

FLINTSHIRE COUNTY COUNCIL
LOCAL GOVERNMENT (MISCELLANEOUS
PROVISIONS) ACT 1982

**Byelaws in respect of acupuncture, tattooing,
semipermanent 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 Flintshire County Council in pursuance of sections 14(7) or 15(7) or both of the Act.

1. Interpretation

(a) In these byelaws, unless the context otherwise requires—

“The Act” means the Local Government (Miscellaneous Provisions) Act 1982;

“Animal” means any reptile, mammal, and all other living creature belonging to the animal kingdom;

“clean” means previously unused in the case of a single use item; or in the case of a reusable item, that since its last use the item has been thoroughly washed and disinfected or sterilised as appropriate, and kept in a hygienic condition; in any other context it has its normal meaning

“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-

(i) the lobe or

(ii) the upper flat cartilage of the ear;

"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.

(b) The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

3. (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 must be placed immediately after use in an appropriate waste receptacle with a pedal operated lid and be handled and disposed of in accordance with relevant legislation and guidance as advised by the local authority;

(c) any needle, razor or other sharp item used in treatment is single-use and disposable and is disposed of in a sharps container that is kept out of reach of clients and the general public 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 cleaned and 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 Eating or Drinking" is prominently displayed there. No Smoking signage should be prominently displayed at or near each entrance of the premises in accordance with The Smoke Free Premises (Wales) Regulations 2007.
 - (h) all animals are prohibited from registered premises. This will prevent the soiling of the premises and the introduction of vermin. An exemption must be granted for assistance animals used by the sight and/or hearing-impaired.
- (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 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 using a hygienic piercing instrument.
4. (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 single use 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) only disposable single use safety razors are used;
 - (iv) if petroleum jelly or lubricating gel is to be placed on a client's skin, enough for one client only should be removed from the stock container with a clean spatula, and placed in a container that is either disposed of at the end of each treatment or is cleaned and sterilized before re-use;
 - (v) elastic bands or plastic bags used on tattoo machines are disposed of after each client;
 - (vi) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;
 - (vii) for the purposes of tattooing or semi-permanent skin-colouring, only sterile inert pigment dispensed into single use pots or pre-packed in single use vials is used.
 - (viii) any container used to hold dye for tattooing or semi-permanent skin-colouring is used for only one client and disposed of together with any unused pigment at the end of each treatment;
- (b) a proprietor shall provide—
- (i) adequate facilities and equipment for—
 - (aa) cleansing and disinfection, including a general purpose sink with hot and cold running water on the premises separate from the wash-hand basin required under 4(b)(i). This should be located out of the treatment area wherever possible and in all cases where a new premises is established after the commencement of these Byelaws; and
 - (bb) sterilisation, unless only pre-sterilised items are used. All sterilisation equipment shall be

serviced and maintained at intervals determined by a competent qualified person and periodically tested by the operator to ensure its efficient operation. Records of maintenance, servicing, testing and operating cycles must be retained for the lifetime of the equipment at the premises and retained for a further period of six months. They must be produced upon request for inspection by an authorised council officer.

- (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 avoids contamination of the articles, needles, instruments and equipment mentioned in paragraphs 3(1)(a)(i), (ii), (iii), (iv), (v), (vi), (vii) and (viii).

4. (1) For the purpose of securing the cleanliness of operators, a proprietor—
- (a) shall ensure that an operator is instructed in appropriate hygienic hand decontamination techniques and—
 - (i) keeps his/her hands and nails clean and his/her nails short and free from nail varnish, nail decoration or any form of nail covering;
 - (ii) keeps any open lesion on an exposed part of the body effectively covered by an impermeable dressing;
 - (iii) wears disposable, well fitting, surgical 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 wash hand basins with nonhand operated taps appropriately located for the sole use of operators, including an adequate and constant supply of clean hot and cold water, liquid

soap and paper towels stored in a wall mounted dispenser next to the wash basin. Hand washing instructions should be clearly displayed at such basins.

- (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) A proprietor must ensure the activity of acupuncture is only carried out by an operator who has washed their hands immediately before carrying out the activity of acupuncture on each client. Where an operator gives acupuncture a proprietor shall ensure that the operator wears disposable, well fitting, surgical gloves that have not previously been used with another client where—
 - (a) the client is bleeding or has an open lesion on an exposed part of his/her 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/her 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).

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 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 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) (vii) and (viii) apply to tattooing and semi-permanent skin-colouring.

The requirement in paragraph 4(1)(a)(iii) that an operator wears disposable well fitting, surgical 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).