

13 February 2025
Submitted via Citizen Space

Scottish Government consultation: Regulation of non-surgical cosmetic procedures

Our response

Questions about the proposed licensing regime

Question 5. We strongly support the proposal that the practitioner of a Group 1 procedure operating in a licensed premises should also require a licence.

Question 6. We strongly oppose the proposal that the practitioner of a Group 1 procedure operating in a HIS regulated setting should not require a licence.

Question 7. Please provide any comments about the answers you have given to questions 5 and 6 about the proposals for the establishment of licensing arrangements for Group 1 procedures.

Currently, those practitioners who are least likely to be qualified and as such, are more likely to cause consumers harm remain unregulated, while healthcare professionals are regulated. All consumers should be able to trust that their procedure is carried out in a safe environment, by a practitioner who is qualified to perform that procedure. Otherwise, a procedure in a regulated environment could still be performed by someone who is not qualified to do so.

Regulating both the environment through either HIS regulation or Local Authority licensing, as well as the practitioner, will help to ensure that this is the case consistently for every Group 1 procedure across Scotland. We therefore welcome the proposal to require both premises licenses and practitioner licences across all Local Authorities rather than making the latter discretionary, going beyond the requirements for tattoo and skin piercing parlours under the Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Order 2006.

We note that any extension of Local Authority licensing duties to include non-surgical cosmetic procedures should be subject to specific consultation with Local Authority representatives, to ensure that the scheme is workable, and that sufficient resourcing is in place to support staffing, training, administration, and enforcement of the scheme.

While licensing which seeks to improve standards that will make non-cosmetic surgical procedures safer in general, we recognise that the risk associated with undergoing such procedures cannot be eliminated. In line with the consumer principle of redress, we therefore consider that there should be a duty upon providers to issue consumers with the information they need to enable them to seek compensation if their procedure does cause them detriment. In order to meet such needs, we welcome the proposal to have mandatory insurance and indemnity in answer to Question 8. We consider the need for training and qualification requirements in response to Question 27 of this consultation.

Question 8. We agree that the Scottish Government should establish:

- Standards of hygiene and health and safety for licensed premises;
- Standards of training and qualification for licensed practitioners; and
- Mandatory insurance and indemnity to compensate clients who suffer harm as a result of negligence or malpractice.

Questions about the restriction of procedures to a HIS regulated setting

Question 11. We agree that the Scottish Government should establish:

- Standards of training and qualification for non-healthcare and healthcare professionals undertaking procedures in HIS regulated services; and
- Mandatory insurance and indemnity to compensate clients who suffer harm as a result of negligence or malpractice.

Question 12. We agree that the healthcare professional supervising a group 2 procedure should:

- Conduct the / any initial consultation(s) with the client;
- Prescribe any medications (e.g. Botox TM, lidocaine) required during the procedure; or required for the management of any complications that arise;
- Remain available on site for the duration of any procedure;
- Be responsible for ensuring the practitioner is suitably trained for the procedure;
- Be responsible for ensuring the procedure will be undertaken safely; and
- Be themselves suitably trained and qualified in the procedure being undertaken.

Question 13 & 14. Group 3 procedures should only be undertaken by:

- Medical practitioners (Doctors);
- Dental practitioners;
- Dental care professionals;

- Registered nurses;
- Registered midwives;
- Registered pharmacists; and
- Registered pharmacy technicians

Question 15. We agree that all of the following settings should be required to register with Healthcare Improvement Scotland if they are offering non-surgical cosmetic procedures:

- GP practices
- Dental practices
- Community pharmacies

Question 16. We agree that Healthcare Improvement Scotland should have powers of inspection, including powers of entry and inspection of unregistered settings where there is reason to believe registration is required.

Questions about age restrictions

Question 17. There should be a lower age limit under which clients should not be allowed to undertake an NSCPs (different ages are considered in Question 18).

Question 18. If an age limit is to be put in place please indicate for each procedure group.

We consider it appropriate that:

- Group 1 procedures are limited to clients aged 16 and 17 who have parental/guardian's consent, or otherwise to clients aged 18 and over.
- Group 2 and 3 procedures are limited to clients aged 18 and over.

