



East Suffolk House, Riduna Park, Station Road,  
Melton, Woodbridge, Suffolk, IP12 1RT

# Licensing Committee

## Members:

Councillor Keith Robinson (Chairman)  
Councillor Mark Newton (Vice-Chairman)  
Councillor Paul Ashdown  
Councillor Edward Back  
Councillor Jocelyn Bond  
Councillor Janet Craig  
Councillor John Fisher  
Councillor Tess Gandy  
Councillor Colin Hedgley  
Councillor Frank Mortimer  
Councillor Trish Mortimer  
Councillor Rachel Smith-Lyte  
Councillor William Taylor  
Councillor Steve Wiles

Members are invited to a **Meeting of the Licensing Committee**  
to be held in the Deben Conference Room, East Suffolk House, Riduna Park  
on **Monday, 15 July 2019 at 6:30pm**

An Agenda is set out below.

## Part One – Open to the Public

## Pages

1	Apologies for Absence and Substitutions
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- 2      Declarations of Interest**  
Members and Officers are invited to make any declarations of Disclosable Pecuniary or Local Non-Pecuniary Interests that they may have in relation to items on the Agenda and are also reminded to make any declarations at any stage during the Meeting if it becomes apparent that this may be required when a particular item or issue is considered.
- 3      Licensing Sub-Committee Procedures ES/0038      1 - 21**  
Report of the Cabinet Member with responsibility for Community Health
- 4      Skin piercing byelaws ES/0034      22 - 30**  
Report of the Cabinet Member with responsibility for Community Health

**Part Two – Exempt/Confidential**

Pages

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There are no Exempt or Confidential items for this Agenda.

**Close**

A handwritten signature in dark ink, appearing to read 'Stephen Baker', with a long, sweeping horizontal line extending to the right.

Stephen Baker, Chief Executive

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## LICENSING COMMITTEE

Monday 15 July 2019

### LICENSING SUB-COMMITTEE PROCEDURES

#### EXECUTIVE SUMMARY

1. East Suffolk Council's Licensing Committee needs to agree and adopt the procedures to be followed at Licensing Sub-Committee hearings.
2. The adopted procedures need to be fair, reasonable and transparent to comply with Article 6 of the European Convention on Human Rights (right to a fair trial/hearing) and to reduce the risk of legal challenge to the Sub-Committee's decisions.

Is the report Open or Exempt?	Open
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<b>Wards Affected:</b>	ALL
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<b>Cabinet Member:</b>	Councillor Rudd, Cabinet Member with responsibility for Community Health
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<b>Supporting Officer:</b>	Christopher Bing Legal and Licensing Services Manager 01394 444408 chris.bing@eastsuffolk.gov.uk
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## **1 INTRODUCTION**

- 1.1 Licensing Sub-Committees need to follow agreed procedures when considering licensing applications. The purpose of procedures is to ensure Sub-Committees have a consistent approach to determining applications which is fair, reasonable and transparent to comply with Article 6 of the European Convention on Human Rights (right to a fair trial/hearing) and to reduce the risk of legal challenge to the Sub-Committee's decisions on the grounds of apparent bias, predetermination, illegality and/or procedural impropriety.
- 1.2 Suffolk Coastal District Council and Waveney District Council had similar Licensing Sub-Committee procedures but there were a few differences. The main differences were the process for electing the Chairman of the Sub-Committee, declarations of lobbying and allowing the reserve/substitute member to retire with the Sub-Committee to observe its deliberations for training purposes.
- 1.3 The Licensing Committee needs to agree the procedures that East Suffolk Council Licensing Sub-Committees will follow.

## **2 LICENSING ACT 2003 AND GAMBLING ACT 2005 SUB-COMMITTEES**

- 2.1 Licensing authorities have some discretion as to the precise procedure they follow in determining applications made under the Licensing Act 2003 and the Gambling Act 2005. However, there are statutory/mandatory requirements laid down in the Licensing Act 2003 (Hearings) Regulations 2005 and the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 which the licensing authority's procedure must not conflict with.
- 2.2 These statutory/mandatory requirements include:
  - 2.2.1 explaining to the parties the procedure to be followed;
  - 2.2.2 giving parties an equal opportunity to address the committee;
  - 2.2.3 allowing parties to call witnesses;
  - 2.2.4 permitting parties to question any other party or person representing a party where the relevant committee considers that in all the circumstances it is appropriate to do so;
  - 2.2.5 taking into consideration documentary or other information produced by a party; and
  - 2.2.6 conducting the Sub-Committee hearing in the form of a discussion led by the committee.
- 2.3 The procedure followed must be fair, reasonable and proportionate to comply with natural justice (that each party has the right to a fair hearing and the right to be heard by an impartial tribunal) and Article 6 of the European Convention on Human Rights (right to a fair trial/hearing) requirements.
- 2.4 The procedure followed must also be consistent with the Committee Procedure Rules in the East Suffolk Council's Constitution.
- 2.5 The decision of a Sub-Committee which had not complied with the statutory/mandatory requirements laid down in the hearing regulations and/or the natural justice/human rights requirements and/or the Committee Procedure Rules in the Council's Constitution would be vulnerable to challenge on grounds of illegality and/or procedural impropriety.

