 18 years of age to apply for licensing or premises approval, it is not anticipated that any children or young people would have a direct interest in the mechanisms of the licensing scheme or enforcement activities.

Apprentices and trainees aged 16–18 may have an interest if they are employees within the sector but they will not be able to apply for a licence until they meet the age requirement of 18. Consultation with the sector has indicated that it is unlikely that any trainee practitioners aged 16–18 will be detrimentally affected by the age restriction as they are unlikely to be at a point in their training to perform special procedures. Trainee licences have been proposed that are available from the age of 18 if an individual meets the entry criteria, which includes having undertaken an accredited course in infection control. The purpose of the age restriction is partly to ensure that trainees are not placed in an unsupervised situation with a client where they may be vulnerable. Trainee licences will require the tutor/mentor to certify that the applicant has reached a stage of training that they can perform a named procedure under supervision and under strict licensing conditions. Trainees and apprentices will therefore not be prevented from obtaining appropriate licensing as part of their training or employment.

For advice on participatory work with children and young people, please contact the Children’s Branch. We have an established relationship with Children in Wales, who may be able to help you work with children and young people through their Young Wales programme.

2. Analysing the evidence and assessing the impact

- Using the evidence you have gathered, what impact is your policy likely to have on children and young people? What steps will you take to mitigate and/or reduce any negative effects?

The proposed licensing scheme itself has a neutral impact upon children and young people, in that the application for licences and the determination of those applications will not apply to anyone under 18. We have proposed an age qualification of 18 before any individual can apply for a licence.

Establishing a licensing scheme as set out in the Act will have a positive impact on children and young people. Children and young people under the age of 18 are prevented by law from obtaining a tattoo or intimate piercing as an age restriction is in place for these procedures. Children and young people may currently obtain non-intimate piercings (such as ear piercing), and there is no legal restriction on them obtaining electrolysis or acupuncture treatments. We have proposed that under the mandatory scheme, no-one under the age of 18 will be able to access any of the special procedures not otherwise prohibited without a pre-consultation at which the parent/guardian must be present and give their consent to the treatment as well as the young person, and the parent/guardian must be present at the treatment. This is proposed for safeguarding purposes, preventing children and young people from accessing special procedures inappropriately, or placing them alone in a treatment situation where they may be vulnerable. This approach is in line with industry codes of practice for acupuncture and electrolysis, who recommend chaperonage and parental consent for treatments on anyone under 18 as well as the consent of the person requiring treatment.

The introduction of a mandatory licensing scheme for practitioners creates an additional safeguard for children and young people in that practitioners will be required under licensing conditions to ensure that any age restrictions are met, and consents obtained before a procedure is undertaken. It is recognised that young people aged 16–18 have the capacity to make certain decisions for themselves, therefore it is proposed that this age group will be able to obtain piercings to the ear lobe, ear cartilage, lip, nose and eyebrow without parental consent. The application procedure for a practitioner licence is intended to identify through DBS checks any individual who has relevant sexual or violent offences recorded against them.

It is considered that the proposal will have a beneficial effect on children’s health as it is anticipated that the requirements in relation to practice and premises hygiene will result in a decrease in the incidence of infection in all persons who undergo a special procedure (including children). If children wish to undergo a special procedure (except tattooing or intimate piercing) they will be able to consult the publicly available register to determine

who, in their area, provides such treatments. This demonstrates how the proposals provide information which will help to keep children healthy.

The licensing scheme is intended to provide a safeguard for all clients of any age that practitioners have been trained in infection control procedures; are compliant with health and safety requirements and operate within the law. The requirement for there to be a pre-treatment consultation applies to all clients of any age group and is mandated in primary legislation. The requirement is intended to allow the practitioner to discuss with the client any risks associated with the procedure, to allow the practitioner to refuse an immediate procedure to someone under the influence of alcohol or drugs, and to allow the client a cooling off period between the consultation and the treatment. The age restrictions and requirement for parental consent are aimed specifically at safeguarding children or young people while allowing them access to those special procedures where there is no specific prohibition for under 18s.

How does your proposal enhance or challenge children’s rights, as stipulated by the UNCRC articles and its Optional Protocols? Please refer to the articles to see which ones apply to your own policy.

| UNCRC Articles or Optional Protocol | Enhances (X) | Challenges (X) | Explanation |
|--|--------------|----------------|--|
| <p>Article 3 (1) and (3)</p> <p>1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.</p> <p>3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.</p> | x | | <p>Proposed licensing conditions will require that age checks will be made for all special procedures. This will ensure that anyone under 18 does not obtain prohibited procedures such as tattooing and intimate piercing.</p> <p>For procedures that are not otherwise prohibited, children and young people are safeguarded in that they will be required to have pre-treatment consultation at which a parent/guardian must be present to give their consent, and they must be present at the treatment, in order to avoid them making impulsive decisions about treatments or placing themselves in vulnerable situations.</p> <p>16–18-year-olds will have a certain amount of autonomy to make their own decisions in that they will be permitted to obtain piercings of the ear lobe, ear cartilage, nose, lip or eyebrow without parental consent. The intention is to recognise this age group can give consent and prevent them from self-administering piercings.</p> <p>The application process for a practitioner licence requires the applicant to have</p> |

| | | | |
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| | | | <p>undertaken an accredited infection control course, and has had a DBS check to safeguard vulnerable people which includes children and young people. Trainee practitioners aged 16 –18 will be prohibited from carrying out any special procedure and will not be required to apply for a trainee practitioner licence until they are 18, and their tutor/mentor certifies that they can perform special procedures under supervision and under strict controls. The overall intent of the age limit is to safeguard young people from being put in vulnerable situations with clients while they are training.</p> |
| <p>Article 6 – provides that all children have the right of life. Governments should ensure that children survive and develop healthily.</p> | x | | <p>Any children or young people having these procedures (except tattooing or intimate piercing) will benefit from an overall improvement in standards in relation to the performance of special procedures, including hygiene, infection control and safeguarding.</p> |
| <p>Article 19 (1)</p> <p>1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.</p> | x | | <p>Children and young people are safeguarded under the proposed licensing scheme in that the application process for a practitioner licence requires the applicant to have undertaken an accredited infection control course, and has had a DBS check.</p> <p>Proposed licensing conditions will require that age checks will be made for all special procedures. This will ensure that anyone under 18 does not obtain prohibited procedures such as tattooing and intimate piercing.</p> <p>For procedures that are not otherwise prohibited, children and young people are safeguarded in that they will be required to have pre-treatment consultation at which a parent/guardian must be present to give their consent, and they must be present at the treatment, in order to avoid them making impulsive decisions about treatments or placing themselves in vulnerable situations.</p> <p>16–18-year-olds will have a certain amount of autonomy to make their own decisions in that they will be permitted to</p> |

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| | | | <p>obtain piercings of the ear lobe, ear cartilage, nose, lip or eyebrow without parental consent. The intention is to recognise this age group can give consent and prevent them from self-administering piercings.</p> <p>Trainee practitioners aged 16–18 will be prohibited from carrying out any special procedure and will not be required to apply for a trainee practitioner licence until they are 18, and their tutor/mentor certifies that they can perform special procedures under supervision and under strict controls. The overall intent of the age limit is to safeguard young people from being put in vulnerable situations with clients while they are training.</p> |
| Article 24 – provides, in part, that children have the right to good quality healthcare - which includes the provision of information to keep them healthy. | x | | The scheme will increase the information available to children and young people about special procedures and ensure all those interested in having a special procedure can access information on those practitioners and business who meet the scheme's requirements. |

- Consider whether any EU Citizens Rights (as referenced in the Equality Impact Assessment) relate to young people up to the age of 18.

N/A

For further information on the UNCRC and its Optional Protocols, please visit the Children's Rights Intranet Page.

3. Ministerial advice and decision

- How will your analysis of these impacts inform your ministerial advice?

The advice to be given to the Minister for Health and Social Services is that the overall effect of the proposal is to safeguard children and young people under the age of 18, to prevent them from being exposed to the risk of skin infections should they have any of the special procedures. In addition, practitioners will be required to obtain DBS checks as part of the licence/premises application process to ensure that they have no relevant offences that should bar them from providing services to vulnerable people of all ages.

Anyone under the age of 18 is prevented by law from obtaining tattoos or intimate piercings. The proposals we are presenting in the consultation will be to prevent children

and young people under the age of 18 from accessing special procedures not otherwise prohibited without having a pre-treatment consultation at which a parent/guardian has to be present and give their consent to the treatment, and also be present during the treatment. This is intended to prevent children and young people from obtaining procedures inappropriately, and to prevent them from being in treatment situations where they are potentially vulnerable.

The age qualification of 18 before an individual can apply for a practitioner licence is intended to prevent trainees and apprentices aged 16 –18 from being put in situations with clients where they may be vulnerable. A trainee licence will be available under which an 18-year-old will be able to apply for this category of licence and perform special procedures under strict conditions and only under supervision. The tutor/mentor will be required to endorse the application, the purpose being to ensure trainees are not performing special procedures unrestricted and supervised.

- Once completed, your CRIA must be signed off by your Deputy Director.
- Your CRIA findings should be integrated into your ministerial advice to inform their decision.

4. Publication of the CRIA

- Following the ministerial decision, the CRIA should be published on the Welsh Government website.
- Send sections 1 and 8 of your IIA and the CRIA (Annex A) to your departmental web manager for publishing.

For further information and support on this process, please visit the Children's Rights Intranet Page which contains a range of resources.

- **All** completed CRIAs must also be sent to the CRIA@gov.wales mailbox.

5. Communicating with Children and Young People

- If you have sought children and young people's views on your proposal, how will you inform them of the outcome?

We have not sought the views of children and young people, as explained in (2) above. Practitioners will be made aware of their responsibilities towards children and young people through issue of guidance and through communications with their local authorities. This will include information on age restrictions and requirements on people who train apprentices and trainees. Consideration has been given in the Regulatory Impact

Assessment on communications to members of the public of the new licensing scheme, which will include any communication aimed at under 18s in respect of age restrictions and the requirement for parental consent. As all existing practitioners will be required to apply under the new scheme, all will be made aware of the requirements within the mandatory licensing conditions.

If your policy affects children and young people, remember to produce child-friendly versions of any public document relating to your proposal. Please contact the Children’s Branch for further advice.

6. Monitoring and Review

It is essential to revisit your CRIs to identify whether the impacts that you originally identified came to fruition, and whether there were any unintended consequences.

Where you are taking forward secondary legislation, it will not be sufficient to rely on the CRIA for the primary legislation; you will need to update the CRIA to consider how the details of the proposals in the regulations or guidance may affect children.

The policy lead can revisit the published version of their CRIA, rename it as a review of the original CRIA, and update the evidence of impact. The reviewed impact assessment should be presented to Ministers with any proposals to amend the policy, practice or guidance. This review CRIA should also be published.

- Please outline what monitoring and review mechanism you will put in place to review this CRIA.

The previous CRIA has been used to inform this current CRIA. This current document will be subject to further assessment and updating to reflect any amendments to the proposed mandatory licensing scheme and related regulations that are identified as necessary as a result of public consultation.

Following this review, are there any revisions required to the policy or its implementation?

B. EQUALITY IMPACT ASSESSMENT

1. Describe and explain the impact of the proposal on people with protected characteristics as described in the Equality Act 2010.

Consideration should be given to the following questions. Please consider whether there are possible impacts for subsections of different protected characteristic groups.

- ◆ How will the proposal promote equality (Please see the general duties)?
- ◆ What are the possible negative impacts on people in protected groups and those living in low income households and how will you mitigate for these?
- ◆ What if any, barriers do people who share protected characteristics face? Can these barriers be reduced, removed, mitigated?
- ◆ Share your EIA wider within Welsh Government, ask colleagues to consider unintended impacts.
- ◆ How have you/will you use the information you have obtained from research to identify impacts?
- ◆ How will you know if your piece of work is a success?
- ◆ Have you developed an outcomes framework to measure impact?

The proposal promotes equality only in that it ensures a similar standard of infection prevention and control across all practitioners in Wales, thereby promoting a better standard for all groups who wish to use these services. The proposal is unlikely to create any barriers for people with protected characteristics as it deals with creating a mandatory licensing scheme for special procedures practitioners and businesses, which will be applied to all relevant practitioners and businesses.

The proposal has no negative impact on people of protected groups. There may be some impact on low-income households where special procedures practitioners fall into this category due to the initial cost of obtaining a licence.

Record of Impacts by protected characteristic:

Please complete the next section to show how this policy / decision / practice could have an impact (positive or negative) on the protected groups under the Equality Act 2010. (Please refer to the EIA guidance document for more information.) It is important to note any opportunities you

have identified that could advance or promote equality of opportunity. This includes identifying what we can do remove barriers and improve participation for people who are under-represented or suffer disproportionate disadvantage.

Lack of evidence is not a reason for *not assessing equality impacts*. Please highlight any gaps in evidence that you have identified and explain how/if you intend to fill these gaps.

| Protected characteristic or group | What are the positive or negative impacts of the proposal? | Reasons for your decision (including evidence) | How will you mitigate Impacts? |
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| Age (think about different age groups) | <p>Neutral – children under the age of 18 are prohibited from having tattoos or intimate piercings. The proposed licensing scheme will not change these prohibitions.</p> <p>Positive – children under the age of 18 are not prohibited from having non-intimate piercings. However, they are safeguarded from making impulsive or peer-pressured choices or from placing themselves in a vulnerable treatment situation by the requirement for pre-treatment consultations to take place. A parent/guardian has to be present at the consultation they must give their consent to the treatment and be present during the treatment itself.</p> <p>The proposed licensing scheme will allow all age groups to make better informed decisions when selecting a practitioner. This will be achieved by the proposed central register of licensed practitioners, which members of the public will be able to consult online to check practitioners are licenced and premises have been approved.</p> <p>The application process better protects young people in that the applicant is required to submit a basic DBS check, provide evidence of competency, and demonstrate a knowledge of infection control and first aid.</p> | <p>There have been local authority investigations into unlicensed tattooing and piercing of children under the age of 18. It is intended that the proposed licensing scheme will drive up standards within certain sections of the industry.</p> | N/A |

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| | <p>Positive - intelligence from local authorities has indicated that young people under 18 are more likely to use unregistered tattooists to obtain a tattoo illegally at a cheaper fee. The proposal provides local authority officers with more powers to deal with practitioners who choose to operate illegally with more significant consequences for those successfully prosecuted in terms of unlimited fines.</p> <p>Positive – the proposal to establish a licensing scheme for specified special procedures will benefit all age groups who wish to access the services of the practitioners.</p> | <p>Clients of all ages will be able to check that their selected practitioner has been approved and licenced to a consistent standard across Wales. As part of the licensing process, practitioners will have to demonstrate competence in infection control and will be subject to a DBS check.</p> | <p>N/A</p> |
| <p>Disability (consider the social model of disability³ and the way in which your proposal could inadvertently cause, or could be used to proactively remove, the barriers that</p> | <p>Neutral – it is not considered that the proposal to establish a licensing scheme for specified special procedures has any specific impact on disabled people.</p> | <p>A robust licensing process for the named special procedures benefits everyone who wishes to use the services of the licenced practitioners.</p> | |

³ Welsh Government uses the social model of disability. We understand that disabled people are not disabled by their impairments but by barriers that they encounter in society. Ensuring that your proposal removes barriers, rather than creating them, is the best way to improve equality for disabled people. For more information, go to the intranet and search 'social model'.

