



The Health & Care Act, the consultation and the future licensing of aesthetic practitioners completing non-surgical cosmetic (aesthetic) procedures.

BABTAC in collaboration with BBCo UKSPA NHBF HABIA have put together some FAQs to help you understand what YOU need to know.

The new Health and Care Act 2022 gives the Government powers to introduce a licensing scheme for practitioners who operate in England. Work is now underway to decide what the licensing scheme will look like, the first stage of this is a national consultation, which was opened on the 2 September 2023.

The reason for the legislation is to reduce the risk of harm associated with ineffectively performed non-surgical cosmetic procedures, also known as aesthetic procedures, to the public. Once in force, this legislation will make it an offence to perform particular procedures without a license.

Here is a quick Q&A to answer some of the questions you may have about what's to come:

General

1. When will the new regulations aesthetic (non-surgical cosmetic) procedures be available?

We don't know yet is the simple answer. The specific regulations that will underpin the licensing scheme will be subject to extensive engagement with stakeholders and further public consultation, the current consultation is the first stage.

2. What is the purpose of the licensing scheme?

The purpose of the licencing scheme is to ensure that consumers who choose to undergo an aesthetic (non-surgical cosmetic) procedure can be confident that the procedure they receive is safe and of a high standard.

The licensing scheme will ensure that those who offer these procedures are suitably knowledgeable, trained, and qualified, hold appropriate indemnity cover and operate from premises which meet the necessary standards of hygiene and cleanliness.

3. Who will run the licensing scheme?

The Government advises that their intention is that the licensing scheme will be administered by Local Authorities in England, who will work with a range of partners to operate and enforce the scheme, such as Environmental Health Officers, Trading Standards Officers and the Health and Safety Executive.

4. What is the scope of the proposed licensing scheme?

The licensing scheme will consist of two interlinked components:

- a. practitioner licence

practitioners who offer procedures must be.

- suitably trained and qualified
- hold appropriate indemnity cover

b. premises licence

a practitioner will operate from premises which meet the licencing scheme's standards of hygiene and cleanliness.

5. Which procedures will be in scope of the new licensing regime?

In the wording of the Health and Care Act, passed in April 2022, a cosmetic procedure is defined as a procedure, other than a surgical or dental procedure, that is carried out for cosmetic purposes. It includes:

- (a) the injection of a substance
- (b) the application of a substance that is capable of penetrating into or through the epidermis
- (c) the insertion of needles into the skin
- (d) the placing of threads under the skin
- (e) the application of light, electricity, cold or heat

However, the exact procedures within this definition will be defined as the licensing law is drafted.

The current Government consultation seeks to inform and answer this question and will determine exactly which procedures will be included in the scope of the new licence.

At this time, it is not possible to confirm which procedures will be included within the scope of the new licensing regime but the current Government consultation on this subject sets out the Government's current proposals for the scope of the new practitioner licence.

6. What are the Government's proposals for the more 'invasive procedures'?

The Government has advised that it considers that there are 'certain aesthetic (non-surgical cosmetic) procedures that are of sufficient complexity and invasiveness that they should only be performed by healthcare professionals overseen by the CQC.

7. Will the licence specify the procedures that a practitioner is able to carry out?

Yes, we anticipate that the licence will detail each of the procedures that a practitioner is licenced to perform.

8. If there are any procedures missing can these be included in the scope of the new practitioner licence?

Yes, questions are included in the consultation document to enable you to highlight any procedures you think should or should not be included within the licence.

9. Will tattooists be included within the licencing, or will it be for aesthetic (non-surgical cosmetic) procedures only?

This is still to be determined and a matter for ongoing consultation.

10. Will there be any exemptions to requiring a licence e.g., medical practitioners registered with the GMC?

The intention is that all practitioners, including registered health care professionals, will have to have a specific licence to carry out any of the procedures included within the future legislation.

11. Will there be a public register of those who hold a licence?

There is currently no suggestion that a national public register system will be mandated or implemented.

Types of Licenses

12. What will be licensed?

What will be included within the licence is still to be decided. However, it is intended that both practitioners and the premises from which they work will be expected to show proof of certain qualifications and insurance and provide evidence that the premises where procedures take place meet hygiene and safety standards.

13. Will there be different licenses for different procedures?

We expect there to be one practitioner license. We expect the license will state and specify which procedures it has been issued for.

14. Will there be a premises be licensed for each procedure?

Both the premises and personal licenses will specify the procedures that are included in the scope of the license.

15. Will the personal licence allow a practitioner to operate from other licensed sites?

Yes, we expect this to be the case although each 'site' will need to have its own individually assigned premises license.

16. Will a practitioner be able to operate from home?

Yes, if the home business meets the standards set down in the anticipated new premises license. Home based businesses will also have to be inspected by local authority Environmental Health Officers in just the same way as they inspect salons and clinics.

