

# Swindon Borough Council

## Licensing Committee

**Wednesday, 13 August 2014**

Committee Room 6, Civic Offices (Anticipated meeting room)

**At 5.30 p.m.**

### **Conservative Councillors**

Andrew Bennett  
(Vice-Chair)  
Alan Bishop  
Michael Bray  
Oliver Donachie  
John Haines  
Eric Shaw (Vice-  
Chair)  
Timothy Swinyard  
Vera Tomlinson  
(Chair)

### **Labour Councillors**

Junab Ali  
Abdul Amin  
John Ballman  
Derique Montaut  
Steve Wakefield  
Peter Watts

### **Liberal Democrat Councillors**

Stan Pajak

**Committee Officer:** Shaun Banks (Telephone: 01793 463606)  
sbanks@swindon.gov.uk  
Swindon Borough Council, Civic Offices, Euclid Street, Swindon, SN1 2JH  
(Telephone 01793 445500)

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## **AGENDA**

### **1. Apologies for Absence**

### **2. Declarations of Interest**

Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.

### **3. Public Question Time**

See explanatory note below. Please phone the Committee Officer whose name and number appears at the top of this agenda if you need further guidance.

### **4. Minutes (Pages 1 - 2)**

To receive the minutes of the meeting held on 2<sup>nd</sup> July 2014.

### **5. Revision of Street Trading Policy (Pages 3 - 6)**

### **6. Delegation of Functions under the Scrap Metal Act 2013 (Pages 7 - 10)**

7. **Adoption of Consolidated Skin-piercing Byelaws** (Pages 11 - 36)
8. **Introduction of Licence Conditions for Home Boarding of Dogs** (Pages 37 - 50)

**Date of Despatch:** 06 August 2014

**Public Question Time** - Swindon Borough Council is committed to increasing its accountability to the public and to promoting active citizenship. Up to 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from members of the public about the work of the Committee (except for confidential matters and specific planning applications). Questions must be relevant, clear and concise. Because of time constraints Public Question Time is not an opportunity to make speeches or statements. Prior notice of a question to the Director of Law and Democratic Services is desirable - particularly if detailed background information is needed.

**Access Arrangements** – The Venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Clerk above, as soon as possible prior to the date of the meeting.

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

**LICENSING COMMITTEE**

**WEDNESDAY, 2 JULY 2014**

PRESENT:- Councillors Junab Ali, Abdul Amin, Andrew Bennett, Alan Bishop, Michael Bray, Oliver Donachie, John Haines, Derique Montaut, Stan Pajak, Eric Shaw (Vice-Chair), Timothy Swinyard, Vera Tomlinson (Chair), Steve Wakefield and Peter Watts.

An apology for absence was received from Councillor John Ballman.

**6. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

**7. Minutes**

Resolved – That the minutes of the meeting held on 6<sup>th</sup> June 2014, be confirmed and signed as a correct record.

**8. Public Question Time**

No public questions were received during the meeting.

**9. Statement of Gambling Principles**

The Council's Licensing Manager submitted a report setting out the requirements for the Council to review its Gambling Act Statement of Principles under Section 349 of the Gambling Act 2005 and to undertake a consultation on the revised Statement of Principles documentation.

Resolved – (1) That the Gambling Act Statement of Principles be approved and that the Council's Licensing Manager be authorised to undertake a formal consultation on the draft Statement of Principles in accordance with Section 349 of the Gaming Act 2005.

(2) That, further to (1) above, the Head of Planning and Regulatory Services be authorised, in consultation with the Chair of this Committee, to make any minor or typographical changes to the Statement of Principles prior to its publication and the consultation process.

**10. Consultation on the Introduction of a Licensing Regime for Sex Establishments in the Borough of Swindon**

The Council's Licensing Manager submitted a report (a) recommending consultation is commenced with local people on whether a resolution should be made under section 2(1) of the Local Government (Miscellaneous Provisions) Act 1982 that schedule 3 to that Act ("Control of Sex Establishments") should apply to the Borough of Swindon, and (b) the requirements necessary for a consultation process to be undertaken.

Resolved – That the Council's Licensing Manager be authorised to (a) undertake a consultation with local people on whether a resolution should be made

under Section 2(1) of the Local Government (Miscellaneous Provisions) Act 1982 that the provisions of schedule 3 to that Act (Control of Sex Establishments) should apply to the Borough of Swindon; and (b) to undertake consultation with local people on whether a resolution should be made under paragraph 2(2) of schedule 3 to the Policing and Crime Act 2009 that the provisions of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Act 2009, should apply to the Borough of Swindon.

#### **11. Scheme of Delegation - Amendments and Updates**

The Council's Licensing Manager submitted a report setting out proposed amendments and updates to the Council's Scheme of Delegations as it relates to Licensing functions.

Resolved – That the amendments and updates of the Council's Scheme of Delegations, as set out in the appendix to the report of the Council's Licensing Manager, be approved subject to confirmation and adoption by Council.

## Revision of Street Trading Policy

**Licensing Committee**

**Date: 13<sup>th</sup> August 2014**

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Author:	Licensing Manager
Wards:	All
Locality Affected:	All
Parishes Affected:	All

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### **1. Purpose and Reasons**

- 1.1 The Licensing Committee determined the Council's Street Markets Policy on 1 August 2013. This included a statement that the Policy should be reviewed within 12 months from the date of commencement (i.e. by 1 August 2014).
- 1.2 The Street Market Policy has thus been reviewed and incorporated in to Council's Street Trading Policy for ease of reference. The draft policy is attached as Appendix C.

### **2. Recommendations**

- 2.1 That the Licensing Committee approves the reviewed street trading policy attached to the report as Appendix C and recommends its adoption to Council.

### **3. Detail**

- 3.1 The Licensing Committee determined the Council's Street Trading Policy on 23 October 2008 and it became effective on 1 February 2009. The Committee also determined a policy specifically for street markets on 1 August 2013. These are attached to the report as Appendix A and B respectively.
- 3.2 The Street Markets Policy included a statement that the policy should be reviewed within 12 months of the date of commencement (i.e. by 1 August 2014).
- 3.3 In reviewing the Street Markets Policy, the two policies have been combined so that potential applicants now only have one document to refer to when preparing their applications. This is attached to the report as Appendix C.
- 3.4 The existing policies have proved effective in guiding applicants in making their applications and in helping to regulate street trading activities in the Borough of Swindon. There have been no challenges to any of the policies and therefore no major change to either policy is proposed.
- 3.5 However, InSwindon has requested that permission is given to allow music to be played during the street markets that they organise. They consider that this will enhance the customer experience at future markets by creating an ambience that has been lacking at previous markets. Such music would be authorised by the premises licence that Swindon Borough Council granted to InSwindon under the Licensing Act 2003. This has been incorporated in to the draft policy for

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Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113, email: [KAshton@swindon.gov.uk](mailto:KAshton@swindon.gov.uk).

