

## CAMBRIDGE CITY COUNCIL

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REPORT OF: Jas Lally  
Head of Refuse and Environment

TO: Licensing Committee 30/01/2012

WARDS: All

### **ADOPTION OF CONSOLIDATED BYELAWS FOR ACUPUNCTURE, TATTOOING, SEMI-PERMANENT SKIN COLOURING, COSMETIC PIERCING AND ELECTROLYSIS**

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#### **1 INTRODUCTION**

- 1.1 On 24 November 1983 Cambridge City Council resolved that sections 14 to 17 (Part VIII) of the Local Government (Miscellaneous Provisions) Act 1982 dealing with the registration of persons practising acupuncture, tattooing, ear piercing or electrolysis and of premises where they practice or have their businesses shall apply to the City of Cambridge from 01 April 1984. This makes it an offence to carry on these practices or businesses unless the person carrying on the business (or the practitioner in the case of acupuncture) and the premises are registered with the Council. The minutes of the Council meeting are attached as Appendix A.
- 1.2 Section 120 of the Local Government Act 2003 amended section 15 of the Local Government (Miscellaneous Provisions) Act 1982 by replacing ear piercing with cosmetic piercing and inserting semi-permanent skin colouring in the list of activities that require registration. As the Council had adopted section 15 of the Local Government (Miscellaneous Provisions) Act 1982, the provisions of section 120 of the Local Government Act 2003 automatically applied to the City of Cambridge as from 01 April 2004.
- 1.3 The Council has power to make byelaws relating to tattooing, semi-permanent skin colouring, cosmetic piercing or electrolysis pursuant to section 15(7) of the Local Government (Miscellaneous Provisions) Act 1982, to ensure that the activities are adequately controlled. The purpose of the byelaws may be to secure:

- (a) the cleanliness of registered premises and fittings in such premises;
- (b) the cleanliness of persons so registered and persons assisting persons so registered in the business in respect of which they are registered;
- (c) the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with a business in respect of which a person is registered to carry on the business of tattooing, semi-permanent skin colouring, cosmetic piercing or electrolysis.

Additionally, section 14(7) of the Act allows the Council to make similar byelaws relating to the practice of acupuncture.

- 1.4 On 25 October 1984 the Council made byelaws relating to tattooing and acupuncture, which were subsequently confirmed by the Secretary for State. These byelaws are attached to the report as Appendix B. There are currently no byelaws relating to electrolysis, ear piercing, cosmetic piercing or semi-permanent skin colouring.
- 1.5 On September 2006, the Department of Health published a new consolidated set of model byelaws relating to acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis, and they include specific provisions that reflect current infection control advice and industry practice. The model byelaws are attached to the report as Appendix C.
- 1.6 By making byelaws relating to cosmetic piercing, semi-permanent skin coloring and electrolysis, the Council will have more control over persons carrying on those businesses and the premises from which the businesses are run. The existing byelaws relating to acupuncture and tattooing can be repealed on making consolidated byelaws and having one set of byelaws will facilitate consistency of enforcement in registered premises.
- 1.7 The Licensing Committee can approve draft byelaws and recommend to the Civic Affairs Committee that the Council's common seal be affixed to the byelaws and the procedure be carried out to apply for confirmation from the Secretary of State. This procedure is outlined in Appendix D.

## **2. RECOMMENDATIONS**

- 2.1 It is recommended that the Members approve the draft byelaws, which will repeal the existing byelaws, and also that they recommend to the Civic Affairs Committee that it resolve:

1. To authorise the affixing of the Council's common seal to the byelaws; and
2. To authorise the Head of Legal Services to carry out the necessary procedure and apply to the Secretary of State for confirmation.

### **3. BACKGROUND**

3.1 The new provisions provided by section 120 of the Local Government Act 2003 gave Cambridge City Council specific powers relating to persons carrying on the business of cosmetic piercing (piercing of the body including the ear) and semi-permanent skin-colouring (the insertion of semi-permanent colouring into a person's skin which includes micro pigmentation, semi-permanent make-up and temporary tattooing). Cambridge City Council requires such businesses:

- to register the person carrying on the business; and
- to register the premises in which such activities are to be undertaken.

