

Agenda

Environment and Licensing Committee

Date: **Tuesday 8 March 2022**

Time: **4.15 pm**

Place: **Council Chamber**

For any further information please contact:

Democratic Services

committees@gedling.gov.uk

0115 901 3844

Environment and Licensing Committee

Membership

Chair Councillor Marje Paling

Vice-Chair Councillor Nicki Brooks

Councillor Sandra Barnes
Councillor Pat Bosworth
Councillor Rachael Ellis
Councillor Des Gibbons
Councillor Julie Najuk
Councillor Alex Scroggie
Councillor Martin Smith
Councillor Sam Smith
Councillor Clive Towsey-Hinton
Councillor Paul Wilkinson

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AGENDA

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To obtain member approval to commence consultation with all local businesses likely to be affected by the adoption of consolidated model byelaws relating to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis (“ the byelaws”) and, subject to consideration of consultation responses, to seek approval from members to refer the byelaws to full council for the byelaws to be made under seal and referred to the Secretary of State for the Department of Health for the byelaws to be confirmed.
- 6 **Any other item which the Chair considers urgent.**
- 7 **Exclusion of the Press and Public.**
To move that under Section 100(A)(4) of the Local Government Act 1972 the public and press be excluded from the meeting during consideration of the ensuing report on the grounds that the report involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972.
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MINUTES ENVIRONMENT AND LICENSING COMMITTEE

Tuesday 8 February 2022

Councillor Marje Paling (Chair)

Present: Councillor Nicki Brooks Councillor Julie Najuk
Councillor Pat Bosworth Councillor Alex Scroggie
Councillor Rachael Ellis Councillor Sam Smith
Councillor Des Gibbons Councillor Paul Wilkinson

Absent: Councillor Martin Smith and Councillor Clive Towsey-Hinton

Officers in Attendance: C Allcock, J Brough, B Hopewell and R Pentlow

17 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS.

Apologies for absence were received from Councillors Martin Smith and Towsey-Hinton.

18 TO APPROVE, AS A CORRECT RECORD, THE MINUTES OF THE MEETING HELD ON 18 JANUARY 2022

RESOLVED:

That the minutes of the above meeting, having been circulated, be approved as a correct record.

19 DECLARATION OF INTERESTS.

None.

20 ANY OTHER ITEM WHICH THE CHAIR CONSIDERS URGENT.

None.

21 EXCLUSION OF THE PRESS AND PUBLIC.

RESOLVED:

That, the Members being satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information that under Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during the consideration of the ensuing reports on the grounds that the report involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

22

APPLICATION FOR A THREE YEAR HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE NO. AH

Consideration was given to a report of the Head of Environment, which had been circulated prior to the meeting, regarding an application for a three year joint Hackney Carriage/Private Hire Driver's Licence for AH.

AH attended the meeting and he addressed the Committee.

In making the decision the Committee applied the Council's approved Policy and Guidelines.

RESOLVED to:

Approve AH's application for a one year Joint Hackney Carriage/Private Hire Driver's Licence with a warning.

AH was advised of the right of appeal against the decision of the Committee.

Councillor Najuk joined the meeting.

23

CHANGE OF CIRCUMSTANCE OF HACKNEY CARRIAGE / PRIVATE HIRE DRIVERS LICENCE

Consideration was given to a report of the Head of Environment, which had been circulated in advance of the meeting, regarding a change of circumstances following information received about the holder of a Joint Hackney Carriage/ Private Hire Driver's Licence.

OA attended the meeting and addressed the Committee.

The Committee viewed a CCTV recording of an incident involving OA and a member of the public.

In making the decision the Committee applied the Council's approved Policy and Guidelines.

RESOLVED:

To revoke the Hackney Carriage/Private Hire Driver's Licence held by OA, giving OA 21 days to surrender the licence.

OA was advised of the right of appeal against the decision of the Committee.

Councillor Paling left the chamber.

Councillor Brooks assumed the chair.

24 CHANGE OF CIRCUMSTANCE AND APPLICATION TO RENEW HACKNEY CARRIAGE / PRIVATE HIRE DRIVERS LICENCE

Consideration was given to a report of the Head of environment, which had been circulated in advance of the meeting, regarding a change of circumstances following information received about the holder of a Joint Hackney Carriage/ Private Hire Driver's Licence.

BS attended the meeting and he addressed the Committee.

The Committee viewed a CCTV recording of an incident involving BS and a member of the public.

In making the decision the Committee applied the Council's approved Policy and Guidelines.

RESOLVED to:

Issue a warning to BS that such conduct fell short of the expected standard for Hackney Carriage Drivers and that further such incidents would result in another appearance before the Committee.