# Revision of Street Trading Policy

Licensing Committee

Date: 13<sup>th</sup> August 2014

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consideration with the caveat that a request for permission to play music must be included in the application for the street trading consent.

- 3.6 It is further proposed that authority is delegated to the Licensing Manager to attach conditions to a street trading consent regarding the playing of music, where the applicant has already been granted permission by the Council to play such music under the Licensing Act 2003, in circumstances where such permission is required.
- 3.7 It is proposed that the draft policy will come in to effect on 01 August 2014 and that the policy will remain effective for no longer than 5 years but that it may reviewed at any time, as required. This is in line with the requirement to review the Council's Statement of Licensing Policy made under the Licensing Act 2003.

## **4. Implications, Diversity Impact Assessment and Risk Management**

### Financial and Procurement Implications

- 4.1 The costs associated with the implementation and enforcement of the policy will be covered by the street trading consent application fees.

### Legal and Human Rights Implications

- 4.3 There are no human rights implications.

### All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 4.4 The implementation and enforcement of the policy will be carried out using existing resources. There are no other implications.

### Diversity Impact Assessment

- 4.5 No diversity impact assessment has been undertaken.

### Risk Management

- 4.6 The approval of the policy is within the Committee's power.
- 4.7 The policy is not intended to be rigid and will not fetter the Committee's discretion in determining any application for a street trading consent, which otherwise would be challengeable by way of judicial review.

## **5. Consultees**

- 5.1 The Board Director Finance, Revenues, Benefits and Property (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

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Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113, email: [KAshton@swindon.gov.uk](mailto:KAshton@swindon.gov.uk).

# Revision of Street Trading Policy

Licensing Committee

Date: 13<sup>th</sup> August 2014

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## 6. Background Papers

### 6.1 [Local Government \(Miscellaneous Provisions\) Act 1982](#)

## 7. Appendices

Appendix A – Existing Street trading policy effective as of 1 February 2009

Appendix B – Existing Street Markets policy effective as of 1 August 2013

Appendix C – Draft revised street trading policy (incorporating street markets)

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## Delegation of Functions under the Scrap Metal Act 2013

Licensing Committee

Date: 13<sup>th</sup> August 2014

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Author:	Licensing Manager
Wards:	All
Locality Affected:	All
Parishes Affected:	All

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### 1. Purpose and Reasons

- 1.1 The Scrap Metal Dealers Act 2013 (“the Act”) has introduced a new licensing regime to regulate scrap metal dealers and motor salvage operators and has replaced the simple registration schemes that previously existed.
- 1.2 The functions of the local authority under the Act lie with the Cabinet but these may be delegated, where appropriate, to ensure that an efficient and cost effective service is provided.

### 2. Recommendations

- 2.1 That the Licensing Committee recommends to the Cabinet that it delegates all of the Council’s functions under the Scrap Metal Act 2013 to the Licensing Committee and that these functions are further delegated as set out below:

#### 2.1.1 Functions delegated to a Licensing Sub-Committee

2.1.1.1 The determination of new and renewal applications under the Act where:

- the applicant or site manager has been convicted of a relevant offence or subject to relevant enforcement action under the Act, or
- a previous application for a scrap metal licence or environmental permit/registration has been refused, or
- a previous scrap metal licence has been revoked;

2.1.1.2 The revocation of a licence issued under the Act or the variation of a licence to include conditions.

#### 2.1.2 Functions delegated to the Head of Planning & Regulation

2.1.2.1 The administration and enforcement of the functions under the Act;

2.1.2.2 The power to request further information of applicants;

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Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113, email: [KAshton@swindon.gov.uk](mailto:KAshton@swindon.gov.uk).

# Delegation of Functions under the Scrap Metal Act 2013

Licensing Committee

Date: 13<sup>th</sup> August 2014

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2.1.2.3 The determination of new, renewal or variation applications, other than where:

- the applicant or site manager has been convicted of a relevant offence or subject to relevant enforcement action under the Act, or
- a previous application for a scrap metal licence or environmental permit/registration has been refused, or
- a previous scrap metal licence has been revoked;

2.1.2.4 The power to give notice to an applicant or licensee of the authority's proposal to consider refusing an application or revoking or varying a licence, and to invite representations from the applicant or licensee; and

2.1.2.5 The power to issue or cancel a closure notice for unlicensed sites under Schedule 2 to the Act, and where appropriate, to apply for closure orders and take such other action in this respect as may be required.

## 3. Detail

3.1 The Scrap Metal Dealers Act 2013 ("the Act") received Royal Assent on 28 February 2013. It repealed the Scrap Metal Dealers Act 1964 and Part 1 of Vehicles (Crime) Act 2001, and created a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries. The Act maintains the local authority as the principal regulator but gives more power to better regulate these industries by enabling applications to be refused or licences revoked where the applicant or licensee is, or becomes, unsuitable to hold a licence.

3.2 The functions of the local authority under the Act are:

3.2.1 Setting of licence fees;

3.2.2 Determining applications for site and collector scrap metal licences for sites located, and collectors operating, within the Council's boundary;

3.2.3 Varying licences from one type to another (i.e. site to collectors licences and vice versa) and the changing of details in a licence (e.g. licensee's name);

3.2.4 Revoking licences or varying them to include conditions where the licensee or site manager are no longer involved in the business at a site identified in the licence, or the licensee is no longer a suitable person to carry on business as a scrap metal dealer. Also the issuing of notices where such action is proposed to invite representations and the

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# Delegation of Functions under the Scrap Metal Act 2013

Licensing Committee

Date: 13<sup>th</sup> August 2014

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consideration of those representations, which may be oral and given in person, prior to revoking or varying a licence.

3.2.5 Issuing of closure notices for unlicensed sites and cancelling issued closure notices. Also, the making of applications to a justice of the peace for a closure order for an unlicensed site and the issuing of certificates to terminate a closure order.

