

Report to Licensing Committee

8 September 2016

Report of Head of citywide services

Subject Adoption of new bye-law 'Acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis.'

Item

5

Purpose

To seek approval for the adoption of a single replacement bye-law for the existing three bye-laws which were adopted in 1986 that regulate acupuncture, ear piercing, electrolysis and tattooing.

Recommendation

To recommend council to make the consolidated model bye laws for the control of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis, as set out in appendix A, and following the making of such bylaws the existing bylaws relating to acupuncture, tattooing, semi-permanent skin colouring cosmetic piercing and electrolysis be revoked.

Corporate and service priorities

The report helps to meet the corporate priority "A safe and clean city" and the service plan priority to provide adequate public and environmental protection.

Financial implications

Under the bye-law any business undertaking the above processes must be registered for which a fee is payable to the council. These charges will cover the costs of registration and the subsequent inspection of premises.

Therefore there are no financial implications of adopting the bye-law

Ward/s: All wards

Cabinet member: Councillor Kendrick Neighbourhoods and community safety

Contact officers

Adrian Akester, head of citywide services 01603 212331

Background documents

None

Report

Background

1. The purpose of this report is to seek approval to adopt a new bye-law in respect of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis.
2. The Local Government (Miscellaneous Provisions) Act 1982 introduced, specific controls for certain skin piercing activities such as ear piercing, tattooing, acupuncture and electrolysis. The controls enable Local Authorities to require the registration of such activities to ensure that operators meet hygienic standards. The principal reason for the introduction of the controls was related to the risks of transmission of blood borne diseases such as Aids and Hepatitis.
3. Licencing committee resolved to adopt the Local Government (Miscellaneous Provisions) Act 1982 Part VIII Sections 14, 15, 16 and 17 which apply to Acupuncture, Tattooing, Ear piercing and Electrolysis on 18 February 1986, which came into effect from 1 June 1986 enabling the adoption of the existing bye-laws.
4. The council currently has three separate bye-laws which were adopted in 1986, these three bye-laws cover the following topics:
 - a) Acupuncture.
 - b) Ear piercing and Electrolysis.
 - c) Tattooing.
5. The proposed new model bye-law (Acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) has been prepared for adoption. It the three existing bye-laws and is extended to include a number of new treatments which have been developed since the implementation of the current bye-laws.
6. At the introduction of the new model bye-law, the three existing bye-laws will be revoked.
7. Since the initial controls were introduced there have been a number of developments in skin piercing, primarily associated with fashion trends. Consequently the current practices known as cosmetic body piercing, subdermal implants and also semi-permanent skin colouring are in effect unregulated. Local Authorities have expressed concern for a number of years that these practices also pose potential health risks for the transmission of blood borne diseases.
8. In recognition of these concerns the Government introduced further controls, through Section 120 and Schedule 6 of the Local Government Act 2003, powers to require the registration of businesses which provide cosmetic

piercing and skin colouring services. The powers must first be adopted by a local authority and continued business registration will be subject to compliance with the established set of model bye-laws.

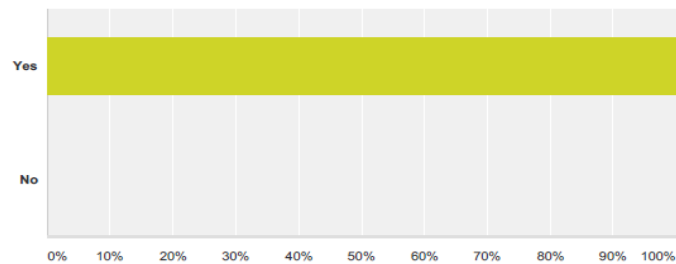
9. The Local Government (Miscellaneous Provisions) Act 1982 Part VIII 15 (6) states a local authority may charge such reasonable fees as they may determine for registration. A business registration charge for each business covered by the bye-law is payable, also an individual registration charge per individual working within the premises is chargeable. These charges will cover the costs of registration and the subsequent inspection of premises.
10. The existing bye-laws do not contain provision to deal with issues relating to cosmetic skin piercing, other than ear piercing, or semi-permanent skin colouring. It is considered prudent and in the interest of public safety to take this opportunity to make provision for the control of cosmetic skin piercing and semi-permanent skin colouring.
11. Any persons or premises already registered for activities covered by section 14 and 15 of the Local Government (Miscellaneous Provisions) Act 1982 Part VIII will be unaffected until that person subsequently provides a different form of cosmetic treatment, when a new registration will be required.
12. The bye-law provides a means for the local authority to secure:
 - a) The cleanliness of premises and equipment.
 - b) The cleanliness of the operators.
 - c) The cleansing and, if appropriate, sterilisation of instruments, materials and equipment.
13. A consultation process has been undertaken, which included: an advert detailing our wish to consolidate the bye-laws and information on the proposed bye-law, being placed in a local tabloid for two consecutive weeks and the new bye-law, was made available for public viewing for a period of one month, at the City Hall for free. A consultation also occurred using the council's website, the bye-law was available for viewing for a period of one month, accompanied by an online survey giving members of the public an opportunity to express their opinion. Three individuals responded to the survey and a detail of their feedback is displayed below:

Chart showing responses to online bye-law consultation

Proposed byelaw for acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis

Q3 Do you think that there should be one consolidated byelaw to cover all businesses of this nature?

Answered: 3 Skipped: 0



Answer Choices	Responses
Yes	100.00% 3
No	0.00% 0
Total Respondents: 3	

Conclusion

Adoption of the new bye-law and revocation of the existing bye-laws is necessary to afford the best public protection. Registration of premises and service providers ensures continued regulation of invasive treatments and reduces the likelihood of spread of blood borne viruses, it is necessary to adopt the new bye-law to maintain controls over an ever changing industry.

Existing bye-laws do not cover modern treatments which present the same risk as those covered by existing bye-laws and the adoption of the new bye-law will enable the authority to continue to protect public and secure the cleanliness of premises and equipment.

Therefore it is suggested:

To recommend council to make the consolidated model by laws for the control of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis, as set out in appendix A, and following the making of such bylaws the existing bylaws relating to acupuncture, tattooing, semi-permanent skin colouring cosmetic piercing and electrolysis be revoked.

References

Local Government (Miscellaneous Provisions) Act 1982 Chapter 30 Part VIII Section 15

Local Government Act 2003 Chapter 26 Part 8 Chapter 1 Section 120

Local Government Act 2003 Regulation of Cosmetic Piercing and Skin-Colouring Businesses, Guidance on Section 120 and Schedule 6, Department of Health.

NORWICH CITY COUNCIL BYELAWS

Acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis

Byelaws for the purposes of securing the cleanliness of premises registered under sections 14(2) or 15(2) or both of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and of persons registered under sections 14(1) or 15(1) or both of the Act and persons assisting them and of securing the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis, or any two or more of such practice and businesses made by Norwich City Council in pursuance of sections 14(7) or 15(7) or both of the Act.

Interpretation

1.—(1) In these byelaws, unless the context otherwise requires—

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

“client” means any person undergoing treatment;

“hygienic piercing instrument” means an instrument such that any part of the instrument that touches a client is made for use in respect of a single client, is sterile, disposable and is fitted with piercing jewellery supplied in packaging that indicates the part of the body for which it is intended, and that is designed to pierce either—

(a) the lobe or upper flat cartilage of the ear, or

(b) either side of the nose in the mid-crease area above the nostril;

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“operator” means any person giving treatment, including a proprietor;

“premises” means any premises registered under sections 14(2) or 15(2) of the Act;

“proprietor” means any person registered under sections 14(1) or 15(1) of the Act;

“treatment” means any operation in effecting acupuncture, tattooing, semi-permanent

skin-colouring, cosmetic piercing or electrolysis;

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

(2) The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2.—(1) For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that—

(a) any internal wall, door, window, partition, floor, floor covering or ceiling is kept clean and in such good repair as to enable it to be cleaned effectively;

(b) any waste material, or other litter arising from treatment is handled and disposed of in accordance with relevant legislation and guidance as advised by the local authority;

(c) any needle used in treatment is single-use and disposable, as far as is practicable, or otherwise is sterilized for each treatment, is suitably stored after treatment and is disposed of in accordance with relevant legislation and guidance as advised by the local authority;

(d) any furniture or fitting in premises is kept clean and in such good repair as to enable it to be cleaned effectively;

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(e) any table, couch or seat used by a client in the treatment area which may become contaminated with blood or other body fluids, and any surface on which a needle, instrument or equipment is placed immediately prior to treatment has a smooth impervious surface which is disinfected—

- (i) immediately after use; and
- (ii) (ii) at the end of each working day.

(f) any table, couch, or other item of furniture used in treatment is 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”, and “No Eating or Drinking” is prominently displayed there.