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| disable people with different types of impairments) | | | |
| | Negative – practitioners who are neurodiverse may be challenged by the proposed application process and the requirement to have passed an infection prevention and control course. | Engagement with practitioners to date has identified that a number of neurodiverse people go into these industries as they are more comfortable with practical and visual work. There is a concern that some may be challenged by the written application process. | Regulated course providers are required to take individuals' learning needs into account. Local Authorities would expect to provide assistance to those who need it under their Equalities policies. |
| Gender Reassignment (the act of transitioning and Transgender people) | Neutral – it is not considered that the proposal to establish a licensing scheme for tattooing, acupuncture or piercing has any significant impact on gender reassignment. However, Trans women may wish to use electrolysis for unwanted hair removal, so there will be a general positive impact in that licensing will provide assurance about both practitioners and premises. | Trans people are equally likely to use these services as cis people. A robust licensing process for electrolysis benefits everyone who wishes to use the services of the licenced practitioners. | N/A |
| Pregnancy and maternity | Neutral – it is not considered that the proposal to establish a licensing scheme for specified special procedures has any specific impact on pregnancy or maternity other than the positive effect of the assurance of using licensed practitioners and premises. | A robust licensing process for special procedures benefits everyone who wishes to use the services of the licenced practitioners. | N/A |
| Race (include different ethnic minorities, Gypsies and Travellers and Migrants, | Neutral – it is not considered that the proposal to establish a licensing scheme for specified special procedures has any impact on different ethnic or race groups, although some are more prone to keloid scarring. | A robust licensing process for the specified special procedures benefits everyone who wishes to use the services of the | N/A |

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| Asylum seekers and Refugees) | | licenced practitioners. The legal requirement to have a client consultation and provide aftercare advice will help protect those groups that are more vulnerable to keloid scarring issues. | |
| Religion, belief and non-belief | Neutral – it is not considered that the proposal to establish a licensing scheme for specified special procedures has any specific impact on different belief/non-belief groups. | A robust licensing process for specified special procedures benefits everyone who wishes to use the services of the licenced practitioners, including anyone who has any of the special procedures as part of their belief scheme. | N/A |
| Sex / Gender | Neutral – it is not considered that the proposal to establish a licensing scheme for specified special procedures has any specific impact on people because of their sex or gender identity. | A robust licensing process for the specified special procedures benefits everyone who wishes to use the services of the licenced practitioners. | N/A |
| Sexual orientation (Lesbian, Gay and Bisexual) | Neutral – it is not considered that the proposal to establish a licensing scheme for specified special procedures has any specific impact on sexual orientation. | A robust licensing process for the specified special procedures benefits everyone who wishes to use the services of the licenced practitioners. | N/A |

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| Marriage and civil partnership | Neutral – it is not considered that the proposal to establish a licensing scheme for specified special procedures has any impact on marital/civil partnership status. | A robust licensing process for the specified special procedures benefits everyone who wishes to use the services of the licenced practitioners. | N/A |
| Children and young people up to the age of 18 | <p>Neutral – children under the age of 18 are prohibited from having tattoos or intimate piercings. However, intelligence from local authorities has indicated that young people under 18 are more likely to use unregistered tattooists to obtain a tattoo illegally at a cheaper fee.</p> <p>Positive - there is a positive impact in that the proposal provides local authority officers with more powers to deal with practitioners who choose to operate illegally with more significant consequences for those successfully prosecuted in terms of unlimited fines</p> <p>Positive – children under the age of 18 are not prohibited from having non-intimate piercings, electrolysis or acupuncture. However, they are safeguarded from making impulsive or peer-pressured choices or from placing themselves in a vulnerable treatment situation by the requirement for pre-treatment consultations to take place. A parent/guardian will have to be present at the consultation, they must give their consent to the treatment, and be present during the treatment itself. The legal requirement to provide aftercare advice in a form that can be</p> | <p>A robust licensing process for the specified special procedures will ensure that the licenced practitioners will adhere to the law in respect of tattooing and intimate piercing of under 18s.</p> <p>A full Children’s Rights Impact Assessment has been completed and is included in the Integrated Impact Assessment.</p> | N/A |

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| | <p>understood by all clients is particularly relevant to this group.</p> <p>Positive - The proposed licensing scheme will allow this age group to make better informed decisions when selecting a practitioner. This will be achieved by the proposed central register of licensed practitioners, which members of the public will be able to consult online to check practitioners are licenced and premises have been approved.</p> <p>Positive - The application process for practitioners better protects young people in that the applicant is required to submit a basic DBS check, provide evidence of competency, and demonstrate a knowledge of infection control and first aid.</p> <p>Positive – trainees and apprentices in this sector aged 16 –18 are protected from being placed in vulnerable situations with clients as they are prohibited from performing special procedures until they are 18. A trainee licence will be available, to be applied for when their trainer/mentor can certify that they are ready to perform special procedures under supervision and with strict conditions applied</p> | | |
| Low-income households | <p>Neutral – it is not considered that the proposal to establish a licensing scheme for specified special procedures has any impact on low-income households in general.</p> <p>Positive – people on a low income may be more likely to use practitioners who currently operate illegally as they are</p> | All existing practitioners will be required to obtain a licence in order to legally remain in business. To do this they will have to pay the applicable application fee and | No mitigation possible. |

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| | <p>cheaper than reputable registered practitioners and are less likely to adhere to good standards of infection control. The proposed licensing scheme protects this client against illegal practitioners in that it will be more difficult for them to operate.</p> <p>Negative - There may be some impact on practitioners if they are in this category, in that they will need to apply for licensing and pay the application fees. Additionally, if they do not meet the required standard to be licenced, they would not be able to trade legally.</p> | meet the required standards. | |
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Human Rights and UN Conventions

Do you think that this policy will have a positive or negative impact on people's human rights? (Please refer to point 1.4 of the EIA Guidance for further information about Human Rights and the UN Conventions).

| Human Rights | What are the positive or negative impacts of the proposal? | Reasons for your decision (including evidence) | How will you mitigate negative Impacts? |
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| The provisions will not have any substantial effect on the rights protected by the ECHR and HRA 1998, | Positive - The proposed licensing scheme will apply more consistent national standards and provide a public register of licensed practitioners and premises which will make operating illegally more difficult. Clients will therefore be in a position to make better informed decisions about their choice of practitioner, | Any adverse impact on the rights of, e.g. special procedure practitioners and businesses, will be minimal, proportionate to the public interest and will be in the pursuance of a legitimate aim, i.e. protecting people from preventable health harms. | The proposed scheme provides a proportionate approach to enforcement and an appeals mechanism for businesses/practitioners e.g. against Stop, and Remedial Action Notices; revocation of licence; refusal to approve a premises/vehicle; or to grant a completion certificate. |

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| | and practitioners will be working in a fairer more competitive market. | | |
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EU/EEA and Swiss Citizens' Rights

Part 2 of the EU-UK Withdrawal Agreement, along with the EEA EFTA Separation Agreement and Swiss Citizens Rights Agreement ("Citizens Rights Agreements") give EU, EEA⁴ and Swiss citizens who were lawfully resident in the UK by 31 December 2020 certainty that their citizens' rights will be protected.

The Citizens Rights Agreements are implemented in domestic law by the European Union (Withdrawal Agreement) Act 2020 (EUWAA)⁵

Eligible individuals falling within scope of the Citizens Rights Agreements will have broadly the same continued entitlements to work, study and access public services and benefits, in as far as these entitlements have derived from UK membership of the EU as well as its participation in the EEA Agreement and the EU-Swiss Free Movement of Persons Agreement.

Subject to certain limited exceptions⁶, individuals will need to have applied for a new residence status (either pre-settled or settled status) through the EU Settlement Scheme. The deadline for making such an application expired on 30 June 2021.

Policy considerations to take into account:

- Have you considered if your policy proposal will impact EU, EEA or Swiss citizens whose rights are protected by the Citizens Rights Agreements?
- If there is the potential for any negative impact on such EU EEA or Swiss citizens, how will any such impacts be eliminated or managed if management is deemed appropriate?
- Is legal advice required?

Please consider the impacts of your policy on the areas below, indicating whether the impact is positive or negative and any action required to eliminate potential negative impact. Please note the basis for your answer, including where legal advice has been sought and please also indicate where a right is not relevant for your policy:

The proposed licensing scheme for specific special procedures is not anticipated to affect the rights of EU/EEA/Swiss citizen's rights.

⁴ The EEA includes the EU countries as well as Iceland, Liechtenstein and Norway.

⁵ Sections 5 and 6 of EUWAA.

⁶ E.g. where an individual has Irish citizenship (including dual British and Irish citizenship) or where they had indefinite leave to enter or remain in the UK)

Residency – the right to reside and other rights related to residence: rights of exit and entry, applications for residency, restrictions of rights of entry and residence;

The proposed licensing scheme for specific special procedures is not anticipated to affect any rights of residency.

Mutual recognition of professional qualifications –the continued recognition of professional qualifications obtained by EU/EEA/Swiss citizens in their countries (and already recognised in the UK);

The proposed licensing scheme for specific special procedures is not anticipated to affect any recognition of professional qualifications.

Access to social security systems – these include benefits, access to education, housing and access to healthcare.

The proposed licensing scheme for specific special procedures is not anticipated to affect any access to social security systems.

Equal treatment – this covers non-discrimination, equal treatment and rights of workers;

The proposed licensing scheme for specific special procedures is not anticipated to affect any rights to equality.

Workers rights - Workers and self-employed persons who are covered under the Citizens Rights Agreements are guaranteed broadly the same rights as they enjoyed when the UK was a Member State. They have a right to not be discriminated against due to nationality, and the right to equal treatment with UK nationals.

The proposed licensing scheme for specific special procedures is not anticipated to affect the rights of workers. Practitioners who are not UK nationals are able to apply for licensing on the same terms as UK nationals if they are able to demonstrate they have the right of residence/right to work in the UK and can provide a Certificate of Good Conduct in place of a DRB check.

(Frontier workers (those citizens who reside in one state and regularly work in another) can continue working in the UK if they did so by the 31 December 2020).

C. RURAL PROOFING IMPACT ASSESSMENT

1. Describe and explain the impact of the proposal on rural people, businesses and communities.

For example:

- ◆ How will the proposal affect the lives of rural people, positively and negatively? For example as service users, workers and consumers.
- ◆ Will access be an issue for rural people? If yes, what will be done to overcome barriers to access?
- ◆ How has the proposal taken account of the needs of rural people e.g. older population, lack of affordable housing, language requirements?
- ◆ Will the proposal lead to new services being opened or existing services being closed? How will you maximise positive impacts and mitigate negative impacts?
- ◆ Does the policy require the purchase or use of land? Have you considered rural factors such as land value, availability or restrictive designations?
- ◆ Will the proposal work in difficult terrain e.g. narrow roads and steep mountains? If no, how will you overcome barriers?
- ◆ Is the proposal relevant to SMEs or micro-enterprises? If yes, how have you taken their situation into account? Does the proposal expect businesses to be able to access support? (This may be in the form of advice, training, finance etc.) If yes, what barriers will rural businesses face and how will they be overcome?
- ◆ Does the proposal depend on infrastructure such as good road/rail connections or fast broadband or good mobile connectivity? If yes, what provision will be made for communities/businesses in more isolated rural areas?
- ◆ Although the root causes of poverty in rural areas are the same as in urban areas, the experience of deprivation may be different in rural areas. Some of the main issues contributing to poverty in rural areas are fuel poverty (including both heating and transport fuel), in-work poverty, access to services and digital exclusion. How does your proposal help to tackle poverty in rural areas?
- ◆ What contact have you had with rural stakeholders? Please briefly describe any events targeted at rural stakeholders or any consultation engagement you have had with rural stakeholders. Did any other issues come up as a result of the engagement with stakeholders

or any consultation around this proposal? If yes, what were they and how have you modified your proposal to take them into account?

- ◆ *What evidence have you used to inform your assessment, including evidence from rural people or their representatives?*
- ◆ *What other evidence would inform the assessment?*

The majority of the special procedures sector is made up of self employed practitioners and micro businesses. They have been fully engaged with the process of policy formulation to ensure that the proposed licensing schemes addresses the needs and risks associated with this Group.

There are no elements of the proposed licensing scheme for specific special procedures that will impact adversely on practitioners or clients from rural areas, or on rural communities. The licensing scheme proposed will be the same in each local authority in Wales, thereby ensuring a consistency of approach in licensing conditions. Applicants who are successful in obtaining a special procedures licence will be able to practice in their own home local authority, and their licence will be valid throughout the whole of Wales. It is therefore anticipated that this will particularly benefit sole trader practitioners in that they will be able to work in more than one area, should their work be in particular demand. The inclusion in the scheme of licensing of vehicles as if they are a fixed premises and the licensing of time-limited events allows for practitioners to travel to other areas and to take up opportunities that they might otherwise have difficulty accessing.

D. DATA PROTECTION IMPACT ASSESSMENT SCREENING

Please send your assessment to the Information Rights Unit (DataProtectionQueries@gov.wales) copied to your Information Asset Owner.

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| <p>Title of proposal Mandatory Special Procedures Licensing Scheme:</p> <p>a) Mandatory Special Procedures Licensing Scheme application process b) Online central public register c) The retention of client information by practitioners</p> |
| <p>Name of Information Asset Owner</p> <p>(a) and (b) local authorities (c) practitioners</p> |
| <p>PIA reference number (A unique number to identify this PIA such as DivDate or this document's ishare id)</p> |
| <p>Please describe your proposal:</p> <p>(i) If this is a change to an existing system/ project/ process/ policy then please outline the present arrangements (and how personal data is currently processed) and then outline the changes, including whether personal data will now be shared with third parties.</p> <p>(ii) If this is a new system/ project/ process/ policy then please detail how the new system/ project/ process/ policy will work, including how the personal data will be processed and whether the personal data will be shared with 3rd parties.</p> <p>(iii) IMPORTANT - Will the proposal involve the development of new legislation/measures that will require the processing of personal data by Welsh Government or any other parties?</p> <p>(i) Local authorities currently register a range of different cosmetic procedures such as tattooing and ear-piercing establishments (practitioners and premises) on the basis of a one-time application, with basic criteria to allow for the processing of the registration. The registrations granted last indefinitely and the data collected for the application is only updated if for example the business moves to a different premises. These changes are therefore infrequent. In addition to the registration files managed by the licensing team within each local authority, the environmental health teams also hold an inspection database for the purposes of enforcement.</p> <p>(ii) The purpose of the proposed licensing scheme is to ensure a more robust application procedure, a time limited term of licensing, a mechanism through which practitioners and local authorities can vary the terms of a licence and a scheme to keep data current and an enforcement process which is 'fit for purpose'.</p> |

The Welsh Government will not hold any information in respect of any licenced practitioner or approved premises or be party to any of the data collected for the following activities.

(a) Mandatory Special Procedures Licensing Scheme – application process

The proposed licensing scheme for specified special procedure practitioners will require local authorities to receive personal data in relation to applicants. This data will include name and address but will also require applicants to provide proof of ID, residence permit (if applicable), insurance and a basic DBS check. The applicant will also have to have undertaken and passed an approved regulated course in infection prevention and control prior to making an application and provide a certificate of having passed this course. This data will be checked and kept on file by each local authority for at least the duration of the licence applied for 3 years and will be used to determine each applicant's 'fitness' for licensing. All data collected will be held in accordance with local authority data protection policies.

(b) All Wales Online Special Procedures Register

Any applicant who is successful in obtaining a licence will have the details of their licence published in a public facing register covering the whole of Wales, including the name of licensed practitioner and the approved premises, licence ID number, name/address of business, special procedures licensed, date of issue, expiry date and details of any enforcement actions taken under the licence. The register will be available to anyone who wishes to consult it, including other practitioners and members of the public.

One lead authority will establish and maintain the central database that drives the register on an 'all-Wales' basis. The central database will be accessible only by local authority officers to maintain the relevant information on the practitioners they licence. The database will be available for all local authorities to consult for regulatory and enforcement purposes.

Public Health (Wales) Act 2017, Part 4, s75 enables one local authority to act as lead authority to establish and host an all Wales database and requires all other Welsh local authorities to provide data to that local authority, and to contribute towards the maintenance of the database.

(c) Client consultation records

Under the mandatory licensing conditions, practitioners and businesses are required to undertake standardised pre- and post-procedure consultations with customers and to maintain a secure record of client health information for a period of 3 years (duration of the licence). This data will include the name and address of each client, a record of the consultation including any contraindications and the advice given, and details of the procedure performed including product information. The post procedure consultation will include advice on aftercare, likely

healing times and any actions to be taken if the client has concerns. While this will be a new legal requirement, reputable practitioners collect this information securely as a matter of routine and are therefore already aware of their responsibilities under data protection legislation.

Has data protection impact screening or assessment already been carried out?

- Yes: please provide date and outcomes

Privacy Impact Assessments were carried out for the three areas of activity related to the proposed scheme under the Public Health (Wales) Act 2017 bill process. These assessments were made in May 2015. However, the forms are not as extensive as this current form as they were done pre GDPR (2018), and the proposals presented here are now more fully developed.

Does the proposal involve the processing of personal data by Welsh Government or any other parties?

- No: there is no need to complete the remainder of this form. Please return it to DataProtectionQueries@gov.wales, copied to your Information Asset Owner.

The Welsh Government will not collect or have access to the data provided to local authorities as part of the licensing process. The Welsh Government will require anonymised statistical information from local authorities for evaluation purposes. This will include the number of approvals granted, number of enforcement actions taken etc.

- Yes

(a) Local authorities will collect data from applicants for special procedures licences and premises approval certificates as part of the application process, and will process

(b) local authorities will maintain the data of licenced practitioners and premises in a secure database that will also display some of the information in an online public register.

(c) Practitioners will collect details of client consultations as a record of those consultations and will retain them for three years.