Question 19. We agree that procedures on intimate areas should only be available to clients of 18 years of age and over.

Questions about equalities, Fairer Scotland duty, impact on island communities and UNCRC

Question 20. What are your views on how, if at all, the introduction of licensing and regulation of the non-surgical cosmetics sector in Scotland might affect anyone based on their protected characteristics including age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sex?

Providers must put the right safeguards in place to ascertain whether a consumer is a minor, elderly, pregnant, or has any other circumstances, characteristics, or vulnerabilities that may make performing or prescribing certain procedures unsuitable.

We welcome the proposal to impose age restrictions to protect consumers who are under the age of 18. Given the invasive nature of cosmetic procedures as well as the long-term,

severe impact cosmetic procedures can have on the mental and physical health of a consumer, we consider that generally, it would not be appropriate to undergo such procedures under the age of 18. The UK Government's Botulinum Toxin and Cosmetic Fillers (Children) Act 2021 determines that consumers must be 18 years of age for such procedures, and it we consider it essential that young people in Scotland are equally protected.

However, we recognise that 16- and 17-year olds have an increased ability to make decisions, and that they are legally allowed to get skin piercings. We therefore consider that it would be appropriate to allow Group 1 procedures for consumers aged 16 and 17 who have parental/guardian's consent. This would mean that i.e. young people who have obtained tattoos illegally or abroad or those who are affected by excess hair, would not have to wait until they are 18 for removal treatment.

Question 21. What are your views on how the introduction of licensing and regulation of the non-surgical cosmetics sector in Scotland might affect people differently based on their financial situation? The Fairer Scotland Duty places a legal responsibility on certain public bodies in Scotland to actively consider how they can reduce inequalities caused mainly by people's financial situation.

Consumer Scotland works to enhance fairness, inclusion, prosperity, and wellbeing. As such, we welcome the application of the Fairer Scotland Duty to this consultation process.

While safety is paramount, we note that many providers are small or microbusinesses. This means that training, licensing, and supervision requirements may lead to procedures becoming less accessible and affordable for some consumers. Providers who offer credit must be authorised by the Financial Conduct Authority. However, it is possible that more consumers, particularly those on low incomes, will be motivated to seek credit to pay for procedures if prices increase significantly. The Scottish Government may wish to consider a requirement upon providers to signpost consumers to reputable sources of free financial advice and support, prior to entering into a contract.

Question 22. What are your views on how the introduction of licensing and regulation of the non-surgical cosmetics sector in Scotland might affect access to safe, high-quality services in island communities?

Consumer Scotland welcomes the consideration of the impact of regulation on consumers living in island communities, in line with the requirements of the Islands (Scotland) Act 2018.

Those in rural and island communities tend to have less choice in services or goods due to more limited of competition within smaller geographical markets. This includes access to non-surgical medical procedures. This may result in a risk that a lack of competition could have an adverse effect on affordability and without appropriate regulation, on standards of care. There may also be complications in accessing appropriate after-care in a rural settings.

While non-surgical medical procedures are not public services, regulation will provide the necessary accountability to ensure that services available to consumers in remote, rural and

island communities are safe and of high quality, with an appropriate complaints system in place.

About us

Question 27. Further information about our organisation's response:

Background

Consumer Scotland is the statutory body for consumers in Scotland, established by the Consumer Scotland Act 2020. We use data, research and analysis to inform our work on the key issues facing consumers in Scotland. In conjunction with that evidence base we seek a consumer perspective through the application of the consumer principles of access, choice, safety, information, fairness, representation, and redress.

Our purpose is to improve outcomes for current and future consumers and we have responded to those questions in the consultation that are most relevant to our role.