These businesses do not currently have to observe any byelaws relating to the cleanliness and hygiene of premises, practitioners and equipment because the Council has not made any such byelaws relating to these activities. This is also the case with electrolysis registrations.

3.2 Until the change in the law, there was no power to require businesses offering these services to register with the Council. 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.

3.3 The new legislation provides a consistent level of health protection across England and Wales. The measures are intended to increase health protection and reduce the risk of transmission of blood borne virus (BBV) infections such as HIV, hepatitis B and hepatitis C and other infections. However in the absence byelaws, the Council's enforcement powers remain limited.

### **4. CONSULTATIONS**

4.1 The comments of the Licensing Committee will be reported to the Civic Affairs Committee when it considers the making of byelaws relating to acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis. If the Civic Affairs Committee

authorises the affixing of the Council's common seal to the byelaws, an application will need to be made to the Secretary of State for confirmation of the byelaws.

- 4.2 Prior to this application, public consultation will be undertaken by way of notice of the Council's intention to apply for such confirmation being published in a local newspaper. Any person who wishes to object to the confirmation of the byelaws will be entitled to write to the Secretary of State.

## **5. OPTIONS**

The Committee may resolve:

1. to not approve the draft byelaws;
2. to approve the model byelaws attached as Appendix C and recommend to the Civic Affairs Committee that it resolve:
  - (i) To authorise the affixing of the Council's common seal to the byelaws; and
  - (ii) To authorise the Head of Legal Services to carry out the necessary procedure and apply to the Secretary of State for confirmation

## **6. CONCLUSIONS**

- 6.1 Cambridge City Council has a duty to ensure the protection of its residents and those persons using the businesses within the City. Making byelaws for semi-permanent skin colouring, cosmetic piercing and electrolysis will extend the Council's current ability to enforce hygienic standards to these businesses thereby helping to protect human health from the spread of blood borne viral infection within the City of Cambridge and beyond. The Council will therefore have more control over such activities and will be able to maintain registered premises in a hygienic state.

## **7. IMPLICATIONS**

### **(a) Financial Implications**

There is a financial implication associated with the making of byelaws (particularly as a result of the requirement to advertise the Council's intention to make byelaws in a newspaper) and there is also a cost implication in providing resources to enforce byelaws. However, section 14(6) of the Local Government (Miscellaneous Provisions)

Act 1982 allows the Council to determine and charge reasonable fees for acupuncture registrations and similar fees can be charged for tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis registrations under section 15(6) of the Act. In addition to covering administrative costs, the fees can cover the costs associated with inspecting premises and enforcing byelaws.

**(b) Staffing Implications**

There are no specific staffing implications in making byelaws. The Licensing Section will enforce the byelaws once made and this will be carried out by existing resources which are funded by the registration fees, albeit it a “one-off” fee per person.

**(c) Equal Opportunities Implications**

No equality impact assessment has been conducted on this decision because there are no specific equal opportunities implications.

**(d) Environmental Implications**

The climate change rating associated with the recommendation contained in this report is nil.

**(e) Community Safety**

There are risks to human health associated with acupuncture, semi-permanent skin colouring, cosmetic piercing and electrolysis. However, making byelaws for these activities will give control to the Council to maintain registered premises in a hygienic state, thereby ensuring the safety of the community.

**APPENDICES**

Appendix A

Council minutes from 24 November 1983 adopting the provisions of sections 14 to 17 (Part VIII) of the Local Government (Miscellaneous Provisions) Act 1982

Appendix B

Existing Council byelaws relating to tattooing and acupuncture

Appendix C

Model byelaws

Appendix D

Procedure to apply to the Secretary of State for confirmation of byelaws.

**BACKGROUND PAPERS:** The following are the background papers that were used in the preparation of this report:

- [Part VIII of the Local Government \(Miscellaneous Provisions\) Act 1982](#)
- [Local Government Act 2003](#)
- [Department of Health's Guidance on Section 120 and Schedule 6 of the Local Government Act 2003 \(Regulation of Cosmetic Piercing and Skin-Colouring Businesses\)](#)

To inspect these documents contact Robin Grey on extension 7899

The author and contact officer for queries on the report is Robin Grey on extension 7899.