3.2.6 Supplying of information obtained under the Act to any other local authority, the Environment Agency, the Natural Resources Body for Wales or an officer of a police force for a purpose under the Act.

3.3 These functions of the local authority should be carried out in an efficient and cost-effective way, and should be delegated accordingly.

## **4. Implications, Diversity Impact Assessment and Risk Management**

### Financial and Procurement Implications

4.1 The costs associated with the carrying out of the Council's function under the Scrap Metal Act 2013 are predominantly covered by the licence fees set by the Council.

4.2 The proposed scheme of delegation will ensure that an efficient and cost-effective service is provided.

### Legal and Human Rights Implications

4.3 The Council's functions lie with the Cabinet and these may be delegated as considered appropriate. The proposed scheme of delegation is within the Cabinet's power.

### All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

4.4 Any function delegated to officers will be carried out using existing resources.

### Diversity Impact Assessment

4.5 No diversity impact assessment has been undertaken.

### Risk Management

4.6 The proposed scheme of delegation will ensure that an efficient service is provided and will avoid any complaints/challenge due to unnecessary delays in determining applications.

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Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113, email: [KAshton@swindon.gov.uk](mailto:KAshton@swindon.gov.uk).

# Delegation of Functions under the Scrap Metal Act 2013

Licensing Committee

Date: 13<sup>th</sup> August 2014

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- 4.7 Furthermore, the proposal to allow a Sub-Committee to determine contentious applications and consider any representations made will ensure that a fair hearing is held and avoid any bias that may lead to a legal challenge.

## 5. Consultees

- 5.1 The Board Director Finance, Revenues, Benefits and Property (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

## 6. Background Papers

- 6.1 [Scrap Metal Act 2013](#)

- 6.2 [The Scrap Metal Dealers Act 2013 \(Prescribed Relevant Offences and Relevant Enforcement Action\) Regulations 2013](#)

## 7. Appendices

None

## **Byelaws for Acupuncture, Tattooing, Semi-permanent Skin Colouring, Cosmetic Piercing and Electrolysis**

**Licensing Committee**

**Date:**

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Author:	Licensing Manager
Wards:	All
Locality Affected:	All
Parishes Affected:	All

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### **1. Purpose and Reasons**

- 1.1 Acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis premises and practitioners are registered by Swindon Borough Council under Part VIII of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 The Council has power to make byelaws relating to these activities to secure:
- (a) the cleanliness of registered premises and fittings in such premises;
  - (b) the cleanliness of persons so registered and persons assisting persons so registered in the business in respect of which they are registered; and
  - (c) the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with a business in respect of which a person is registered to carry on the business of tattooing, semi-permanent skin colouring, cosmetic piercing or electrolysis.
- The Council has made byelaws relating to acupuncture and tattooing activities (attached as Appendix A and B, respectively) but no byelaws have been made relating to the other skin piercing activities.
- 1.3 By making byelaws for semi-permanent skin colouring, cosmetic piercing and electrolysis, the Council will have more control over persons carrying on those businesses and the premises from which the businesses are run.
- 1.4 The Department of Health's model consolidated byelaws covering all skin piercing activities are attached to the report as Appendix C, for consideration. These consolidated byelaws ensure consistency across all types of skin piercing premises. The Council may revoke its existing byelaws on the coming in to force of new byelaws.

### **2. Recommendations**

It is recommended that the Committee approve the byelaws in Appendix C, thereby revoking the existing byelaws in Appendix A and B, and recommend to Council that:

1. The Council's common seal is affixed to the byelaws in Appendix C; and

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Further information on the subject of this report can be obtained from Kathryn Ashton Licensing Manager on 01793 4661113 email: [Kashton@swindon.gov.uk](mailto:Kashton@swindon.gov.uk).

# **Byelaws for Acupuncture, Tattooing, Semi-permanent Skin Colouring, Cosmetic Piercing and Electrolysis**

**Licensing Committee**

**Date:**

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2. The Director of Law & Democratic Services is authorised to carry out the necessary procedure to apply to the Secretary of State for confirmation of the byelaws.

## **3. Detail**

- 3.1 On the 1<sup>st</sup> day of April 1985 byelaws made by Thamesdown Borough Council came into operation. The byelaws relate to sections 14 to 17 of Part VIII of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") dealing with the registration of persons practising acupuncture and persons carrying on the business of tattooing. The byelaws make it an offence to carry on these practices or businesses unless the person carrying on the business (or the practitioner in the case of acupuncture) and the premises are registered with the Council. A copy of the original byelaws is attached as Appendix A and B.
- 3.3 These byelaws secure:
- (a) the cleanliness of registered premises and fittings in such premises;
  - (b) the cleanliness of persons so registered and persons assisting persons so registered in the business in respect of which they are registered; and
  - (c) the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with the practice of acupuncture and the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with a business in respect of which a person is registered to carry on the business of tattooing.
- 3.4 No such byelaws were made to control semi-permanent skin colouring, ear-piercing or electrolysis activities.
- 3.2 On 01 April 2014, section 15 of the 1982 Act was amended by section 120 of the Local Government Act 2003 by replacing ear piercing with cosmetic piercing and inserting semi-permanent skin colouring in the list of activities that require registration. The latter refers to the insertion of semi-permanent colouring into a person's skin and includes micro pigmentation, semi-permanent make-up and temporary tattooing.
- 3.3 The Council's power to make byelaws under section 15(7) of the 1982 Act was thus extended to cosmetic piercing and semi-permanent skin colouring activities, but this power has not been utilised to date.
- 3.4 In September 2006, the Department of Health published a new consolidated set of model byelaws relating to acupuncture, tattooing, semi-permanent skin

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# Byelaws for Acupuncture, Tattooing, Semi-permanent Skin Colouring, Cosmetic Piercing and Electrolysis

**Licensing Committee**

**Date:**

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colouring, cosmetic piercing and electrolysis, and they include specific provisions that reflect current infection control advice and industry practice. The model byelaws are attached to the report as Appendix C. The procedure for making byelaws is set out in Appendix E.

- 3.1 By making byelaws relating to cosmetic piercing, semi-permanent skin colouring and electrolysis, the Council will have more control over persons carrying on those businesses and the premises from which the businesses are run thereby increasing health protection and reducing the risk of transmission of blood borne virus (BBV) infections such as HIV, hepatitis B and hepatitis C, and other infections.
- 3.2 In the absence of a new consolidated byelaws, the Council's enforcement powers would remain limited to acupuncture and tattooing activities.