Please tick the personal data items that will be processed (this list is not exhaustive):

Personal

Name (a) yes (b) yes (c) yes

Name address (a) yes (b) yes (c) yes

Business address (a) yes (b) yes (c) no

Postcode (a) yes (b) yes (c) yes

Telephone numbers (a) yes (b) no (c) yes

Date of birth (a) yes (b) no (c) yes

Driving licence number (a) if used as proof of ID or vehicle is the subject of the application (b) no (c) no

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| <p>Email address (a) yes (b) yes (c) yes</p> | <p>Passport / ID card number (a) if used as proof of ID (b) no (c) no</p> <p>Photographs / images (which could be used to identify an individual) (a) yes, as part of application as proof of ID and in issue of licence (b) no (c) no</p> <p>Other (please specify) (a) Vehicle registration (if vehicle is subject of licence) (c) details of client consultation, including advice given re special procedure requested</p> |
| <p>Special Category</p> | |
| <p>Racial / ethnic origin (a),(b) and (c): no</p> <p>Political opinions (a),(b) and (c): no</p> <p>Religious / philosophical beliefs (a),(b) and (c): no</p> <p>Trade union membership (a),(b) and (c): no</p> <p>Physical / mental health conditions (a) and (b) – no (c) possibly, if this has any bearing on consultation (practitioners have to record if person is declined for treatment because they are under effect of drink/drugs/mental disturbance).</p> <p>Sexual life (a), (b) and (c): no</p> <p>Sexual orientation (a), (b) and (c): no</p> <p>Criminal & court records (inc. alleged offences) (a) yes – applicants will be DBS checked and are asked to declare certain relevant offences on the application (b) no (c) no</p> | <p>Biometric data e.g. DNA, finger-prints (a), (b) and (c): no</p> |

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| <p>If special category personal data is being processed, is this data being collected mandatorily (i.e. without the data subjects having an option to not provide it)?</p> <ul style="list-style-type: none"> • Yes – please provide details <ul style="list-style-type: none"> (a) All applicants have to provide a valid DBS check and declare any relevant offences as set out on the face of the Act to enable their application to be determined. (b) The data to be recorded in the public online register is also set on the face of the Act but will not include details given on the application form. The secure database accessed only by local authorities may include application data. (c) It is a mandatory licensing condition that practitioners collect and retain details of clients and a record of client consultations for three years, this is in place to protect the health and well-being of the client. • No |
| <p>Do any of the data subjects whose personal data will be processed fall into the following categories?</p> <p>Children (under the age of 12) (a) and (b): no (c) only if they were a client of a licenced practitioner</p> <p>Patients (a), (b) and (c): no</p> <p>Asylum Seekers (a), (b) and (c) - not unless they were making application for a special procedures licence or were a client of any licenced practitioner and they would not be identified as such in either circumstance.</p> <p>Welsh Government employees (a), (b) and (c) - not unless they were making application for a special procedures licence or were a client of any licenced practitioner and they wouldn't necessarily be required to be identified as such in either circumstance.</p> |
| <p>Please give an indication of the scale of the processing (e.g. pan-Wales; targeted group)</p> <p>Details (a) Local authorities will process their own applications and hold the application data locally. Local authorities currently estimate there are approximately 3516 practitioners and 1868 premises that will need to be processed in the first year of the scheme.</p> <p>(b) The details of each special procedures licence issued by each local authority will be entered into the all-Wales database, which will be maintained on behalf of all Welsh local authorities by one lead local authority.</p> <p>(c) Each practitioner will be responsible for holding their own clients' consultation records.</p> |

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| For the personal data being processed, please indicate | |
| Who the data controller is? | <p>Details: (a)- the local authority who receives each application</p> <p>(b)- the local authority who issues each licence and the host authority who maintains the online register</p> <p>(c)– the individual practitioner</p> |
| Any data processors? | <p>Details: (a) - the local authority who processes the application;</p> <p>(b) – the local authority who issues each licence and the host authority who maintains the online register</p> <p>(c) – the practitioner</p> |
| Will the data be shared? | <p>Details:</p> <p>(a) There are two different sets of data. The more in-depth application data will be held by the local authority the applicant has submitted their application to. This data will be processed within the local authority to determine the application, which will include the presentation of the application to a licensing committee.</p> <p>(b) the details of the licence, which includes the name and business contact details of the licensee, the procedures for which they are licenced and the term the licence is valid for will be published by the issuing local authority on a public register. The data will therefore be ‘shared’ with anyone who cares to consult it, including the public. The database that drives the register will be managed by one host local authority on behalf of all 22 local authorities and will need to have data sharing arrangements in place. The secure data held in the database will be available to all</p> |

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| | <p>authorised local authority officers for regulatory and enforcement purposes.</p> <p>(c) Unlikely, practitioners would only need to share the client data they held if asked to do so in an emergency by, say, a medical practitioner.</p> |
| <p>What is the statutory basis for processing the data? NB – GDPR itself does <u>not</u> provide a statutory legal basis to process personal data.</p> <p>Public Health (Wales) Act 2017, Part 4,</p> <p>(a) s62, s66, s69, s70, Schedule 3 (b) s75 (c) s63</p> | |
| <p>Have legal Services confirmed that the basis outlined above provides the necessary statutory gateway for processing (including any proposed sharing)?</p> <ul style="list-style-type: none"> • No | |
| <p>Will the proposal involve new or significantly changed processing of personal data about each individual?</p> <p>(a) and (b) Yes. Local authorities currently licence a range of different procedures on the basis of a one-time application, with a much-reduced criteria. The data collected is not updated. The purpose of the new licensing scheme proposed is to ensure a more robust application procedure, a time limited term of licensing, a mechanism through which practitioners and local authorities can vary the terms of a licence and a scheme of renewal of licences to keep data current. An all-Wales public register will be established based on the licence data, which will enable practitioners to work in more than one area, local authorities to check an individual's licence status, and members of the public to check that a practitioner or premises is licenced. Local authorities already have systems in place for secure data collection and retention as part of other operations.</p> <p>(c) Yes. Practitioners may currently retain client data in relation to procedures that have been performed, but the mandatory licensing criteria will require the data kept to include details of pre-treatment consultation, verification of age for certain procedures, whether a procedure was declined because the client was under the influence of drugs/alcohol/mental disturbance.</p> | |
| <p>Will the personal data be consolidated, linked or matched with data from other sources?</p> <p>(a) Possibly – local authorities might link or match data for investigation or enforcement purposes.</p> | |

(b) Yes (please provide details) the details of each licence issued/varied/revoked/expired will be consolidated into the all-Wales database, which may include linkages if (for example) a licenced business relocates within Wales or to identify suspicious activity (such as multiple applications from the same premises).

(c) No.

Will the personal data be used for automated decision making?

- Yes (please provide details)

(a) No – each application will be determined individually.

(b) The database will only consist of details of licences that have already been determined and granted or refused.

(c) No - it is unlikely practitioners will use client data in this way.

Will the personal data result in systematic monitoring of data subjects?

- Yes (please provide details)

- No

Does the proposal involve new or changed data collection, retention or sharing policies/practices for personal data?

(a) and (b) Yes (please provide details) Local authorities currently register a range of different procedures on the basis of a one-time application, with a much-reduced criteria. The data collected is rarely updated. The purpose of the new licensing scheme proposed is to ensure a more robust application procedure, a time limited term of licensing, a mechanism through which practitioners and local authorities can vary the terms of a licence and a renewal scheme to keep data current. An all-Wales online register will be established based on the licence data, which will enable practitioners to work in more than one area, local authorities to check an individual's licence status, and members of the public to check that a practitioner is licenced. This will be managed by one local authority on behalf of all 22 contributing local authorities, so data sharing agreements will need to be made. The secure data held in the database will be available to all authorised local authority officers for regulatory and enforcement purposes.

(c) Yes – practitioners may currently retain client data but do so without a legal framework with consistent parameters, but the mandatory licensing conditions set specific records that practitioners will need to keep for 3 years.

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| <p>Do you have a clear retention policy and what practical things are in place for you to ensure that your Retention Policy is applied?</p> <ul style="list-style-type: none"> • Yes (please provide details) <p>(a) and (b) No. The retention policy will not be operated by the Welsh Government but will be operated by all Welsh local authorities in the same way. Local authorities have their own retention policies to comply with GDPR requirements specifically for licensing and enforcement.</p> <p>(c) No – the retention policy for client records is set in the Act and not operated by the Welsh Government as it applies to practitioners. Practitioners will be required to adhere to GDPR and retain the records for 3 years (the duration of a licence). Local authorities will monitor whether records are kept by practitioners.</p> |
| <p>Will the proposal involve the introduction of privacy-intrusive technologies such as</p> <ul style="list-style-type: none"> • Smart cards (a), (b) and (c) - no • RFID tags (a), (b) and (c) - no • Biometrics (a), (b) and (c) - no • Visual surveillance (e.g. CCTV) (a), (b) and (c) - no • Digital image and video recording (a) only in that documents used for ID purposes as part of the application process may be copied or scanned as a record. (b) and (c) - No • Profiling, data mining or logging electronic traffic (a), (b) and (c) - no • Locator technologies (e.g. GPS, mobile phone tracking) (a), (b) and (c) - no • Other (please provide details) n/a |
| <p>Will the proposal involve new or changed identity management or authentication processes?</p> <p>(d) Yes (please provide details) (a), (b) and (c) - No</p> |
| <p>Will the proposal have the effect of enabling identification of individuals who were previously anonymous?</p> <p>(e) Yes (please provide details)</p> <p>(a) Yes – applicants will be asked to submit a photo to facilitate photo ID to be used on the issued licence. This will not be published on the public register.</p> <p>(b) and (c) - No</p> |

Please send your assessment to the Information Rights Unit (DataProtectionQueries@gov.wales) copied to your Information Asset Owner.

For completion by Information Rights Unit.

Is a Data Protection Impact Assessment (DPIA) required for this proposal?

- Yes

A DPIA is required when processing is “likely to result in a high risk”. The Article 29 Working Party (WP29) say that the below nine criteria should be considered and meeting two or more of these would require a DPIA to be carried out. The following criteria are met by this proposal:

4. **Sensitive data or data of a highly personal nature.** Met by the potential processing special category data (health data) in relation to the client consultation records part and the highly personal data in the form of alleged offences in relation to the application process for the mandatory licensing scheme.
5. **Data processed on a large scale.** Met due to the potential number of individuals engaged, the range of data items being processed, the duration of the scheme and the geographical extent of the processing.

Furthermore, Article 35(3) of the UK General Data Protection Regulation (UK GDPR) sets out three types of processing which will always require a DPIA. This Regulation will result in the processing of personal data that meets the second type of processing:

- process special category or criminal offence data on a large scale.

As the Welsh Government is introducing Regulations that requires personal data to be processed, the DPIA will show that an individuals’ privacy and human rights have been considered in the formulation of this Regulation. This would provide protection for the Welsh Government should this Regulation be challenged by judicial review.

The DPIA will need to cover all the processing, but key considerations to be addressed are:

1. The necessity of this Regulation. What is the issue that this Regulation is looking to address and why this is the best option?
2. That the personal data processed via this Regulation is proportional to the objective being addressed. HSSG need to be able to demonstrate that the objective cannot be met by less privacy intrusive means.

Either of the attached templates can be used to document the DPIA.



dpia-template.docx



DATA PRIVACY
IMPACT ASSESSMENT

Has advice on UK General Data Protection Regulation (UK GDPR) compliance been provided?

- Yes (as below):

The personal data that will be processed as a result of this proposal will not be undertaken by the Welsh Government but by the relevant Local Authority and practitioner. The UK GDPR puts the onus of compliance on the controller so the relevant Local Authority and practitioner will need to ensure any processing they undertake is compliant with the UK GDPR.

In terms of the development of this Regulation the Welsh Government is required to consult with the ICO under Article 36(4) of the UK GDPR because it is a policy proposal relating to the processing of personal data. Further information on this, including a link to the ICO consultation form to be used can be found on the [“consulting on policy”](#) intranet page.

DATA PRIVACY IMPACT ASSESSMENT

Step one: Identify the need for a PIA

Article 35(3) of the General Data Protection Regulation (GDPR) sets out three types of processing which will always require a Data Privacy Impact Assessment (DPIA). You must do a DPIA if you plan to:

- use systematic and extensive profiling with significant effects;
- process special category or criminal offence data on a large scale; or
- systematically monitor publicly accessible places on a large scale

The ICO's own guidance sets out ten criteria – if your processing meets any one of these then a full DPIA will be required. These criteria are set out in Annex A.

Further, the European Union Article 29 Working Party have set out nine criteria regarding processing personal data. In most cases, a data controller can consider that a processing meeting two criteria would require a DPIA to be carried out. In general, the WP29 considers that the more criteria are met by the processing, the more likely it is to present a high risk to the rights and freedoms of data subjects, and therefore to require a DPIA, regardless of the measures which the controller envisages to adopt.

These criteria are also set out at Annex A. Please list below which criteria are met by this processing and set out a short description/explanation below.

The completion of this DPIA relates the legal obligations on local authorities and special procedures practitioners and businesses set out the Public Health (Wales) Act 2017 ('the 2017 Act'). The 2017 Act predates GDPR, it provides the obligation, vires, and parameters of the mandatory licensing scheme. Where data required is not prescribed by the 2017 Act but is a requirement of the regulations Welsh Government through the consultation process and with full consultation with their designated lawyer will consider and document the necessity and proportionality of any additional data that LAs and practitioners may be asked to collect.

Welsh Government will not hold any information in respect of any licenced practitioner, approved premises, or client, or have access any of the data collected for the licensing scheme, except that published on the public register. This access will be the same as for any member of the public.

Part 4 and Schedule 3 of the 2017 Act set out the requirements for the establishment of a mandatory licensing scheme for special procedures. These are defined in the 2017 Act as acupuncture, body piercing, electrolysis, and tattooing. They are non-surgical aesthetic or therapeutic procedures involving perforation of an individual's tissue, skin or mucous membrane and insertion of needles, jewellery, objects or permanent/semi-permanent ink or pigments. These procedures are therefore capable of causing harm to human health.

The provisions of the Act set out a licensing scheme that protects clients and practitioners from harms to human health, a regulatory framework that enables a more consistent and effective approach to enforcement and provides a level playing field for special procedures practitioners.

All existing practitioners will be expected to apply for licensing under the scheme, and all existing premises will need to be approved. Local authorities estimate there are currently approximately 3516 existing practitioners and 1868 existing premises that are within scope of the new scheme, as well as any new entrants that will need to apply.

Local authority environmental health departments will administer the mandatory licensing scheme for their areas. This will include determining applications, inspecting premises, providing advice, and taking any enforcement action where necessary. The proposed application process will be set out in regulations and require applicants to provide personal information, such as name, address and contact details, but will also require them to declare any convictions for relevant offences and to provide a basic DBS certificate as verification. Statutory and non- statutory guidance will be produced in partnership with local authorities to ensure that all 22 local authorities can fulfil their responsibilities under the Act and regulations. This would include, for example, guidance on contacting their DPO regarding data protection issues and updating their privacy notices and retention schedules in light of the new licensing scheme and register.

All local authorities in Wales have dedicated licensing teams who administer a considerable number of licensing schemes and public registers for a range of business activities that are undertaken in their area. A number of these existing schemes for example the licensing of taxi drivers and scrap metal dealers are similar to the licensing requirements set out in the Act for special procedures. Local authorities therefore have well established, robust processes and procedures in place to process, record and store personal and sensitive data required for running these licensing schemes. They are fully aware of the data protection requirements and their responsibilities under data protection legislation. Local authorities routinely publish their privacy notices, retention schedules and data protection guidance on their websites. This privacy information commonly includes a clear statement on when there is a potential for data to be legitimately shared.

The 2017 Act gives two specific powers to local authorities which are relevant to this DPIA:

- The requirement to maintain and publish a register of licensed practitioners and approved premises
- The requirement, as part of the application process to receive and process personal and sensitive information from an individual applying for either a special procedure licence or premises or vehicle approval certificate.

In addition, the 2017 Act places a legal obligation on special procedures practitioners to:

- undertake a client consultation before and after the procedure has been performed and record client details.

These three legal obligations meet Article 29 Working Party criteria:

Sensitive data or data of a highly personal nature. Met by the potential processing special category data (health data) in relation to the client consultation records part and the highly personal data in the form of alleged offences in relation to the application process for the mandatory licensing scheme.

Data processed on a large scale. Met due to the potential number of individuals engaged, the range of data items being processed, the duration of the scheme and the geographical extent of the processing.

In addition, the requirements of the 2017 Act and associated regulations will result in the processing of personal data that meets the second type of processing:

process special category or criminal offence data on a large scale.