17. Will a practitioner be able to operate on a mobile basis?

This is yet to be determined. However, we anticipate that it will not be acceptable to provide the procedure in the client's home or from a mobile vehicle.

18. What standards will be expected for a premises?

This will depend on the procedures being offered and remains subject to review and approval.

19. Will practitioners be able to offer procedures as soon as the new licensing scheme is implemented if they do not hold the required qualification? If so, won't this pose a significant public health risk?

We recognise the potential risks associated with any delay to requiring all practitioners to meet all of the conditions set down and prescribed in the new license. We expect however that there will be period 'grace' of up to two years to enable practitioners to evidence

that they meet and satisfy all of the conditions set down in the license. It will be for enforcers such as Environmental Health Officers to apply their judgement to risk assess and (if necessary) apply conditions/ sanctions at any time if they consider that there is a real risk of harm to members of the public.

20. If newer procedure become available, how will this they be incorporated into the licencing scheme?

The legislation has been designed to 'future proof' as far as possible. New procedures may be assessed as they arise.

21. Will the personal licences include a photo of the practitioner?

This is expected to be the case.

Enforcement

22. Will all practitioners have to be inspected to get a licence?

Yes. The intention is that all practitioners and the premises from which they work will have to be inspected and checked against certain standards prior to receiving a licence. The requirements for a practitioner and a premise licence will be set out in regulations.

23. Will enforcement officers be equipped with powers to issue immediate sanctions against those businesses who do not hold a licence or are breaching conditions?

As with existing licensing schemes, it is anticipated that EHOs will have the power to implement immediate or emergency enforcements notices.

24. Will a business need to provide evidence that they possess adequately determined medical indemnity insurance in order to obtain my license?

All practitioners will be legally required to hold indemnity insurance to protect members of the public if something goes wrong with their procedure. The level of insurance for practitioners is still to be decided. This will be a key condition for the granting of a practitioner license.

25. Could the local council prevent a business from operating if they do not comply with the new standards?

As with existing licensing schemes, failure to meet the requirements of the licence can lead to practitioners and premises being prevented from operating.

Fees

26. Will they be two separate fee's for a practitioner and premises licence? What will the licence fees be?

License costs have yet to be determined, although it is probable that the fee will reflect recovery costs associated with review and inspection. We expect that practitioner and premises licenses will be charged separately, as is currently the case for hair and beauty licences in some local authorities. This will permit a practitioner with a personal license to seek work at one or more establishments with the appropriate premises license.

27. Will there be annual fees, and will I be inspected every year by the council?

The cost and frequency of the licence has not yet been decided.

28. Will registered health care professionals be exempt from needing a licence?

No. The intention is that all practitioners, including registered all health care professionals, will have to have a specific licence to carry out any of the procedures included within the future legislation.

Medical oversight

29. Will the Government be introducing new ‘oversight categories’ that would affect my practice?

This is the intention as set out in the current consultation to reflect what the Government cites as ‘concerns about the serious risks associated with certain aesthetic (non-surgical cosmetic) procedures’.

It has to be noted that this is open to change following consultation.

The Government in the current consultation has therefore proposed different oversight categories depending on the risk associated with the procedure.

The proposed oversight categories are as follows:

1. Green - procedures with the lowest risk of complications

all practitioners eligible to perform licensed procedures where they meet agreed standards.

2. Amber - procedures with medium risk of complications

Practitioners, who are non-healthcare professionals must be licensed and overseen by a nominated regulated healthcare professional (who has gained the accredited qualification to prescribe, administer and supervise aesthetic procedures), based on the clinical oversight model recommended within the 2013 Keogh review and by the HEE Qualification Requirements for the Delivery of Non-Surgical Education and Training (2015)

3. Red - procedures with the highest risk of complications

in line with section 3, this could potentially restrict certain procedures to regulated healthcare professionals, bringing high-risk procedures into CQC regulation, so that they fall outside of the scope of licensing scheme.

The Government also proposes that ‘any procedure that requires a Prescription Only Medicine (POM) must, be overseen by a regulated healthcare professional. This includes any procedure that uses a POM directly, for example, injectable toxins; and/ or any adjunctive procedure that uses a POM alongside the primary procedure to assist or complement it, for example, lidocaine for anaesthetic purposes, or hyaluronidase for managing complications of dermal fillers’.

Currently there is no definition of the terms “medical oversight” or “supervision” which may heavily influence the scope/implementation of the licence.

30. If I start to operate under the supervision or oversight of a registered health care professional for certain treatments, will I be exempt from needing a licence?

We anticipate that, to obtain a license, an element of supervision/oversight will be required for certain practitioners performing specified procedures. Having a supervisor will not be a substitute for a license. At this stage we are unable to clarify what the DHSC (Department for Health and Social Care) intends regarding the definition of the concept of ‘under supervision’ or ‘working under clinical oversight’. Further information will be provided by the DHSC over the next 12 months.

