

**MAIDSTONE BOROUGH COUNCIL**

**COUNCIL**

**7 DECEMBER 2016**

**REPORT OF THE COMMUNITIES, HOUSING AND ENVIRONMENT  
COMMITTEE HELD ON 18 OCTOBER 2016**

**ADOPTION OF BYELAWS FOR COSMETIC PIERCING AND SEMI-  
PERMANENT SKIN COLOURING**

**Issue for Decision**

To consider the adoption of new byelaws to cover cosmetic piercing and semi-permanent skin colouring.

**Recommendation Made**

That byelaws be adopted for registering businesses involved in cosmetic piercing and semi-permanent skin colouring by implementing Section 120 and Schedule 6 of the Local Government Act 2003 based on models provided by the Department of Health as set out in Appendices 1 and 2.

**Reasons for Recommendation**

At its meeting on 18 October 2016 the Committee considered the report of the Head of Housing and Community Services related to the adoption of byelaws for cosmetic piercing and semi-permanent skin colouring.

The Council has adopted powers set out in the Local Government (Miscellaneous Provisions) Act 1982 which require the registration of businesses providing tattooing, electrolysis, ear piercing and acupuncture. The purpose behind this requirement is to prevent the transmission of blood borne virus infections, such as Hepatitis B, Hepatitis C and HIV and other infections between persons through these invasive treatments. The Local Government Act 2003 extended the range of activities, which are required to be registered with the Council, to include cosmetic piercing and skin colouring, treatments that also have the potential to transmit communicable diseases.

This report seeks approval to adopt additional byelaws to give the Council similar powers to protect public health to correspond with existing byelaws for other treatments. The intention of byelaws is to ensure that hygienic and safe skin piercing practices are carried out by operators, to protect the health and safety of those being pierced and those carrying out the piercing activities.

The new byelaws will be based on models provided by the Department of Health attached at Appendix 1 and 2 to the report, and cover cosmetic piercing and semi-permanent skin colouring. The adoption of the additional byelaws requires approval by Council and then confirmation by the Secretary of State for Health.

### **Alternative Recommendations and Why Not Considered**

Do Nothing – The Council would continue to have a registration regime where only some of the special treatments are covered by byelaws. This effectively would reduce the Council's ability to enforce proper provisions of hygiene to protect public health.

### **Background documents**

None.

## **COSMETIC PIERCING BYELAWS – APPENDIX 1**

Byelaws for the purposes of securing the cleanliness of premises registered under section 15 of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in those premises and of registered persons and persons assisting them and the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the business of cosmetic piercing made by Maidstone Borough Council in pursuance of section 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;

“Operator” means any person giving treatment;

“Premises” means any premises registered under Part VIII of the Act;

“Proprietor” means any person registered under Part VIII of the Act;

“Treatment” means any operation in effecting cosmetic piercing;

“The treatment area” means any part of 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) all internal walls, doors, windows, partitions, floors, floor coverings and ceilings are kept clean and in such good repair as to enable them to be cleaned effectively;
- (b) all waste material, and other litter arising from treatment should be handled and disposed of as clinical waste in accordance with relevant legislation and guidance as advised by the local authority;
- (c) all needles used in treatment are single-use and disposable, as far as is practicable; and are stored and disposed of as clinical waste in accordance with the relevant legislation and guidance as advised by the local authority;
- (d) all furniture and fittings in the premises are kept clean and in such good repair as to enable them to be cleaned effectively;
- (e) all tables couches and seats used by clients in the treatment area, and any surface on which the items specified in 3b below are placed immediately prior to treatment, have a smooth impervious surface which is disinfected immediately after use and at the end of each working day.
- (f) where tables and couches are used they are covered by a disposable paper sheet which is changed for each client;
- (g) no eating, drinking, or smoking is permitted in the treatment area and a notice or notices reading “No Smoking”, and “No Eating or Drinking” is prominently displayed there.

**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 the treatment—

- (a) an operator shall ensure that, before use in connection with treatment—
  - any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in the treatment—
    - i. is clean and in good repair and, so far as is appropriate, sterile;
    - ii. has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned and, so far as is appropriate, sterilized.
- (b) An operator shall ensure that any needle, metal instrument, or other item of equipment used in treatment or for handling instruments and needles used in the treatment is in a sterile condition and kept sterile until it is used;

(c) a proprietor shall provide—

- (i) adequate facilities and equipment for the purpose of sterilization, [unless pre-sterilized items are used] and of cleansing, as required in pursuance of these byelaws;
- (ii) sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;
- (iii) an adequate constant supply of clean hot and cold water readily available at all times on the premises;
- (iv) adequate storage for all items mentioned in byelaw 3a and b above, so that those items are properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.