Central Public Register

Section 75 of the 2017 Act places a duty on all Welsh local authorities to maintain and publish a register of all currently valid special procedure licences and premises/vehicle approval certificates. The register will be maintained by all 22 local authorities but managed by one on behalf of the others as this will be a central register. As such all 22 local authorities have agreed to work as one in the development and implementation of this national public register. The result of this is that each local authority will collect and publish the same data. The register allows members of the public to view details of licence holders and approved premises/vehicles in Wales. The purpose was to improve transparency in relation to the practice of special procedures and to provide consumer confidence.

The 2017 Act sets out the information about licences/certificates that the register must contain.

For special procedure licences this includes:

- the name of the licence holder
- the date on which the licence was issued
- the special procedure(s) the licence holder is licensed to perform
- the licence period (three years or the maximum of seven days for temporary licences).

For premises approval certificates this includes:

- the name of the person on whose application the certificate was granted
- the address of the premises at which the performance of the special procedure is authorised
- the special procedure(s) covered by the certificate
- the date on which the certificate was granted

- the duration of the certificate (three years or the maximum of seven days for temporary approvals).

For vehicle approval certificates this includes:

- the name of the person on whose application the certificate was granted
- the registration number of the vehicle
- where a vehicle does not have a registration number, whatever identifying details of the vehicle the authority considers appropriate
- the special procedure(s) covered by the certificate
- the date on which the certificate was granted
- the duration of the certificate (three years or the maximum of seven days for temporary approvals).

The register must record this information as a minimum mandatory requirement. Section 75 (4) also gives local authorities the power to include any other information that they consider appropriate, this forms part of the consultation and may therefore be subject to change but would be confined to that relating to the licence or approval certificate, not the individuals who hold them, such as:

- the licence/certificate ID number
- whether it is a trainee licence
- details of date of inspection (for premises/vehicles)
- any enforcement action taken against the practitioner or the person responsible for a premises/vehicle, to include issue of remedial action notices, stop notices and prosecutions.

As there is one central register hosted by one designated local authority who will be working on behalf of and with the other 21 local authorities, any additional information mentioned above and considered appropriate to collect under section 75 (4) would be a decision agreed by all 22 local authorities. The second consultation which considers the detail of the proposed regulations will inform the necessity and proportionality of any additional data.

Application process

The 2017 Act sets out the requirements of the licensing and approval application process and puts the legal obligation on the local authority to receive and process personal and sensitive information from an individual applying for either a special procedure licence or a premises or vehicle approval certificate. The Act sets out the licensing and approval criteria that must be met on an application by an individual if the licence or approval is to be granted. This includes an individual's eligibility for a licence such as proof of identity, competence, demonstration of infection control and first aid knowledge, indemnity insurance and a declaration of relevant offences, evidenced by submission of a basic DBS check. The detail of the licensing and approval criteria will be set out in the regulations.

The declaration in the application of any convictions for relevant offences is intended to allow local authorities to consider whether individuals who have such convictions are suitable for licensing (because of the nature of the offences). A recent basic DBS check is a proportionate way to have external evidence for verification of what is said on the application form.

Requiring an applicant to declare any relevant offences is a requirement of the 2017 Act and Section 66 requires local authorities to determine the suitability of the applicant in relation to those relevant offences. This is a necessary and proportionate means of public safeguarding as the nature of some of the offences are such that they may call into question the fitness of a person to be licensed for procedures that will require them to be alone with clients. The individual practitioner is safeguarded in that only the offences identified in the Act are to be considered by a local authority for the purposes of determining an application for licensing; each application with relevant offences is to be determined on a case-by-case basis. If a local authority considers, having looked at the nature of the offences and any mitigating circumstances, that an application should be refused, the individual has the right of representation to the licensing committee of the local authority; and there is a right of appeal to the magistrate's court and ultimately Crown Court. Under section 66(11) of the 2017 Act the Welsh Ministers must give guidance to local authorities about matters to be taken into account in deciding whether, and, if so, to what extent, an applicant's fitness to perform a special procedure has been called into question.

The application forms are not mandated in the Act, but a standardised form will be agreed by all 22 local authorities and only require information pertinent to the licensing scheme. Example forms have been produced with local authority officers and form part of the consultation document that is related to this DPIA. The same consultation document also proposes the documentary evidence an applicant should provide to support their application. The content of the application forms reflects the requirements of the 2017 Act and the information collected for other similar local authority led licensing schemes.

Recording of client details by the practitioner

The 2017 Act requires that practitioners record that they have had pre- and post-procedure discussions with each client. This is to ensure that clients are made aware of any risks associated with that procedure and can make an informed choice as to whether they continue with that procedure. After the procedure has taken place, the practitioner has a legal obligation to advise on any aftercare that may be required to prevent infection.

The 2017 Act is very clear on what 'must' and what 'may' be included in the regulations in relation to client consultation. Consultation must include information relating to verification of the client's age, infection control, standards of hygiene and first aid, client consultation before and after the special procedure has been performed, record keeping and prohibition of a special procedure where the client is intoxicated. This may include any health information that has a contraindication for the desired procedure for example for acupuncture, a medical history may be required by the practitioner to inform treatment. It is intended that non-statutory guidance will be produced in consultation with industry that

clearly outlines how practitioners can comply with the new regulations. This will include data protection advice and a link to the [SME Web Hub](#) has guidance on lawful bases, privacy information, keeping data secure, retention and the rights that individuals have in relation to their data.

Most reputable special procedure practitioners already implement these procedures and are familiar with their responsibilities under data protection legislation. Previous industry engagement confirmed that practitioners operate secure systems to protect the confidentiality of their clients and their records. The requirements in the Act merely make this a legal obligation under the licensing scheme and this enables a more consistent approach across Wales. The guidance will seek to endorse a consistent approach for compliance with the requirements of both the licensing scheme and data protection principles.

The following questions are considered below:

1. The necessity of this Regulation. What is the issue that this Regulation is looking to address and why this is the best option?

The introduction of the special procedures licensing scheme is fulfilling the existing legal obligation of Part 4 of the 2017 Act. The requirements of the licensing scheme are thus considered necessary and proportionate. The purpose of the licensing scheme is to protect public health. Adverse health effects associated with special procedures are well documented and continue to be realised. These health impacts are currently exacerbated by an inadequate regulatory framework. The proposed licensing scheme outlined in the 2017 Act addresses these issues by ensuring a more robust application procedure, a time limited term of licensing, a mechanism through which practitioners and local authorities can vary the terms of a licence, a scheme to keep data current and an enforcement process which is fit for purpose. This in turn will drive up standards of infection control and better safeguard the public and practitioners from risk of infection and facilitate a level playing for all special procedure businesses.

The declaration in the application of any convictions for relevant offences is intended to allow local authorities to consider whether individuals who have such convictions are suitable for licensing (because of the nature of the offences). The applicant is asked to provide a recent basic DBS check to support their application – this is because some of the ‘relevant offences’ are such that it is prudent to have external evidence for verification of what is said on the application form.

Concerning client records that practitioners/businesses are required to keep, In the 2017 Act the practitioner is required to record the following data before carrying out a procedure:

- The verification of the age of an individual on whom a special procedure is to be performed
- Infection control, standards of hygiene, and first aid
- Consultation to be carried out before and after a special procedure is performed
- Record keeping

The client records therefore need to record basic information about the client (name, address, contact details), verification of a person's age, a record of the pre-treatment advice given (including advice on any risks the procedure may have or difficulties there may be post-procedure, and in cases where the procedure is on the face, neck or is generally visible, any potential social or employment difficulties the client might encounter in future if they proceed); a record of the aftercare advice given, including steps the client should take to prevent infection (where this is relevant to the procedure).

The records are therefore intended to demonstrate that the practitioner has complied with the requirements of the Act, has advised the client on risks and aftercare, and provides a means by which a client can be contacted by public health professionals if necessary. There have been instances of serious infection associated with poor practice with particular tattooists and body piercers, where environmental health officers have had to trace and contact other clients and further cases of infection identified by these means that have needed treatment.

2. That the personal data processed via this Regulation is proportional to the objective being addressed. HSSG need to be able to demonstrate that the objective cannot be met by less privacy intrusive means.

The processing of the personal data is proportional to the health risks that can and are presented by special procedures. These procedures require close client/practitioner contact, sometimes intimately close and the procedure itself perforation of tissue, skin or mucous membrane and insertion of needles, jewellery, objects or permanent/semi-permanent ink or pigments, can cause harm to human health. Requiring an applicant to declare any relevant offences and provide a recent DBS check as evidence is proportionate from the point of view of public safeguarding as the nature of some of the offences are such that they may call into question the fitness of a person to be licensed for procedures that will require them to be alone with clients. The individual practitioner is safeguarded in that only the offences identified in the Act are to be considered by a local authority for the purposes of determining an application for licensing; each application with relevant offences is to be determined on a case-by-case basis. If a local authority considers, having looked at the nature of the offences and any mitigating circumstances, that an application should be refused, the individual has the right of representation to the licensing committee of the local authority; and there is a right of appeal to the magistrate's court and ultimately Crown Court.

Requiring a record of client information to be kept by practitioners is deemed to be proportionate because:

- Client contact details are required for identification by the practitioner of repeat customers, and to aid public health officers to trace people in case of any outbreaks of infection.
- The purpose of the pre-treatment consultation is to discuss the treatment including any risks to enable the client to make an informed decision on whether to proceed and to assure the practitioner that performing the special procedure will not have a detrimental impact on the client health and well-being. It is also intended to prevent

impulsive decisions by the client that may have permanent effects (such as tattooing) or have unexpected consequences (such as tattoos on the face affecting employability)

- the purpose of the post-treatment advice is to demonstrate that the appropriate advice has been given in relation to any aftercare that the client should undertake to prevent infection (where this is relevant to the treatment) and any follow up actions that may be required.
- The purpose of recording these pre- and post-treatment discussions is to provide information for the practitioner if there is any follow-up required with the client and to demonstrate that the practitioner has complied with the requirements of the Act. This latter will be of most concern to inspecting local authorities who will want to be assured that a practitioner is complying and is therefore not in breach of their licence.
- some procedures (such as tattooing) are age-restricted by law.
- we have proposed in a consultation document associated with this DPIA that all procedures not otherwise prohibited should have parental/guardian consent in writing if the client is under 18. This relates to clinical consent, rather than consent as a lawful basis under the UK GDPR.

The creation of a public register is proportionate in that it provides transparency on the licensing scheme for members of the public and users of these services. The data to be captured within the register's database and displayed on the public portal will only be data that is a legal requirement of the 2017 Act and about each practitioner licence and premises/vehicle approval that each local authority has issued (see above section on Public Register). The data will not be concerned with any personal information about the holder of the licences/approvals that is not displayed on their licence/approval certificate (such as name, business name, business address). Applicants will be made aware of the requirements of the register and the data to be published once they are licensed during the application process. This will enable them to make an informed decision about whether they wish to continue to pursue with their application. The intention is to create an online resource for the public to be able to check the licensing status of any practitioner or premises they wish to use for the four special procedures. This will allow them to make an informed choice about where to take their custom and to provide assurance that the practitioners and premises listed in the register have met a consistent standard for infection prevention and control.

Step two: Describe the information flows

The collection, use and deletion of personal data should be described here. In particular:

- How will the information be collected or transferred to Welsh Government?
- Who will have access the information?
- Where will the information be held?
- What will the information be used for?
- How long will the information be retained?
- How will it be destroyed/deleted?
- Who will be the owner of the information?

- Will the information be shared with anyone? If yes, who?

It may also be useful to refer to a flow diagram or another way of explaining data flows. You should also say how many individuals are likely to be affected by the project.

(a) Mandatory Special Procedures Licensing Scheme – application process

The proposed licensing scheme for specified special procedures will require local authorities to receive personal data pertinent to the licensing requirement of the 2017 Act in relation to applicants. The mandatory scheme will provide licensing of individuals as practitioners and approval of premises or vehicles in which special procedures will be performed. Practitioners may only work from premises or vehicles that have been granted an approval certificate. Practitioners must list all approved premises and vehicles they wish to work from.

Local authorities estimate there are currently approximately 3,516 practitioners and 1,868 premises that will be in scope of the mandatory scheme when commenced. All practitioners and people in control of premises will have to apply for licensing, as there are no prior rights for existing practitioners/premises in the Act.

Documentary evidence to be provided by the applicant

We are proposing in the consultation document related to this DPIA that the following should be provided:

For practitioner licence applications:

- Verification of applicant's name and date of birth. Acceptable proof will be any one of the individual's following documents: passport, driving licence or other appropriate photo ID).
- Verification of applicant's residential address (this may be the same document as given above).
- One full-face passport photograph [this will be included on the licensing certificate/approval certificate].
- Scanned copy of a valid pass certificate of a regulated level 2 Infection Prevention and Control course for special procedures practitioners.
- A completed Infection Prevention and Control (IPC) questionnaire. This form comprises of a small number of questions requesting information on the IPC and first aid practices used by the Special Procedure Practitioner applying for the licence. This is intended to demonstrate that they are able to apply the knowledge from the IPC course to their own working practises.
- Evidence of competence to perform the special procedure(s) for which the application is being made.
- Proof of insurance that covers treatments such as treatment indemnity insurance or similar policy.
- A basic DBS certificate or (in the case of persons from outside the UK who are not eligible for a DBS check) a 'certificate of good character' issued by the country where they previously operated. These certificates should be of no older than 28 days

before the date of the application form. Local authorities collect similar information for comparable schemes under Article 10 of GDPR.

For a premises/vehicle approval certificate

- The floor plan of the premises/vehicle. This should be an annotated drawing of all of the rooms that form part of the special procedures business and are part of the application.
- Basic DBS certificate for the person or persons named as in control of the premises (if this is not the applicant) on the application form. If the person is from outside the UK and is not eligible for a DBS check, a 'certificate of good character' issued by the country where they previously operated. These certificates should be of no older than 28 days before the date of the application form.
- Proof of successful completion of an approved regulated level 2 award in Infection Prevention and Control for special procedures qualification.
- Proof of suitable insurance that provides cover for treatments (Premises Liability Insurance and/or treatment Indemnity insurance or similar cover).
- (in applications in relation to a vehicle) current MOT certificate and proof of registered keeper.

All information collected by the local authority as part of the application process will be received, processed, and held in accordance with established local authority data protection policies which will be updated to incorporate the requirements of this particular licensing scheme. The receiving local authority will check the information given by the applicant for the purposes of determining the application and will keep this for at least the duration of the practitioner licence/approval certificate applied for (three years). It is anticipated that all local authorities will consult with their DPO regarding the retention of personal data as it is acknowledged that keeping personal data longer than is necessary could be in breach of the data protection principles. The DBS check certificate will be used to verify any information given on the application form about relevant offences that a local authority must consider to determine each application.

Sensitive information to be collected and verified: criminal convictions for 'relevant offences'

The 'relevant offences' are set on the face of the Act (Section 66) and relate to convictions that have been received against the applicant:

(8) For the purposes of this Part, each of the following is a relevant offence—

(a) an offence under this Part or under Part 5 (intimate piercing);

(b) an offence (whether under the law of England and Wales or elsewhere) that—

(i) involves violence,

(i i) is of a sexual nature, or relates to sexual material or images,

(iii) consists of tattooing a child under the age of 18,

(iv)relates to health and safety at work, or

(v)consists of a failure to comply with a requirement of a scheme for licensing or otherwise permitting or regulating the performance of an activity which is a special procedure for the purposes of this Act.

(9) But a conviction for a relevant offence is to be disregarded for the purposes of this Part if it is spent for the purposes of the Rehabilitation of Offenders Act 1974 (c.53).

The reason for this requirement and for collecting the sensitive data is to ensure that it is appropriate for an applicant to be licensed to perform the special procedures that are the subject of their application. The overall intention is for the protection of the public who may be clients of the applicant, as the nature of the special procedures are that clients will most likely be alone in treatment rooms with practitioners and may be in a state of undress while the procedure is performed. Local authorities will be expected to determine applications where there are relevant offences on a case-by-case basis, and will have discretion in this regard as follows:

66 Discretion to grant application for special procedure licence

(1)The requirement to issue a special procedure licence in section 65(3) does not apply in the case of an applicant who has been convicted of a relevant offence.

(2)For the purpose of determining whether an applicant has been convicted of a relevant offence, a conviction is to be taken to include a conviction by or before a court outside England and Wales; and references in this Part to a conviction, or to a person's having been convicted of an offence, are to be interpreted accordingly.

(3)If the local authority is satisfied as described in section 65(3) in respect of an application, **but the applicant has been convicted of a relevant offence, the authority must decide whether the applicant's fitness to perform a procedure to which the application relates has been called into question to such an extent that it would be inappropriate to issue the licence in respect of the performance of that procedure.**

(4)In reaching its decision, the authority must have regard to—

(a)the nature and circumstances of the offence, and

(b)guidance issued by the Welsh Ministers under subsection (11).

