



**REGISTRATION OF SPECIAL TREATMENTS POLICY**  
**2018**

# Contents

	<b>Page</b>
Introduction	3
Policy and purpose	3
Relevant legislation	3
Who and what needs to be registered	4
Individual registration	4
Premises registration	4
Registration with the Council	4
Once registered	4
Health and safety	5
Appendix A	6
Appendix B	8

## 1. Introduction

- 1.1 Special treatments are required by law to be registered with the council as they can potentially cause harm to the recipient of the treatment, the provider of the treatment and any staff employed at the premises used for providing that treatment.
- 1.2 It is a criminal offence for any person within the District of Lichfield to carry on the Business of, or in some instances the practice of, a special treatment without being registered with Lichfield District Council.
- 1.3 The following practices, procedures and services are classed as a special treatment and require registration:
  - Acupuncture
  - Cosmetic Skin Piercing
  - Tattooing
  - Semi-permanent skin colouring
  - Electrolysis
- 1.4 These are defined in **Appendix A.**

## 2. Policy Purpose

- 2.1 The purpose of this policy is to:
  - Safeguard the health and safety of the recipient and staff
  - Prevent unregistered treatments taking place
  - Give detailed guidance on the application of the law relating to special treatments
  - Set out the requirements that providers of special treatments must meet
  - Make clear the activities that require registration

## 3. Relevant Legislation

- 3.1 The Local Government (Miscellaneous Provisions) Act 1982 is the primary piece of legislation governing the registration of all the special treatments detailed in this policy.
- 3.2 Lichfield District Council has passed byelaws for the special treatments which all registered persons must comply with. The byelaws are attached at Appendix B to this Policy. It is the responsibility of any person registered with the Council under this policy to ensure that they comply with these byelaws.
- 3.3 Those offering the service of any of the special treatments must also abide by all other relevant pieces of legislation designed to protect them, their staff and members of the public from harm. The main ones are:
  - The Health and Safety at Work Etc Act 1974
  - The Management of Health and Safety at Work Regulations 1999
  - The Control of Substances Hazardous to Health Regulations 2002 (COSHH)
  - The Cosmetics Products (Safety) Regulations 2004

3.4 A breach of these may lead to prosecution by the Council and will be enforced by the Environmental Health Team.

#### **4. Who and what needs to be registered**

4.1 The legislation requires two registrations for each activity:-

- Individual
- Premises

4.2 A fee is payable for each separate registration.

#### **5. Individual registration**

5.1 Any person who carries on the business of any special treatment must be registered with the Council, If a person is registered as a medical practitioner e.g. nurse, doctor and they wish to carry out any special treatment they do not need to be registered with the Council. If a person is registered as a Dentist then they do not need to be registered with the council to carry out acupuncture.

5.2 'Carries on the business of' means providing that service for reward, whether financial or payment in kind. Often the person carrying on the business will be obvious. For example, the person who owns the business and profits from its takings. However this is not always the case. Self employed people are also considered by the Council to be carrying on their own business. Someone is self-employed if that person rents a chair or a room or other space or equipment from the owner of the business, keeps their income and pays their own tax.

#### **6. Premises Registration**

6.1 Premises are not defined in the legislation but for the purposes of this Policy any area, whether enclosed or an open space, in which the service requiring registration is provided to the public is classed as the premises. This could be a salon or a room in a domestic home or in a mobile unit as part of a festival or market.

#### **7. Registering with the Council**

7.1 An application form is available from the Council website or by telephoning 01543 308735.

7.2 The form should be completed and submitted to the Licensing Team along with the relevant fee and any other documentation or information that may be requested by the Council.

7.3 Following receipt of an application for registration the Council's environmental health team will arrange to inspect the premises.

#### **8. Once registered**

8.1 Any person registered with the Council may be periodically inspected by the Environmental Health Team, subject to their risk assessment.