## **3 PRIVATE HIRE/TAXI SUB-COMMITTEES**

- 3.1 There are no statutory hearing regulations for private hire/taxi licensing. Therefore, the licensing authority has significant discretion as to the procedure it follows with these types of application. However, the procedure followed must still be fair, reasonable and

proportionate to comply with natural justice (that each party has the right to a fair hearing and the right to be heard by an impartial tribunal) and Article 6 of the European Convention on Human Rights (right to a fair trial/hearing) requirements. The procedure followed must also be consistent with the Committee Procedure Rules in the Council's Constitution.

- 3.2 Again, the decision of a Sub-Committee which had not complied with the natural justice/human rights requirements or the Committee Procedure Rules in the Council's Constitution would be vulnerable to challenge on grounds of illegality and/or procedural impropriety.

#### **4 MATTER 1 – ELECTING THE CHAIRMAN OF THE SUB-COMMITTEE**

- 4.1 East Suffolk Council's Committee Procedure Rules require Chairman of Committees to be elected. The use of the word "Committee" in the procedure rules should be read as including Sub-Committees.
- 4.2 Electing the Chairman demonstrates the Sub-Committee's commitment to openness and transparency. It can give the parties confidence in the Sub-Committee's procedures and decision making and reassurance that they will receive a fair hearing.
- 4.3 Whilst it is not the case that the decision of any Sub-Committee which did not elect the Chairman would be void, the electing of a Chairman would remove any prospect of challenge on this basis and would accord with the provisions of the Council's Constitution.
- 4.4 It is recommended that the Chairman should be elected in public at the commencement of each hearing of the Licensing Sub-Committee, by way of a nomination and a seconder, to provide the greatest protection from, and reduce the risk of, any legal challenge to the Sub-Committee's decision.

#### **5 MATTER 2 – DECLARATIONS OF LOBBYING AND RESPONSES TO LOBBYING**

- 5.1 Declarations of lobbying, and the response a Councillor gave to any approaches received, is not a legal necessity. However, it is recommended that the Sub-Committee procedure allows for such declarations to protect the member, and in turn the licensing Sub-Committee's decision, from allegations of apparent bias or pre-determination.
- 5.2 Being lobbied, and responding to lobbying, does not prohibit a member from participating in determining a matter so long as they are not predetermined on the matter under consideration and remain open minded as to their decision until after they have had the opportunity to consider all the evidence and arguments presented at the hearing.
- 5.3 Councillors should take a cautious approach when responding to lobbyists for or against an application they will be determining, in advance of the hearing. A neutral response, that the member has noted the contents of the representation and will consider the matter with an open mind when it comes to committee, is recommended. However, Section 25 of the Localism Act 2011 does provide that the prior indication of a view by a member does not equate to predetermination and this statutory provision can be relied upon if necessary, to defend a member from allegations that they were predetermined at the hearing.
- 5.4 In response to a lobbying declaration, the legal adviser could explain about apparent bias, predetermination and Section 25 of the Localism Act 2011 and, if appropriate, suggest that a member may wish to consider recusing themselves from a hearing.

- 5.5 It is recommended that members of Licensing Sub-Committee be given the opportunity to declare whether they have been lobbied by an applicant or objector, and their response to any approach, to protect themselves and the integrity of the hearing process in the event of challenge on the grounds of apparent bias or predetermination.

## **6 MATTER 3 – THE RETIRING OF THE RESERVE/SUBSTITUTE MEMBER WITH THE SUB-COMMITTEE FOR TRAINING PURPOSES**

- 6.1 There is no legal restriction on a Councillor, who is not a member of the Sub-Committee, from retiring with the 3 members of the Sub-Committee to observe their deliberations for training purposes. However, the reserve/substitute member cannot participate in the deliberations or play any role in the decision making.
- 6.2 The reason for the reserve/substitute member retiring with the Sub-Committee should be made clear to the parties and the public in attendance. The parties should also be given the opportunity to object.
- 6.3 It is recommended that the reserve/substitute member be permitted to retire with the Sub-Committee to observe the deliberations and see how the decision is arrived at, with the consent of the parties in attendance, for training purposes.

