

BYE-LAWS: TATTOOING; SEMI-PERMANENT SKIN-COLOURING; COSMETIC PIERCING; EAR PIERCING; ELECTROLYSIS AND/OR ACUPUNCTURE	5th February 2019
TO: ENVIRONMENTAL SERVICES COMMITTEE	
FOR DECISION	

Linkage to Council Strategy (2015-19)	
Strategic Theme	Protecting and Enhancing our Environment and Assets
Outcome	Revocation of existing Bye-Laws pertaining to Tattooing; semi-permanent skin colouring; cosmetic piercing; ear piercing; electrolysis and /or acupuncture and approval of new Bye-Law
Lead Officer	Head of Health & Built Environment
Cost: (If applicable)	£1000

BACKGROUND

Local Government Bye-Laws are laws which operate over the particular geographical area of a Council, made by that Council under an enabling power established by statute i.e. an Act of Parliament, an Order in Council, or an Act of the Northern Ireland Assembly.

Section 90 of the Local Government Act (Northern Ireland) 1972 is an enabling power which makes a wide range of Bye-Laws and should only be used where a more specific power does not apply.

Bye-laws cannot be made in respect of matters which are already dealt with in primary legislation.

Prior to Local Government Reform the Department of Environment (now Department of Communities) published guidance confirming that existing Bye-Laws made by predecessor Councils would remain extant after those Councils ceased to exist, however the new Councils were encouraged to review existing Bye-Laws to ensure they remained appropriate for their respective new district areas.

PROPOSAL

The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, provides Councils with powers to make Bye-Laws for tattooing; semi-permanent skin-colouring; cosmetic piercing; ear piercing; electrolysis and/or acupuncture under

Articles 13(7) and 14 (7). These activities were extended by Article 31 of the Local Government (NI) Order 2005.

Coleraine Borough Council, Limavady Borough Council, Ballymoney Borough Council and Moyle District Council had previously made individual Bye-Laws for the regulation of businesses undertaking these practices as all of these procedures involve some degree of skin piercing and therefore carry a potential risk of skin infections, allergic or toxic reactions to various substances used on or in the skin, and transmission of blood borne viruses (such as hepatitis or HIV).

The current Bye-Laws were enacted in these legacy Council areas in the following years:

Limavady Borough Council Bye-Laws for

Tattooing	1990
Ear Piercing and Electrolysis	1990
Acupuncture	1990
Cosmetic Piercing	2006
Semi-permanent skin Colouring	2006

Moyle District Council Bye-Laws for

Tattooing	2011
Electrolysis	2010
Acupuncture	2010
Cosmetic Piercing	2010
Semi-permanent skin Colouring	2010

Ballymoney Borough Council for

Tattooing	1987
Ear Piercing and Electrolysis	1987
Acupuncture	1987

Coleraine Borough Council for

Tattooing	1989
Ear Piercing and Electrolysis	1989
Acupuncture	1989
Cosmetic Piercing	2011
Semi-permanent skin Colouring	2011

The Health and Built Environment Section seek to revoke these eighteen existing Bye-Laws. These legacy Bye-Laws will be replaced by one new Bye-Law which will assist in ensuring conformity of standards by operators throughout the Causeway Coast and Glens Borough Council area.

The Proposed new Bye-Law "*Causeway Coast and Glens Borough Council (Acupuncture, Tattooing, Semi-Permanent Skin Colouring, Cosmetic Piercing, Electrolysis Bye-laws 2019* " (Appendix 2) has been prepared and given due

consideration to each legacy council's Bye-Laws and model standards as produced by the Health Protection Branch of the Department of Health.

PROCESS

The procedure for revoking and introducing new Bye-laws is governed by the Local Government Act (NI) 1972 and must include the following:

- i. At least one month before application for confirmation is made to the Department of Health by Council notice of its intention to apply must be given in at least 2 local newspapers and placed on the Council's website
- ii. At least one month before application for confirmation is made a copy of the new Bye-Laws must be made available for inspection at the Council Offices
- iii. Bye-Laws cannot come into operation until they are confirmed by the Department of Health

In order to have these new Bye-Laws confirmed this sequence of events must be followed otherwise the Department of Health is unlikely to approve the new Bye-Laws.

RECOMMENDATION

It is recommended that Council agree to revoke the existing eighteen legacy Council Bye-Laws which are concerned with the practices of Tattooing; semi-permanent skin colouring; cosmetic piercing; ear piercing; electrolysis and acupuncture in accordance with the procedure outlined above to produce one new Bye-Law to cover these practices in premises in the Causeway Coast and Glens Borough Council area.



Causeway Coast and Glens Borough Council

(Acupuncture, Tattooing, Semi-Permanent Skin Colouring, Cosmetic Piercing, Electrolysis) Bye-Laws 2019.

