

**COUNCIL
28 APRIL 2004**

**MAKING BY-LAWS: REGULATION OF COSMETIC PIERCING AND
SKIN-COLOURING BUSINESSES
(Report of the Licensing and Safety Committee)**

1. SUMMARY

- 1.1 On 1 April 2004, the Licensing and Safety Committee agreed to recommend to the Council the adoption of model by-laws which would enable the Council to regulate persons carrying on businesses of cosmetic piercing (piercing of the body including the ear) and semi-permanent skin colouring (including micro-pigmentation, semi-permanent make-up and temporary tattooing). The Council is required to give its approval as part of the by-law making process.
- 1.2 The Local Government Act 2003 has amended the Local Government (Miscellaneous Provisions) Act 1982 to enable local authorities to adopt by-laws, which are intended to increase health protection and reduce the risk of transmission of blood-borne virus (BBV) infections such as HIV, hepatitis B and C and other infections.
- 1.3 The Act provides for local authorities to make by-laws relating to the cleanliness and hygiene of premises, practitioners and equipment. Bracknell Forest Borough Council has already adopted the 1982 Act in relation to tattooing, ear piercing and electrolysis and thus may introduce by-laws to regulate cosmetic piercing and semi-permanent skin colouring.

2 RECOMMENDATIONS

- 2.1 **That the draft model by-laws, set out in Annexes A and B to this report, be approved;**
- 2.2 **That the common seal be affixed to the by-laws;**
- 2.3 **That the Borough Solicitor be authorised to carry out the necessary procedures relating to the making of the by-laws and to apply to the Secretary of State for confirmation.**

3 SUPPORTING INFORMATION

- 3.1 Cosmetic piercing and semi-permanent skin colouring have grown in popularity in recent years. These processes, like tattooing and ear piercing, carry a potential risk of BBV transmission if infection control procedures are not observed (ie use of sterile equipment for each client). Until this new legislation, local authorities outside London and Wales did not have powers to make by-laws controlling the cleanliness and hygiene of such premises.

- 3.2 Within Bracknell Forest at present there are 54 premises which are registered for the conducting of tattooing, ear piercing, electrolysis and acupuncture. Present by-laws control standards of those activities. In addition with the growth of body piercing and semi-permanent skin colouring, these premises have also taken on these activities.
- 3.3 Officers inspect those premises on a risk-based assessment process to ensure standards of cleanliness and procedures are maintained in line with the by-laws. Officers also offer advice and good practice guidance to lessen the risk of BBV transmission in respect of any other activity not regulated by the by-laws.
- 3.4 It is not known how many premises in Bracknell Forest are presently offering cosmetic piercing and semi-permanent skin colouring services which are not registered under the existing by-laws. It is, however, considered that the number will be small. The adoption of the by-laws would require all local businesses involved in the practice of skin-piercing for whatever purpose to register and comply with standards intended to protect public health.
- 3.5 Section 15(6) of the Local Government (Miscellaneous Provisions) Act 1982 (The 1982 Act) enables local authorities to charge reasonable registration fees for the registration of persons carrying on businesses of cosmetic piercing or semi-permanent skin-colouring. The fee can cover initial inspections associated with registration, advising the businesses about registration and associated administration. It would be appropriate to charge a registration fee in line with existing charges for tattooing, etc. Where a business is already registered under the existing by-laws, it would also need to be registered for cosmetic piercing and semi-permanent skin-colouring if it wishes to conduct those practices. This would involve work for the authority and it is suggested that it would be appropriate to charge a further fee for registering those practices.
- 3.6 The 1982 Act provides for local authorities to make by-laws for cosmetic piercing and semi-permanent skin colouring for the purpose of securing:
- the cleanliness of premises and fittings
 - the cleanliness of operators
 - the cleansing and, if appropriate, sterilisation of instruments, materials and equipment
- 3.7 Model by-laws are attached to this report as Annexes A and B, and it is necessary that the Council shall pass a resolution to approve the by-laws; to authorise the affixing of the common seal to by-laws; and to carry out the necessary procedure and apply to the Secretary of State for confirmation.
- 3.8 Prior to referring to the Secretary of State for confirmation, the Council must:
- (a) give notice of the Council's intention in one or more local newspapers, and
 - (b) place a copy of the by-laws at the Council's offices and be open to public inspection without charge at all reasonable times during that month.
- 3.9 After not less than one month, the Council by-laws must be submitted for confirmation to the Secretary of State and be accompanied by:
- i) a copy of the full Council's resolution;
 - ii) two sets of the sealed by-laws together with a photocopy;

- iii) the newspaper containing the notice;
- iv) the Borough Solicitor's certificate as to the date and duration of deposit of a copy of the by-laws;
- v) a statement as to whether or not objections were received by the Council;
- vi) confirmation, where applicable, that the by-laws are identical to the model by-laws;
- vii) confirmation of the Council's adoption of Section 14-17 and compliance with the provisions of Section 13 of the 1982 Act, particularly regarding the publishing of notice in a newspaper.

COUNCILLOR ALAN KENDALL
Chairman

Background Papers

Department of Health – Regulation of Cosmetic Piercing and Skin-Colouring Businesses – February 2004

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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-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 all items mentioned in byelaw 3a 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.

MODEL BYELAWS

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 a 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" is/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 3a 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.