## **7 HOW DOES THIS RELATE TO THE EAST SUFFOLK BUSINESS PLAN?**

- 7.1 Licensing plays an important role in the building of a strong, sustainable, and dynamic local economy and in ensuring East Suffolk remains a safe place for our communities.

## **8 REASON FOR RECOMMENDATIONS**

- 8.1 The Licensing Sub-Committee procedures need to be fair, reasonable and transparent to comply with Article 6 of the European Convention on Human Rights (right to a fair trial/hearing) and to reduce the risk of legal challenge to the Sub-Committee's decisions on the grounds of apparent bias, predetermination, illegality and/or procedural impropriety.

### **RECOMMENDATIONS**

1. That the Chairman should be elected in public at the commencement of each hearing of the Licensing Sub-Committee, by way of a nomination and a seconder, to provide the greatest protection against a legal challenge to the Sub-Committee's decision.
2. That members of Licensing Sub-Committees be given the opportunity to declare whether they have been lobbied by an applicant or objector, and their response to the lobbying, to protect themselves and the integrity of the process in the event of challenge on grounds of apparent bias and predetermination.
3. That the reserve/substitute member be permitted to retire with the Sub-Committee to observe the deliberations and see how the decision is arrived at, with the consent of the parties in attendance, for training purposes.
4. That the procedures at Appendix A to this report be agreed and adopted as the procedures for meetings of East Suffolk Council's Licensing Sub-Committee.

### **APPENDICES**

#### **Appendix A**

Draft East Suffolk Council Licensing Sub-Committee Procedures

BACKGROUND PAPERS		
Date	Type	Available From
	Not applicable	



**APPENDIX A1 -**

**HEARING PROCEDURE : PRIVATE HIRE/HACKNEY CARRIAGE – NEW APPLICANT**

**Pre-Hearing Matters**

Democratic Services to seek nominations for the Appointment of Chairman.

1. Chairman to welcome everyone and read Fire Evacuation Procedure.
2. Apologies / Substitutes.

Chairman to read:

There is a substitute present at today's hearing. The reason for a substitute is that if anything happens to a member of the Sub-Committee before the hearing commences, the substitute can take their place. The substitute is remaining for the hearing and will retire with the Sub-Committee, when it is considering its decision, for training purposes. Are there any objections to the substitute retiring with the Sub-Committee?

*(If there are objections, the Chairman will explain that the substitute will NOT therefore retire with the Sub-Committee)*

3. Declaration of Interests and lobbying.
4. Chairman will introduce members of the hearing Sub-Committee.
5. Chairman will ask those present to introduce themselves in the following order:
  - The legal adviser to the Sub-Committee.
  - The officer from Democratic Services.
  - The licensing officer(s).
  - Applicant and any person representing or assisting them.
  - Any other party to the hearing (confirming whether a spokesman or spokesmen has been nominated and, if so identify them).
6. The Chairman will ask the Licensing Officer to report any documentary or other information that a party to the hearing wishes to present. If there is any such material, the Chairman will ask all the other parties to the hearing whether they consent to it being presented. If they agree, the material will be distributed.
7. Resolve to go into Exempt Session.

**The Hearing**

Immediately after the pre-hearing matters have been dealt with the Sub-Committee hearing will commence.

1. The Chairman will clarify with everyone present that they are clear about the procedure to be followed.  
[The Legal Adviser to explain if necessary]
2. The Chairman will ask the Licensing Officer to summarise the matter under consideration.
3. The Members, Applicant and any person making representations may ask questions of the Licensing Officer.
4. The Applicant will present their case and call any approved witness in support of their case.
5. The Members, Licensing Officer and any person making representations (with Chairman's permission) can ask questions of the Applicant.
6. Each person making representations will present their case, including calling any witnesses.
7. The Members, Applicant and the Licensing Officer (with Chairman's permission) can ask questions of each person making representations.
8. All parties will be asked to sum up their case.
9. The Sub-Committee will leave the room to consider its decision, along with the legal advisor and the officer from Democratic Services.
10. After adjournment, the hearing resumes so that the Chairman can announce the decision including rights of appeal.
11. The decision and rights of appeal will be confirmed in writing by the Licensing Officer.

## Appendix A2

### HEARING PROCEDURE : PRIVATE HIRE/HACKNEY CARRIAGE – EXISTING LICENSEE

#### Pre-Hearing Matters

Democratic Services to seek nominations for the Appointment of Chairman.