25 CHANGE OF CIRCUMSTANCE OF HACKNEY CARRIAGE / PRIVATE HIRE DRIVERS LICENCE

Consideration was given to a report of the Head of Environment, which had been circulated in advance of the meeting, regarding a change of circumstances following information received about the holder of a Joint Hackney Carriage/ Private Hire Driver's Licence.

ES attended the meeting along with a legal representative and they both addressed the Committee.

The Committee viewed a CCTV recording of an incident involving ES and a member of the public.

In making the decision the Committee applied the Council's approved Policy and Guidelines.

RESOLVED:

To take no further action.

The meeting finished at 7.45 pm

Signed by Chair:
Date:



Report to Environment and Licensing Committee

Subject: Adoption and Implementation of Anti-Idling legislation

Date: 8th March 2022

Author: Head of Environment

Wards Affected

All wards

Purpose

To seek approval for the introduction of anti-idling legislation as laid down by the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.

This would give authorised officers of the Council the power to issue a Fixed Penalty Notice (FPN) to drivers allowing their engines to run unnecessarily while the vehicle is stationary, if they fail to comply with a requirement to stop the running of the engine of that vehicle.

The FPN in relation to these Regulations is £20, increasing to £40 if not paid within 28 days. There is no discretion to amend this charge.

Key Decision

Not a key decision

Recommendation(s)

THAT members:

- 1) Approve and authorise the implementation and enforcement of provisions relating to anti-idling as laid down by the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.
- 2) Delegated authority be given to the Corporate Director to authorise relevant officers or persons to stop the commission of stationary idling offences and issue fixed penalty notices (FPNs) in respect of such offences, in accordance with Regulation 6(3) of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.

1 Background

- 1.1 Under the Environment Act 1995 and the Local Air Quality Management framework, Gedling Borough Council has a statutory duty to review and assess air quality within its borough and take the necessary actions to improve areas of poor air quality. If Air Quality Objectives (AQO) for key pollutants are exceeded, an Air Quality Management Area (AQMA) must be declared. To date Gedling Borough Council has declared one AQMA for exceedances of the annual average AQO for nitrogen dioxide (NO₂); the A60 Mansfield Road, Daybrook.
- 1.2 It is also anticipated that the Environment Act 2021 will also move the focus of attention toward another pollutant, fine particulate matter (PM_{2.5}); Local Authorities will be given a key role to play in delivering reductions in PM_{2.5} across the Borough.
- 1.3 It is widely recognised that emissions from vehicles play a large part in poor air quality which can exacerbate health problems such as heart and lung disease. As well as emitting NO₂ and particulates, vehicle fumes also contain CO₂ which contributes towards climate change.
- 1.4 The Public Protection Team receives complaints about idling vehicles outside schools and other locations from time to time. The adoption of these Regulations and the ability for FPNs to be served will enable a greater awareness of the issues arising from leaving vehicle engines running, and potentially an improvement in air quality in local areas.
- 1.5 The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 are made under Section 87 of the Environment Act 1995. Under the Regulations powers are given to Local Authorities to issue FPNs to drivers who allow their vehicle engines to run unnecessarily while the vehicle is parked, if they fail to comply with a requirement to stop the running of the engine of that vehicle. The Regulations cover all vehicles including cars, taxis, buses and all commercial vehicles.
- 1.6 Designation from the Secretary of State is not required for the enforcement of stationary idling offences and as such a Local Authority can authorise any officer of its authority, or any other person, to stop the commission of stationary idling offences (in accordance with Regulation 12) and to issue a FPN in respect of such an offence committed in its area.
- 1.7 Guidance issued by the Secretary of State for Transport 2002 – “*Guidance on powers to require drivers to switch off engines*” advises that FPNs should be used as a deterrent and only issued as a last resort.

With this in mind, it is anticipated that FPNs will be issued in limited circumstances where a driver refuses to switch off an engine when asked to do so by an authorised officer/person of the Council. The guidance also recommends that a 'common sense' approach is taken by officers when using the powers under the Regulations.

- 1.8 There are exempted circumstances where vehicles are permitted under Regulation 98(2) of the Road Vehicles (Construction and Use) Regulations 1986 and these apply to the 2002 Regulations:
- (a) when the vehicle is stationary owing to the necessities of traffic;
 - (b) so as to prevent the examination or working of the machinery where the examination is necessitated by any failure or derangement of the machinery or where the machinery is required to be worked for a purpose other than driving the vehicle; or
 - (c) in respect of a vehicle propelled by gas produced in plant carried on the vehicle, to such plant.
- 1.9 The enforcement process under the 2002 Regulations allows for a £20 FPN to be served in relation to stationary idling offences. This increases to £40 if not paid within 28 days. There is no discretion to amend this charge.