## **4. Alternative Options**

- 4.1 The Committee may resolve to not approve the model byelaws.

## **5. Implications, Diversity Impact Assessment and Risk Management**

### Financial and Procurement Implications

- 5.1 There is a financial implication associated with the making of byelaws (particularly as a result of the requirement to advertise the Council's intention to make byelaws in a newspaper) and there is also a cost implication in providing resources to enforce byelaws. However, section 14(6) of the Local Government (Miscellaneous Provisions) Act 1982 allows the Council to determine and charge reasonable fees for acupuncture registrations and similar fees can be charged for tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis registrations under section 15(6) of the Act.

### Legal and Human Rights Implications

- 5.2 The Secretary of State only has power to confirm byelaws if the procedure laid down in section 236 of the Local Government Act 1972 is properly carried out. There is no power to allow deviation from this procedure. The procedure must therefore be followed. There are no other legal implications. The making of these byelaws will bring protection to the users of these services. It is not considered that there will be a breach of any human rights.

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Further information on the subject of this report can be obtained from Kathryn Ashton Licensing Manager on 01793 4661113 email: [Kashton@swindon.gov.uk](mailto:Kashton@swindon.gov.uk).

# Byelaws for Acupuncture, Tattooing, Semi-permanent Skin Colouring, Cosmetic Piercing and Electrolysis

Licensing Committee

Date:

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## All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 The enforcement of the byelaws will be undertaken using existing staffing resources.
- 5.4 There are no other implications associated with this report.

## Diversity Impact Assessment

- 5.5 No diversity impact assessment has been undertaken.

## Risk Management

- 5.6 The absence of byelaws limits the Council's powers to control premises where skin piercing activities take place and the practitioners.
- 5.7 The additional controls imposed by the byelaws will reduce the risk of transmission of blood borne virus (BBV) infections such as HIV, hepatitis B and hepatitis C, and other infections, thereby increasing health protection for the users of such premises in the Borough of Swindon.

## **6. Consultees**

- 6.1 The Board Director Finance, Revenues, Benefits and Property (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

## **7. Background Papers**

- 7.1 [Part VIII of the Local Government \(Miscellaneous Provisions\) Act 1982](#)
- 7.2 [Local Government Act 2003](#)
- 7.3 [Department of Health's Guidance on Section 120 and Schedule 6 of the Local Government Act 2003 \(Regulation of Cosmetic Piercing and Skin-Colouring Businesses\)](#)

## **8. Appendices**

- Appendix A Existing Council made byelaws made under section 14(7) of the Local Government (Miscellaneous Provisions) Act 1982 relating to acupuncture activities
- Appendix B Existing Council made byelaws made under section 15(7) of the Local Government (Miscellaneous Provisions) Act 1982 relating to tattooing activities.

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Further information on the subject of this report can be obtained from Kathryn Ashton Licensing Manager on 01793 4661113 email: [Kashton@swindon.gov.uk](mailto:Kashton@swindon.gov.uk).



# **Byelaws for Acupuncture, Tattooing, Semi-permanent Skin Colouring, Cosmetic Piercing and Electrolysis**

**Licensing Committee**

**Date:**

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Appendix C    Department of Health's model consolidated byelaws

Appendix D    Procedure for making byelaws

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BOROUGH OF THAMESDOWN

BYELAWS

made by the Council of the Borough of Thamesdown under Section 14 of the Local Government (Miscellaneous Provisions) Act 1982 with respect to acupuncture.

## BOROUGH OF THAMESDOWN

### BYELAWS

made by the Council of the Borough of Thamesdown in exercise of their powers under Section 14 of the Local Government (Miscellaneous Provisions) Act 1982 with respect to acupuncture.

#### 1. Interpretation:

a. 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 the practice of acupuncture;

"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.

#### 2. For the purpose of securing the cleanliness of premises and fittings therein a proprietor shall ensure that -

a. All internal walls, doors, windows, partitions, floors and 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. All waste material, and other litter, arising from the treatment, is placed in suitable covered receptacles, which are washable and leakproof, or use a leakproof liner bag. The receptacles shall be emptied, or the bags changed, at least once every working day, or more frequently as necessary, and the material disposed of safely. Where liners are not used, the receptacles shall then be cleaned;

d. All needles used in treatment are placed after use in separate, covered and leak-proof re-useable boxes, or disposable needle boxes designed for the purpose.

Where re-useable boxes are used, they shall be emptied at least once every working day or more frequently as necessary and the contents disposed of safely or sterilised for re-use, as appropriate. The box shall then be sterilised. Where needle boxes are used, they shall be disposed of safely at suitable intervals;

e. All furniture and fittings in the premises are kept clean and in such good repair as to enable them to be cleaned effectively;

f. 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 wiped down at least daily with a suitable disinfectant;

g. Where tables or couches are used, they shall be covered by a disposable paper sheet which shall be changed for each client;

h. A notice or notices reading "No Smoking" are prominently displayed within the treatment area.

3. For the purpose of securing the cleansing and, so far as is appropriate, the sterilisation 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 articles used in the treatment -

i. is clean and in good repair, and, so far as is appropriate, is 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, sterilised;

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 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 sterilisation (unless pre-sterilised 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 3 a and b above, so that those items shall be properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.

4. For the purpose of securing the cleanliness of operators -

a. An operator whilst giving treatment shall ensure that -

i. his hands and nails are clean and nails kept short;

ii. he is wearing clean and washable clothing, or alternatively a disposable covering that has not previously been used in connection with any other client;

iii. he keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;

iv. he does not smoke or consume food or drink;

b. A proprietor shall provide -

i. suitable and sufficient washing facilities for the sole use of operators, such facilities to have hot and cold water, sanitising soap or detergent, and a nail brush;

ii. suitable and sufficient sanitary accommodation for operators.

c. In connection with Byelaw 4 a iii above, the proprietor shall provide at the premises a sufficient supply of suitable bandages, dressings (including waterproof dressings) and antiseptic for first-aid treatment of operators and such supply shall be kept in a place readily accessible to those operators

THE COMMON SEAL of THE COUNCIL )  
OF THE BOROUGH OF THAMESDOWN )  
was hereunto affixed this )  
Twelfth day of September, )  
1984 in the presence of:- )

12313

H. E. GARRETT  
Mayor

STEPHEN B. EDWARDS  
Borough Solicitor

The foregoing byelaws are hereby confirmed by the Secretary of State for Social Services on the 4th day of February 1985 and shall come into operation on the 1st day of April 1985.

