

Leicester
City Council

WARDS AFFECTED
All Wards

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

**Cabinet
Council**

**20 April 2009
15 May 2009**

**Adoption of Byelaws for Acupuncture, Tattooing,
Semi-permanent Skin-colouring, Cosmetic Piercing and Electrolysis**

Report of the Service Director (Environmental Services)

1. PURPOSE OF REPORT

1.1 This report proposes that Council adopt the Department of Health (DoH) model byelaws for acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis in order to introduce a uniform set of public health safeguards across the City.

2. SUMMARY

2.1 At the present time Leicester City Council has byelaw powers to regulate ear piercing, tattooing, electrolysis and acupuncture. These activities carry a potential risk of blood borne virus transmission (including HIV/AIDS, Hepatitis B and C) if infection control procedures are not observed (eg the use of sterile equipment for each client). Individuals undertaking these activities are required to register themselves and their premises with the City Council and officers are able to inspect for compliance with standards.

2.2 However, the activities of cosmetic piercing and skin colouring (e.g. micropigmentation, semi-permanent make-up and temporary tattooing) fall outside the scope of the current LCC byelaws and adoption of the model byelaws would bring these activities within the remit of Leicester City Council's regulatory services and introduce a uniform set of public health safeguards across the City.

3. RECOMMENDATIONS

3.1 The Cabinet is asked to recommend to Council:-

3.1.1 The adoption of model byelaws for Acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis as set out in Annex 1 and that they come into force on 1 July 2009.

3.1.2 The revocation of existing byelaws regulating acupuncture, tattooing, ear piercing and electrolysis with effect from 1 July 2009.

3.2 The Cabinet is recommended to:-

3.2.1 Request that the Service Director (Environmental Services) makes the necessary arrangements for the implementation and subsequent enforcement of the new byelaws, including the authorization of relevant council officers.

3.2.2 Agree to the registration fee structure as set out in para 4.2.4.

3.2.3 Request the Service Director (Environmental Services) regularly review the fees and charges in line with the Finance Procedure Rules.

4. REPORT

4.1 Public Health Considerations

4.1.1 Simple Glossary

Acupuncture means the practice of inserting needles into the body to reduce pain or induce anesthesia.

Electrolysis means the destruction of living tissue, such as hair roots, by an electric current.

Tattooing means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa.

Cosmetic Piercing means puncturing or penetrating the skin of a client with presterilized single-use needles and the insertion of presterilized jewelry or other adornment into the opening.

Micropigmentation means the insertion of pigment into the dermal layer of the skin (this includes semi-permanent / permanent make-up, such as lip and eye liner, body art and tattoos);

Treatment means any operation in effecting acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis;

4.1.2 At the present time LCC has the authority to regulate ear piercing, tattooing, electrolysis and acupuncture under byelaws approved by council on 24 November 1983 (and subsequently confirmed by the Secretary of State on 9 May 1984 and made operational on 20 June 1984). Individuals undertaking these activities are required to register themselves and their premises with the City Council and officers are able to inspect for compliance with conditions in the byelaws relating to cleanliness and hygiene.

4.1.3 Cosmetic piercing and skin colouring carry a potential risk of blood borne virus transmission if infection control procedures are not observed (eg the use of sterile equipment for each client). These include HIV/AIDS, Hepatitis. However, the activities of cosmetic piercing (except ear piercing) and skin colouring (e.g. micropigmentation, semi-permanent make-up and temporary tattooing) fall outside the scope of the current LCC byelaws.

4.1.4 The proposal to bring cosmetic piercing and skin colouring activities within the regulatory scope of LCC is being made:

- To provide a uniform set of public health safeguards across closely related high risk activities in the City
- To follow Government public health policies.
- To keep LCC at the forefront of protecting public health (Leicester City Council would add itself to a very small list of authorities in the County and the East Midlands region to being proactive in adopting the byelaws and in turn safeguarding public health)

4.1.5 Thus far LCC has not encountered any problems in maintaining public health standards due to limitations in the scope of its powers. However, with the growth in the popularity of cosmetic piercing and skin colouring and the diversification of the population of Leicester, the possibility of LCC being in a position where it cannot respond effectively to a public health incident is increasing.