(2) (a) subject to sub-paragraph (b), where premises are registered under section 14(2) (acupuncture) or 15(2) (tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis) of the 1982 Act, a proprietor shall ensure that treatment is given in a treatment area used solely for giving treatment;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

(3) (a) Subject to sub-paragraph (b), where premises are registered under section 15(2) (tattooing, semi-permanent skin-colouring and cosmetic piercing) of the 1982 Act, a proprietor shall ensure that the floor of the treatment area is provided with a smooth impervious surface;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

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3.—(1) For the purpose of securing the cleansing and so far as is appropriate, the sterilization of needles, instruments, jewellery, materials and equipment used in connection with treatment—

(a) an operator shall ensure that—

(i) any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in treatment—

(aa) is clean and in good repair and, so far as is appropriate, is sterile; (bb) has not previously been used in connection with another client

unless it consists of a material which can be and has been adequately cleansed and, so far as is appropriate, sterilized.

(ii) any needle, metal instrument, or other instrument or equipment used in treatment or for handling such needle, instrument or equipment and any part of a hygienic piercing instrument that touches a client is sterile;

(iii) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;

(iv) any dye used for tattooing or semi-permanent skin-colouring is sterile and inert;

(v) any container used to hold dye for tattooing or semi-permanent skin colouring

is either disposed of at the end of each treatment or is cleaned and sterilized before re-use.

(b) a proprietor shall provide—

(i) adequate facilities and equipment for—

(aa) cleansing; and

(bb) sterilization, unless only pre-sterilized items are used.

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- (ii) sufficient and safe gas points and electrical socket outlets;
- (iii) an adequate and constant supply of clean hot and cold water on the premises;
- (iv) clean and suitable storage which enables contamination of the articles, needles, instruments and equipment mentioned in paragraphs 3(1)(a)(i), (ii), (iii), (iv) and (v) to be avoided as far as possible.

4.—(1) For the purpose of securing the cleanliness of operators, a proprietor—

(a) shall ensure that an operator—

- (i) keeps his hands and nails clean and his nails short;
- (ii) keeps any open lesion on an exposed part of the body effectively covered by an impermeable dressing;
- (iii) wears disposable examination gloves that have not previously been used with another client, unless giving acupuncture otherwise than in the circumstances described in paragraph 4(3);
- (iv) 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 another client;
- (v) does not smoke or consume food or drink in the treatment area; and

(b) shall provide—

- (i) suitable and sufficient washing facilities appropriately located for the sole use of operators, including an adequate and constant supply of clean hot and cold water, soap or detergent; and
- (ii) suitable and sufficient sanitary accommodation for operators.

(2) Where an operator carries out treatment using only a hygienic piercing

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instrument and a proprietor provides either a hand hygienic gel or liquid cleaner, the washing facilities that the proprietor provides need not be for the sole use of the operator.

(3) Where an operator gives acupuncture a proprietor shall ensure that the operator wears disposable examination gloves that have not previously been used with another client if—

(a) the client is bleeding or has an open lesion on an exposed part of his body; or

(b) the client is known to be infected with a blood-borne virus; or

(c) the operator has an open lesion on his hand; or

(d) the operator is handling items that may be contaminated with blood or other body fluids.

5. A person registered in accordance with sections 14 (acupuncture) or 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act who visits people at their request to give them treatment should observe the requirements relating to an operator in paragraphs 3(1)(a) and 4(1)(a).

6. The byelaws listed in Schedule 1 of these byelaws are revoked.

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EXECUTED as a DEED (but not delivered until the date of it) by the affixing of
THE COMMON SEAL OF THE CITY COUNCIL OF NORWICH By Order:

Authorised Sealing Officer (A permanent Officer of the City Council)

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

Schedule 1: Byelaws to be revoked

1 The byelaws relating to tattooing which were made by Norwich City Council on the tenth day of July 1986 and confirmed by The Secretary of State for Social Services on 4th September 1986 are revoked

2 The byelaws relating to ear piercing and electrolysis which were made by Norwich City Council on the tenth day of July 1986 and confirmed by The Secretary of State for Social Services on 4th September 1986 are revoked

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3 The byelaws relating to acupuncture which were made by Norwich City Council on the tenth day of July 1986 and confirmed by The Secretary of State for Social Services on 4th September 1986 are revoked

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 acupuncture, or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis by or under the supervision of a person who is registered as a medical practitioner or to premises on which the practice of acupuncture, or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis is carried on by or under the supervision of such a person.

Nothing in these byelaws extends to the practice of acupuncture by or under the supervision of a person who is registered as a dentist, or to premises in which the practice of acupuncture is carried out by or under the supervision of such a person.