Education and training

31. What qualifications will aesthetics practitioners need to offer aesthetic (non-surgical cosmetic) procedures?

We do not yet know what qualifications will be required. The Government intends to consult on a new enforceable education and training standard.

32. Will there be a transition period to allow practitioners to gain access to appropriate retraining?

We anticipate that there will be a transition period between the law being passed and it comes into force.

33. What level of qualification will be requirements be for me to operate with a licence?

At this time, we are unable to confirm the level or qualification requirement will be set down by the DHSC as part of its mandated licensing standards.

34. What will training courses providers, what will I need to be accredited to offer such courses in the future?

If the courses are for the purposes of obtaining a license, and if the government sets a mandate for approved qualifications (in the form of a new 'industry standard'), then the training organisation must comply with the requirements set by an Ofqual approved awarding body or those approval standards set by a UK University or by an approved Apprenticeship provider organisation.

35. Will the new legislation require a level 7 qualification?

At this time, we are unable to confirm which level or qualification requirement will be set down by the DHSC as part of its mandated licensing standards.

36. What courses should practitioners be looking at taking now, in readiness for the new legislation?

We advise caution before taking any qualification which may or may not meet future DHSC mandated requirements.

37. Who will provide the qualification?

Whilst the exact level and content of the national mandated standard is yet to be determined, the intention is that only practitioners who meet an agreed standard will be able to carry out those procedures that are defined as being within the scope of the new licence.

We have recommended that qualifications should be regulated, by Ofqual or provided by a university. We also consider that a new aesthetics Apprenticeship Pathway should be developed and included in the portfolio of qualification options.

38. Will trainers need specific qualifications to train?

Yes, trainers will be required to demonstrate that they have appropriate teaching and assessment experience and qualifications. The requirements for teaching and other qualifications will be set out by the awarding body as part of Ofqual conditions or by local university education providers.

Consumer

39. As a consumer, am I now protected from ‘botched’ aesthetic (non-surgical cosmetic) procedures in law?

No. The law passed in April 2022 simply gives the UK Government powers to introduce a licensing scheme to regulate premises and practitioners who offer certain procedures. The details relating to this new licencing scheme have not been written or passed yet.

40. What will be considered an aesthetic (non-surgical cosmetic) procedure under the law?

The wording of the Health and Care Act law passed in April defines an **aesthetic (non-surgical cosmetic) procedure** under the term “cosmetic procedure” as a procedure, other than a surgical or dental procedure, that is carried out for cosmetic purposes; and includes—

(a) the injection of a substance.

(b) the application of a substance that is capable of penetrating into or through the epidermis.

(c) the insertion of needles into the skin.

(d) the placing of threads under the skin; (e) the application of light, electricity, cold or heat; However, the exact procedures within this definition will be defined as the licensing law is drafted. The Government intends to consult on exactly which procedures will be included in the scope of the new licence.

41. Are only medical professionals (doctors, nurses, dentists, etc.) allowed to offer non-surgical cosmetic (aesthetic) procedures?

No. Medically trained and non-medically trained professionals can currently offer aesthetic (non-surgical cosmetic) procedures. However, we consider that all practitioners offering such procedures should be trained to an agreed national standard. We know however, that this is sometimes not the case. A key aim of the new licence will be to correct this public safety issue by requiring all practitioners who perform the specified aesthetic (non-surgical cosmetic) procedures to provide evidence that they meet a new (and yet to be defined) minimum standard of training, education, and skill competence.

42. What should I do if I am unhappy with a procedure?

If you have any concerns about a medical or aesthetic practice, salon, clinic, or individual practitioner you should contact your Environmental Health Department at your local Council. If your practitioner is a registered health care professional (such as a nurse, doctor or dentist) then you can also seek advice from their professional regulator (i.e., the General Medical Council etc).

43. What should I do if I have a bad reaction or negative side effects after a procedure? Contact the practitioner who performed the procedure immediately and seek their advice. If this is unsatisfactory, contact your GP or in an emergency attend your Urgent Care Centre at your local hospital.

44. Where can I find a qualified aesthetic practitioner now?

Currently there is no central place to find qualified aesthetic practitioners because there are many different types of qualification and training available, which many argue vary in

quality and competency. This is why a licensing scheme that ensures a minimum standard of practice to include premises and practitioner competence is needed.

45. How do I know if the product/equipment is safe and licenced for use in the UK?

You should always ask your practitioner about the products and equipment that they use as part of your procedure. If you are receiving an injectable product or medicine, then you should ask to see the container in which the substance is sealed within and check that it has a UK quality 'CE' mark to check that it is safe and appropriately produced. If you have any queries regarding the product, device or substance that is intended for use as part of your procedure then you can seek advice from the Medicines and Healthcare products Regulatory Agency (MHRA).