We are aware that the Scottish Government has been working closely with a number of medical practitioner bodies and practitioners over the past years, including through the Scottish Cosmetic Interventions Expert Group (SCIEG) and consultations. We understand that it remains committed to the phased implementation of the recommendations of the 2015 SCIEG report. Consumer Scotland responded to the 2023 consultation on the Amendments to the Regulation of Independent Health Care (Phase 1)¹ and the current consultation (Phase 2). We are aware that the Scottish Government will monitor the market and consider whether there is a need to implement a new voluntary or legislative accreditation scheme for specified health care professional groups (Phase 3).²

We welcome the progress the Scottish Government is making to protect consumers when undergoing these procedures, and we broadly agree with the proposals. We note that the UK Government has previously committed to introducing similar legislation secondary to the Health and Care Act 2022. While the work towards secondary legislation including licensing schemes does not appear to be actively progressing in England, it is important to maintain a consistent approach to licensing and regulation across the UK to minimise the risk of consumers travelling to areas which may have weaker regulatory safeguards. Factors which may increase this risk would include differing age restrictions, or significant price differences based on the requirement for a medical professional. We encourage the Scottish and UK Governments to continue with a coordinated approach.

Key points underlying our response are the need for:

- Clarity for consumers and practitioners - In order to protect consumers against substandard practices, it must be clear what information practitioners are required to provide consumers with before, during, and after consultations, as well as licensing and qualification requirements.

- Redress - It is important that consumers have clear and easy access to redress options and we consider that membership of a redress scheme, and the requirement to have in place suitable indemnity insurance, should not be voluntary but mandatory for all practitioners.
- Enforceability - In order to ensure a workable system, any expansion of duties upon HIS and Local Authorities to administrate enforce should be appropriately resourced.
- Harmonisation – Preventing fundamental differences between UK-wide approaches is important to prevent cross-nation cosmetic tourism and to protect consumers from harm.
- Lack of data – It is currently difficult to obtain recent and reliable evidence around levels of consumer awareness of regulatory and redress issues. Further monitoring may be required in this regard, especially where technologies and procedures are rapidly evolving.

Further comments in light of consumer principles of information, safety, and redress are below.

Consumers must be able to make informed choices

There must be a duty upon practitioners and clinics to provide all the necessary information around procedures, risks, after care instructions, success rates, qualifications of staff and other necessary information to enable consumers to make a well-considered decision.

The Scottish Government may wish to consider further mapping of the consumer's decision making process. The aesthetics industry develops quickly and regular monitoring of consumer attitudes and incidences of detriment are needed. It would be helpful to establish how informed consumers generally are when they agree to undergoing a procedure. This includes their understanding of the direct and mid-to long term risks associated with their procedure, awareness of alternatives, information sources, how they decide where to go for their procedures, and how aware they are of their rights.

We recognise that it is not within scope of this Scottish Government consultation to define what makes a cosmetic procedure surgical or non-surgical. However, we consider defined parameters desirable to minimise the possibility of current and future procedures being inadequately regulated, and would welcome efforts to come to UK-wide definitions.

Consumers must be able to undergo procedures safely

In the interest of the consumer principles of safety and redress, it is important that consumers are protected against harm when they choose to undergo cosmetic procedures.

The consultation paper recognises that in light of the shift from surgical to non-surgical cosmetic procedures, the regulation of the latter is becoming increasingly necessary. The significant risks associated with unregulated cosmetic procedures has recently been

highlighted in the press, with the first known death as a result of a non-surgical 'Brazilian Butt Lift' (BBL) occurring in England in September.³ Furthermore, the British Association of Aesthetic Plastic Surgeons (BAAPS) has highlighted that, while dermal fillers are becoming increasingly popular, evidence shows that administering fillers can impact on anatomical structures and on lymphatic channels, a vital part of the immune system. BAAPS emphasised that injectable fillers should only be administered by medically trained clinicians.⁴ In this context we highlight that botched procedures may result in corrective or mental health treatment by the NHS, putting further pressures on resources which in turn can impact on waiting times for NHS patients.

We are aware that the regulation of medicines is regulated by the UK Medicines and Healthcare products Regulatory Agency (MHRA) and the regulation of online sales for self-administration falls outwith the scope of this Scottish Government consultation. While Group 1 procedures would not require prescription medication and Group 3 procedures are performed by healthcare professionals, Group 2 procedures could include prescribing of medicines but are not necessarily performed by healthcare professionals. We welcome the proposed requirements for supervision and prescription of any Prescription-Only Medicines by such a professional in those cases.

We welcome the proposal to ensure that there is a clear framework for training and qualification requirements. It is important that aspiring practitioners can easily identify what is required to be a licensed practitioner. Expert engagement will be important to determine what training requirements and qualifications should look like.