Signed by authority of the Secretary of State

A. B. BARTON  
Assistant Secretary  
Department of Health and Social Security

5th February 1985

Department of Health and Social Security,  
London

NOTE - THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

A. Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on the premises. Section 16(9) of the Act lays down 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.

B. Section 16(1) and (2) of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who offends against any of these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400. If the convicted person is registered under Part VIII of the Act, 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 so convicted. Section 16(11) of the Act provides that it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

C. Nothing in these byelaws shall extend to the practice of acupuncture by or under the supervision of a person who is registered as a medical practitioner or a dentist or to premises on which the practice of acupuncture is carried on by or under the supervision of such a person.



**BOROUGH OF THAMESDOWN****BYELAWS**

made by the Council of the Borough of Thamesdown under Section 15 of the Local Government (Miscellaneous Provisions) Act 1982 with respect to tattooing.

## BOROUGH OF THAMESDOWN

### BYELAWS

made by the Council of the Borough of Thamesdown in exercise of their powers under Section 15 of the Local Government (Miscellaneous Provisions) Act 1982 with respect to tattooing.

1. Interpretation:

a. 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 tattooing;

"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.

2. For the purpose of securing the cleanliness of premises and fittings therein a proprietor shall ensure that -

a. All internal walls, doors, windows, partitions, floors and 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 the treatment, is placed in suitable covered receptacles, which are washable and leakproof, or use a leakproof liner bag. The receptacles shall be emptied, or the bags changed, at least once every working day, or more frequently as necessary, and the material disposed of safely. Where liners are not used, the receptacles shall then be cleaned;

- e. All needles used in treatment are placed after use in separate, covered and leak-proof re-useable boxes, or disposable needle boxes designed for the purpose. Where re-useable boxes are used, they shall be emptied at least once every working day or more frequently as necessary and the contents disposed of safely or sterilised for re-use, as appropriate. The box shall then be sterilised. Where needle boxes are used, they shall be disposed of safely at suitable intervals;
- 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 wiped down with a suitable disinfectant between the treatment of different clients, and thoroughly cleaned at the end of each working day;
- h. Where tables and couches are used they shall be covered by a disposable paper sheet which shall be changed for each client;
- i. A notice or notices reading "No Smoking" are prominently displayed within the treatment area.
3. For the purpose of securing the cleansing and, so far as is appropriate, the sterilisation 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 articles used in the treatment -
- i. is clean and in good repair, and, so far as is appropriate, is 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, sterilised;
- 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 tattooing are bacteriologically clean and inert;

iii. the containers used to hold the dyes for each customer are either disposed of at the end of each session of treatments, or are sterilised before re-use.

c. A proprietor shall provide -

i. adequate facilities and equipment for the purpose of sterilisation (unless pre-sterilised 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 3 a and b above, so that those items shall be properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.

4. For the purpose of securing the cleanliness of operators -

a. An operator whilst giving treatment shall ensure that -

i. his hands and nails are clean, and nails kept short;

ii. he is wearing clean and washable clothing, or alternatively a disposable covering that has not previously been used in connection with any other client;

iii. he keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;

iv. he does not smoke or consume food or drink;

b. A proprietor shall provide -

i. suitable and sufficient washing facilities for the sole use of operators, such facilities to have hot and cold water, sanitising soap or detergent, and a nail brush;

ii. suitable and sufficient sanitary accommodation for operators.

c. In connection with Byelaw 4 a iii above, the proprietor shall provide at the premises a sufficient supply of suitable bandages, dressings (including waterproof dressings) and antiseptic for first-aid treatment of operators and such supply shall be kept in a place readily accessible to those operators

THE COMMON SEAL of THE COUNCIL )  
)  
OF THE BOROUGH OF THAMESDOWN )  
)  
was hereunto affixed this )  
)  
Twelfth day of September, )  
)  
1984 in the presence of:- )

12312

H. E. GARRETT  
Mayor

STEPHEN B. EDWARDS  
Borough Solicitor

The foregoing byelaws are hereby confirmed by the Secretary of State for Social Services on the 4th day of February 1985 and shall come into operation on the 1st day of April 1985.

Signed by authority of the Secretary of State

A. B. BARTON  
Assistant Secretary  
Department of Health and Social Security

5th February 1985

Department of Health and Social Security,  
London

NOTE - THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

A. A proprietor shall take all reasonable steps to ensure compliance with these byelaws by persons working on the premises. Section 16(9) of the Act lays down 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.

B. Section 16(1) and (2) of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who offends against any of these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400. If the convicted person is registered under Part VIII of the Act, 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 so convicted. Section 16(11) of the Act provides that it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

C. Nothing in these byelaws shall extend to the carrying on of the business of tattooing by or under the supervision of a person who is registered as a medical practitioner or to premises on which any such business is carried on by or under the supervision of such a person.

## APPENDIX C

### 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 Swindon Borough Council in pursuance of sections 14(7) and 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;  
“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 and tattooing that were made by Swindon Borough Council (formerly the Borough of Thamesdown) on the 12th day of September 1984 and were confirmed by the Assistant Secretary of the Department of Health and Social Security on the 4th day of February 1985 are hereby 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).*

## Appendix D

### Department of Health Procedure for Making Byelaws

#### **Guidance On Making Applications To The Secretary Of State For Health For Confirmation Of Byelaws Under Section 236 Of The Local Government Act 1972**

The Department of Health has set out the following procedure in Annex 2 of their Guidance on Section 120 and Schedule 6 of the Local Government Act 2003 (Regulation of Cosmetic Piercing and Skin-Colouring Businesses):

1. The Council must pass a resolution authorising the affixing of the common seal to the byelaws and authorising the Head of Legal Services to carry out the necessary procedure and apply to the Secretary of State for confirmation of the byelaws. The Council's seal should be affixed and duly attested with the date of sealing inserted in the attestation. The date of sealing is the date on which the byelaws are made.
2. At least one clear calendar month before applying to the Secretary of State for confirmation:
  - a. Notice of the Council's intention to apply for confirmation must be given in one or more local newspapers circulating in the area to which the byelaws will apply. A series of byelaws should be described by giving the heading they bear on the draft informally approved by the Secretary of State.
  - b. A copy of the byelaws having been must be deposited at the Council's offices and be open to public inspection without charge at all reasonable times during that month.
3. The byelaws may be submitted for confirmation any time after the month has elapsed. They should be printed to conform to the approved draft. The Secretary of State's seal and confirmation shall be printed below the Council's seal and a space of at least 10 centimetres should be left. To assist, the following could be typed on the left-hand side of the page as indicated:

*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*

4. The application should be accompanied by
  - (a) copy of the full Council's resolution
  - (b) the sealed byelaws (2 sets) and a photocopy;
  - (c) the newspaper(s) containing the notice;
  - (d) the clerk's certificate as to the date and duration of deposit of a copy of the byelaws;
  - (e) a statement as to whether or not any objections were received by the Council;

- (f) confirmation, where applicable, that the byelaws are identical to the model byelaws;
- (g) confirmation of the Council's adoption of Section 14-17 and compliance with the provisions of Section 13 of the Local Government Act (Miscellaneous Provisions) Act 1982 particularly regarding the publishing of notice in a local newspaper.

#### Note

The Secretary of State only has power to confirm byelaws if the procedure laid down in section 236 of the Local Government Act 1972 is properly carried out. There is no power to excuse deviation from this procedure.

The Secretary of State has power to fix the date on which the byelaws come into operation. It is considered that the first day of a month will normally be most convenient; and as section 236(7) provides that, if a date is not fixed, byelaws shall come into operation one month after confirmation, the Secretary of State will normally bring byelaws into operation on the first day of the month next following the expiry of this period.

## Introduction of Licence Conditions for Home Boarding of Dogs

Licensing Committee

Date: 13<sup>th</sup> August 2014

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Author:	Licensing Manager
Wards:	All
Locality Affected:	All
Parishes Affected:	All

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### 1. Purpose and Reasons

- 1.1 To review the licence conditions for home boarding of dogs pursuant to the Boarding Establishments Act 1963.
- 1.1 The Council currently has regard to a set of Model conditions produced by the Local Authority Coordinators of Regulatory Services, (LACORS), for the home boarding of dogs. LACORS, now the Local Government Association, (LGA), advise that their licence conditions are a 'template which Councils can choose to use, adapt or amend as appropriate'.
- 1.2 There are a few proposed minor alterations to these conditions that have been highlighted as attached as Appendix 2

### 2. Recommendations

- 2.1 It is recommended that the Licensing Committee approve the proposed conditions, taking into account submissions from boarding establishments, other relevant organisations such as veterinary practices and members of the public and agree that consultation to be carried out on the proposed revised conditions for the home boarding of dogs from different families with licensed commercial and home boarding dog establishments within the District and relevant organisations.

### 3. Detail

- 3.1 Advice from LGA suggests that the boarding of dogs in a home requires a person to be licensed under the Animal Boarding Establishments Act 1963. This includes day boarding and overnight boarding, and also includes individual premises where part of an agent or operator.
- 3.2 LGA amended the model conditions for the home boarding of dogs to allow dogs from different families to be boarded at any one time, and suggested additional licence conditions (controls) for Local Authorities to adopt. (Appendix 1)

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Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113 email: [Kashton@swindon.gov.uk](mailto:Kashton@swindon.gov.uk).

# Introduction of Licence Conditions for Home Boarding of Dogs

Licensing Committee

Date: 13<sup>th</sup> August 2014

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## 4. Discussion and proposals

- 4.1 The LGA model conditions for home boarding establishments are adapted from the Chartered Institute of Environmental Health (CIEH), full model conditions for kennelling facilities. The CIEH conditions were drafted in discussion with key partners, including the British Veterinary Association (BVA), British Small Animal Association (BSAVA) and Pet Trade and Industry Association (PTIA).
- 4.2 The LGA home boarding Licence conditions currently used by the Council require many controls to be in place for disease control, insurance, fire safety and security, as well as feeding and general care. They are comparable with those licence conditions for Commercial Dog Breeders (Appendix 4).
- 4.3 The Home Boarding Licence Conditions do not allow any structure, such as kennels to be outside in the garden, meaning that there is no opportunity or scope for a Home Boarding Establishment to grow into the size and scale of a Commercial Boarding establishment. If it did, it would be in breach of licence conditions and relevant action would take place.
- 4.4 With regard to the boarding of dogs from different families, dog owners are required to sign that they are permitting their dog to be boarded with dogs from different families.
- 4.5 The responsibility is also on the business owner to conduct a familiarisation exercise with any potential dog that is to be boarded.
- 4.6 It is considered to be important that such premises are licensed to provide a level of control over the home boarding of dogs, and to be able to take action in the event of a complaint or allegation. Such businesses will carry on operating locally and nationally whether there are licence conditions and provisions to licence such premises or not.
- 4.7 The Animal Boarding Establishments Act 1963 makes it a legal requirement for persons boarding animals to be licensed. This includes persons boarding dogs in a home environment, whether it is during the day ('day care') or overnight.
- 4.8 On receipt of complaint or allegation about a home boarding establishment, action would not be able to be taken to attach additional licence conditions, prosecute for failure to comply with licence conditions or withdraw a licence, where licences are not issued.
- 4.9 All businesses have responsibilities under relevant legislation. It is the responsibility of licensees to ensure compliance with licence conditions, and for

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Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113 email: [Kashton@swindon.gov.uk](mailto:Kashton@swindon.gov.uk).



# Introduction of Licence Conditions for Home Boarding of Dogs

Licensing Committee

Date: 13<sup>th</sup> August 2014

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Licensing Officers/Animal Health Officers to monitor and take relevant enforcement action where non-compliance is noted.

- 4.10 In order to take relevant action there needs to be the statutory powers in place and relevant licence conditions to refer to.
- 4.11 By consulting with boarding establishments and other relevant organisations it will ensure that proposed revised conditions are sound.

## **5. Alternative Options**

- 5.1 Members may choose to reject the request or vary the proposed conditions in the recommendation.

## **6. Implications, Diversity Impact Assessment and Risk Management**

### Financial and Procurement Implications

- 6.1 There is a cost associated with any consultation. However, it is proposed to minimise expenditure by consulting via electronic means where possible.

### Legal and Human Rights Implications

- 6.2 Swindon Borough Council has a statutory duty to undertake this consultation, which is imposed by paragraph 4 of Schedule 3 to the Policing and Crime Act 2009.