Report file:

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## Appendix A – Council Resolution

### Public Health Committee

83/157. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - EAR PIERCING, ACUPUNCTURE, TATTOOING AND ELECTROLYSIS (83/K/98)

#### RESOLVED

(1) that sections 14 to 17 (Part VIII) of the Local Government (Miscellaneous Provisions) Act 1982 dealing with the registration of persons practising acupuncture, tattooing, ear piercing or electrolysis and of premises where they practice or have their businesses shall apply to the City of Cambridge from 1st April 1984 and that notice be published pursuant to section 13 of the Act;

(2) that appropriate byelaws be proposed by the City Secretary and Solicitor in consultation with the City Environmental Health Officer for consideration by the Public Health Committee;

(3) that the powers under Part VIII be delegated to the Public Health Committee;

(4) that the City Environmental Health Officer be authorised to register applicants and premises pursuant to sections 14 and 15 of the Local Government (Miscellaneous Provisions) Act 1982;

(5) that a fee of £30 be charged for registration under sections 14 and 15;

(6) that the City Environmental Health Officer, Deputy City Environmental Health Officer and the holders for the time being of Environmental Health Officer posts be authorised for the purposes of section 17 of the Act to enter premises.

## Appendix B – Existing Byelaws



### **CAMBRIDGE CITY COUNCIL**

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## **BYELAWS - TATTOOING**

Byelaws for the purposes of securing the cleanliness of registered premises and fittings and registered persons and persons assisting them and the cleansing and so far as appropriate sterilisation of instruments, materials and equipment used in connection with the business of tattooing made by Cambridge City Council in pursuance of Section 15(7) of the Local Government (Miscellaneous Provisions) Act 1982.

### **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 affecting tattooing;

“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 therein a proprietor shall ensure that:-**

a. All internal walls, doors, windows, partitions, floors and floor coverings, and ceiling in any part of the premises used by clients and operators 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 material, and other litter, arising from the treatment, is placed in suitable covered receptacles, which are washable and leak proof, or use a leak proof liner bag. The receptacles shall be emptied, or the bags changed at least once every working day, or more frequently as necessary, and the material disposed of safely. Where liners are not used, the receptacles shall then be cleaned;
  - e. All needles used in treatment are placed after use in separate covered and leak proof re-usable boxes, or disposable needle boxes designed for the purpose. When re-usable boxes are used they shall be emptied at least once every working day or more frequently as necessary, and the contents disposed of safely or sterilised for re-use, as appropriate. The box shall then be sterilised. Where needle boxes are used they shall be disposed of safely at suitable intervals;
  - f. All furniture and fittings in the treatment area 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 wiped down regularly with a suitable disinfectant between the treatment of different clients, and thoroughly cleaned at the end of each working day;
  - h. Where tables or couches are used, they shall be covered by a disposable paper sheet which shall be changed for each client;
  - i. A notice or notices reading "No Smoking" are prominently displayed within the treatment area.
3. For the purpose of securing the cleansing and, so far as is appropriate, the sterilisation 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, sterilised;
  - b. An operator shall ensure that:-

- i. any needle, metal instrument, or other item of 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 tattooing are bacteriologically clean and inert;
    - iii. the containers used to hold the dyes for each customer are either disposed of at the end of each session of treatments, or are sterilised before re-use;
  - c. A proprietor shall provide:-
    - i. adequate facilities and equipment for the purpose of sterilisation (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 shall be 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. An operator whilst giving treatment shall ensure that:-
    - i. his hands and nails are clean, and nails kept short;
    - ii. he is wearing clean and washable clothing, or alternatively a disposable covering that has not previously been used in connection with any other client;
    - iii. he keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;
    - iv. he does not smoke or consume food or drink.
  - b. A proprietor shall provide:-
    - i. suitable and sufficient washing facilities for the sole use of operators, such facilities to have hot and cold water, sanitising soap or detergent, and nailbrush;
    - ii. suitable and sufficient sanitary accommodation for operators.

**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 lays down 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 offends against any of these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400. If the convicted person is registered under Part VIII of the Act, the Court,

may instead 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 so convicted. Section 16(11) of the Act provides that it shall be a defence for the person charged 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 shall extend to the carrying on the business of tattooing by or under the supervision of a person who is registered as a medical practitioner or to premises on which any such business is carried on by or under the supervision of such a person.