Byelaws for the purposes of securing the cleanliness of premises registered under Articles 13(2) or 14(2) or both of the Local Government (Miscellaneous Provisions)(Northern Ireland) Order 1985 and fittings in such premises and of persons registered under Article 13(1) or 14(1) or both of the Order 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 practices and businesses made by Causeway Coast and Glens Borough Council in pursuance of Article 13(7) or 14(7) or both of the Order on _____(date).

Interpretation

1. In these bye-laws, unless the context otherwise requires –
 - “The 1985 Order” means the Local Government (Miscellaneous Provisions) Northern Ireland Order 1985;
 - “The 1997 Order” means the Waste and Contamination Land (Northern Ireland) Order 1997
 - “Client” means any person undergoing treatment;
 - “Operator” means any person giving the treatment;
 - “Premises” Means any premises registered under Article 13(3) of the Order;
 - “Proprietor” means any person registered under Article 13(3) of the Order;
 - “Treatment” means any operation in the practice of Skin Piercing;
 - “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;
 - “Treatment” means any operation in effecting acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing or electrolysis;

“The treatment area” means any part of the premises where treatment is given to clients;

“Cosmetic Piercing” includes ear-piercing and body piercing;

“ear-piercing” means the puncturing of the lobe or flat part of the ear cartilage using an ear piercing system/instrument employing a pre-sterilised single-use stud and clasp which actually pierces the ear or by use of a single use pre-sterilised needle;

“body piercing” means the perforation of the skin and underlying tissue usually with a single use pre-sterilised needle with the aim of inserting jewellery;

“Acupuncture” means a system of healing focusing on improving the overall well-being of the patient using a variety of methods to stimulate acupuncture points, usually fine, solid disposable needles;

“Semi-permanent skin colouring” which includes (Micro blading) micropigmentation, semi-permanent makeup and temporary tattooing is defined in (article 31(5) of the 1985 Order as the insertion of semi-permanent colouring into a person’s skin;

“Tattooing” means marking the skin with permanent pigments by puncturing the skins outer layer (epidermis) using a needle or needles;

“Electrolysis” means the use of a small probe to deliver an electrical current to individual hair follicles;

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 The Waste and Contaminated Land (Northern Ireland) Order 1997 and guidance as advised by the District Council;
 - (c) all needles used in treatment are 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 as clinical waste in accordance with The Waste and Contaminated Land (Northern Ireland) Order 1997 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.
 - (h) the floor of the treatment area is provided with a smooth impervious surface.
- (2)(a) Subject to sub-paragraph (b), where premises are registered under Article 13(2) (acupuncture) or 14(2) (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Order, 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 Article 14(2) (tattooing, semi-permanent skin-colouring and cosmetic piercing) of the Order, 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.
- (b) an operator shall ensure that—
- (i) 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;
 - (ii) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;
 - (iii) any dye used for tattooing or semi-permanent skin-colouring is sterile and inert;
 - (iv) 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.
- (c) 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 readily available on the premises at all times;
- (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 Articles 13 (acupuncture) or 14 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Order 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 following byelaws relating to the practice of Acupuncture, Tattooing, Electrolysis, Cosmetic Piercing and Semi-permanent skin-colouring as detailed hereunder, shall be revoked from and after the date on which these byelaws shall come into operation:-

REVOCATIONS

Limavady Borough Council Byelaws for

Tattooing	1990
Ear Piercing and Electrolysis	1990
Acupuncture	1990
Cosmetic Piercing	2006
Semi-permanent skin Colouring	2006

Moyle District Council Byelaws for

Tattooing	2011
Electrolysis	2010
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Coleraine Borough Council for

Tattooing	1989
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Appendix II

Dated this day of 2019

COUNCIL'S SIGNATURE

Chief Executive _____

Mayor _____

COUNCIL'S SEAL

The foregoing byelaws are hereby confirmed by the Department of Health
on and shall come into operation on

A Senior Officer of the 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. Article 15(9) of the Local Government (Miscellaneous Provisions)(Northern Ireland) Order 1985 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 V of the Order. A person who contravenes Article 15(9) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale (see Article 15(10)).

Article 15(2) of the Local Government (Miscellaneous Provisions)(Northern Ireland) Order 1985 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 V of the Order 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 Article 15 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; chartered physiotherapist; state registered physiotherapist or a state registered chiropodist, 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 Article 13. The provisions relevant to treatment other than acupuncture are in Article 14.

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 Article 13 (acupuncture) of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 **only apply to acupuncture.***

*The references in the introductory text to provisions of Article 14 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 **do not apply to acupuncture.***

*The references in paragraph 1(1) in the definition of “premises” to provisions of Article 13 (acupuncture) **only apply to acupuncture.***

*The references in paragraph 1(1) in the definition of “premises” to provisions of Article 14 (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) (b) (iii) and (iv) **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.***