(5)If the local authority decides that the applicant's fitness has not been called into question as described in subsection (3) in respect of the performance of a procedure specified in the application, it must issue the licence in respect of the performance of that procedure.

The applicant may make representations to the local authority's licensing committee if there is any doubt about a relevant offence and a local authority considers the application should be refused. Should the application be refused after the licensing committee has considered the case, the applicant has the right of appeal to the magistrate's court. As this

is a clear legal requirement it is considered necessary and proportionate. Further, this process mirrors that of other well established licensing schemes adhering to the data protection principles currently operated by local authorities.

The Act does not require local authorities to consider relevant offences when determining applications for premises/vehicles. However, we have proposed in the consultation document related to this DPIA that the requirement should be extended to the applicant for a premises/vehicle approval certificate and to any persons in control of the premises/vehicle (if that is a different person). This is because it is reasonable to assume that if a person is in a premises to be in control of it (for example as a manager), they will have the opportunity to gain access to clients and should therefore be subject to the same checks as a practitioner.

Statutory Guidance

It will be noted from the above that the Welsh Ministers have a duty to provide statutory guidance to local authorities:

11)The Welsh Ministers must give guidance to local authorities about matters to be taken into account in deciding whether, and, if so, to what extent, an applicant's fitness to perform a special procedure has been called into question.

This statutory guidance will include how any information included by the applicant on their application form or within their documentary evidence should be interpreted to determine an application. This will include discussion of the 'relevant offences' and, where there is evidence of such offences in an application, how the information should be used to make decisions on the applicant's fitness to perform a special procedure and therefore granted a licence. It will be clear that such determinations should be made on a case-by-case basis, and will need to take into account the whole range of evidence presented by an application, including the offence(s) themselves, length of time elapsed since the offence(s) etc. The draft statutory guidance will be published for consultation along with the draft regulations later in 2023.

- How will the information be collected or transferred to Welsh Government?

N/A

- Who will have access to the information?

The recipient local authority which determines each application. This will include environmental health and licensing staff who process and check the information presented by the applicant and may include members of the licensing committee if an applicant intends to make representations.

- Where will the information be held?

The information will be held by the recipient local authority in its secure electronic systems.

- What will the information be used for?

To determine an application and to fulfil the statutory requirement of verification of whether an applicant has 'relevant offences' that must be taken into consideration when determining an application.

- How long will the information be retained?

For the duration of the validity of any licence that is granted, the standard licence and premises/vehicle approval certificate being valid for 3 years.

- How will it be destroyed/deleted?

According to the data protection policy and procedures operated by each local authority.

- Who will be the owner of the information?

The recipient local authority.

- Will the information be shared with anyone? If yes, who?

The data may be shared with other local authorities for the purposes of enforcement, to prevent illegal activity (for example, multiple applications from the same person under different names when they have been refused a licence because of relevant offences) and to investigate cases and outbreaks of communicable disease associated with practitioners. As part of the preparations to introduce this licensing scheme guidance will be provided to local authorities on all matters relevant to the principles of data protection including data sharing.

(b) Central Public Register

Any applicant who is successful in obtaining a licence or approval certificate will have the details of their licence/certificate published in a public register covering the whole of Wales. The register will be online and available to anyone who wishes to consult it, including other practitioners and members of the public. The purpose of this register is to allow members of the public to check that their selected practitioner and/or premises/vehicle is appropriately licensed and approved before they undertake a procedure, or to help them select a practitioner and/or premises/vehicle. The information presented on this register is set out on the face of the Act (and previously outlined on pages 3 and 4) and mirrors that printed on the practitioner licence and premises/vehicle approval certificates (other than the photograph of the licence/certificate holder).

We have proposed in the consultation document related to this DPIA that the premises/vehicle approval certificate should also include the name of the person in control of the premises/vehicle and the maximum number of practitioners the premises/vehicle is licensed for. This is because we consider it proportionate to demonstrate this information to the public.

The public register will be driven by a database that will contain all the information that is provided by the local authorities who issue the licences/certificates. This secure database will therefore consist of the public facing register which has information limited to the details of each live licence/certificate, and the area of the database which will be accessible only by local authority officers to maintain the relevant information on the practitioners, premises and vehicles they licence. The database will be available for all local authorities to consult for regulatory and enforcement purposes. The IT company that has been commissioned by Monmouthshire County Council is fully aware of their responsibilities under GDPR and will be designing and building the database based on the data protection principles and with consultation with their DPO. They have confirmed that they will do their own data impact assessments with the commissioning local authorities to ensure it is compliant to public authority standards.

Local authorities have a power within section 75(4) of the 2017 Act to collect other information in the register. Any such information must be agreed for the whole of Wales by all 22 local authorities for consistency. We have proposed in the consultation document that any additional information to be collected will be necessary and proportionate to the requirements of the Act and therefore be limited to information about the licences/practitioners, we anticipate that this may include the following:

- the licence/certificate ID number [each will have a unique serial number],
- whether it is a trainee licence,
- details of date of inspection (for premises/vehicles) and
- any enforcement action taken against the practitioner or the person responsible for a premises/vehicle in relation to breaches of the terms of their licence/certificate, to include issue of remedial action notices, stop notices and prosecutions.

The purpose of all of these is to provide transparency for members of the public. Details of any enforcement action such as the legal notices will be a matter of public record.

We have also proposed that the data collected on licences/certificates will be anonymised and reported to the Welsh Government for monitoring purposes and to include:

- Number of practitioner licences approved by special procedure (three-year and not more than seven days)
- Number of premises/vehicle approval certificates approved (three-year and not more than seven days)
- Number of variations and renewals processed
- Number of remedial action notices issued
- Number of stop notices issued
- Number of revocations processed
- Number of reactive and proactive visits made to practitioners and premises/vehicles.

The purpose of collecting this data will be to provide statistics to enable local authorities and Welsh Government officials to monitor activity across the scheme as a whole and to evaluate the scheme's efficacy, particularly whether enforcement tools are effective in identifying and eradicating poor practice and illegal activity.

- How will the information be collected or transferred to Welsh Government?

The information contained in the database that drives the register will not be collected by or transferred to the Welsh Government. The anonymised numerical statistics as outlined in the explanatory section above will be submitted to the Welsh Government for monitoring purposes, using reports generated from the database, and by local authorities (where the register does not capture activities such as number of visits made to premises). Individuals will not be identifiable from these statistical returns. Local authorities might notify the Welsh Government with the details of any enforcement actions they have taken, but these will either be a matter of public record or redacted to remove any identifying information.

- Who will have access to the information?

Local authorities will have access to the database that drives the register, as they will all be contributing local authorities. One local authority has agreed to be the host of the database as a whole and to be the main administrative manager for it. The online register will be available to anyone who wishes to consult it.

- Where will the information be held?

In a secure database hosted by Monmouthshire County Council.

- What will the information be used for?

To provide information in a public register to inform members of the public as to which practitioners and premises/vehicles have been licensed. The overall aim is to enable members of the public to check the register for the licensing status of the practitioner/business they wish to use for any of the four named special procedures.

As practitioner licences will be valid for the whole of Wales, the contributing local authorities may consult the secure database that drives the register to check on the licensing status of practitioners who are not normally resident in their authority, or when pursuing other enforcement activities. The database may be used to link individual practitioners or premises in investigations of outbreaks.

- How long will the information be retained?

For the duration of the validity of each practitioner licence/premises or vehicle approval certificate (three years is the standard duration unless revoked). The information may be

retained for a further year after expiry in the database (but not displayed on the public register), as outlined in the section about applicant information. The holder of each licence/approval has to apply for renewal every three years, so if a renewal is granted, the register will be updated with the new licence/approval details. As part of GDPR compliance local authorities produce and adhere to retention schedules and privacy notices.

There is provision within the Act for temporary practitioner licences and premises/vehicle certificates that are not to exceed seven days duration. These are intended largely to accommodate visiting practitioners and temporary events. Because of their limited duration, consideration is currently being given as to how these are displayed on the public register, as only licences/certificates that are currently in force may appear on the register (and must be removed on expiry).

- How will it be destroyed/deleted?

The IT company building the database and register will consider how expired licences/certificates will be removed from display on the public part of the register. Data that has expired will be deleted from the local authority systems in accordance with the local authority's data retention and deletion policy and procedures.

- Who will be the owner of the information?

Each contributing local authority will be responsible for the upkeep of the data on the licences/certificates they issue. Each local authority will therefore be the 'owner'. One local authority has agreed to host the database and register on behalf of all 22 local authorities and will be the overall manager.

- Will the information be shared with anyone? If yes, who?

The public part of the register will be accessible by anyone who wishes to consult it. The information in the secure database that drives the register will only be accessible to the 22 contributing local authorities and may be shared for enforcement purposes in accordance with their own privacy notices. The Welsh Government may require reports of anonymised data derived from the database on licences/approvals issued for evaluation and monitoring purposes.

(c) Client consultation records

Most special procedures practitioners are either self-employed, or micro businesses and it is likely that many of these individuals may not be fully aware of all their responsibilities under data protection law. The guidance that will be produced to support practitioners in complying with the requirements of the licensing scheme will also include guidance on their responsibilities in relation to data protection. In particular, matters relating to privacy, data security and sharing, retention and the rights that individuals have in relation to their data. Resources like the [SME Web Hub](#) will be utilised.

Under the proposed mandatory licensing conditions, practitioners and businesses will be required under the 2017 Act to undertake standardised pre- and post-procedure consultations with customers and to maintain a secure record of client information for a period of three years (the duration of the licence). This data will include the name and address of each client, a record of the consultation including any contraindications and risks involved, the advice given, and details of the procedure performed including details of any products used. For acupuncture, a medical history of the client may be taken. The post procedure consultation will include advice on aftercare, likely healing times and any actions to be taken if the client has concerns. While this will be a new legal requirement, reputable practitioners collect this information securely as a matter of routine and are therefore already aware of their responsibilities under data protection legislation.

Some procedures are age-restricted by law (tattooing and intimate piercing), and for those procedures the client is asked for proof of age. We have proposed that for some procedures that are not otherwise age-restricted, a person under the age of 18 must have the consent of a parent/guardian, that person to be present at the consultation and treatment. Where this is required, the practitioner is required to obtain the consent of both the client and the parent/guardian in writing. A record of these checks will therefore need to be kept.

- How will the information be collected or transferred to Welsh Government?

None of this information will be collected by or transferred to the Welsh Government.

- Who will have access to the information?

Only the practitioner(s) who have created each client record, and any person within their business who needs to have access to the records for administrative or treatment purposes. In certain circumstances, local authority environmental health officers may need to have access to these records in cases of outbreaks of infection to trace people who may be at risk.

- Where will the information be held?

It will be held by each practitioner/business who has collected the information.

- What will the information be used for?

It will be used to inform any follow up discussions that may be required by each client, and for tracing purposes by local authorities in the eventuality of any public health related issues (for example an outbreak of infection attributable to a particular premises). The information on each client could conceivably be used by the practitioner as evidence in cases of legal dispute with a client. Inspecting environmental health officers may also check information held to ensure the practitioner/business is complying with the record-keeping requirements of the 2017 Act.

- How long will the information be retained?

For the duration of the licence issued (three years) or longer if the licence is renewed.

- How will it be destroyed/deleted?

This will be dependent on how the information is kept by the practitioner/business (i.e. in paper copy or electronically).

- Who will be the owner of the information?

The practitioner/business who created each record.

- Will the information be shared with anyone? If yes, who?

It may be shared with other practitioners within the same business if different ones see the same individual at different times. Local authority environmental health officers may ask for client information to be shared for tracing and contact purposes in cases of outbreaks attributable to a particular premises or other similar public health investigation or enforcement activities, or to make spot checks on record keeping as part of routine inspections.

Step three: identify the privacy and related corporate/organisational risks

Identify the key privacy risks and the associated compliance and corporate risks. Larger-scale PIAs might record this information on a more formal risk register. Examples of such risks would be:

Individuals:

- Inadequate disclosure controls that increase the likelihood of information being shared inappropriately.
- The context in which information is used or disclosed can change over time, leading to it being used for different purposes without people's knowledge.
- New surveillance methods may be an unjustified intrusion on their privacy.
- Measures taken against individuals as a result of collecting information about them might be seen as intrusive.
- The sharing and merging of datasets can allow organisations to collect a much wider set of information than individuals might expect.

- Identifiers might be collected and linked which prevent people from using a service anonymously.
- Vulnerable people may be particularly concerned about the risks of identification or the disclosure of information.
- Collecting information and linking identifiers might mean that an organisation is no longer using information which is safely anonymised.
- Information which is collected and stored unnecessarily, or is not properly managed so that duplicate records are created, presents a greater security risk.
- If a retention period is not established information might be used for longer than necessary.

Applicant information and licensing information for the public register and database:

The 2017 Act sets out the powers of local authorities in relation to this licensing scheme and in implementing these powers the local authorities is fulfilling its statutory duty under the Act. Local authorities are wholly responsible for the collection of data from the individual and the secure retention of that data. They are subject to GDPR and currently manage licensing schemes that require the collection and checking of sensitive data, and the appropriate management of data, including retention and destruction. Local authorities may have cause to share applicant datasets for enforcement and public health purposes. The potential for data to be shared will be made clear in local authority privacy information provided to data subjects (whether that is the license holder or the client seeking the procedure). The [data sharing Hub](#) will be a useful resource to link to in our guidance.

The separate database that will drive the public register will consist of one database that will be accessed by all local authorities to upload data.

Client Records:

The 2017 Act sets out the responsibilities of practitioners and businesses. The individual practitioner/business is responsible for the collection and secure retention of client information. They are familiar with these processes and fully aware of their responsibilities under GDPR. The practitioner/business owner would deal directly with any concerns that clients have with this regard. To note our comments made above in relation to the provision of guidance for practitioners.

Corporate:

- Non-compliance with the data protection legislation can lead to sanctions, fines and reputational damage.

- Problems which are only identified after the project has launched are more likely to require expensive fixes.
- The use of biometric information or potentially intrusive tracking technologies may cause increased concern and cause people to avoid engaging with the organisation.
- Information which is collected and stored unnecessarily, or is not properly managed so that duplicate records are created, is less useful to the business.
- Public distrust about how information is used can damage an organisation's reputation and lead to loss of business.
- Data losses which damage individuals could lead to claims for compensation.

Applicant information and licensing information for the public register and database:

Local authorities will have the responsibility for adherence to all relevant data collection and storage legislation. They are subject to GDPR and have their own policies to mitigate against corporate risk. No biometric or intrusive tracking technologies are required by the mandatory licensing scheme.

Client Records:

The individual practitioner/business will have the responsibility for adherence to all relevant data collection and storage legislation. Reputable practitioners/businesses are already complying with these requirements. Non-statutory guidance will be produced for practitioners/businesses which will include the standards for secure record keeping that are expected to be met.

Compliance

- Non-compliance with the Privacy and Electronic Communications Regulations (PECR).
- Non-compliance with sector specific legislation or standards.
- Non-compliance with human rights legislation.
- Non-compliance with the GDPR. Please see the further information about the GDPR in Annex B

It would be useful to highlight the issues and risks in the below table below.

Applicant information and licensing information for the public register and database:

All local authorities have the requirement to adhere to GDPR in collecting and retaining information from members of the public. All local authorities publish privacy notices in relation to comparable licensing schemes that they operate and it is anticipated that they will do the same for this licensing scheme when it is commenced.

Client records:

Existing responsible practitioners and businesses will already be collecting and retaining client data and will be aware of their responsibilities under GDPR.

Step four: Identify privacy solutions

Describe the actions you could take to reduce the risks, and any future steps which would be necessary. There are many steps you can take to reduce a privacy risk. Some of the more likely measures include:

- Deciding not to collect or store particular types of personal data.
- Devising retention periods which only keep information for as long as necessary and planning secure destruction of information.
- Implementing appropriate technological security measures.
- Ensuring that staff are properly trained and are aware of potential privacy risks.
- Developing ways to safely anonymise the information when it is possible to do so.
- Producing guidance for staff on how to use new systems and how to share data if appropriate.
- Using systems which allow individuals to access their information more easily and make it simpler to respond to subject access requests.
- Taking steps to ensure that individuals are fully aware of how their information is used and can contact the organisation for assistance if necessary.
- Selecting data processors who will provide a greater degree of security and ensuring that agreements are in place to protect the information which is processed on an organisation's behalf.
- Producing data sharing agreements which make clear what information will be shared, how it will be shared and who it will be shared with.
- Consulting with any affected parties both internally and externally. Consultation can be used at any stage of the PIA process.