4.2 Requirements on business

4.2.1 The byelaws will apply to any premises and business proprietor involved in the practice of acupuncture, the business of tattooing, semi-permanent skin-colouring, cosmetic body piercing or electrolysis unless the activity is being undertaken by or under the supervision of a person who is registered as a medical practitioner.

4.2.2 The envisaged byelaws will:

- Require owners of businesses undertaking these activities to register themselves and their premises with the City Council
- Enable officers to inspect for compliance
- Enable the City Council to take enforcement action where there is an unacceptable public health risk

4.2.3 The byelaws provide for offences and non-custodial penalties for trading without local authority registration or breaching the requirements in the local authority byelaws. The Court upon conviction has the power to cancel any registration under Part VIII of the Local Government (Miscellaneous Provisions) Act 1982, effectively causing any person convicted to cease to lawfully practice in these disciplines, and incurring a further offence should they practice unregistered. There is also an offence of not displaying a certificate of registration or byelaws (for which a person is liable on summary conviction to a fine).

4.2.4 It is proposed that for any business carrying out acupuncture, tattooing, semi-permanent skin-colouring, cosmetic body piercing or electrolysis the fees for registration with Leicester City Council from 1 July 2009 will be as follows:

Premises Registration: £89
Proprietor Registration: £63 for each treatment carried out on the premises

For example, where a business is carrying out electrolysis and cosmetic body piercing (e.g. ear piercing) at the same premises, the cost to register will be:

Premises Registration	£89
(2 treatments @ £63)	<u>£126</u>
Total	= £215

Registration is a 'one-off' event and the fees will not be required annually.

4.2.5 Currently, there are 275 persons in 161 premises registered with the Authority as carrying out the narrower range of activities set out in the existing byelaws. Of these there are 50 businesses registered as carrying out ear piercing. New registrations are being received at around 30 businesses annually. It is unlikely that there will be a significant overall change in the numbers of businesses carrying out these activities in Leicester.

4.3 Inspection for public safety purposes

4.3.1 Upon receipt of the registration form and fee an officer will contact the business to arrange to carry out an inspection of the premises. If, on inspection, the required standards are met then Leicester City Council will issue two certificates to the business owner to confirm that both the business owner and the premises are registered. These are to be displayed in the premises to make customers aware that the business complies with health and safety legislation and relevant byelaws.

4.3.2 Leicester City Council is the health and safety enforcing authority for businesses in Leicester that provide services including acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis activities. The requirements set out in the byelaws will be included in general Health & Safety inspections undertaken by Council officers. Where a treatment is undertaken in domestic premises then the premises will have to be registered with the City Council and the City Council and Health & Safety Executive (HSE) share enforcement responsibilities. Discussions are underway with the HSE to ensure effective warranting of inspectors.

4.3.3 The inspection frequency set for a business is based on a risk assessment which includes consideration of its specific activities, its compliance history including complaints record. Businesses with a higher risk rating will be inspected more frequently than those which are lower risk. It is expected that a well run businesses covered by the new byelaws would be inspected every 2 to 3 years.

4.4 Legislative Background

- 4.4.1. Part VIII of the Local Government (Miscellaneous Provisions) Act 1982 originally provided for the regulation of only tattooing, acupuncture and ear piercing and electrolysis. It was subsequently amended by the Local Government Act 2003 to substitute the more comprehensive term 'cosmetic body piercing' for 'ear piercing' to accommodate the growing practice of piercing other parts of the human body, and also to regulate the relatively new practice of 'semi-permanent skin colouring' which was growing in popularity.
- 4.4.2 However, until relatively recently each of the treatments regulated by the 1982 Act required the enactment of its own set of byelaws and required local authorities to undertake five sets of procedures. This, and the fact that the Department of Health had only issued model byelaws for three of the five treatments, considerably slowed down the adoption of the updated byelaws by local authorities.
- 4.4.3 On the 7 September 2006, the Department of Health issued a revised model byelaw for the 1982 Act which consolidated all five areas of regulation into a single byelaw, considerably simplifying the adoption process. This is the model byelaw proposed for adoption and set out in Annex 1.

