
REGULATION OF COSMETIC PIERCING AND SKIN-COLOURING BUSINESSES

**Responsible Cabinet Member(s) - Councillor Chris McEwan,
Community Protection Portfolio**

Responsible Director(s) - John Buxton, Director of Development and Environment

Purpose of Report

1. To advise of changes in legislation relating to cosmetic piercing and to seek approval for carrying out the procedures necessary to make byelaws to effectively regulate activities relating to skin piercing and semi-permanent skin-colouring.

Background

2. The Local Government Act 2003 has amended the Local Government (Miscellaneous Provisions) Act 1982 and has introduced new requirements for cosmetic piercing (piercing of parts of the body, including the ear) and semi-permanent skin-colouring (micro pigmentation, semi-permanent make up and temporary tattooing) businesses. This Council has already adopted the Local Government (Miscellaneous Provisions) Act 1982 in relation to acupuncture, tattooing, ear-piercing and electrolysis and a registration system and byelaws for these are in place.
3. Cosmetic piercings and semi-permanent skin-colouring carry a potential risk of Blood Borne Virus (BBV) transmission if infection control procedures are not observed (eg the use of sterile equipment for each client). Until the change in the law in the Local Government Act 2003, local authorities in England (outside London) and Wales did not have powers to require businesses offering these services to register and observe byelaws relating to the cleanliness and hygiene of premises. Local authorities powers were limited to regulating ear piercing, tattooing, electrolysis and acupuncture. A joint Department of Health and Welsh Office consultation exercise in 1996 elicited widespread support for changing the law to extend local authorities powers. Local authorities in London, which are covered by separate private legislation, already have powers to licence and inspect cosmetic body piercing and semi-permanent skin colouring businesses. The new legislation provides a consistent level of health protection across England and Wales.
4. From the date the byelaws come into force in the area cosmetic piercing and semi-permanent skin colouring businesses will have to register with the Council and follow the byelaws which are concerned with the cleanliness and hygiene of practitioners, premises and equipment to protect customers against the risk of infection. Copies of the draft byelaws recommended by the Department of Health are attached as **Appendix 1 and 2**.
5. It will be an offence to carry on such a business without being registered, to carry on such a business in premises that are not registered for the purpose or to break byelaws.

6. The Council has to pass a Resolution authorising the affixing of the common Seal to the byelaws and authorising the Borough Solicitor to carry out the necessary procedure and apply to the Secretary of State for confirmation. At least one clear month before applying for confirmation notice of the Council's intention to apply for confirmation must be given in one or more local newspapers circulating in the area to which the byelaws will apply. A copy of the byelaws must be deposited at the Council offices and be open to public inspection without charge at all reasonable times during the month. It is intended that the byelaws will come into operation on 1 August 2004, if confirmation is given by the Secretary of State.
7. The licensed skin piercing businesses in the Borough have been sent a letter explaining the change in legislation and asking if they have any comments on the draft byelaws, however, none have been received.

Legal Implications

8. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

9. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

Council Policy Framework

10. The issues contained within this report are required to be considered by Council.

Recommendation

11. Council are requested to :-
 - (a) Authorise The affixing of the common Seal to the byelaws.
 - (b) The necessary procedures are carried out and application be made to Secretary of State for confirmation of these byelaws relating to semi permanent skin piercing and cosmetic piercing.
 - (c) The date these provisions will come into force will be 1 August 2004 subject to confirmation by the Secretary of State, or immediately on receipt of such confirmation if received after that date.

Reasons

12. The recommendations are supported to enable the Council to implement the changes in legislation and formally propose the adoption of byelaws to regulate the activities of businesses carrying on skin piercing activities defined in the Local Government Act 1982 and 2003.

John Buxton
Director of Development and Environment

Background Papers

Department of Health Guidance Document

Dave Morrison : Extension 388577
Jh

Draft model byelaws

Cosmetic Piercing

Byelaws for the purposes of securing the cleanliness of premises registered under section 15 of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in those premises and of registered persons and persons assisting them and the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the business of cosmetic piercing made by in pursuance of Section 15(7) of the Act.