Applicant information and licensing information for the public register and database:

Much of the data that is required to be collected (including the information on a person's convictions for relevant offences) is set in Primary legislation – the 2017 Act. Data security, and management of data is the responsibility of the recipient local authorities

have experience of managing data collected under a range of different schemes and are bound by GDPR requirements and their own internal policies.

Client records:

The data that is required to be collected (including the information on a person's convictions for relevant offences) is set in the Primary legislation – the 2017 Act. Data security, and management of data is the responsibility of the recipient practitioner/business who are aware of their responsibilities under GDPR.

Consultation requirements

Explain what practical steps you will take to ensure that you identify and address privacy risks. Who should be consulted, internally and externally? How will you carry out the consultation?

The requirements of the scheme will be subject to a public consultation (of which this DPIA forms a part of the documentation). Some aspects of the data to be provided (such as the relevant convictions) are set in primary legislation for legitimate public protection reasons so are not subject for further debate, as the reasons behind them have already been tested through a previous long consultative and legislative process. Responses received to the consultation will however be used to inform the regulations to be made to set out the operational requirements of the scheme. We anticipate that the consultation will have two main audiences, local authority officers and individual practitioners of the special procedures.

A second consultation will be run on the regulations themselves and the statutory guidance for local authorities later in 2023.

Step five: Sign off and record the PIA outcomes

Have the risks been eliminated, reduced or accepted? Who has approved the privacy risks involved in the project? What solutions need to be implemented?

The privacy risks potentially associated with the legal obligations of the 2017 Act for; local authorities to publish and maintain a central register; for personal and sensitive information to be submitted to the local authority as part of the special procedures licensing scheme and for practitioners to record client's information are considered to be necessary and proportionate to mitigate the health risks presented by special procedure practices. The specific legal requirements of this licensing scheme reflect comparable licensing schemes already operated by local authorities who apply proportionate control measures to comply with their GDPR obligations.

Individual practitioners/premises operators are responsible for collecting and securely storing client information, reputable practitioners already operate comparable systems and are familiar with their GDPR obligations

Step six: Integrate the PIA outcomes back into the project Plan

Who is responsible for integrating the PIA outcomes back into the project plan and updating any project management paperwork?

Who is responsible for implementing the solutions that have been approved? Who is the contact for any privacy concerns which may arise in the future?

N/A

Annex A – CRITERIA FOR CARRYING OUT A MANDATORY DPIA.

GDPR ARTICLE 35(3)

3. A data protection impact assessment referred to in paragraph 1 shall in particular be required in the case of:

(a) a systematic and extensive evaluation of personal aspects relating to natural persons which is based on automated processing, including profiling, and on which decisions are based that produce legal effects concerning the natural person or similarly significantly affect the natural person;

(b) processing on a large scale of special categories of data referred to in Article 9(1), or of personal data relating to criminal convictions and offences referred to in Article 10; or

(c) a systematic monitoring of a publicly accessible area on a large scale.

INFORMATION COMMISSIONER'S GUIDANCE

A full DPIA will be required if your processing involves any of the below:

- using new technologies;
- using profiling or special category data to decide on access to services;
- profiling individuals on a large scale;
- processing biometric data;
- processing genetic data;
- matching data or combine datasets from different sources;
- collecting personal data from a source other than the individual without providing them with a privacy notice ('invisible processing');
- tracking individuals' location or behaviour;
- profiling children or target marketing or online services at them; or
- processing data that might endanger the individual's physical health or safety in the event of a security breach.

ARTICLE 29 WORKING PARTY CRITERIA

If your processing involves any two of the below criteria then a full DPIA will be required.

1. **Evaluation or scoring, including profiling and predicting.** Especially from “aspects concerning the data subject's performance at work, economic situation, health, personal preferences or interests, reliability or behaviour, location or movements”. Examples of this could include a financial institution that screens its customers against a credit reference database or against an anti-money laundering and counter-terrorist financing (AML/CTF) or fraud database, or a biotechnology company offering genetic tests directly to consumers in order to assess and predict the disease/health risks, or a company building behavioural or marketing profiles based on usage or navigation on its website.
2. **Automated-decision making** with legal or similar significant effect. For example, processing that may lead to the exclusion or discrimination against individuals.
3. **Systematic monitoring:** processing used to observe, monitor or control data subjects, including data collected through networks or “a systematic monitoring of a publicly accessible area”. This type of monitoring is a criterion because the personal data may be collected in circumstances where data subjects may not be aware of who is collecting their data and how they will be used. Additionally, it may be impossible for individuals to avoid being subject to such processing in public (or publicly accessible) space(s).
4. **Sensitive data or data of a highly personal nature:** this includes special categories of personal data as defined in Article 9 (for example information about individuals' political opinions), as well as personal data relating to criminal convictions or offences as defined in Article 10. Beyond these provisions of the GDPR, some categories of data can be considered as increasing the possible risk to the rights and freedoms of individuals because they are linked to household and private activities (such as electronic communications whose confidentiality should be protected), or because they impact the exercise of a fundamental right (such as location data whose collection questions the freedom of movement) or because their violation clearly involves serious impacts in the data subject's daily life (such as financial data that might be used for payment fraud). In this regard, whether the data has already been made publicly available by the data subject or by third parties may be relevant. The fact that personal data is publicly available may be considered as a factor in the assessment if the data was expected to be further used for certain purposes. This criterion may also include data such as personal documents, emails, diaries, notes from e-readers equipped with note-taking features, and very personal information contained in life-logging applications.

5. **Data processed on a large scale:** the GDPR does not define what constitutes large-scale, though WP29 recommends that the following factors, in particular, be considered when determining whether the processing is carried out on a large scale¹⁶:
 - a. the number of data subjects concerned, either as a specific number or as a proportion of the relevant population;
 - b. the volume of data and/or the range of different data items being processed;
 - c. the duration, or permanence, of the data processing activity;
 - d. the geographical extent of the processing activity.
6. **Matching or combining datasets.** For example originating from two or more data processing operations performed for different purposes and/or by different data controllers in a way that would exceed the reasonable expectations of the data subject.
7. **Data concerning vulnerable data subjects.** The processing of this type of data is a criterion because of the increased power imbalance between the data subjects and the data controller, meaning the individuals may be unable to easily consent to, or oppose, the processing of their data, or exercise their rights. Vulnerable data subjects may include children (they can be considered as not able to knowingly and thoughtfully oppose or consent to the processing of their data), employees, more vulnerable segments of the population requiring special protection (mentally ill persons, asylum seekers, or the elderly, patients, etc.), and in any case where an imbalance in the relationship between the position of the data subject and the controller can be identified.
8. **Innovative use or applying new technological or organisational solutions.** Such as combining use of finger print and face recognition for improved physical access control, etc. The GDPR makes it clear that the use of a new technology, defined in “accordance with the achieved state of technological knowledge” can trigger the need to carry out a DPIA.
9. **When the processing in itself “prevents data subjects from exercising a right or using a service or a contract”.** This includes processing operations that aims at allowing, modifying or refusing data subjects’ access to a service or entry into a contract. An example of this is where a bank screens its customers against a credit reference database in order to decide whether to offer them a loan.

As a matter of good practice, a DPIA should be continuously reviewed and regularly re-assessed. Therefore, even if a DPIA is not required on 25 May 2018, it will be necessary, at the appropriate time, for the controller to conduct such a DPIA as part of its general accountability obligations.

Annex B - The General Data Protection Regulation

Answering these questions during the PIA process will help you to identify where there is a risk that the project will fail to comply with the GDPR or other relevant legislation, for example the Human Rights Act. To comply with the GDPR, personal data must be:

- 1. Processed lawfully, fairly and in a transparent manner in relation to the data subject.**
 - Have you identified the purpose of the project?
 - How will individuals be told about the use of their personal data?
 - Have you established which conditions for processing apply?
 - If you are relying on consent to process personal data, how will this be collected and what will you do if it is withheld or withdrawn?
 - Will your actions interfere with the right to privacy under Article 8 of the European Convention on Human Rights?
 - Have you identified the social need and aims of the project?
 - Are your actions a proportionate response to the social need?

- 2. Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes.**
 - Does your project plan cover all of the purposes for processing personal data?
 - Is there a potential for new purposes to be identified as the scope of the project expands?

- 3. Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.**
 - Is the personal data you are using of the minimum you need for the aims of the project?
 - Which personal data could you not use, without compromising the needs of the project?

- 4. Accurate and, where necessary, kept up to date.**
 - How are you ensuring that personal data obtained from individuals or other organisations is accurate and are you able to amend the data if required?

- 5. Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed.**

- Have you identified the retention period for the personal data you will be processing?
- Are you easily able to delete information in line with your retention periods?

6. Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

- Do your processes have adequate protection against the security risks you have identified?

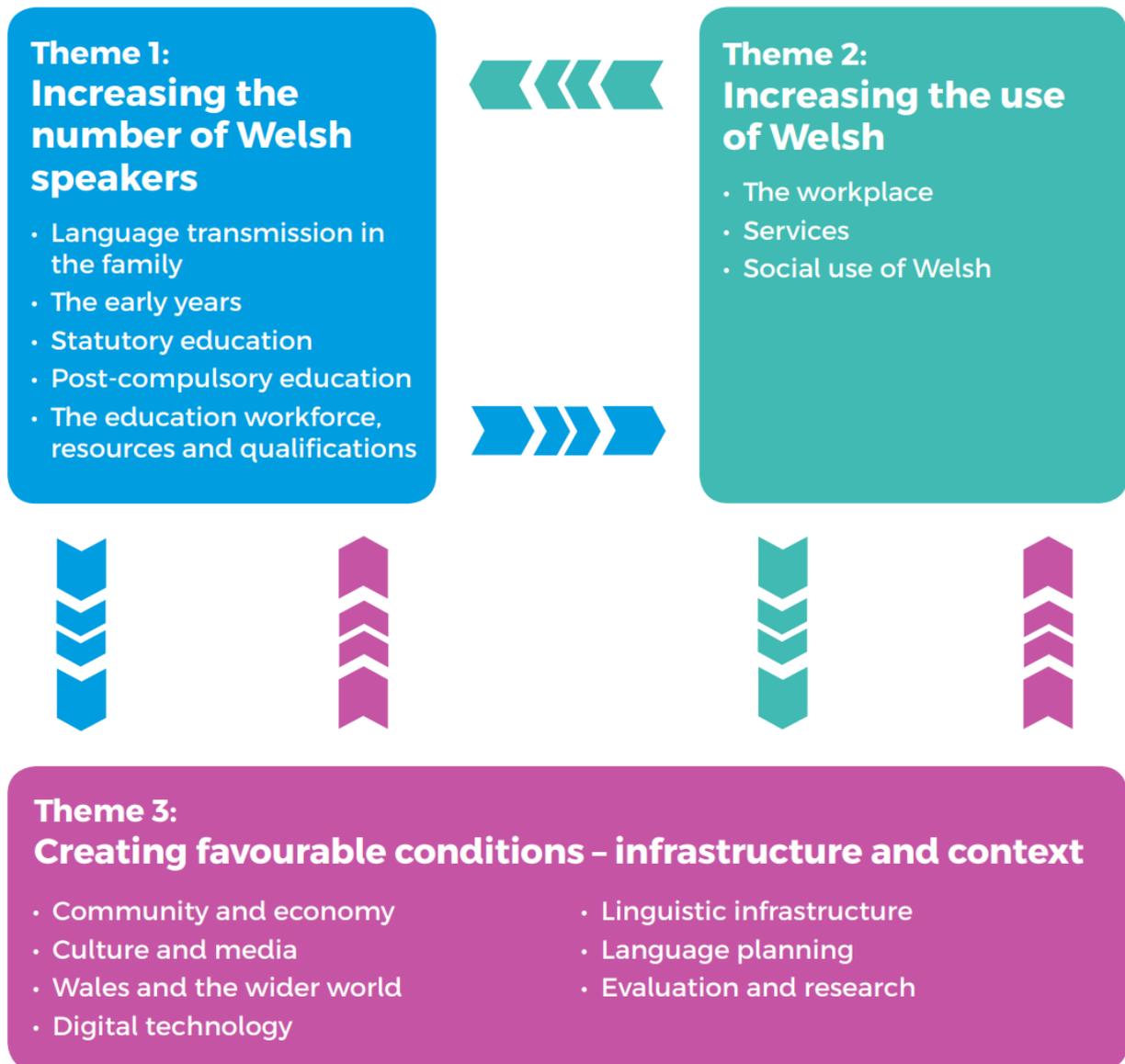
E. WELSH LANGUAGE IMPACT ASSESSMENT

Cymraeg 2050 is our national strategy for increasing the number of Welsh speakers to a million by 2050.

The Welsh Government is fully committed to the new strategy, with the target of a million speakers included in its Programme for Government. A thriving Welsh language is also included in one of the 7 well-being goals in the Well-being of Future Generations (Wales) Act 2015.

We also have a statutory obligation to fully consider the effects of our work on the Welsh Language. This means that any Welsh Government policy should consider how our policies affect the language and those who speak it.

The [Cymraeg 2050 strategy](#) has three interrelated themes:



The headings under each theme outline the scope of activities that can affect the language.

As a general rule, if your policy has the potential to impact on people, it will impact in some way on Welsh speakers and therefore on the Welsh language.

1. Welsh Language Impact Assessment reference number (completed by the Welsh Language Standards Team, email: Safonau.Standards@gov.wales):

03/11/2022

2. Does the proposal demonstrate a clear link with the Welsh Government’s strategy for the Welsh language? – *Cymraeg 2050 A million Welsh speakers* and the related Work Programme for 2017-2021?

The mandatory scheme does provide an additional opportunity to use Welsh. All local authorities are required to comply with the Welsh language standards and will be expected to provide application materials in Welsh and English, and to process them equally. The compulsory pre-application infection prevention and control course will be provided in Welsh and English. The special practitioners licence and the premises/vehicle approval certificates will be bilingual, and the all-Wales special procedures register will also be available in both languages. Applicants for licences and users of the database will therefore be able to operate in their language of choice which links to and supports the aims of Theme 3 of Cymraeg 2050.

3. Describe and explain the impact of the proposal on the Welsh language, and explain how you will address these impacts in order to improve outcomes for the Welsh language. How will the proposal affect Welsh speakers of all ages (both positive and/or adverse effects)? You should note your responses to the following in your answer to this question, along with any other relevant information:

It is not anticipated that the proposal will impact adversely on the Welsh language. The proposed licensing scheme for special procedures licences will contribute to increasing the availability and use of services in Welsh in-line with Cymraeg 2050. Local authorities will provide all application materials and process those applications in the applicant's language of choice. This includes running the required infection control course through the medium of Welsh as well as English.

- ◆ How will the proposal affect the sustainability of Welsh speaking communities⁷ (both positive and/or adverse effects)?
- ◆ How will the proposal affect Welsh medium education and Welsh learners of all ages, including adults (both positive and/or adverse effects)?
- ◆ How will the proposal affect services⁸ available in Welsh (both positive and/or adverse effects)? (e.g. health and social services, transport, housing, digital, youth, infrastructure, environment, local government etc.)
- ◆ How will you ensure that people know about services that are available in Welsh and are able to access and use them as easily as they can in English? What evidence / data have you used to inform your assessment, including evidence from Welsh speakers or Welsh language interest groups?

⁷ These can be close-knit rural communities, dispersed social networks in urban settings, and in virtual communities reaching across geographical spaces.

⁸ The Welsh Language Strategy aims to increase the range of services offered to Welsh speakers, and to see an increase in use of Welsh-language services.

- ◆ What other evidence would help you to conduct a better assessment?
- ◆ How will you know if your policy is a success?

The proposed licensing scheme will apply to all communities, so there is a neutral impact on Welsh speaking communities as such. It is a mechanism for the processing of applications in a thorough and consistent way in all local authorities, ensuring that applicants can demonstrate an appropriate competence in infection prevention and control, and that members of the public can be assured that their practitioner of choice has been through this process and is in possession of a valid licence. This includes provision of application and training materials in the applicant's language of choice. Local authorities are aware of their requirement to adhere to the Welsh Language Measure and will incorporate this new scheme into their existing operations.

The consultation document (to which this IIA is related) makes it clear that applications will be welcomed in either language and that they will be processed in the language of choice by the recipient local authorities. This will include conducting any inspections, conversations about the application, and any representations before the licensing committee where the applicant has expressed the preference.

The online public register of practitioners, premises and vehicles that have been licensed has been commissioned and it is part of the project remit that it will be in Welsh and English, although the exact IT architecture has not indicated whether the register displayed will be bilingual or in separate parallel versions.