2 Proposal

THAT members:

- 2.1 Approve and authorise the implementation and enforcement of provisions relating to anti-idling as laid down by the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.
- 2.2 Delegated authority be given to the Corporate Director to authorise relevant officers or persons to stop the commission of stationary idling offences and issue fixed penalty notices (FPNs) in respect of such offences, in accordance with Regulation 6(3) of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.

3 Alternative Options

- 3.1 Not to approve the use of these powers and not to authorise officers or appropriate persons to issue FPNs. The implementation of this legislation and authorisation of officers would enable a greater awareness of the issues arising from leaving vehicle engines running to be made and potentially an improvement in air quality in local areas. In addition, implementation of the legislation supports the actions within the Air Quality Action Plan and also Climate Change targets.

4 Financial Implications

- 4.1 Some revenue may be received from payment of FPNs however this is not likely to be significant.
- 4.2 Implementation will be met by existing staff resources in Public Protection.

5 Legal Implications

- 5.1 The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 are made under Section 87 of the Environment Act 1995. The Environment Act 1995 sets out the standards relating to air quality and the objectives for particular pollutants.

Part IV of the Act requires local authorities to review and assess air quality within their districts and take the necessary actions to improve areas of poor air quality.

- 5.2 Under the 2002 Regulations (Regulation 6(3)), a Local Authority is not required to be designated by the Secretary of State to stop the commission of stationary idling offences and to issue FPNs in respect of such an offence committed in its area. As such, a local authority can authorise any officer of its authority, or any other person, to deal with the offences.

This matter has been discussed with and agreed by Legal (ref GEN002789).

6 Equalities Implications

- 6.1 There are no specific equalities implications arising from this report.

7 Carbon Reduction/Environmental Sustainability Implications

- 7.1 Implementation of the Regulations supports measures in the Air Quality Action Plan and also supports the Councils Climate Change Net Zero work.

8 Appendices

- 8.1 None

9 Background Papers

- 9.1 The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002

<http://www.legislation.gov.uk/ukxi/2002/1808/contents/made>

10 Reasons for Recommendations

10.1 Enabling these powers will assist in reducing pollution in hotspot areas, and dealing with complaints from residents.

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer

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Report to Environment and Licensing Committee

Subject: Update of byelaws relating to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis

Date: 8th March 2022

Author: Food, Health and Housing Manager

Purpose:

To obtain member approval to commence consultation with all local businesses likely to be affected by the adoption of consolidated model byelaws relating to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis ("the byelaws") and, subject to consideration of consultation responses, to seek approval from members to refer the byelaws to full council for the byelaws to be made under seal and referred to the Secretary of State for the Department of Health for the byelaws to be confirmed.

Recommendation(s)

That members:

Approve the draft byelaws at Appendix A to go out to consultation in the manner set out in the report.

Authorise the Head of Environmental Services in consultation with the Chairman of Environment and Licensing Committee to assess responses from the consultation to determine whether the byelaws need to be referred back to the Environment and Licensing Committee prior to adoption.

Authorise the Head of Environmental Services in consultation with the Chairman of the Environment and Licensing Committee to make any minor amendments to

the byelaws following consultation and prior to referral to full Council for making.

Subject to the results of the consultation, recommend the byelaws at Appendix A with any minor amendments necessary, be referred to Council and to be made under seal.

Background

- 1.1 Many authorities such as Gedling adopted the earlier provisions contained in the Local Government (Miscellaneous Provisions) Act 1982 allowing the registration of skin piercers, performing acupuncture, tattooing, ear piercing and electrolysis and had made byelaws to better control hygiene and cleanliness at such businesses. The other authorities in Nottinghamshire have taken up or are looking to adopt the extended provisions which will provide a more consistent and up to date approach to skin piercing in the county. Before this extension of the regulation to body piercing the only control for body piercing businesses resided and quite general provisions of the Health and Safety at Work etc Act 1974, Section 3 (protection of members of the public in a work premises).
- 1.2 To reflect changes in the way the piercing and tattooing industry has altered, with the introduction of new techniques and treatments, the Department of Health has produced a consolidated model byelaw combining acupuncture, ear piercing, electrolysis and tattooing with semi-permanent makeup tattooing and cosmetic piercing. The new byelaw model followed earlier changes brought about by the Local Government Act 2003. (Section 120 and Schedule 6), which allowed local authorities to adopt provisions requiring those carrying on skin piercing and micro-pigmentation, semi-permanent makeup and temporary tattooing to register themselves and their premises. Once a registration is received an inspection is carried out to check practices and procedures to ensure minimum safety standards are achieved. The byelaws set out the standard for the business to comply with.
- 1.3 The Department of Health has produced a single consolidated byelaw that authorities can adopt combining acupuncture, ear piercing, electrolysis and tattooing with semi-permanent tattooing and cosmetic piercing. It is now considered timely to adopt the wider hygiene controls afforded by the Local Government Act and the single consolidating byelaw.
- 1.4 The Department of Health has produced guidance on the byelaw application process, which officers will be able to follow when making a byelaw submission to the Secretary of State. Notice of the intention of this