### All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 6.3 The consultation will be undertaken using existing staffing resources.
- 6.4 There are no other implications associated with this report.

### Diversity Impact Assessment

- 6.5 No diversity impact assessment has been undertaken. However, an extensive consultation will be undertaken.

### Risk Management

- 6.6 There are no implications arising from the recommendation in this report.

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Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113 email: [Kashton@swindon.gov.uk](mailto:Kashton@swindon.gov.uk).

# Introduction of Licence Conditions for Home Boarding of Dogs

Licensing Committee

Date: 13<sup>th</sup> August 2014

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## 7. Consultees

## 8. Background Papers

- 8.1 Animal Boarding Establishments Act 1963
- 8.2 LACORS/LGA - Model Conditions for Home Boarding of Dogs: November 2005
- 8.3 LACORS/LGA - Model home boarding conditions Update and clarification: 14 October 2009

## 9. Appendices

Appendix 1 LACORS, (LGA) Briefing Notes

Appendix 2 Model Licence Conditions currently used by Council

# **Introduction of Licence Conditions for Home Boarding of Dogs**

**Licensing Committee**

**Date: 13<sup>th</sup> August 2014**

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Appendix 1

# **Introduction of Licence Conditions for Home Boarding of Dogs**

**Licensing Committee**

**Date: 13<sup>th</sup> August 2014**

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## **Appendix 2**

### **1. Introduction**

1.1 Unless otherwise stated, these conditions shall apply to all buildings and areas to which dogs have access and/or which are used in association with the boarding of dogs.

1.2 Normally planning permission will not be required for the home boarding of animals on the scale proposed, however should complaints be received because of particular noise or odour problems, then the Council reserves the right to consider whether there has been a change of use which requires a planning application to be submitted.

1.3 The Licensee must ensure that the establishment is covered by adequate and suitable insurance (including liability) and where necessary, adequate and suitable employees insurance

1.4 No dog registered under the Dangerous Dogs Act may be accepted for home boarding.

1.5 Entire males and bitches in season or bitches due to be in season during the boarding, must not be boarded together or boarded with resident dogs.

1.6 Dog hybrids registered under the Dangerous Wild Animal Act 1976 (e.g. Wolf Hybrids) are not to be accepted for home boarding

### **2. Licence display**

2.1 A copy of the licence and its associated conditions must be suitably displayed to the public in a prominent position in, on or about the premises or made available to each boarder

### **3. Number of animals**

3.1 The absolute maximum number of dogs to be kept at any one time is 4, with a maximum of 1 additional resident dog(s). (The maximum numbers are subject to Veterinary and Inspector approval of the suitability of each individual premises and licensee to operate a home boarding establishment). If there are two resident dogs then the maximum number of boarders is 3 and so on.

3.2 Only dogs from the same household maybe boarded at any one time unless written consent is gained from the owners following a trial familiarisation session.

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3.3 Where dogs from different families are permitted by the Licensing Authority to be boarded together at any one time, the additional requirements are to be followed:

3.4 To obtain specific written consent of each household showing confirmation that they are content for their dogs to be boarded with others

3.5 To conduct a mandatory, trial (documented) familiarisation session for all dogs prior to stay.

3.6 To ensure separation of dogs from different households in secure areas when left unattended.

3.7 To carry out separate feeding of dogs to minimise the likelihood of dispute and aggression.

3.8 Dogs must not be boarded with any cat, unless they normally live together in the same household.

3.9 Where there is a resident dog kept at the household, written consent from the owners of the boarded dog must be gained following a trial (documented) familiarisation session.

3.4 The Licensee will be required to make an assessment of the risks of home boarding to include the risk to or caused by children who are likely to be at the property.

## **4. Construction**

4.1 Dogs must live in the home as family pets. There must be no external construction of buildings, cages or runs (the garden may be split into sections to provide separate exercise areas for dogs).

4.2 There must be adequate space, light, heat and ventilation for the dogs.

4.3 There must be sufficient space available to be able to keep the dogs separately if required.

4.4 If a collection and delivery service is provided, a suitable vehicle with a dog guard or cage in the rear must be provided and the licence holder must comply with the Welfare of Animals (Transport) Order 1997

4.5 The premises shall have its own entrance and must not have shared access e.g. communal stairs.

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4.6 As far as reasonably practicable all areas/rooms within the home to which boarded dogs have access, must have no physical or chemical hazards that may cause injury to the dogs.

## 5. Management

### 5.1 Training

5.1.1 A written training policy for staff must be provided. Systematic training of staff must be demonstrated to have been carried out (where applicable).

### 5.2 Cleanliness

5.2.1 All areas where the dogs have access to, including the kitchen etc must be kept clean and free from accumulations of dirt and dust and must be kept in such a manner as to be conducive to maintenance of disease control and dog comfort.

5.2.2 All excreta and soiled material must be removed from all areas used by dogs at least daily and more often if necessary. Disposal facilities for animal waste must be agreed with Licensing Authority

5.2.3 All bedding areas must be kept clean and dry.

5.2.4 Facilities must be provided for the proper reception, storage and disposal of all waste. Particular care should be taken to segregate clinical waste arising from the treatment and handling of dogs with infectious diseases. The final disposal route for all such waste must be incineration.

5.2.5 Measures must be taken to minimise the risks from rodents, insects and other pests within the premises.

### 5.3 Food & water supplies

5.3.1 All dogs shall have an adequate supply of suitable food as directed by the client.

5.3.2 Fresh drinking water must be available at all times (unless advised otherwise by a veterinary surgeon) and the drinking vessel cleaned daily. The water must be changed at least twice a day.

5.3.3 Clients must be encouraged to provide each dog with its own bedding, bowls, grooming materials etc. These items must be cleaned regularly to prevent cross-infection. The Licensee however should also be able to provide extra bedding material.

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5.3.4 Where necessary, eating and drinking vessels must be provided, and where so, they must be capable of being easily cleansed and disinfected to prevent cross-contamination. They must also be maintained in a clean condition. Feeding bowls must be cleaned after each meal and each dog must be provided with its own bowl.

## 5.4 Kitchen facilities

5.4.1 Airtight containers must be provided for the storage of dry foods. Uncooked food and the remains of opened tins must be stored in covered, non-metal leak proof containers in the fridge.