1. Interpretation:

- a. In these byelaws, unless the context otherwise requires –

“The Act” means the Local Government (Miscellaneous Provisions) Act 1982;

“Client” means any person undergoing treatment;

“Operator” means any person giving treatment;

“Premises” means any premises registered under Part VIII of the Act;

“Proprietor” means any person registered under Part VIII of the Act;

“Treatment” means any operation in effecting cosmetic piercing;

“The treatment area” means any part of the premises where treatment is given to Clients.

- b. The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2. For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that –

- a. All internal walls, doors, windows, partitions, floors and floor coverings, and ceilings are kept clean and in such good repair as to enable them to be cleaned effectively;
- b. All waste materials, and other litters, arising from the treatment should be handled and disposed of as clinical waste in accordance with relevant legislation and guidance as advised by the local authority;
- c. All needles used in treatment are single-use and disposable, as far as is practicable; and are stored and disposed of as clinical waste in accordance with the relevant legislation and guidance as advised by the local authority;
- d. All furniture and fittings in the premises are kept clean and in such good repair as to enable them to be cleaned effectively;
- e. All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 3b below are placed immediately prior to treatment, have a smooth impervious surface which is disinfected immediately after use and at the end of each working day;
- f. Where tables and couches are used, they are covered by a disposable paper sheet which is changed for each client;
- g. No eating, drinking or smoking is permitted in the treatment area and a notice or notices reading “No Smoking”, “No Eating or Drinking” is prominently displayed there.

3. For the purpose of securing the cleansing and so far as is appropriate, the sterilization of instruments, materials and equipment used in connection with the treatment –
 - a. An operator shall ensure that, before use in connection with treatment, any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in the treatment –
 - i. is clean and in good repair, and, so far as is appropriate, sterile;
 - ii. has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned and, so far as is appropriate, sterilized.
 - b. An operator shall ensure that any needle, metal instrument, or other item of equipment, used in treatment or for handling instruments and needles used in the treatment is in a sterile condition and kept sterile until it is used;
 - c. A proprietor shall provide –
 - i. adequate facilities and equipment for the purpose of sterilization (unless pre-sterilized items are used) and of cleansing, as required in pursuance of these byelaws;
 - ii. sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;
 - iii. an adequate constant supply of clean hot and cold water readily available at all times on the premises;
 - iv. adequate storage for all items mentioned in byelaw 3 a and b above, so that those items are properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.

4. For the purpose of securing the cleanliness of operators –
 - a. A proprietor shall ensure that –
 - i. any operator keeps his hands and nails clean and his nails short;
 - ii. any operator wears disposable surgical gloves that have not previously been used with any other client;
 - iii. any operator of the premises wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with any other client;
 - iv. any operator keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;
 - v. any operator does not smoke or consume food or drink in the treatment area.
 - b. A proprietor shall provide;
 - i. suitable and sufficient washing facilities for the sole use of operators, including hot and cold water and sanitising soap or detergent;
 - ii. suitable and sufficient sanitary accommodation for operators.

The foregoing byelaws are hereby confirmed by the Secretary of State for Health
on _____ and shall come into operation on _____

Member of the Senior Civil Service
Department of Health

NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

- a. Proprietors must take all reasonable steps to ensure compliance with these byelaws by persons working on the premises. Section 16(9) of the Act provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act.
- b. Section 16(2) of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who contravenes any of these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. If a person registered under Part VIII of the Act is found guilty of contravening these byelaws the Court may instead of or in addition to imposing a fine, order the suspension or cancellation of his registration and of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence for the person charged under sub-sections (1), (2), (8) or (10) of Section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.
- c. Nothing in these byelaws extends to the practice of cosmetic piercing by or under the supervision of a person who is registered as a medical practitioner or to premises on which the practice of cosmetic piercing is carried on by or under the supervision of such a person.

Semi-permanent skin-colouring

Byelaws for the purposes of securing the cleanliness of premises registered under section 15 of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and registered persons and persons assisting them and the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the business of semi-permanent skin-colouring, made by in pursuance of section 15(7) of the Act.