Accreditation can be a useful mechanism to uphold practice standards and inspire consumer confidence. We note that Phase 3 of the recommendations of the Scottish Cosmetic Interventions Expert Group Report July 2015 is that progress on regulation will be monitored and consideration given to a new accreditation scheme, voluntary or legislative, for specified health care professional groups. The Professional Standards Authority has accredited two registers in this market: Save Face for clinics, doctors, nurses, dentists, and prescribing pharmacists who offer non-surgical cosmetic treatments⁵ and the JCCP register which can be used by all practitioners in cosmetic treatment.⁶ However, both are voluntary registers and we consider that a mandatory registration to maintain standards may help to mitigate risk for consumers. In this context we note that the UK Government appointed British Standards Institute has already published standards for non-surgical treatments and the Scottish Government may wish to consider requiring practitioners to adopt and comply these.⁷ Members of either scheme should be encouraged to display their accreditation in communications and on physical premises. We would highlight that there may be a potential risk of fake certificates being developed and it is important that enforcement advice is taken to mitigate this risk.

The proposals include plans to provide Local Authority officers with licensing, inspection, and enforcement powers, including the ability to remove licences and to bar practitioners from holding licences in cases of non-compliance. We agree that proactive inspection and enforcement are key to maintaining compliance, noting that in response to the previous consultation⁸, responding Local Authorities expressed support. However, in light of ongoing

resourcing pressures, such powers should be paired with adequate support to allow officers to consistently carry out the required inspections and enforcement activities.

Consumers must be able to obtain redress when they experience detriment

It should be easy for consumers to take steps to hold a practitioner and/or practice accountable if they do experience issues relating to the procedure or service. Some evidence suggests that first tier complaint resolution is poor, with issues remaining unresolved. According to SaveFace, 84% of those who contacted them in 2022 reported that they had simply been ignored or blocked by their non-surgical BBL practitioner when they asked them for help.⁹ A report it published into non-surgical BBL and breast augmentation complaints also found that “96% of patients have been forced to access NHS services when things have gone wrong because the people who administered the treatments have been unable or unwilling to manage the complications.”¹⁰

Consumers who experience detriment have to rely on consumer law. The Chartered Trading Standards Institute,¹¹ the Joint Council for Cosmetic Practitioners,¹² and a number of other bodies have their own voluntary redress schemes. However, we encourage the Scottish Government to consider making membership of a redress scheme mandatory for every clinic and/or practitioner, to ensure consumers always have access to justice.

In terms of fairness and redress, we note that a consumer undergoing a Group 1 procedure (i.e. a chemical peel) in a HIS-regulated setting is able to use its complaints procedure, while those who undergo the same procedure in a Local Authority licensed setting do not. The Scottish Government may wish to consider how it can ensure fair coverage of redress pathways, i.e. by making it mandatory for practitioners who do not operate in a HIS-regulated setting to become a member of the Independent Sector Complaints Adjudication Service.

Question 28. Consumer Scotland is not involved in the non-surgical cosmetics sector.

¹ [Consultation on Amendments to the Regulation of Independent Health Care \(HTML\) | Consumer Scotland](#)

² [Scottish Cosmetic Interventions Expert Group](#)

³ [Alice Webb: Arrests after non-surgical Brazilian butt lift death - BBC News](#)

⁴ [Caution raised Over Potential Immune System Impact of Cosmetic Filler | The British Association of Aesthetic Plastic Surgeons](#)

⁵ [Save Face - Find a Practitioner or Clinic Today](#)

⁶ [Practitioners & Clinics](#)

⁷ [British Standards Institution - Committee](#)

⁸ [Published responses for Consultation on the Regulation of Non-Surgical Cosmetic Procedures in Scotland - Scottish Government consultations - Citizen Space](#)

⁹ [ITV NEWS: New statistics reveal scale of Liquid BBL botched jobs - Save Face](#)

¹⁰ [Publications - Save Face](#)

¹¹ tradingstandards.uk/consumer-help/adr-approved-bodies/cosmetic-redress-scheme/

¹² [Raising a concern](#)