4.5 Stakeholder Consultation

- 4.5.1 Stakeholders were consulted during January 2009, in order to gauge their opinions about updating the byelaws. This consultation was widely circulated and included local businesses (owners and employees), members of the public (customers), Leicester College, Leicester City PCT Trust, and Leicestershire AIDS Support Services. The consultation papers can be seen in ANNEX 2.
- 4.5.2 The consultation ended on 30th January 2009 and there was overwhelming support for the proposal:
- 94% of respondents thought that the byelaws needed changing,
 - 97% of respondents felt the new byelaws would improve hygiene practices in businesses; and
 - 61% of respondents did not want to see changes made to the model byelaws.

A summary of results to the consultation can be seen in ANNEX 3. ANNEX 4 shows a summary of comments and relevant feedback/advice.

4.6 Adoption Procedure

- 4.6.1 The Procedure for adopting these byelaws would be that set out in section 236 of the Local Government Act 1972. It is for the City Council to formally resolve to adopt the byelaws set out in ANNEX 1.
- 4.6.2 The adopted byelaws would then be made under the common seal of the City Council, following which a notice of the City Council's intentions to apply for their confirmation by the Secretary of State for Health must be given in one or more newspapers circulating in the area to which the byelaws are to apply.

- 4.6.3 For at least one month after the date of the publication of the newspapers, a copy of the byelaws must be held on deposit at the offices of the City Council for inspection by the public at all reasonable hours, and the City Council must provide any person who applies with a copy of any part of the byelaws. A fee of not more than 10 pence per 100 words contained in the byelaw may be charged in relation to any copy supplied
- 4.6.4 After the month for deposit has expired the application to the Secretary of State for Health would be undertaken by sending two sealed copies of the byelaws, together with copies of the newspapers advertising the byelaw.
- 4.6.5 On receipt of the sealed byelaws, provided that no objections have been received, they will normally be stamped as confirmed by the Secretary of State and returned to the City Council as soon as possible. Where an objection has been received following the advertisement of the byelaws, the City Council will be provided with copies of the objections for its officers to comment upon, which in turn will be considered by the Secretary of State. Should the Secretary of State still be unclear as to the proper resolution of these objections then a Public Inquiry may be ordered to be held into the objections to the adoption of the byelaws, and confirmation or refusal of confirmation dependent upon the Chair of the Inquiries decision.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1. Financial Implications

5.1.1 Adoption of these byelaws will not require a major additional commitment of resources due to the following reasons:

- LCC will charge reasonable registration fees – this fee is designed to cover the cost of the implementation of the registration and inspection of these premises.
- LCC already inspects many of these businesses, as the premises may be already registered for ear piercing, tattooing, acupuncture or electrolysis.
- LCC already inspects the majority of these businesses under health & safety at work legislation.

The extension of duties can be met from within existing staffing resources.

Martin Judson, extension 7390

5.2 Legal Implications

The legal implications have been addressed in the main body of the report. The relevant legal issues here are enforcement, highlighted at 4.2.3 in the report, and the importance of following the adoption process stringently as documented at 4.5. The only adverse legal implications would be the consequences of not adopting the byelaws, but this point is addressed at 4.1.5.

Satvinder Bal, Legal Services, Tel. (0116) 252 6346

6. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph Within the Report	References
Equal Opportunities	no		
Policy	no		
Sustainable and Environmental	no		
Crime and Disorder	no		
Human Rights Act	no		
Elderly/People on Low Income	no		

7. BACKGROUND PAPERS:

None.