Authority to approve a byelaw must be advertised in a local paper and on the website. A copy of the model byelaw is reproduced as Appendix A

1.5 Gedling explored adopting and consolidating the byelaws back in 2009. It was brought before the Council and this Committee and was approved to commence the process of making the consolidated byelaws. However the proposal was not ever implemented. Now the Council receives an increasing amount of enquiries from operators wanting to offer semi-permanent makeup treatments, without modified byelaws in place the Council are not in a position to enforce registration and minimum safety standards. Therefore due to business demand and our role in protecting consumers' health and safety this has prompted the need for current byelaws to be reviewed to ensure they remain current and fit for purpose.

1.6 In March 2018 a full consultation with all businesses and persons who may have an interest in the adoption of the byelaws in Gedling Borough was undertaken. Only two incomplete responses were received.

As there has been a delay in progressing with the adoption of the byelaws a new revised consultation will be undertaken in March 2022 where letters will be sent out to all current registered businesses offering acupuncture, tattooing, ear piercing and electrolysis along with any other businesses or persons who may offer these and any semi-permanent skin-colouring or cosmetic piercing services. A copy of the proposed draft byelaw will be enclosed and an explanation of the implications. Where required, officers will be able to discuss any matters arising with the proprietors. The information will also be put on the Council's website and the local newspaper. Although adopting the byelaw will add to the initial workload of officers, this can be accommodated in the work programme for the coming year.

1.7 There are health benefits for bringing these businesses under the same regulatory framework that currently exists for acupuncture, tattooing, ear piercing and electrolysis, including the contributing to the general protection of the health of customers, reducing specific blood borne viruses such as Hepatitis B and C and specifying cleanliness standards for premises and fittings.

Proposal

2.1 It is proposed that members approve the draft byelaws at Appendix A to go out to an 8 week consultation in the manner described in the report.

- 2.2 It is proposed that the consultation responses are considered by the Head of Environmental Services in consultation with the Chairman of Environment and Licensing Committee. Should any significant changes be made to the byelaws as a result of the consultation response, or should there be any significant objection to the introduction of the byelaws, these will be reported to Committee for consideration prior to the byelaws being referred to Council.
- 2.3 It is proposed that if the consultation responses do not need further consideration by the Committee as outlined above, that members approve the draft byelaws at Appendix A to be referred to full council for the byelaws to be made under seal and referred to the Secretary of State for the Department of Health for confirmation. A notice of the determination would be advertised in a local paper and on the Council's website.

Alternative Options

- 3.1 The Council could continue to operate under its current byelaws and not consult or make new byelaws. However, it is considered in light of the new techniques developing in the industry that some regulation of those techniques is necessary to ensure good hygiene standards and public safety. Regulation of the industry is only through byelaws and the byelaws need to be up to date and fit for purpose.

Financial Implications

- 4.1 There are minimal financial implications from this report. The Council will have to hold a consultation to adopt the byelaws, and those subject to the scheme will be required to pay a registration fee to cover the cost of regulating the standards required for relevant businesses. This will all be delivered within existing resources
- 4.2 Once the consultation is complete, the Council will undertake an exercise to establish costs and activity levels in order to produce an appropriate fee. If the scheme takes off the council may require to fund additional resource from the fee income.

5 Legal Implications

- 5.1 Adopting the byelaws would enable officers to take enforcement action for failure to comply.

6 Equalities Implications

6.1 There is no diversity or equality implications contained within this report.

7 Carbon Reduction/Environmental Sustainability Implications

7.1 Encourage online applications through the Councils website, reduction in paper usage

8 Appendices

8.1 Appendix A – Model Byelaw

9 Background Papers

9.1 None

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer

BYELAWS

FOR THE REGULATION OF

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 Gedling Borough 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;

“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 to Acupuncture, Ear piercing, Electrolysis and Tattooing that were made by Gedling Borough Council on the 13th February 1986 and were confirmed by the Secretary of State for Social Services on 29th May 1986 are revoked.

COUNCIL'S SIGNATURE

COUNCIL'S SEAL

The foregoing bylaws 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

DRAFT

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).*

DRAFT

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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