Consultation events related to this consultation will be conducted online and simultaneous translation will be available. Attendees will be advised that participation in Welsh is welcomed, and that the translation facility is available when invitations are sent out.

The Welsh Government issues newsletter updates to practitioners and local authorities and these are issued in Welsh and English. We have a task and finish group that consists of local authority environmental health officers who have advised on points of procedure to inform this work on special procedures. Consideration has been given by this group to the scheme being fully available in Welsh in every local authority beyond simple provision of written materials such as application forms.

F. BIODIVERSITY IMPACT ASSESSMENT

The Nature Recovery Action Plan for Wales contains six objectives to reverse the decline of biodiversity which should be used to assess the impacts on biodiversity. They can also help develop and guide actions to comply with the S6 duty. They have been simplified as a set of questions to guide you through the impact assessment.

These questions should be considered whether your proposal has a land management element or not, although some will be particularly relevant if your policy area relates to land management in any way.

You should take a pro-active approach to considering the potential impacts on biodiversity – this is one area where unintended consequences are often overlooked, either through lack of awareness, or because it is difficult to assign a monetary value to biodiversity.

Moreover, the duty requires that we positively seek opportunities to maintain and enhance biodiversity, both directly (where the intervention involves land management or construction), and indirectly (for example, where there may be an opportunity to raise awareness of the importance of biodiversity). In completing this assessment consider how enhancing biodiversity and promoting resilience of ecosystems contribute reciprocally to the aims of your policy or project.

You will need to record decisions and impacts arising from this assessment. Please note how you have answered each question, or you can use the template at the end of the assessment. Further guidance is available on the intranet.

Consider Questions 1 - 9 for ALL policies:

Embedding biodiversity

1. How will your proposal integrate biodiversity into decision making?

- ◆ Have you considered the impacts and positive opportunities for action for biodiversity at the early stages of thinking or project design?
 - What impacts will procurement have on biodiversity, including global biodiversity?
 - Are products sourced sustainably?
 - Does your project include the use of materials or practices harmful to biodiversity?
- ◆ Does it require partners and beneficiaries to consider the impacts and opportunities for positive action for biodiversity at the early stages of thinking and project design?
 - Is the consideration of biodiversity a requirement of funding applications and project specifications?
 - Does your evaluation of these seek to ensure that biodiversity is maintained and enhanced?

The proposal is in relation to the establishment of a licensing scheme for specific special procedures, and the terms under which local authorities will assess and determine applications and monitor compliance once the application has been approved. The proposal does not have any direct impact on biodiversity.

2. Has your proposal ensured biodiversity is accounted for in business decisions?

- ◆ Has it considered whole of life costs which include the value of biodiversity and natural resources within the cost benefit analysis, even if this is an informal process?
 - Have you thought about how enhancing biodiversity can help deliver across WG's activities for example, to support active recreation, education, flood prevention, and local food growing. (For example, green roofs help to provide wildlife habitats, reduce energy consumption and improve drainage systems.)
- ◆ Has it considered the long term costs of degradation of biodiversity and natural resources, and the potential for savings for health and well-being, flood risk etc?
- ◆ Can it encourage partners and beneficiaries to take these costs and savings into account?

The proposal is in relation to the establishment of a licensing scheme for specific special procedures, and the terms under which local authorities will assess and determine applications and monitor compliance once the application has been approved. The proposal does not have any direct impact on biodiversity.

How does your proposal improve understanding and raise awareness of the importance of biodiversity, encouraging others to act?

- ◆ Can you work with partners and beneficiaries to promote understanding of biodiversity?
- ◆ Can you promote the benefits of access to biodiversity through the delivery of public goods and services such as social care, community development, health and recreation?
- ◆ Can you provide, or source, specialist training where necessary?
- ◆ Can you link to other communications strategies and initiatives for biodiversity, for example award schemes, local events?

Consideration of biodiversity is not applicable to the proposal, which sets out a mandatory licensing scheme for acupuncture, body piercing, electrolysis and tattooing.

Improving our evidence, understanding and monitoring

3. Have you used the best available evidence of biodiversity to inform your proposal and this assessment?

- ◆ You **must** have regard to
 - the lists of species and habitats of principal importance published under Section 7 of the Environment (Wales) Act
 - the State of Natural Resources Report
 - any relevant area statement published by NRW.
- ◆ If your proposal is in regard to construction or land management directly or indirectly, it should reference biodiversity records available through
 - Local Environment Record Centres
 - Atlas of Living Wales
 - Lle

These are not relevant to the proposal, which sets out a mandatory licensing scheme for acupuncture, body piercing, electrolysis and tattooing.

4. Have you used up to date knowledge of the key impacts on biodiversity to make evidence-based decisions?

- ◆ Do you know what the drivers of change and key negative factors are which could arise from your proposal?
- ◆ Are you satisfied that these do not apply or have been avoided?

Consideration of biodiversity is not applicable to the proposal, which sets out a mandatory licensing scheme for acupuncture, body piercing, electrolysis and tattooing.

5. Can your proposal contribute to our body of knowledge for biodiversity?

- ◆ Can it support citizen-science initiatives, and monitoring schemes?
- ◆ Have you ensured that any biodiversity data collected is made publicly available?

Consideration of biodiversity is not applicable to the proposal, which sets out a mandatory licensing scheme for acupuncture, body piercing, electrolysis and tattooing.

Governance and support for delivery of biodiversity action

6. Can your proposal support biodiversity action in any way?

- ◆ Can staff get involved in practical action?

- ◆ Can you fund action directly, or indirectly?
- ◆ Can you support partnerships and/or collaboration for local and community-based biodiversity action?

Consideration of biodiversity is not applicable to the proposal, which sets out a mandatory licensing scheme for acupuncture, body piercing, electrolysis and tattooing.

7. Can your proposal help to build capacity for biodiversity action?

- ◆ Can you support skills acquisition and training?
- ◆ Does your proposal ensure the appropriate level of qualifications of those involved in decision making regarding biodiversity?
- ◆ Can your proposal fund capacity building for biodiversity action?

The proposal supports skills acquisition and training in that having undertaken and passed an accredited infection prevention and control course will be a prerequisite for making an application for a special procedure practitioners licence. However, consideration of biodiversity is not applicable to the proposal, which sets out a mandatory licensing scheme for acupuncture, body piercing, electrolysis and tattooing.

Have you recorded decisions and actions to maintain and enhance biodiversity?

- ◆ A report on what the public authority has done to comply with the duty must be published by the end of 2019 and then every three years after this date.

Not applicable to this proposal.

If your proposal concerns construction or management of land and/or sea, please also consider Questions 10 – 16:

Safeguarding species and habitats of principal importance

8. Is all legislation complied with to ensure protection of marine and terrestrial species and habitats?

- ◆ Has any requirement for licences, monitoring and/or enforcement been considered and actioned?
- ◆ Has any requirement for EIA/SEA/HRA been identified and actioned?

- ◆ Have any impacts or opportunities for positive action for Section 7 species and habitats been identified and actioned?

Not applicable to this proposal.

9. Does the proposal seek first to maintain and enhance biodiversity?

- ◆ Have you selected the option which avoids loss and/or damage to biodiversity, and promotes the resilience of ecosystems?
- ◆ Only where the balance of environmental, economic, social and cultural benefits⁹ provided by your proposal is such that there may be some loss of habitat or species, have you sought to enhance biodiversity elsewhere on the site, or, where there is no other option, offsite?
- ◆ Does your proposal contribute to maintaining and enhancing biodiversity across Wales?

Not applicable to this proposal.

Increasing the resilience of our natural environment

10. Does your proposal contribute to building the resilience of our ecosystems?

- ◆ Does it work with nature, and consider the use of nature-based solutions first and foremost?
- ◆ Are any nature-based solutions native and bio-diverse?
- ◆ Can it restore or contribute to the restoration of degraded habitats?
- ◆ Can it contribute to building resilient ecological networks of habitats?
- ◆ Does the proposal improve site management to improve habitat or species condition at **any** scale? e.g. planting native species, providing wildflower areas for pollinators, leaving areas of unmown grass; and improving connectivity between valuable habitats?

Not applicable to this proposal.

⁹ Taking proper account of the benefits and intrinsic value of natural resources, including biodiversity, and ecosystems

11. Does your proposal contribute to the creation of new habitat?

- ◆ Does your proposal support the creation of new habitats, such as local orchards, native hedges, wildflower meadows or other areas of native, bio-diverse green space?
- ◆ Can habitat creation contribute to developing resilient ecological networks?

Not applicable to this proposal.

Tackling key pressures on species and habitats

12. Will the proposal have any negative impacts on habitats or species through

- ◆ change in land use?
- ◆ causing air, water, light, noise or vibration pollution?

Not applicable to this proposal.

**13. Has all legislation regarding the pressures on species and habitats been complied with?
This would include:**

- ◆ Pollution control
- ◆ Invasive non-native species
- ◆ Sustainable Urban Drainage Systems
- ◆ Climate Change etc.

Not applicable to this proposal.

14. How will any negative impacts be mitigated?

- ◆ Have whole system approaches and native, bio-diverse nature based solutions been used to reduce pollution and mitigate climate change?
- ◆ Does your proposal employ best practice for the sustainable management of agriculture, fisheries, forestry and construction?
- ◆ Does your proposal include action to support pollinators?

Not applicable to this proposal.

| Question number | Opportunities for positive action | Negative impacts of the proposal | Actions needed to maximise positive opportunities and prevent negative impacts |
|-----------------|-----------------------------------|----------------------------------|--|
| N/A | N/A | N/A | N/A |

G. SOCIO-ECONOMIC DUTY ASSESSMENT

Undertaking the impact assessment

What evidence has been considered to understand how the proposal contributes to inequalities of outcome experience as a result of socio-economic disadvantage?

The proposal is intended to provide a mandatory licensing scheme for the four named special procedures, thereby ensuring that all practitioners are held to the same standards of infection prevention and control, and that all clients can therefore be protected from risk of harm to their health. These requirements will apply across all income ranges of practitioners, and there are no mechanisms in the scheme to influence socio-economic disadvantage.

What information has been gained through engagement with those effected by the proposal/decision and specifically those who suffer socio-economic disadvantage?

Engagement with practitioners from all regions of Wales and representing the self-employed, micro and national-sized businesses has indicated that they would support a consistent standard to be applied across the industry, so that unscrupulous practitioners who undercut reputable practitioners and put their clients at risk of harm to their health are put out of business and dealt with effectively through prosecution. There has been some concern expressed at the expected initial cost outlay to undertake the necessary pre-application infection control course and to pay the application fees, as all current practitioners will be required to apply to be licensed, not just new entrants. It is intended that all 22 local authorities will agree the fees to be applied to the scheme so that they are the same across Wales. Fees to be applied will be based on costs incurred by local authorities in processing applications and administration of the scheme, in accordance with the ruling of the Supreme Court in *Hemmings v Westminster*.

Have protected characteristics been considered?

Yes, as part of the Equality Impact Assessment and Health Impact Assessment screening process.

Have communities of interest and places interest been considered. (Refer to page 8 in the statutory guidance).

There are no communities or places of interest identified as part of this proposal – it will apply equally across Wales and to all practitioners.

What information has been considered regarding future trends?

Future population figures and earnings statistics have been used in the Regulatory Impact Assessment to calculate costs to the NHS of treating people, and the individual cost to special procedures practitioners of applying for a licence.

What data has been considered (National and local)

The data used to inform the Regulatory Impact Assessment is referenced in that document.

Provide a summary of evidence and links

How could the proposal potentially further exacerbate inequality of outcome experienced as a result of socio-economic disadvantage?

Please provide detail regarding inequalities of outcome likely to be impacted and those people and communities likely to be impacted.

Special Procedures practitioners (most of whom are sole traders, micro or small businesses) who are currently in business will be required to apply for licensing under the new scheme. There is a rigorous standard of requirements that applicants for licensing will have to meet, which include providing proof of having successfully completed an approved infection prevention and control course; providing a DBS check; providing proof of treatment indemnity insurance. There may be some impacts upon employment in the special procedure industries. A negative impact may mean that some practitioners may be prohibited from carrying on their business if their standard of practice (or the condition of their premises/vehicles) does not meet the required minimum, or because they have relevant convictions (of a violent or sexual nature) that will bar them from continuing to practise.

On the other hand, needs for training and support through the application process will be identified and met so that people can continue in their business as far as possible. There is a system for review on a case-by-case basis by the local authority licensing committee for applications where there is doubt about suitability for licensing. There is also an appeals process that an unsuccessful applicant can pursue through the Magistrates Court.

There is no one community or social group who may be impacted by the proposal, as the services of practitioners of the named special procedures are used across society at all ages and socio-economic groups.

There may also be benefits for other sectors if fewer people who undergo these procedures contract infections or suffer avoidable adverse health effects (be that through improved practice or having a better understanding of any aftercare required) and need to take time off work as a result.

Provide a summary of evidence and links

How could the decision potentially improve outcomes for those who experience socio-economic disadvantage?

Please provide detail regarding outcomes that will be improved and for who.

The proposal is unlikely to have any influence on outcomes for people who experience socio-economic disadvantage, as it deals with a mandatory licensing scheme for special procedures practitioners and businesses.

Provide a summary of evidence and links.

How will you monitor the impact of this decision? (Please consider wider outcomes)

The online all-Wales special procedures central register will provide anonymised statistics of the number of practitioners and businesses that are registered at any time. It is proposed that the secure database that will drive the register could be used to provide a wider range of statistics from the data that is not available to the public, such as number of practitioners and premises registered, improvement notices served, prosecutions made etc.

Does new monitoring information need to be collected? If so, what?

Yes – Local authorities will be asked to monitor how many existing practitioners do not get through the application process (and therefore are put out of business as they will be unable to practise legally).

Provide a summary of evidence and links.

H: HEALTH IMPACT ASSESSMENT SCREENING RECORD SHEET

Date: April 2022

Conducted by: Janette Cooper, Public Health Division, Welsh Government

Title of programme, policy or project:

Regulations to establish a mandatory licensing system for special procedures under Part 4 and Schedule 3 of the Public Health (Wales) Act 2017.

Description (including key aims and objectives)

The Public Health (Wales) Act 2017 received Royal Assent on 3 June 2017. Part 4 of the Act establishes a compulsory, national licensing system for practitioners of specified special procedures in Wales. The system will mean that in order 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.

The procedures defined as “special procedures” for the purposes of the licensing system are listed in section 57 and are:

- Acupuncture;
- Body piercing;
- Electrolysis; and
- Tattooing.

Each procedure is defined in section 94 of the Act.

In order to establish the licensing system set out in Part 4 and Schedule 3 of the Act, a set of regulations need to be made through the Welsh Government legislative process, which will set out the details of how the system is to operate. These regulations will be subject to public consultation and scrutiny by the Senedd before they become law. The regulations will deal with a number of matters, most notably the minimum requirements an applicant has to fulfil to apply for a licence; the licensing application process; determination of applications by local authorities and appeals; conditions of practitioner licences and premises/vehicle approval certificates; registration and variation of licences.

The set of regulations that will be required to enact Part 4 and Schedule 3 of the Act are interrelated, and so are treated as a whole for the purposes of this Health Impact Assessment preliminary screening.

Nature of Evidence considered/to be used (including baseline data, technical and qualitative research, expert and community knowledge)

The parent Act was subject to public consultation as a white paper and written and oral evidence was received during the Committee stage.

There has been extensive engagement with practitioners, local authority environmental health officers and industry bodies undertaken to date that has provided a good working knowledge of the issues inherent in the special procedures industry. A number of high-profile incidents in relation to harm done to individuals through infection following piercings and tattoos particularly have also provided case evidence.

1. Key population groups affected by the programme, policy or project.

Using the list of **vulnerable and disadvantaged groups** included, assess which groups amongst the general population will potentially be affected by the proposal.

Please note: all of the groups listed could potentially be clients of practitioners, but the assessment is based on identifying groups specifically impacted by the proposed scheme.

| | |
|--|--------------------------------------|
| Age related groups | |
| Children and young people | yes |
| Older people | Possibly |
| Income related groups | |
| People on low income | Yes – practitioners and some clients |
| Economically inactive | no |
| Unemployed/workless | no |
| People who are unable to work due to ill health | Possibly |
| Groups who suffer discrimination or other social disadvantage | |
| People with physical or learning disabilities/difficulties | Possibly |
| Refugee groups | no |
| People seeking asylum | no |
| Travellers | no |
| Single parent families | no |
| Lesbian and gay and transgender people | no |
| Black and minority ethnic groups | no |
| Religious groups | no |
| Geographical groups | |
| People living in areas known to exhibit poor economic and/or health indicators | Possibly |
| People living in isolated/over-populated areas | no |
| People unable to access services and facilities | no |

Other groups not on this list: mentally vulnerable people

Screening

Using the **Determinants of health and well-being checklist below**, consider:

- how (in what way either positively or negatively)

- to what extent (significant/moderate/minimal impact)

these groups within the population and the general population itself may be affected by the proposal or that the proposal may have implications for - and summarise it for each section on the screening sheet below.