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### BYELAWS - ACUPUNCTURE

Byelaws for the purposes of securing the cleanliness of registered premises and fittings and registered persons and persons assisting them and the cleansing and so far as appropriate sterilisation of instruments, materials and equipment used in connection with the practice of acupuncture made by Cambridge City Council in pursuance of Section 14(7) of the Local Government (Miscellaneous Provisions) Act 1982.

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 the practice of acupuncture;

“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 purposes of securing the cleanliness of premises and fittings therein a proprietor shall ensure that:-

- a. All internal walls, doors, windows, partitions, floors and floor covering, and ceilings in any part of the premises used by clients and operators 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. All waste material, and other litter, arising from the treatment, is placed in suitable covered receptacles, which are washable and leak proof, or use a leak proof liner bag. The receptacles shall be emptied, or the bags changed, at least once every working day, or more frequently as necessary, and the material disposed of safely. Where liners are not used, the receptacles shall then be cleaned.
  - d. All needles used in treatment are placed after use in separate covered and leak proof re-usable boxes, or disposable needle boxes designed for the purpose. When re-usable boxes are used they shall be emptied at least once every working day or more frequently as necessary, and the contents disposed of safely or sterilised for re-use, as appropriate. The box shall then be sterilised. Where needle boxes are used they shall be disposed of safely at suitable intervals;
  - e. All furniture and fittings in the treatment area are kept clean and in such good repair as to enable them to be cleaned effectively;
  - f. All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 4b below are placed immediately prior to treatment, have a smooth, impervious surface which is wiped down at least daily with a suitable disinfectant;
  - g. Where tables or couches are used, they shall be covered by a disposable paper sheet which shall be changed for each client;
  - h. A notice or notices reading "No Smoking" are prominently displayed within the treatment area.
3. For the purpose of securing the cleansing and, so far as is appropriate, the sterilisation 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, sterilised;
  - b. An operator shall ensure that any needle, metal instrument, or other items of 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;
  - c. A proprietor shall provide:
    - i. adequate facilities and equipment for the purpose of sterilisation (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 by byelaw 3a and b above, so that those items shall be 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. An operator whilst giving treatment shall ensure that:
    - i. his hands and nails are clean, and nails kept short;
    - ii. he is wearing clean and washable overclothing, or alternatively a disposable covering that has not previously been used in connection with any other client;
    - iii. he keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;
    - iv. he does not smoke or consume food or drink;
  - b. A proprietor shall provide:
    - i. suitable and sufficient washing facilities for the sole use of operators, such facilities to have hot and cold water, sanitising soap or detergent, and nailbrush;
    - ii. suitable and sufficient sanitary accommodation for operators;

#### 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 lays down 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 offends against any of these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding 400. If the convicted person is registered under Part VII of the Act, 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 so convicted. Section 16(11) of the Act provides that it shall be a defence for the person charged to provide that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- C. Nothing in these byelaws shall extend to the practice of acupuncture by or under the supervision of a person who is registered as a medical practitioner or a dentist or to premises on which the practice of acupuncture is carried out by or under the supervision of such a person.

## Appendix C – Department of Health Model Byelaws

### MODEL 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 Cambridge City Council in pursuance of sections 14(7) and 15(7) 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;
  - “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;
  - (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) 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.

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.

(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 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 relating acupuncture that were made by Cambridge City Council on the 25 October 1984 and were confirmed by the Secretary of State on *insert date* are hereby repealed.

7. The byelaws relating tattooing that were made by Cambridge City Council on the 25 October 1984 and were confirmed by the Secretary of State on *insert date* are hereby repealed.

COUNCIL'S SIGNATURE

COUNCIL'S SEAL

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

Member of the Senior Civil Service

Department of Health

**NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS**

Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on premises. Section 16(9) of the Local Government (Miscellaneous Provisions) Act 1982 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. A person who contravenes section 16(9) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale (see section 16(10)).

Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 also provides that any person who contravenes 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 the person's registration. A court which orders the suspension of or cancellation of a person's registration may also order the suspension or cancellation 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 the relevant sub-sections of section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

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 in which the practice of acupuncture, or

business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis is carried out 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.

