

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Thursday, 24 October 2024</b>
Relevant Scrutiny Committee:	<b>Homes and Safe Communities</b>
Report Title:	Shared Regulatory Services (SRS) - Amendment to the Joint Working Agreement (JWA)
Purpose of Report:	To recommend and seek approval for a change to the Joint Working Agreement between the partner Councils for the provision of Regulatory Services. The change would see the addition of the Public Health (Wales) Act 2017 to the list of functions delegated to the Shared Regulatory Services (SRS) Joint Committee.
Report Owner:	Cabinet Member for Community Engagement, Equalities and Regulatory Services
Responsible Officer:	Miles Punter, Director of Environment and Housing
Elected Member and Officer Consultation:	Head of Service for Shared Regulatory Services Monitoring Officer/Head of Legal and Democratic Services Section 151 Officer
Policy Framework:	This is a matter for Executive decision by Cabinet and referral to Full Council for consideration.
<p>Executive Summary:</p> <ul style="list-style-type: none"> <li>• The Joint Working Agreement (JWA) between the Partner Councils, Bridgend County Borough Council (BCBC), Cardiff Council, and the Vale of Glamorgan Council for the provision of regulatory services across the three Council areas, was entered into in April 2015.</li> <li>• Clause 26 of the JWA requires approval and prior written consent of all Partners, with any changes required to be made under a Deed of Variation.</li> <li>• The JWA has only been subject to one amendment by Deed of Variation in 2017 which made a number of changes to operating practices and administrative changes. The then proposed Deed of Variation to bring about the amendments to the JWA was reported to Cabinet and on to Full Council for approval on 26th April 2017.</li> <li>• The long-awaited implementation of the Special Procedures licensing regime under Part 4 of the Public Health (Wales) Act 2017 (the Act) in November 2024 requires further amendment to the JWA under a Deed of Variation.</li> </ul>	

## **Recommendations**

1. That Cabinet approves the proposed change to the Joint Working Agreement under a Deed of Variation between the partner Councils for the provision of Regulatory Services and recommends the same to Full Council for consideration and approval.
2. That the Monitoring Officer/Head of Legal and Democratic Services be authorised to execute the required Deed of Variation reflecting the change when approved by Council.

## **Reasons for Recommendations**

1. To ensure that appropriate approvals are sought in relation to the proposed change to the Joint Working Agreement through the addition of the Public Health Wales Act 2017 to the list of functions delegated to the Joint Committee and contained in Part 1 to Schedule 1 of the Shared Regulatory Services Joint Working Agreement to be agreed by all three partner Councils.
2. To enable the proper execution of the Deed of Variation to reflect the change within the Joint Working Agreement on approval by Full Council.

## **1. Background**

**1.1** 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.

**1.2** Any changes to the Joint Working Agreement 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.'*

**1.3** The JWA has only been subject to amendment on one occasion previously, this being in 2017 when a number of changes in operating practices, together with some administrative changes, were necessary. On that occasion, a report setting out the amendments was reported to the Cabinet of each of the partner authorities for approval, and subsequent decision of Full Council. That report was brought to the Cabinet of the Vale of Glamorgan Council on 24th April 2017, and to Full Council on 26th April 2017.

**1.4** 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.

## **2. Key Issues for Consideration**

- 2.1** 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 which received Royal Assent on the 3rd July 2017. Some provisions under the Act are in force, with other provisions partially in force or not yet in force. 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 of the Act 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.
- 2.2** 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 or vehicles meet the necessary standards for special procedures to be carried out safely.
- 2.3** Paragraph 21 of Schedule 3 to the Public Health (Wales) Act 2017, delegates a range of specified functions (associated with administration of the Special Procedures licensing regime) to the Local Authority Licensing Committee established under section 6 of the Licensing Act 2003. The Act is silent on the delegation of certain other 'Special Procedures' functions, and these functions in the absence of any restrictions under the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007, as amended, are delegated to the Council's Licensing Committee as endorsed by Full Council on 30<sup>th</sup> September 2024 in anticipation of implementation of the Special Procedures licensing regime in November 2024. This amendment to the Constitution establishes this pathway for the administration of the licensing regime by the Licensing Committee and the Licensing team.
- 2.4** Full Council on 15th July 2024 approved changes to the relevant delegations to the Director of Environment and Housing and Head of Shared Regulatory Services to provide authority to adopt the All-Wales fees for the new mandatory licensing regime for special procedures in anticipation of the Special Procedures Licensing regime coming into effect in November 2024. Fees have now been agreed with provision under regulation 8 of the Special Procedure Licences (Wales) Regulations 2024 regulations to review within 1 year of commencement of the special procedures licensing regime and at subsequent intervals of no more than 1 year. A report will be