Any missed opportunities for enhancing the proposal can be listed under the positive (+) column. Any missed detrimental impacts on health and wellbeing can be listed under the negative (-) column. If there are no likely impacts or they are very minimal then move to the next section.

Ask the question: How does this proposal impact upon these determinants, for example, physical activity or diet (within Lifestyles section) in a positive or negative way? Or not at all?

| Lifestyles | | | |
|--|---|--|---|
| | Positive impact | Negative impact | Vulnerable groups affected |
| Diet | N/A | N/A | N/A |
| Physical activity | N/A | N/A | N/A |
| Use of alcohol, cigarettes, non-prescribed drugs | N/A | N/A | N/A |
| Sexual activity | N/A | N/A | N/A |
| Other risk-taking activity | <p>Better regulating special procedures to prevent immediate access to special procedures that have long term effects.</p> <p>Better regulating special procedures to prevent immediate access to permanent procedures (tattooing) if under the influence of alcohol, drugs, or mental disturbance.</p> <p>Better regulating special procedures to prevent children and young people gaining access to prohibited procedures (tattooing and intimate piercing); prohibiting additional procedures</p> | <p>Individuals may consider that better regulation of special procedures limits their personal freedom to choose certain procedures/ offer certain procedures.</p> | <p>Children and young people</p> <p>Mentally vulnerable people</p> <p>Children and young people</p> |

| | | | |
|--|--|---|--|
| | <p>for under 18s (electrolysis or acupuncture on intimate areas) and requiring parental consent/parent/guardian to be present for other procedures (other body piercing, electrolysis and acupuncture on non-intimate areas).</p> <p>Better regulation of special procedures to prevent unlicensed practitioners offering procedures at reduced rates illegally and with little regard for hygiene, infection control or safety of client.</p> | <p>Individuals may consider that better regulation of special procedures limits their personal freedom to take the risk to choose to obtain procedures from an illegal practitioner / offer certain procedures.</p> | <p>Practitioners on low incomes</p> <p>People on low incomes/ in areas of poor economic indicators</p> |
| Social and community influences on health | | | |
| | Positive impact | Negative impact | Vulnerable groups affected |
| Family organisation and roles | N/A | N/A | N/A |
| Citizen power and influence | N/A | N/A | N/A |
| Social support and social networks | N/A | N/A | N/A |
| neighbourliness | N/A | N/A | N/A |
| Sense of belonging | Practitioners can feel that being licenced gives them greater equality of approach with other practitioners. | | Practitioners on low incomes |
| Local pride | N/A | N/A | N/A |
| Divisions in community | Practitioners can feel that being licenced gives them greater equality of approach | Some existing practitioners may not make it through the | Practitioners on low incomes |

| | | | |
|---|---|--|--|
| | with other practitioners – the level playing field. | licensing process; some may choose not to apply. These might therefore operate outside the licensing scheme, but the proposals will provide better legal redress for enforcing officers. | |
| Social isolation | N/A | N/A | N/A |
| Peer pressure | Better regulating special procedures to prevent immediate access to potentially long lasting/ permanent procedures and requiring parental consent/ parent/guardian to be present for under 18s where procedures are not otherwise prohibited. | | Children and young people Mentally vulnerable people |
| Community identity | N/A | N/A | N/A |
| Cultural and spiritual ethos | Better regulating special procedures raises the profile of this industry and will also ensure that people who use body art for self-expression can do so safely/ can offer these procedures safely. | Individuals may consider that better regulation of special procedures limits their personal freedom to choose certain procedures/offer certain procedures. | Children and young people Mentally vulnerable people All potential clients Practitioners on low incomes |
| Racism | N/A | N/A | N/A |
| Other social exclusion | N/A | N/A | N/A |
| Living/environmental conditions affecting health | | | |
| | Positive impact | Negative impact | Vulnerable groups affected |
| Built environment | N/A | N/A | N/A |
| Neighbourhood design | N/A | N/A | N/A |

| | | | |
|---|---|--|--|
| Housing | N/A | N/A | N/A |
| Indoor environment | Better regulation of special procedures will translate into safer and more hygienic workplaces for practitioners and clients. | Some practitioners may find the required indoor work area set up expensive and challenging to provide and may not obtain licences as a result. | All practitioners All potential clients |
| Noise | N/A | N/A | N/A |
| Air and water quality | N/A | N/A | N/A |
| Attractiveness of area | N/A | N/A | N/A |
| Green space | N/A | N/A | N/A |
| Community safety | N/A | N/A | N/A |
| Smell/odour | N/A | N/A | N/A |
| Waste disposal | Better regulation of special procedures should translate into safer workplaces and working practices for practitioners and clients, including setting a consistent standard for safe disposal of sharps and clinical waste. | | All practitioners All potential clients |
| Road hazards | N/A | N/A | N/A |
| Injury hazards | Better regulation of special procedures, including setting consistent standards for infection prevention control and safe disposal practices should translate into safer workplaces for practitioners and clients. | | All practitioners All potential clients |
| Quality and safety of play areas | N/A | N/A | N/A |
| Economic conditions affecting health | | | |
| | Positive impact | Negative impact | Vulnerable groups affected |
| Unemployment | N/A | N/A | N/A |
| Income | | Some practitioners may | Practitioners on low incomes |

| | | | |
|---------------------------------------|--|---|---|
| | | find the initial financial outlay for training and licensing challenging. This may lead them to not apply for licensing and operate illegally. | |
| | | Some existing practitioners may not make it through the licensing process and will effectively be out of business. They may choose to operate outside the licensing scheme, but the proposals will provide better legal redress for enforcing officers. | All practitioners Practitioners on low incomes |
| Economic inactivity | N/A | N/A | N/A |
| Type of employment | Better regulation of special procedures should drive up standards in the industry. | Some practitioners may choose to operate outside the licensing scheme, but the proposals will provide better legal redress for enforcing officers. | All practitioners Practitioners on low incomes |
| Workplace conditions | Better regulation of special procedures and setting consistent standards of infection prevention and control should translate into safer and more hygienic workplaces for practitioners and clients. | Some existing practitioners may need to change their working practices/ premises to meet new licensing requirements and may find this and the cost challenging. | All practitioners All potential clients |
| Access and quality of services | | | |

| | Positive impact | Negative impact | Vulnerable groups affected |
|-------------------------------|---|--|--|
| Medical services | Better regulation of special procedures should translate into safer workplaces for practitioners and a safer experience for clients of acupuncturists. | | <p>People with health conditions alleviated by acupuncture, to include:</p> <p>Older people</p> <p>People who are unable to work due to ill health</p> <p>People with physical or learning disabilities/difficulties</p> <p>People living in areas known to exhibit poor economic and/or health indicators</p> |
| Other caring services | N/A | N/A | N/A |
| Careers advice | N/A | N/A | N/A |
| Shops and commercial services | The proposal allows for licensing to be recognised on an all-Wales basis, which may allow practitioners to access wider client bases. Clients may also therefore gain wider access to special procedures. | Some existing practitioners who operate from commercial premises may not make it through the licensing process and will effectively be out of business. They may choose to operate outside the licensing scheme, but the proposals will provide better legal redress for enforcing officers. | <p>Practitioners on low incomes</p> <p>All potential clients</p> |
| Public amenities | N/A | N/A | N/A |
| Transport including parking | N/A | N/A | N/A |
| Education and training | Accredited regulated infection prevention and | Cost of undertaking | All practitioners |

| | | | |
|---|--|---|---|
| | control course required as prerequisite to special procedures licence application. | training and licensing may be challenging for some practitioners. Pre-application course and application process may be challenging to practitioners who are neurodiverse. | Practitioners on low incomes Practitioners with learning disabilities/difficulties (dyslexia; dyspraxia; dysgraphia; ASD; ADD; ADHD) |
| Information technology | N/A | N/A | N/A |
| Macro-economic, environmental and sustainability factors | | | |
| | Positive impact | Negative impact | Vulnerable groups affected |
| Government policies | Consistent licensing procedure and conditions to be operated by all Welsh local authorities. | | No specific groups identified, all practitioners and clients will be affected |
| Gross Domestic Product | N/A | N/A | N/A |
| Economic development | N/A | N/A | N/A |
| Biological diversity | N/A | N/A | N/A |
| Climate | N/A | N/A | N/A |

Summary of Potential Health Impacts Identified

1. Positive Impacts

The proposals to introduce a mandatory licensing scheme for acupuncture, body piercing, electrolysis and tattooing will have a positive impact in that it will provide a recognised standard that potential licensees will need to demonstrate in relation to infection control and safe working practices before they can apply for a licence. The licensing application process and licensing conditions will be consistent across all Welsh local authorities. Practitioners will be expected to demonstrate a knowledge of infection prevention and control procedures, and to be able to apply this knowledge to their work and workplaces. All special procedures premises/vehicles will also be subject to approval, and business operators will be expected to demonstrate that their premises and work procedures will be operated according to infection prevention and control principles. The overall outcome of the licensing scheme is to provide a safer experience for the client and to prevent allergic reactions, skin and other viral and bacterial infections.

This will have a positive effect for practitioners, in that they will be assured that their competitors have been subject to the same process and standards. Prospective clients will also be able to have confidence when choosing a practitioner, in that if they are licenced and the premises has been approved, they can be confident that the procedures will be done according to a recognised standard of cleanliness and safety.

Different age and other vulnerability groups may form the core clientele for certain special procedures, for example older people or those with disabilities or long term health conditions may be more likely to use an acupuncturist ([Patients seeking care from acupuncture practitioners in the UK: a national survey - PubMed \(nih.gov\)](#)); those in younger age groups may be more likely to use the services of a body piercer ([Body piercing in England: a survey of piercing at sites other than earlobe - PMC \(nih.gov\)](#)). The licensing scheme proposed is intended to benefit all clients across all possible demographics. It is difficult to identify impacts on specific vulnerable groups, other than children and young people under 18, who are prohibited from obtaining certain procedures, (namely tattooing and intimate piercing), and under the proposals for the licensing scheme, will also be prohibited from obtaining electrolysis or acupuncture on intimate areas of the body. In addition, to prevent those under 18 from undertaking procedures that have medium to long term effects (such as body piercing), a parent/guardian will need to be present at the pre-treatment consultation and give their consent to the procedure, and will need to be present at the treatment itself. The only exceptions are made for 16–18-year-olds who will not need parental consent for piercings of the ear lobe, ear cartilage, nose, lip, or eyebrow. This recognises that this age group can give informed consent but is intended to prevent this group from undertaking the most popular piercings themselves, thereby exposing them to complications, infection and scarring.

A robust licensing scheme will also have the effect of protecting potentially vulnerable people from making decisions to undertake procedures that are permanent in effect, are not licenced, or are prohibited for their age group (in the case of under 18s). It will be a licensing condition that all practitioners will have to undertake pre-treatment consultation with each client that has to be written down, to include age verification (where there are age restrictions such as for tattooing and intimate piercing), possible health effects, contraindications, and discussion of the possible stigma of facial or other visible tattoos/piercings. Practitioners will also be prevented from undertaking any permanent procedure (i.e. body piercing and tattooing) when the client is under the influence of alcohol, drugs or mental disturbance. In addition, licensing conditions will prohibit eyeball tattooing (the colouration of the white of the eye) and any body piercing that would require a scalpel or other blade to execute, thereby preventing more extreme practices such as implanting of large subcutaneous shapes, thereby preventing harm from unsafe and illegal surgical procedures.

The licensing scheme will have the positive effect of making sure that all practitioners have been subject to the same application criteria and approved to the same standard, which will give them confidence that competitors are not undercutting them in standards. Those less reputable practitioners will either need to raise their standards, or go out of business, or if they continue to operate illegally, face prosecution. This will provide a safer experience for those who wish to use the services of special procedures practitioners and will allow them to make better informed decisions through the ability to consult the public register; and through pre-treatment consultations and aftercare advice.

In summary, when the licensing scheme is introduced, clients from all population groups wishing to use the services of a special procedures practitioner, will benefit from:

- Access to a central online register to check the licensing status of each practitioner and premises;
- Mandatory pre-treatment consultations to fully discuss the procedure sought;
- More consistent standards of infection prevention and control at the premises they select;
- Better safeguards for children and young people under 18, particularly in preventing them from accessing prohibited procedures illegally.

The proposed licensing system also provides local authorities with more effective legal tools to be used where there are breaches of licensing conditions, or operation by practitioners outside of the licensing system.

2. Negative impacts

Some individuals may consider that the proposed licensing system will prevent them from obtaining procedures that they wish to undertake, thereby curtailing their personal freedom of self-expression, particularly if they have previously used illegal practitioners on the basis of reduced costs or because they are under 18. A minority of practitioners may also feel that their personal freedom to offer certain procedures are curtailed.

Some practitioners are economically vulnerable and operate on low incomes. They may consider that the initial outlay required for the infection control training and licensing application fees are challenging. Equally some practitioners may consider that the required standard of workplace setup is expensive and difficult to achieve in their premises. Many reputable practitioners will already be operating to the standards that will be mandated, but as all existing practitioners will be required to undertake the infection prevention and control course and apply for licensing under the new scheme, there is a possibility that some will not be able to achieve the required standard for licensing, and will, effectively, be put out of business. That said, from extensive engagement with the industry, it has been clear that most practitioners welcome the new scheme as a way of getting the profession to raise its overall standards and take substandard practitioners and those that operate illegally out of the industry.

Some practitioners are neurodiverse and may find the pre-application requirement to undertake and pass an infection prevention and control course and complete the application forms for practitioner and premises licensing challenging. However, it is intended that local authority environmental health officers will advise and assist any practitioners who struggle with the application process and will have experience of providing support where it is needed.

These negative impacts might have the effect of pushing some existing practitioners towards operating without a licence on the basis of cost, or because their application for licensing is not successful. Equally, economically vulnerable clients may select an unlicensed practitioner whose fees substantially undercut those of licensed practitioners, because cost is their main consideration, and they may be unaware of the risk of infection.

However, these issues already exist within the current business registration system, and it is intended that the proposals will provide local authorities with a more robust legal framework to take effective action against practitioners operating illegally and exploiting clients on low incomes.

3. Impacts on Vulnerable groups

Prohibitions on tattooing and intimate piercing are already in place for children and young people under the age of 18. This age group will be further safeguarded for other special procedures in that electrolysis and acupuncture on intimate areas of the body will also be prohibited. For all other special procedures, the parent/guardian will be required to attend the pre-treatment consultation with the young person and give their consent and be present at the treatment. The only exception will be for 16–18-year-olds for piercing of earlobes, ear cartilage, nose, lip, or eyebrow, where they will be able to obtain these piercings only without parental consent. The intention is to give this group some autonomy and to prevent them from resorting to self-piercing with the attendant risks of complications, infection, and scarring.

Those with health conditions that are treated through acupuncture will be assured that their chosen practitioner has been licenced.

Licensing conditions for tattooing and piercing require practitioners to allow a cooling off period before performing procedures on clients. This prevents vulnerable individuals from making impulsive decisions to undergo permanent procedures, especially due to peer pressure, influence of alcohol or drugs, or from mental vulnerability.

Economically vulnerable practitioners may find the fees for licensing challenging.

Those practitioners who currently operate illegally by offering procedures at reduced cost but with little regard for infection control or client safety will be prevented from exploiting the economically vulnerable who wish to obtain special procedures. It will be easier for local authorities to take enforcement action and to close down this market.

Recommendations

Are the impacts that have been identified above enough to warrant a more comprehensive health impact assessment?

No. The Regulatory Impact Assessment fully outlines the cost of not pursuing this proposal to the NHS and to individuals' health. The whole proposal has been designed to improve standards of infection prevention and control in the special procedures industry.

If No, what are the reasons for not conducting an assessment

The proposed licensing scheme is intended to provide a framework of operation that promotes safe working practices for all licenced practitioners. This common framework will benefit clients from all levels of society, not just those identified as vulnerable.

Do any additional actions need to be taken as a result of this HIA process?

No.

If Yes, please outline (list recommendations and/or mitigation/enhancement here)

If a further HIA is required, outline next steps (E.g. Date and time of scoping meeting)

N/A

Recommended Actions

Have there or will there be other impact assessments conducted? ie Equality Impact Assessment, Environmental Impact Assessment. Or will this form part of one?

This score sheet will be included in the Integrated Impact Assessment.