The legislative provisions relevant to acupuncture are those in section 14. The provisions relevant to treatment other than acupuncture are in section 15.

The key differences in the application of requirements in respect of the various treatments are as follows:

*The references in the introductory text to provisions of section 14 (acupuncture) of the Local Government (Miscellaneous Provisions) Act 1982 only apply to acupuncture.*

*The references in the introductory text to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Local Government (Miscellaneous Provisions) Act 1982 do not apply to acupuncture.*

*The references in paragraph 1(1) in the definition of “premises” to provisions of section 14 (acupuncture) only apply to acupuncture.*

*The references in paragraph 1(1) in the definition of “premises” to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) do not apply to acupuncture.*

*The requirement in paragraph 2(2) that treatment is given in a treatment area used solely for giving treatment applies to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis but not to ear-piercing or nose-piercing using a hygienic piercing instrument.*

*The requirement in paragraph 2(3) that the floor of the treatment area be provided with a smooth impervious surface applies to tattooing, semi-permanent skin-colouring and cosmetic piercing but not to acupuncture or electrolysis or ear-piercing or nose-piercing using a hygienic piercing instrument.*

*The requirements relating to dye or a container used to hold dye used for treatment in paragraphs 3(1) (a) (iv) and (v) apply to tattooing and semi-permanent skin-colouring.*

*The requirement in paragraph 4(1)(a)(iii) that an operator wears disposable examination gloves that have not previously been used with another client does not apply to acupuncture otherwise than in the circumstances described in paragraph 4(3).*

*The provisions of paragraph 4(2) in relation to washing facilities apply to cosmetic piercing using only a hygienic piercing instrument.*

*The exception whereby the byelaws do not apply to treatment carried out by or under the supervision of a dentist applies only to acupuncture (see section 14(8) of the Act).*

## Appendix 4 – Department of Health Procedure for Making Byelaws

### Guidance On Making Applications To The Secretary Of State For Health For Confirmation Of Byelaws Under Section 236 Of The Local Government Act 1972

The Department of Health has set out the following procedure in Annex 2 of their Guidance on Section 120 and Schedule 6 of the Local Government Act 2003 (Regulation of Cosmetic Piercing and Skin-Colouring Businesses):

1. The Council must pass a resolution authorising the affixing of the common seal to the byelaws and authorising the Head of Legal Services to carry out the necessary procedure and apply to the Secretary of State for confirmation of the byelaws. The Council's seal should be affixed and duly attested with the date of sealing inserted in the attestation. The date of sealing is the date on which the byelaws are made.
2. At least one clear calendar month before applying to the Secretary of State for confirmation:
  - a. 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 series of byelaws should be described by giving the heading they bear on the draft informally approved by the Secretary of State.
  - b. A copy of the byelaws having been must be deposited at the Council's offices and be open to public inspection without charge at all reasonable times during that month.
3. The byelaws may be submitted for confirmation any time after the month has elapsed. They should be printed to conform to the approved draft. The Secretary of State's seal and confirmation shall be printed below the Council's seal and a space of at least 10 centimetres should be left. To assist, the following could be typed on the left-hand side of the page as indicated:  
*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*

4. The application should be accompanied by
  - (a) copy of the full Council's resolution
  - (b) the sealed byelaws (2 sets) and a photocopy;
  - (c) the newspaper(s) containing the notice;
  - (d) the clerk's certificate as to the date and duration of deposit of a copy of the byelaws;
  - (e) a statement as to whether or not any objections were received by the Council;
  - (f) confirmation, where applicable, that the byelaws are identical to the model byelaws;
  - (g) confirmation of the Council's adoption of Section 14-17 and compliance with the provisions of Section 13 of the Local Government Act (Miscellaneous Provisions) Act 1982 particularly regarding the publishing of notice in a local newspaper.

## Note

The Secretary of State only has power to confirm byelaws if the procedure laid down in section 236 of the Local Government Act 1972 is properly carried out. There is no power to excuse deviation from this procedure.

The Secretary of State has power to fix the date on which the byelaws come into operation. It is considered that the first day of a month will normally be most convenient; and as section 236(7) provides that, if a date is not fixed, byelaws shall come into operation one month after confirmation, the Secretary of State will normally bring byelaws into operation on the first day of the month next following the expiry of this period.