taken to Licensing Committee to agree those changes under the amendments made to the functions of the Licensing Committee as set out in Section 14 of the Council's Constitution.

- 2.5 With regard to enforcement of the law to ensure that practitioners meet the necessary standards for special procedures to be carried out safely, officers of a number of SRS teams will require authorisation under Part 4 of the Public Health (Wales) Act 2017 with certain functions under the Act delegated to SRS officers under the Council's Scheme of Delegation and the Joint Working Agreement.
- 2.6 Part 1 of Schedule 1 to the SRS Joint Working Agreement sets out the functions delegated to the Shared Service. Amendment of Part 1 of Schedule 1 to the SRS Joint Working Agreement, 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 the 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.
- 2.7 The proposed change to Part 1 of Schedule 1 to the JWA, by the addition of the Public Health (Wales) Act 2017 to the list of regulatory service functions, is set out in a Deed of Variation.
- 2.8 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 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. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1 The Well-Being of Future Generations (Wales) Act 2015 places a 'well-being duty' on public bodies aimed at achieving seven national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.
- 3.2 In discharging its duties under the 2015 Act, the Council has set and published Well-being objectives designed to maximise its contribution to achieving the national Well-being goals. The Well-being objectives are set out in the Vale of Glamorgan Council's Well-being Objectives and Improvement Plan <https://www.valepsb.wales/en/Our-Plan.aspx>
- 3.3 When exercising its functions, the Council is required to take all reasonable steps to meet its Well-being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the Well-being objectives

and must be satisfied that all reasonable steps have been taken to meet those objectives.

**3.4** The Well-being of Future Generations Act requires the SRS to underpin decision making by contributing to the seven well-being goals of the Act, following the five ways of working, and consequently undertaking actions that will have a positive impact on people living in the future as well as those living today. Consequently, SRS seeks to work in the following ways:

- Looking to the long term
- Taking an integrated approach
- Involving a diversity of the population in the decisions affecting them
- Working with others in a collaborative way to find shared sustainable solutions
- Acting to prevent problems from occurring or getting worse.

## **4. Climate Change and Nature Implications**

**4.1** One of the key strategic themes for the Shared Regulatory Service is *Protecting the Local Environment*.

**4.2** The SRS Business Plan articulates the work carried out under this theme to deliver on the corporate priorities for the participant Councils, including their ambitions to minimise climate change and impacts on the natural environment.

**4.3** In this context, the Joint Committee is regularly updated on the contribution of the Shared Service to this agenda, for example through its work in the areas of animal health and welfare, air quality, contaminated land, energy efficiency in the private rented sector and investigating greenwashing claims or environmental fraud.

## **5. Resources and Legal Considerations**

### **Financial**

**5.1** 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, and
- at subsequent intervals of no more than one year.

**5.2** 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 in due course.

**5.3** As Welsh Government is making no additional funding available to Local Authorities for implementation, the cost of administering *and* enforcing the new licencing regime will have to be covered by the licence fees which will constitute new, rather than legacy, income.

### **Employment**

- 5.4 There are no employment implications.

### **Legal (Including Equalities)**

- 5.5 The legal implications are as outlined elsewhere in the report, specifically, the JWA permits under Clause 26, for variations subject to the approval and prior consent of all Participants. Where the Participants agree to make changes to the JWA, a Deed of Variation shall be entered into between the Participants and appended to the Joint Working Agreement.
- 5.6 It is a matter for each partner Council to seek the necessary approval of the proposed amendments to the Joint Working Agreement, in accordance with its own Council's governance.

## **6. Background Papers**

The SRS Joint Working Agreement, as amended in 2017.

Deed of Variation.