8. ANNEXES

ANNEX 1 – MODEL BYELAWS

ANNEX 2 – CONSULTATION PAPERS

ANNEX 3 - A SUMMARY OF RESULTS TO THE CONSULTATION

ANNEX 4 – A SUMMARY OF COMMENTS AND RELEVANT FEEDBACK/ADVICE

9. REPORT AUTHOR

Roman Leszczyszyn

Head of Business Regulation

Ext: 296590

Key Decision	No
Reason	N/A
Appeared in Forward Plan	N/A
Executive or Council Decision	Executive (Cabinet)

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 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;
 - “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.
 - (c) 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 to *state subject matter* that were made by *insert name* on the *insert date* and were confirmed by *insert name of confirmation authority* on *insert date* are revoked.

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

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.

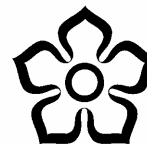
The requirements relating to dye or a container used to hold dye used for treatment in paragraphs 3(1) (a) (iv) and (v) apply to tattooing and semi-permanent skin-colouring.

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).

ANNEX 2



Leicester
City Council

Consultation on Updating Leicester City Council's Byelaws on Ear Piercing, Tattooing, & Electrolysis

Why do we need new byelaws? Leicester City Council's existing byelaws date back to the 1980's. These were adopted to adequately control cleanliness in businesses carrying out ear piercing, tattooing, electrolysis & other similar treatments. The byelaws are now over 20 years old and need to be updated to take into account new treatments that have become available. The Local Government 2003 Act gives local authorities powers to introduce such changes by adopting new model byelaws.

Why is this consultation taking place?

Rather than just adopting these model byelaws, the City Council wants to hear from all stakeholders who may be affected. Therefore, your views are important and they will be taken into account by us as part of this consultation process.

What are the main changes? The 2003 Act amends the original but now outdated 1982 Act, to include cosmetic piercing and semi-permanent skin colouring, in addition to ear piercing, tattooing and electrolysis. Ear piercing and cosmetic body piercing are now encompassed in one single term "cosmetic piercing". Similarly, "semi-permanent skin-colouring" encompasses micropigmentation, semi-permanent make-up and temporary tattooing. Semi-permanent skin colouring is defined as "the insertion of semi-permanent colouring into a person's skin". This approach allows for new or other similar activities to be covered without the need for new byelaws in the future.

Where can I get more information about this?

The Health and Safety Team can provide more information upon request or on their website:
Website: www.leicester.gov.uk/healthandsafetyteam Telephone: (0116) 252 6479

How will these byelaws affect me?

If you are a business, then you will be given details on how to comply with the new byelaws including the improved hygiene standards. If you are an employee then your employer will provide you with details of the requirements of the new byelaws. If you are a member of the public you will not see any immediate change but in the long term you will notice an improvement in general hygiene standards.

Will these byelaws make any difference?

Yes. The adoption of new model byelaws will help to improve health and hygiene standards in these businesses. The byelaws will also apply to new cosmetic treatments not previously covered by our existing byelaws. In essence, public safety will be better served by adopting these new byelaws.

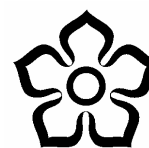
Can I be kept updated on these changes?

Yes. Please complete the reply slip overleaf and return it to the address given.

Can I complete this survey online?

Yes. Go to: www.leicester.gov.uk/byelawsconsultation





Leicester City Council

Comments on the City Council's consultation to update Byelaws on Ear Piercing, Tattooing, & Electrolysis

The Business (Please circle)

Which business do you: Use/Visit Own Manage Are Employed by

Business Name:

Business Address:

Is the business a: Hairdresser Tattooist Body Piercer Electrolysis Other

About the Consultation (Please circle)

Do you think the byelaws need changing? YES NO

If NO why not:

.....

Do you think the new byelaws will improve hygiene practices in businesses: YES NO

If NO why not:

.....