8.2 The failure to comply with any byelaw or the relevant legislation may result in prosecution. If the failure to comply is a public safety risk the Council may prosecute with a view to asking the Court to cancel the registration. This will mean that the applicant cannot operate legally within the District and may be prevented from registering their business with the Council any other local authority in the future.

8.3 The person carrying on the business or practice of any of the special treatments must keep a copy of their certificate of registration and the applicable byelaws on display at their premises. Failure to do so is a prosecutable offence and can result in a fine not exceeding level 2 on the standard scale.

## **9. Health and Safety**

9.1 All premises that are open to the public for the purposes of providing cosmetic treatments of any kind, whether or not those treatments are registerable with the Council, must comply with the relevant health and safety legislation.

DRAFT

### **Acupuncture**

The word “Acu” in Latin means “with a needle” and when added to the phrase “puncture” means puncturing with a needle.

For public safety and public health reasons any practice of puncturing the skin of another person with a needle for remedial, cosmetic or financial gain is registerable with the council.

### **Cosmetic Skin Piercing**

The Local Government Act 2003 amended the Act to replace the activity of “ear piercing” with the more generic term of “cosmetic piercing”.

Therefore any piercing of any persons skin for cosmetic and beauty reasons of the insertion of any foreign material into or under the skin, whether permanent or temporary, for cosmetic or beauty reasons must be registered with the Council if carried out for profit, consideration or rewards.

### **Tattooing**

Tattooing is the process of making a permanent mark, design or pattern onto the skin of a person by pricking and ingraining an indelible pigment or ink into the skin, or any other similar process designed to change the complexion of human skin for cosmetic purposes or artistic purposes.

Where this is done for profit, consideration or reward it falls within the definition of tattooing under the Act and requires registration.

### **Semi-permanent skin colouring**

Semi-permanent skin colouring encompasses the cosmetic procedures known as micropigmentation, semi-permanent makeup and temporary tattooing.

Any process or procedure where skin colouring is inserted into a person’s skin without breaching the skin’s outer layer (the epidermis) for cosmetic purposes falls within the definition and requires registration with the Council if carried out for profit, consideration or reward.

### **Electrolysis**

Electrolysis is generally known to be a procedure for removing unwanted face and body hair through the use of an electric current inserted into the hair follicle to destroy hair roots.

Electrolysis is, however a scientific term to describe the process of changing the composition of an object through the use of an electric current

For the purpose of this policy any form of electric current inserted into the skin for cosmetic purposes carried out for profit, consideration or reward requires registration with the council.

### **Other cosmetic procedures**

The special treatments detailed in this policy are only the ones that are required to be registered with the Council.

Some treatments exist that do not require any form of registration, inspection or licensing process by any authority or public body as they have not been considered to be prejudicial to health.

Other treatments are not required to be registered with the Council as they are governed by other bodies under other legislation and require a registration with that authority.

Where there is any overlap between treatments that may require a registration with us but also require a registration with another public regulatory body, the Council will aim to ensure that business operators are not penalized by registering twice and will work with all parties to ensure that the most appropriate registration is obtained.

The onus is upon the person carrying on the business or practice to ensure that they have made the appropriate enquiries to ascertain who is the appropriate registering authority for their activity.

DRAFT

## LICHFIELD DISTRICT COUNCIL

### BYELAWS

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

Byelaws for the purposes of securing the cleanliness of premises registered under sections 14(2) or 15(2) or both of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and of persons registered under sections 14(1) or 15(1) or both of the Act and persons assisting them and of securing the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis, or any two or more of such practice and businesses made by Lichfield District 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 skincolouring, 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 earpiercing 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 earpiercing 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 reuse.
  - (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 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, semipermanent 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(l)(a) and 4(l)(a).
6. The byelaws relating to acupuncture, tattooing, ear piercing and electrolysis that were made by Lichfield District Council on the 24<sup>th</sup> July 1987 and were confirmed by The Secretary of State for Social Services on 29<sup>th</sup> October 1987 are revoked.

**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 skincolouring, 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