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

- (i) Any operator keeps his hands and nails clean and his nails short;
  - (ii) Any operator wears disposable surgical gloves that have not previously been used with any other client;
  - (iii) Any operator of the premises wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with any other client;
  - (iv) Any operator keeps any open boil, sore, cut or open wound on an exposed part of the body effectively covered by an impermeable dressing;
  - (v) Any operator does not smoke or consume food or drink in the treatment area.
- (b) A proprietor shall provide—

- (i) suitable and sufficient washing facilities for the sole use of operators, including hot and cold water and sanitising soap or detergent;
- (ii) suitable and sufficient sanitary accommodation for operators.

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 \_\_\_\_\_

[Printed name]

Member of the Senior Civil Service

Department of Health

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

Proprietors must take all reasonable steps to ensure compliance with these byelaws by persons working on premises. Section 16(9) of the Act provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act.

Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 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 his registration and of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence for the person charged under sub-sections (1), (2), (8), or (10) of section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

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

## **SEMI-PERMANENT SKIN-COLOURING BYELAWS – APPENDIX 2**

Byelaws for the purposes of securing the cleanliness of premises registered under section 15 of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and registered persons and persons assisting them and the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the business of semi-permanent skin-colouring made by Maidstone Borough Council in pursuance of section 15(7) of the Act.

### **Interpretation**

**5.—**(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;

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

“Premises” means any premises registered under Part VIII of the Act;

“Proprietor” means any person registered under Part VIII of the Act;

“Treatment” means any operation in effecting semi-permanent skin-colouring;

“The treatment area” means any part of 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.

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

- (a) all internal walls, doors, windows, partitions, floors, floor coverings and ceilings are kept clean and in such good repair as to enable them to be cleaned effectively;
- (b) the treatment area is used solely for giving treatment;
- (c) the floor of the treatment area is provided with a smooth impervious surface;
- (d) all waste material, and other litter arising from treatment should be handled and disposed of as clinical waste in accordance with relevant legislation and guidance as advised by the local authority;
- (e) all needles used in treatment are single-use and disposable, as far as is practicable, and are stored and disposed of as clinical waste in accordance with relevant legislation and guidance as advised by the local authority;
- (f) all furniture and fittings in the premises are kept clean and in such good repair as to enable them to be cleaned effectively;
- (g) all tables couches and seats used by clients in the treatment area, and any surface on which the items specified in 3b below are placed immediately prior to treatment, have a smooth impervious surface which is disinfected immediately after use and at the end of each working day;

- (h) where tables and couches are used they are covered by a disposable paper sheet which is changed for each client;
- (i) no eating, drinking, or smoking is permitted in the treatment area and a notice or notices reading "No Smoking", and "No Eating or Drinking" is prominently displayed there.

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

- (a) An operator shall ensure that, before use in connection with treatment—

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

- i. is clean and in good repair and, so far as is appropriate, sterile;
- ii. has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned and, so far as is appropriate, sterilized.

- (b) An operator shall ensure that-

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 semi-permanent skin-colouring are sterile and inert;

iii the containers used to hold the dyes for each customer are either disposed of at the end of each session of treatment, or are cleaned and sterilized before re-use;

- (c) a proprietor shall provide—

- (i) adequate facilities and equipment for the purpose of sterilization, [unless pre-sterilized items are used] and of cleansing, as required in pursuance of these byelaws;
- (ii) sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;
- (iii) an adequate constant supply of clean hot and cold water readily available at all times on the premises;
- (iv) adequate storage for items mentioned in byelaw 3a and b above, so that those items are properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.

**8.—**(1) For the purpose of securing the cleanliness of operators-

- a. a proprietor shall ensure that —

- (i) any operator keeps his hands and nails clean and his nails short;
- (ii) any operator wears disposable surgical gloves that have not previously been used with any other client;



- (iii) any operator of the premises wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with any other client;
  - (iv) any operator keeps any open boil, sore, cut or open wound on an exposed part of the body effectively covered by an impermeable dressing;
  - (v) any operator does not smoke or consume food or drink in the treatment area.
- (b) A proprietor shall provide—
- (i) suitable and sufficient washing facilities for the sole use of operators, including hot and cold water, sanitising soap or detergent;
  - (ii) suitable and sufficient sanitary accommodation for operators.

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 \_\_\_\_\_

[Printed name]

Member of the Senior Civil Service

Department of Health

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