Would you like to see other changes that are not included in the byelaws: YES NO
If YES, What are these changes:

.....

.....

Do you have any other comments to make about the adoption of new model byelaws:

.....

About You: (Please circle)

Are you: Male Female

Your Age: Under 18 18 to 25 25 to 45 45 to 64 65 and over

Disability: I am disabled I am not disabled

Ethnic Origin (Please circle)

I am White: of Irish origin of English origin of Other origin

I am Black: of Caribbean origin of African origin of Other origin

I am Asian: of Indian origin of Pakistani origin of Bangladeshi origin

of Chinese origin of Other origin

Need to be kept informed of the changes?

If you would like to be kept informed about these changes please provide a contact name/address:

Your Name:

.....

By email? State your email address:

OR

By letter? State your contact address:

.....

.....

Data Protection Act 1998

The information provided by you on this form is required for the purpose of this consultation only. The information supplied by you will NOT be disclosed to anyone without your permission.



ANNEX 3:

Summary of responses to the City Council's consultation to update Byelaws on Ear Piercing, Tattooing, & Electrolysis

1-2-1 VISTS: 90

TOTAL RESPONDENTS: 34 (NB – not all respondents answered all the questions put to them)

THE BUSINESS

Which business do you:

Use/Visit: 8 (25%)
Own: 22 (69%)
Manage: 1 (3%)
Employed by: 1 (3%)

Is the business a:

Hairdresser: 12
Tattooist: 9
Body Piercer: 11
Electrolysis: 9
Other: 7

(NB Some responders ticked more than 1 option as they offer/take up a range of services/treatments)

	<i>Hairdresser</i>	<i>Tattooist</i>	<i>Body Piercer</i>	<i>Electrolysis</i>	<i>Other i.e. Acupuncture</i>
Owner/Employee/Manager	9	6	7	8	3
Customer	3	3	4	2	3

ABOUT THE CONSULTATION

Do you think the byelaws need changing:

Yes: 31 (94%)
No: 2 (6%)

Do you think the new byelaws will improve hygiene practices in businesses:

Yes: 32 (97%)
No: 1 (3%)

Would you like to see other changes that are not included in the byelaws:

Yes: 11(39%)
No: 17(61%)

ANNEX 3: Issues raised during consultation

Issue 1: ***There are too many regulations and this discourages people from starting up businesses and forces others to close.***

Legislation is required to ensure public health is protected as well as the health and safety for those at work. The current regime is out of date and requires updating so to allow for new or other similar activities to be covered without the need for yet more legislation in the future.

Issue 2: ***There are other agencies that come to check hygiene standards in our premises.***

Local Authorities are generally responsible for checking hygiene standards in beauty premises, however some activities do have other agencies with responsibilities for example, (see issue 6).

Issue 3: ***The prices are too high and will put people off from registering with the City Council***

Section 15(6) of the 1982 Act enables Local Authorities to charge reasonable registration fees for registration of persons carrying on businesses of cosmetic piercing or semi-permanent skin colouring. The fee will cover initial inspection(s) associated with registration, advising the business about registration & associated administration. In addition Local Authorities already inspect these businesses under health & safety at work legislation.

The new byelaws are unlikely to have a significant monetary impact on businesses – other than those requiring improvements in the methods used for securing the cleanliness and hygiene of premises, practitioners and equipment. Businesses already registered for ‘ear piercing’ will not need to re-register if they undertake or subsequently undertake other types of body piercing.