5.4.2 All bulk supplies of food shall be kept in vermin proof containers.

## 5.5 Disease control & vaccination

5.5.1 Adequate precautions must be taken to prevent and control the spread of infectious and contagious disease and parasites amongst the dogs, staff and visitors.

5.5.2 Proof must be provided that dogs boarded or resident have current vaccinations against Canine Distemper, Infectious Canine Hepatitis (Canine adenovirus), Leptospirosis (*L. canicola* and *L. icterohaemorrhagiae*) and Canine Parvovirus and other relevant diseases. The course of vaccination must have been completed at least four weeks before the first date of boarding or in accordance with manufacturer instructions. A record that this proof has been supplied must be kept on-site throughout the period that the dog is boarded.

5.5.3 Advice from a veterinary surgeon must be sought in case of signs of disease, injury or illness. Where any dog is sick or injured any instructions for its treatment, which have been given by a veterinary surgeon must be strictly followed.

5.5.4 A well-stocked first-aid kit suitable for use on dogs must be available and accessible on site.

5.5.5 The licensee must be registered with a veterinary practice that can provide 24-hour help and advice. The clients own veterinary practice must be known and consulted if necessary.

5.5.6 Precautions must be taken to prevent the spread of fleas, ticks, intestinal parasites and other parasites in both boarded and resident dogs. Proof must be maintained of all routine and emergency treatment for parasites.

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5.5.7 The premises must be regularly treated for fleas and parasites with a veterinary recommended product. A good standard of hygiene must be achieved.

5.5.8 Veterinary advice must be sought in relation to cleaning substances so that they or their fumes cannot be harmful to an animal.

## **5.6 Isolation and Contagious Disease Outbreak**

5.6.1 Dogs showing signs of any disease or illness shall be isolated from any other dogs until veterinary advice is obtained. There must be sufficient facilities within the licensed premises to ensure effective separation of any sick animal

5.6.2 The licensee must inform the licensing authority on the next working day if a dog develops an infectious disease.

5.6.3 Following an episode of infectious disease during any stay, the premises must undergo a reasonable quarantine period before new boarders are admitted. The Licensing Authority as agreed with their authorised veterinary surgeon will specify this period.

5.6. The Licensing Authority must be informed of any animal death on the premises. The Licensee must make arrangements for the body to be stored at the vets until the owners return unless prior written consent is gained from the owner for the body to be disposed of through a licensed pet crematorium.

## **5.7 Register**

5.7.1 A register must be kept of all dogs boarded. The information kept must include the following:

- date of arrival
- name of dog, any identification system such as microchip number, tattoo
- description, breed, age and gender of dog
- name, address and telephone number of owner or keeper
- name, address and telephone number of contact person whilst boarded
- name, address and telephone number of dog's veterinary surgeon
- anticipated and actual date of departure
- Proof of current vaccinations, medical history and requirements
- health, welfare nutrition and exercise requirements

5.7.2 The register must be kept readily available for a minimum of 2 years (3 years is recommended) and kept in such a manner as to allow an authorised officer easy access to such information.

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5.7.3 If medication is to be administered, this must be recorded.

5.7.4 Where records are computerised, a back-up copy must be kept. The register must also be available to key members of staff of the establishment at all times.

## **5.8 Supervision**

5.8.1 A fit and proper person with relevant experience must always be present to exercise supervision and deal with emergencies whenever dogs are boarded at the premises. This person must not have any conviction or formal cautions for any animal welfare related offence.

5.8.2 Dogs must be visited at regular intervals, as necessary for their health, safety and welfare, and must not be left longer than 3 hours and then not on a regular basis.

5.8.3 No home where there are children under 10 years of age will be licensed.

5.8.4 Only people over 16 years of age are allowed to walk the dogs in public places. Only people over 21 years of age may walk dogs off lead with owner's prior written consent

## **5.9 Exercise**

5.9.1 Dogs must be exercised in accordance with their owner's wishes. If dogs are taken off the premises, they must be kept on leads unless with the owners written permission.

5.9.2 There must be direct access to a suitable outside area. The area / garden must only be for use by the homeowner (not shared with other residents). The area must be kept clean.

5.9.3 The exercise/garden area of the premises and any other area to which the boarded dogs may have access, must be totally secure and safe. Fencing must be adequate to offer security to prevent escape and be safe, with no dangerous sharp objects or protrusions. Gates must be able to be locked.

5.9.4 If there is a pond, it must be covered to avoid drowning.

5.9.5 If front garden fencing is not of equal height or higher than that of the back garden, a double door system must be employed so no dog has direct access to an external door if left alone in a hallway.

5.9.6 Dogs must wear a collar and identity tag during their time in boarding.

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The tag must display the name, address and telephone number of the boarding premises.

5.9.7 The licensing authority must be informed immediately if a dog is lost (24 hour number: 01793 466068).

## **5.10 Fire & emergency precautions**

5.10.1 Appropriate steps must be taken for the protection of the dogs in case of fire or other emergencies.

5.10.2 The occupier of the property must be aware of the location of the dogs in the property at all times.

5.10.3 Careful consideration needs to be given to the sleeping area for dogs to ensure that they can be easily evacuated in the event of a fire, without putting the occupiers of the property at risk.

5.10.4 A fire warning procedure and emergency evacuation plan – including details of where dogs are to be evacuated to in the event of a fire or other emergency - must be drawn up, brought to the attention of those involved in the home boarding arrangements and/or displayed in a prominent place on the premises. The Licensee must have suitable arrangements for the temporary boarding of dogs in the event that the licensed premises is rendered uninhabitable.

5.10.5 Fire detection equipment must be provided in accordance with general advice given by the Fire Safety Officer. The home must have at least 2 working smoke detectors located at the top & bottom of the staircase, or other appropriate location.

5.10.6 All doors to rooms must be kept shut at night.

5.10.7 All electrical installations and appliances must be maintained in a safe condition.

5.10.8 All Heating Appliances must be free of risk of fire as is reasonably practicable

5.10.9 Heating appliances must not be sited in a location or manner where they may present a risk of fire, or risk to dogs, and dogs must not have access to any heater with a direct flame.

5.10.10 No dog must be left alone in a room with loose or trailing cables or wires.

5.10.11 There must be no use of freestanding gas or oil appliances.

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5.10.12 A relative, friend or neighbour within 5 minutes travelling time must have a spare set of keys and access to the premises in case of an emergency. These details must be made available to the Licensing Authority.

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