

Public Consultation on the Regulation of Non-surgical Cosmetic Procedures: Scottish Government response to the Analysis Report findings

July 2022

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Background

1. From 17 January 2020 to 30 June 2020, the Scottish Government ran a public consultation on the further regulation of non-surgical cosmetic procedures (that pierce or penetrate the skin) and proposals to introduce a licensing scheme.
2. The consultation also sought views on bringing pharmacists who provide services outside of NHS contracts under the regulation of Healthcare Improvement Scotland (HIS) by adding them to the list of service providers in the definition of an independent clinic, as set out in Section 10F of the [National Health Service \(Scotland\) Act 1978](#).

Findings of the consultation and analysis report

3. We have now published the responses to the consultation and the analysis report which are available at: <https://consult.gov.scot/healthcare-quality-and-improvement/regulation-of-independent-healthcare/>. The headline findings from the analysis report are as follows:

- After the removal or reconciliation of duplicate responses, there were a total of 437 responses to the consultation. 382 responses were from individuals and 55 from organisations.

Question A - Do you agree that further regulation of non-surgical cosmetic procedures is needed?

- 98% of respondents agreed that further regulation of non-surgical cosmetic procedures was needed. Most of the respondents felt that non-surgical cosmetic procedures should be conducted by trained, qualified and regulated healthcare professionals.

Question B - Do you agree that the carrying out of non-surgical cosmetic procedures (that pierce/penetrate the skin) by individuals who are not qualified healthcare professionals should be licensed under [Part 1 of the Civic Government \(Scotland\) Act 1982](#)?

- 61% of respondents agreed that individuals who are not qualified healthcare professionals should be licensed. Most respondents who agreed with the proposal felt that the unregulated parts of the sector needed more regulation. Most respondents who disagreed with the proposal felt that more robust regulation than licensing was needed, or that the procedures should only be performed by healthcare professionals.

Question C - Do you agree that services provided by pharmacists who undertake independent healthcare practices (including non-surgical cosmetic procedures) outwith the terms of an NHS contract should be regulated by Healthcare Improvement Scotland?

- 90% of respondents felt that pharmacists should be regulated by HIS in the same way as other healthcare professionals. They were keen that the industry should be better regulated overall, and felt that it was necessary to regulate pharmacists, along with all other practitioners in the sector.

Scottish Government response

4. It is clear from the consultation responses that there is strong public support for further regulation of non-surgical cosmetic procedures that pierce or penetrate the skin. The responses also show support for pharmacists who provide independent services to be regulated by HIS in the same way as other health professionals.

5. Based on the responses to the consultation and what stakeholders have told us, the priority from a clinical safety perspective is to consider regulating the administration of dermal fillers. If things go wrong when dermal fillers are administered, the complications can often cause long term damage that can only be reversed or limited by the urgent administration of specific prescription-only medication. This is not the case with other non-surgical cosmetic procedures.

6. We will also scope other procedures to consider any need for further regulation.

7. We recognise there are also concerns about botulinum toxins such as 'Botox'. 'Botox' and other botulinum toxins are already regulated under reserved UK legislation on prescription-only medicines, with professional guidance that requires any prescriber to have professional knowledge and a face to face consultation with the person receiving botulinum toxin before they can prescribe it for the person receiving it and before a health professional can administer it. In addition, prescription only medicines, like 'Botox', cannot generally be advertised to the general public. The Medicines and Healthcare products Regulatory Agency (MHRA) is responsible for compliance with the regulatory requirements that govern the manufacture, distribution, retail sale/supply and advertisement of medicinal products, including 'Botox'. It investigates any report of a breach, or suspected breach brought to its attention.

8. We will therefore consider legislation to restrict who can administer dermal fillers, with the aim of protecting public safety. This will include further stakeholder engagement and consultation.

9. We will also consider introducing secondary legislation to bring pharmacists who provide services outside of NHS contracts under the regulation of HIS by adding them to the list of service providers included in the definition of independent clinic in section 10F of the National Health Service (Scotland) Act 1978. The public consultation overwhelmingly supported this proposal.

10. We will explore the possibility of updating the Licensing of Skin Piercing and Tattooing Order 2006 under the Civic Government Scotland Act 1982 to license businesses that provide a wider range of non-surgical cosmetic procedures or body modifications which are currently unregulated. We intend to consider this in relation to unregulated non-surgical cosmetic procedures which carry risk of potential infection or tissue damage requiring a medical intervention but which do not require an immediate or urgent prescription-only medicine to reverse dangerous side-effects. This will also involve further stakeholder engagement and consultation.

11. We acknowledge that the UK Health and Care Act 2022 will introduce enabling powers to establish a licensing scheme for non-surgical cosmetic providers in England and we will work with the other UK nations as we develop our proposals.

12. Our ultimate goal is to ensure that all non-surgical cosmetic procedures carried out in Scotland are delivered from hygienic premises by appropriately trained practitioners, applying recognised standards and using legitimate products.



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