Issue 4: ***The same byelaws will apply to different treatments. Don't these need their own specific regulations with tattooing having stricter requirements than semi-permanent make-up.***

Section 15(7) of the 1982 Act provides for local authorities to make byelaws for cosmetic piercing & semi-permanent skin-colouring for the purpose of securing (a). the cleanliness of premises & fittings, (b). the cleanliness of the operators & (c). the cleansing &, if appropriate, sterilization of instruments, material & equipment. This reflects the main aim of the 2003 Act which is intending to increase health protection & reduce risk of transmission of bloodborne virus infections (and so control the risks associated with cosmetic piercing & semi-permanent skin-colouring if infection control procedures are not followed)

Issue 5: *Can other treatments be included?*

No, the 1982 Act allows for local authorities to regulate ear piercing, tattooing, acupuncture & electrolysis by requiring registration & observance of byelaws. The 2003 Act has amended the 1982 Act to include cosmetic piercing & semi-permanent skin colouring (both are defined under section 120). If the Local Authority comes across treatments other than tattooing, acupuncture, electrolysis, cosmetic piercing & semi permanent skin colouring then it cannot require registration.

Issue 6: *What about registering laser treatments?*

Such treatment is subject to regulation by the Commission for Healthcare Audit & Inspection & may be carried out in premises required to be registered under the 1982 Act – as such the Local Authority will consult with CHAI to discuss cooperative arrangements to avoid unnecessary duplication of work.

Issue 7: *What about branding & implants?*

Branding is a form of scarification, usually achieved by burning the skin with heated metal to form a simple but permanent design.

Implant is defined by the Oxford English Dictionary as 'anything implanted in the body'. The CIEH does not provide a definition for implants. However 'beading', a similar activity, is recognized by the guidance and defined as 'the insertion of small beads under the incised skin of the phallus, possibly to make a small one bigger (or rather thicker) or to provide additional sensory stimulation to one's partner'.

These two treatments do not come under the current or amended byelaws and so the Local Authority cannot require registration and observance of the byelaws. However the requirements of HASWA'74 and associated regulations would still apply.

Best practice guidance can be found within The Chartered Institute of Environmental Health's Health's '*Body art, cosmetic therapies & other special treatments*'.

Issue 8: *Does semi permanent include henna body painting?*

Yes. Henna has been widely used as a temporary skin pigment for thousands of years, and is still popular amongst those wanting a painless and temporary tattoo. Henna acts as a dye because it contains hydroxy-naphthoquinone, also known as lawsone, which stains the skin. Traditionally applied henna tattoos last only 2-3 weeks due to their topical application on to the outer epidermal layer of the skin, usually as a paste.

Issue 9: *There should be more checks on home tattooing & piercing*

Leicester City Council is the health and safety enforcing authority for businesses in Leicester that provide services including acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis activities. The requirements set out in the byelaws will be included in general Health & Safety inspections undertaken by Council officers. Where a treatment is undertaken in domestic premises then the premises will have to be registered with the City Council and the City Council and Health & Safety Executive (HSE) share enforcement responsibilities. Discussions are underway with the HSE to ensure effective warranting of inspectors.

Issue 10: *What will you be doing to make sure cowboys are registered?*

We rely on members of the public to come to us and report businesses that are not registered. We will also be looking at local media adverts and the internet for anybody who may be offering these treatments in Leicester.

Businesses will be inspected on registration under the byelaws and/or as part of the risk based H&S inspection program of local businesses.

People undertaking tattooing and piercing in their homes or the homes of their clients will need to register with the City Council and appropriate checks will be undertaken.

The City Council recognises that “cowboys” have an unfair advantage against registered businesses as not only do they avoid the financial burden of registering but also the cost of ensuring good standards of cleanliness & hygiene of premises, practitioners and equipment. They are a public safety danger and we will work hard to ensure that all relevant businesses are registered, inspected and working to appropriate standards.

We strongly recommend that members of the public do not visit/have treatments at establishments that are not registered so to protect their own health and safety.

Issue 11: *Can the City Council make ensure that companies have treatment cover?*

No.

Employers are responsible for the health and safety of their employees whilst they are at work. Employees may be injured at work or they, or former employees, may become ill as a result of their work while in employment. They might try to claim compensation from an employer if they believe the employer is/was responsible. The Employers’ Liability (Compulsory Insurance) Act 1969

ensures that an employer have at least a minimum level of insurance cover against any such claims.