1. Interpretation:
 - a. In these byelaws, unless the context otherwise requires –
 - “The Act” means the Local Government (Miscellaneous Provisions) Act 1982;
 - “Client” means any person undergoing treatment;
 - “Operator” means any person giving treatment;
 - “Premises” means any premises registered under Part VIII of the Act;
 - “Proprietor” means any person registered under Part VIII of the Act;
 - “Treatment” means any operation in effecting semi-permanent skin-colouring;
 - “The treatment area” means any part of the premises where treatment is given to clients.
 - b. The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2. For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that –
 - a. All internal walls, doors, windows, partitions, floors and floor coverings, and ceilings are kept clean and in such good repair as to enable them to be cleaned effectively;
 - b. The treatment area is used solely for giving treatment;
 - c. The floor of the treatment area is provided with a smooth impervious surface;
 - d. All waste materials, and other litters, arising from the treatment should be handled and disposed of as clinical waste in accordance with relevant legislation and guidance as advised by the local authority;
 - e. All needles used in treatment are single-use and disposable, as far as is practicable; and are stored and disposed of as clinical waste in accordance with the relevant legislation and guidance as advised by the local authority;
 - f. All furniture and fittings in the premises are kept clean and in such good repair as to enable them to be cleaned effectively;
 - g. All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 3b below are placed immediately prior to treatment, have a smooth impervious surface which is disinfected immediately after use and at the end of each working day;
 - h. Where tables and couches are used, they are covered by a disposable paper sheet which is changed for each client;
 - i. No eating, drinking or smoking is permitted in the treatment area and a notice or notices reading “No Smoking”, “No Eating or Drinking” are prominently displayed there.

3. For the purpose of securing the cleansing and so far as is appropriate, the sterilization of instruments, materials and equipment used in connection with the treatment –
 - a. An operator shall ensure that, before use in connection with treatment, any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such articles used in the treatment –
 - i. is clean and in good repair, and so far as is appropriate, is sterile;
 - ii. has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned and, so far as is appropriate, sterilized.
 - b. An operator shall ensure that –
 - i. any needle, metal instrument, or other item or equipment, used in treatment or for handling instruments and needles used in treatment, is in a sterile condition and kept sterile until it is used;
 - ii. all dyes used for semi-permanent skin-colouring are sterile and inert;
 - iii. the containers used to hold the dyes for each customer are either disposed of at the end of each session of treatment, or are cleaned and sterilized before re-use;
 - c. A proprietor shall provide –
 - i. adequate facilities and equipment for the purpose of sterilization (unless pre-sterilised items are used) and of cleansing, as required in pursuance of these byelaws;
 - ii. sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;
 - iii. an adequate constant supply of clean hot and cold water readily available at all times on the premises;
 - iv. adequate storage for items mentioned in byelaw 3 a and b above, so that those items are properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.
4. For the purpose of securing the cleanliness of operators –
 - a. A proprietor shall ensure that –
 - i. any operator keeps his hands and nails clean and his nails short;
 - ii. any operator wears disposable surgical gloves that have not previously been used with any other client;
 - iii. any operator of the premises wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with any other client;
 - iv. any operator keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;
 - v. any operator does not smoke or consume food or drink in the treatment area.
 - b. A proprietor shall provide -
 - i. suitable and sufficient washing facilities for the sole use of operators, including hot and cold water, sanitising soap or detergent;
 - ii. suitable and sufficient sanitary accommodation for operators.

COUNCIL'S SIGNATURE

COUNCIL'S SEAL

The foregoing byelaws are hereby confirmed by the Secretary of State for Health

on _____ and shall come into operation on _____

Member of the Senior Civil Service
Department of Health

NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

- a. Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on the premises. Section 16(9) of the Act provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act.
- b. Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who contravenes any of these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. If a person registered under part viii of the Act is found guilty of contravening these byelaws the Court may instead of or in addition to imposing the fine, order the suspension or cancellation of his registration and of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence for the person charged under sub-sections (1), (2), (8) or (10) of Section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- c. Nothing in these byelaws extends to the practice of semi-permanent skin-colouring by or under the supervision of a person who is registered as a medical practitioner or to premises on which the practice of semi-permanent skin-colouring is carried on by or under the supervision of such a person.