

Meeting of:	CABINET
Date of Meeting:	19 NOVEMBER 2024
Report Title:	SHARED REGULATORY SERVICES – AMENDMENT TO THE JOINT WORKING AGREEMENT AND SCHEME OF DELEGATION OF FUNCTIONS
Report Owner / Corporate Director:	CHIEF OFFICER – LEGAL AND REGULATORY SERVICES, HUMAN RESOURCES AND CORPORATE POLICY
Responsible Officer:	HELEN PICTON HEAD OF SHARED REGULATORY SERVICES
Policy Framework and Procedure Rules:	The revised Scheme of Delegation of Functions will be published on the Council’s website.
Executive Summary:	The purpose of this report is to seek approval for a change to the Joint Working Agreement between the partner councils for the provision of Regulatory Services and to seek amendments to the Scheme of Delegation of Functions.

1. Purpose of Report

- 1.1 The purpose of this report is to seek approval for an amendment to the Joint Working Agreement (JWA) between the partner Councils for the provision of Regulatory Services and an amendment to the Council’s Scheme of Delegation of Functions following the implementation of the ‘Special Procedures’ regime under the Public Health (Wales) Act 2017.

2. Background

- 2.1 In April 2015, Bridgend County Borough Council (BCBC), Cardiff Council, and the Vale of Glamorgan Council signed a JWA for the provision of regulatory services across the three Council areas. The document created the Shared Regulatory Service (SRS) and the Shared Regulatory Services Joint Committee.
- 2.2 Any changes to the JWA are subject to Clause 26 of the Agreement which states:

‘This Agreement cannot be varied without the approval and prior written consent of all Participants. Where the Participants agree to make changes to this Agreement, a Deed of Variation shall be entered into between the Participants and appended to this Agreement’

- 2.3 The JWA has been subject to amendments previously, this being in 2017 and 2020 when a number of changes in operating practices, together with some administrative changes and legislative changes, were necessary. On those occasions, a report setting out the amendments were presented to Cabinet on 28 March 2017 and 20 October 2020.
- 2.4 The Partner Councils concurred that any future legislation enacted within Public Protection which sat outside the scope of Schedule 1 of the JWA, such as the then Public Health Wales Bill, would require determination by each Partner whether to assign to the SRS along with consideration of any financial implications.

3. Current situation / proposal

- 3.1 Welsh Government is expected to implement its long awaited 'Special Procedures' regime at the end of November 2024, under the Public Health (Wales) Act 2017. Part 4 of the Act relating to Special Procedures creates a mandatory licensing scheme for practitioners and businesses carrying out special procedures in Wales. Once implemented, Part 4 will require practitioners carrying out tattooing, piercing, acupuncture and electrolysis in the course of a business, to be licensed by the local authority. In addition, the premises used for these procedures must be approved. It will be an offence for a practitioner to carry out any of these special procedures without a licence, or to perform any procedure from premises or vehicles that are not approved.
- 3.2 The role of SRS in the operation of the Special Procedures regime will be two fold, i.e.
- administration of the licensing schemes for both practitioners and premises, and
 - enforcement of the law through inspection and other means, to ensure that practitioners and premises meet the necessary standards for special procedures to be carried out safely.
- 3.3 Part 1 of Schedule 1 to the SRS JWA sets out the functions delegated to the Shared Service. Amendment of Part 1 of Schedule 1 to the JWA with the addition of the Public Health (Wales) Act 2017, will therefore enable the necessary powers to be delegated through the Joint Committee and Head of Shared Regulatory Services to relevant officers. This will enable them to have the necessary powers (including powers of entry) to conduct Special Procedures inspections and take appropriate enforcement action where this is required.
- 3.4 A number of other public protection functions are contained in the Public Health (Wales) Act 2017, but are yet to be implemented by Welsh Government, for example

the creation of a Tobacco Retail Register and additional tobacco control enforcement measures. The proposed addition of the 2017 Act to the JWA will therefore serve the dual purpose of ensuring that the necessary pathway for officer delegations is in place ready for implementation of these additional enforcement tools.

3.5 Paragraph 21 of Schedule 3 to the Public Health (Wales) Act 2017, aligns a range of specified functions (associated with administration of the Special Procedures licensing regime) to the Licensing Committee established under section 6 of the Licensing Act 2003. A report will therefore be presented to Council on 20 November 2024 proposing amendments to the Constitution in relation to the Licensing Act 2003 Committee.

3.6 The Act is however silent on the delegation of certain other 'Special Procedures' functions. The question of whether a function is an Executive function (i.e Cabinet) or a Council function of the Licensing Committee is determined by either the legislation itself or by the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007. In this instance, the 2017 Act specifically delegates certain functions to the Licensing Committee whilst being silent on other functions. This means that by virtue of Section 13 of the Local Government Act 2000, where the Act is silent, some functions, by default become the responsibility of the Executive. However, in order to deal efficiently with applications and enforcement, it is proposed that amendments are made to the Council's Scheme of Delegation of Functions to delegate these functions to officers to establish the pathway for the administration of the licensing regime. It is therefore proposed that the Scheme of Delegation of Functions be amended to insert a new paragraph [3.45] at Scheme B2 and allocate the following functions to the Monitoring Officer:

3.45	<p>Under the Public Health (Wales) Act 2017 authority to:</p> <ul style="list-style-type: none"> • designate an individual performing a special procedure to be licensed - issue a Special Procedures Licence where all the applicable licensing criteria is met • issue an Approval Certificate for a premises or vehicle • renew an Approval Certificate for a premises or vehicle • refuse an Approval Certificate for a premises or vehicle • take reasonable steps for bringing a Voluntary Termination Notice to the attention of appropriate persons • issue a Stop Notice • issue a Remedial Action Notice in respect of a Special Procedures Licence • issue a Remedial Action Notice in respect of an Approved Premises Certificate • issue a Completion Certificate in respect of a Special Procedure Licence or an Approved Premises Certificate • carry out enforcement action and consultation in respect in intimate piercing 7 • issue a Warning Notice under Schedule 3 paragraph 15(3).
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Subject to Cabinet approving the amendment to the Scheme of Delegation of Functions, the Monitoring Officer's Register of Sub-delegations will be further amended to sub-delegate these functions to the Head of Shared Regulatory Services and the Licensing Team.

4. Equality implications (including Socio-economic Duty and Welsh Language)

4.1 The protected characteristics identified within the Equality Act, Socio-economic Duty and the impact on the use of the Welsh language have been considered in the preparation of this report. As a public body in Wales, the Council must consider the impact of strategic decisions, such as the development or the review of policies, strategies, services and functions. It is considered that there will be no significant or unacceptable equality impacts as a result of this report.

5. Well-being of Future Generations implications and connection to Corporate Well-being Objectives

5.1 This report assists in the achievement of the corporate well-being objectives, in particular:

- **A County Borough where we protect our most vulnerable** – the work of the Shared Service seeks to protect the vulnerable in our communities through for example swift action being against rogue traders and doorstep criminals, ensuring safe taxi provision and preventing the supply of age restricted goods to the under 18s.
- **A County Borough with fair work, skilled, high quality jobs and thriving towns** – the work of the Shared Service seeks to ensure a fair and safe market place where legitimate businesses are supported and action is taken against rogue traders and others who undermine the local economy.
- **A County Borough that is responding to the climate and nature emergency** – the Shared Service enforces a range of environmental legislation covering areas of work such as air quality, private water supplies, animal health and welfare, and minimum energy efficiency standards.
- **A County Borough where we support people to live healthy and happy lives** – the work of the Shared Service seeks to improve health and wellbeing by ensuring the safety of food and other consumer goods and services, through enforcing health and safety requirements in the workplace, and through the provision of safe housing. In addition, work to tackle rogue traders and doorstep criminals as well as loan sharks can contribute positively to the mental health of residents.

5.2 The SRS Business Plan 2024-25 illustrates how the Council's regulatory function contributes to the national Well-being Goals through the delivery of the well-being objectives. The SRS operates in accordance with the five ways of working which are also reflected in the content of the Plan. There is a strong emphasis on collaboration

as the SRS recognises the need to work with partners to deliver services and improve local well-being.

- 5.3 The Business Plan reflects the importance of prevention and this has been a strong theme in SRS activities to date, but also recognises that many issues are longer term matters, e.g. deprivation, climate change, an ageing population and physical and mental well-being. The involvement of partners and stakeholders in the development and delivery of the SRS functions is critical to its success as is the need to work in a more integrated way, recognising the connections across Council services and with other partners.

6. Climate Change Implications

- 6.1 There are no safeguarding or corporate parent implications arising from this report.

7. Safeguarding and Corporate Parent Implications

- 7.1 There are no safeguarding or corporate parent implications arising from this report.

8. Financial Implications

- 8.1 The Special Procedure Licences (Wales) Regulations 2024 permit local authorities to review the level of the fees:

- one year after the Regulations come into force (November 2025), and
- at subsequent intervals of no more than one year.

- 8.2 The first set of Special Procedures licence fees has been agreed by local authorities in Wales, and it will be a case of each adopting, rather than setting, these fees. Fees have been determined on a cost recovery basis taking into consideration the increase in workload and as specified by Welsh Government, will be standardised across Wales. The initial estimated income for BCBC (based on current estimated numbers of premises and practitioners) is £29,706 per year but there is a great deal of uncertainty at the current time as the number of practitioners is unknown. There may be premises and practitioners who do not wish to proceed and therefore the actual income may be lower than this estimate.

- 8.3 As Welsh Government is making no additional funding available to local authorities for implementation, the cost of administering and enforcing the new licensing regime will have to be covered by the licence fees which constitute new, rather than legacy, income. All activities will be carried out within existing work programmes with no direct financial implications. The special procedures regime will bring in new income, to help offset the cost of implementation and enforcement. Premises and practitioners will have a transition period in which to apply from 29th of November 2024 and so the initial income is likely to be received across 2 financial years. The cycle of renewal and therefore income receipt will begin again at the 3-year expiration of each approval certificate or licence.

9. Recommendations

Cabinet is recommended to :

- 9.1 Approve the proposed changes to the Joint Working Agreement between the three Councils for the provision of Regulatory Services;
- 9.2 Delegate authority to the Chief Officer – Legal and Regulatory Services, Human Resources and Corporate Policy to agree the terms of the Deed of Variation to the JWA and to arrange execution of the Deed of Variation on behalf of the Council;
- 9.3 Approve the amendments to the Scheme of Delegation of Functions as set out in paragraph 3.6;
- 9.4 Note that a report will be presented to Council on 20 November 2024 seeking amendments to the Constitution in relation to the Licensing Act 2003 Committee.

Background documents

None