Public liability insurance (treatment cover) is different. It covers an employer for claims made against them by members of the public or other businesses, but not for claims by employees. While public liability insurance is generally voluntary, employers' liability insurance is compulsory. An employer can be fined if they do not hold a current employers' liability insurance policy which complies with the law.

The Health & Safety Executive enforce these requirements.

Issue 12: *Can the City Council require stricter standards on the level of training?*

The issue of training is not specifically addressed by the byelaws. The provision of training can be found within the Health and Safety at Work etc Act 1974 & Management of Health and Safety at Work Regulations 1999 – which require employers to provide whatever information, instruction, training & supervision that is necessary to ensure *so far as is reasonable practicable*, the health & safety of their employees. An employer is therefore required to provide adequate employee training to ensure that they can carry out their work safely. However, there is no recommended period of study for cosmetic piercing training, and officers will have to rely on discussion with newly trained people to establish competence. Also there is no nationally approved courses available for UK body piercers – commercially run courses are available – recommended that basic first aid & infection control guidance be provided as part of any cosmetic piercing course. www.habia.org.

Issue 13: *The City Council should recommend disposable equipment for tattooing.*

The Local Authority generally recommends the use of disposable equipment where possible. When this is not possible officers amongst many other things ensure the effectiveness of infection control procedures including safe working practices, cleaning, disinfection and sterilization. The aim is to reduce the risk of causing infection (as far as is reasonably practicable) among customers and those employed to provide treatment.

Issue 14: *Plastic piercing guns scar customers if they are not used appropriately. They should be banned from use in registered premises.*

Staff using such equipment should be adequately trained to prevent inappropriate use. Please see Issue 13.

Issue 15: *Registered premises should require parental consent before they undertake cosmetic body piercing.*

There is no statutory age of consent for cosmetic piercing (cosmetic body piercing and ear piercing). Cosmetic piercing of a minor is lawful provided a valid consent is given. Furthermore, the Courts have held that a parent's right to decide on behalf of his or her child yields to the child's competence to make a decision (ie if he or she is capable of understanding the nature of the act to be done). Body piercing for sexual gratification is unlawful. Children under the age of 16 are not able to consent lawfully to a piercing that would be regarded as indecent assault. Genital or nipple piercing performed on someone under the age of 16 might be regarded as indecent assault under sexual offences legislation, depending on the facts of the case. A statutory minimum age of consent for tattooing (18 years of age) is specified in the Tattooing of Minors Act 1969.

Issue 16: *There should be a prohibition against racist/sexist tattoos*

This is outside the scope of the Byelaws.

Issue 17: *Hairdressers should have a choice whereby the cut hair can go to an organisation to be re-used e.g. for graphing, wigs etc.*

This is outside the scope of the Byelaws.

Issue 18: *What is the cost implication of increasing awareness of the new laws? Increased awareness will be good for both customers & providers as each will know what to expect & have something to fall back on when either side don't meet expectation.*

The DOH have produced a sample leaflet for Local Authorities to use in informing business when the Local Government Act 2003 is brought into force in their area. The cost to LCC would be the cost of reproducing this leaflet and distributing it to the relevant businesses. The leaflet would also be placed on LCC website. A press release would also be made.

Issue 19: *It would be sensible to have a meeting of persons with a vested interest in the appropriate business prior to final approval.*

Businesses have all been consulted already and a further meeting is not thought necessary. We will provide feedback to consultation respondents to keep them informed of progress of the byelaws.

Issue 20: *Can the proposed byelaws be amended?*

In theory the model byelaws can be amended – however any amendment may jeopardize their confirmation by the Secretary of State and such introduce lengthy delays for adoption etc.

Any amendment could not go beyond securing (a). the cleanliness of premises & fittings, (b). the cleanliness of the operators & (c). the cleansing &, if appropriate, sterilization of instruments, material & equipment - (as specified under Section 15(7) of the 1982 Act & discussed above). The City Council does not consider an amendment of the byelaws to be desirable.