1. Chairman to welcome everyone and read Fire Evacuation Procedure.
2. Apologies / Substitutes.

Chairman to read:

There is a substitute present at today's hearing. The reason for a substitute is that if anything happens to a member of the Sub-Committee before the hearing commences, the substitute can take their place. The substitute is remaining for the hearing and will retire with the Sub-Committee, to observe the discussion when it is arriving to its decision, for training purposes. Are there any objections to the substitute retiring with the Sub-Committee?

*(If there are objections, the Chairman will explain that the substitute will NOT therefore retire with the Sub-Committee)*

3. Declaration of Interests and lobbying.
4. Chairman will introduce members of the hearing Sub-Committee.
5. Chairman will ask those present to introduce themselves in the following order:
  - The legal adviser to the Sub-Committee.
  - The officer from Democratic Services.
  - The licensing officer(s) of the authority.
  - Licensee and any person representing or assisting them.
  - Any other party to the hearing (confirming whether a spokesman or spokesmen has been nominated and, if so identify them).
6. The Chairman will ask the Licensing Officer to report any documentary or other information that a party to the hearing wishes to present. If there is any such material, the Chairman will ask all the other parties to the hearing whether they consent to it being presented. If they agree, the material will be distributed.
7. Resolve to go into Exempt Session.

#### The Hearing

Immediately after the pre-hearing matters have been dealt with the Sub-Committee hearing will commence.

1. The Chairman will clarify with everyone present that they are clear about the procedure to be followed.  
[The Legal Adviser to explain if necessary]
2. The Chairman will ask the Licensing Officer to summarise the matter under consideration.
3. The Members, Licensee and any person making representations may ask questions of the Licensing Officer.
4. The Licensee will present their case and call any approved witness in support of their case.
5. The Members, Licensing Officer and any person making representations (with Chairman's permission) can ask questions.
6. Each person making representations will present their case, including calling any witnesses.
7. The Members, Licensee and the Licensing Officer (with Chairman's permission) can ask questions of each person making representations.
8. All parties will be asked to sum up their case.
9. The Sub-Committee will leave the room to consider its decision, along with the legal adviser and the officer from Democratic Services.
10. After adjournment, the hearing resumes so that the Chairman can announce the decision including rights of appeal.
11. The decision and rights of appeal will be confirmed in writing by the Licensing Officer.

**HEARING PROCEDURE: TEMPORARY EVENT NOTICE****Pre-Hearing matters**

Democratic Services to seek nominations for the Appointment of Chairman.

1. Chairman to welcome everyone and read Fire Evacuation Procedure.
2. Apologies / Substitutes.

Chairman to read:

There is a substitute present at today's hearing. The reason for a substitute is that if anything happens to a member of the Sub-Committee before the hearing commences, the substitute can take their place. The substitute is remaining for the hearing and will retire with the Sub-Committee, to observe the discussion when it is arriving to its decision, for training purposes. Are there any objections to the substitute retiring with the Sub-Committee?

*(If there are objections, the Chairman will explain that the substitute will NOT therefore retire with the Sub-Committee)*

3. Ask for declarations of interest and lobbying.
4. Chairman will Introduce members of the hearing Sub-Committee.
5. Chairman will ask those present to introduce themselves in the following order:
  - The Legal Adviser to the Sub-Committee.
  - The officer from Democratic Services.
  - The Licensing Officer.
  - Applicant and any person representing or assisting them.
  - Responsible authorities that have made a relevant representation (Suffolk Constabulary or Environmental Protection).
6. Confirm that all parties have received the papers for the hearing.
7. Ask all parties to the hearing whether they wish to withdraw their application or representation.
8. Ask the Licensing Officer to report:
  - Any requests for the appearance of any witnesses.
  - Any documentary or other information that a party to the hearing wishes to present.

Such additional material should only be admitted with other parties' consent. If they agree, the material will be distributed.

9. Ask applicant and other parties who will be addressing the Sub-Committee for a time estimate. (This may not be absolutely necessary in all cases and when required time estimates are intended to be a broad guideline rather than a rigid allowance of time.)
10. Resolve to go into Exempt Session (if required).

### **The Hearing**

Immediately after the pre-hearing matters have been dealt with the hearing will commence:

1. The Chairman will clarify with everyone present that they are clear about the procedure to be followed.  
[The Legal Adviser to explain if necessary]
2. The Chairman will ask the Licensing Officer to summarise the matter under consideration.
3. The members, applicant, and those making representations may ask questions of the Licensing Officer.
4. Starting with the applicant, each party will exercise their rights within the identified maximum time, as follows:
  - Each party to present their case, including responding to any points of which the Licensing Authority has previously given notice, and call any approved witness in support of their case.
  - If given permission by the Chairman, and only through the Chairman of the hearing, each party may raise questions for any other party or witness.
5. All parties will be asked to sum up their case.
6. The Sub-Committee, their legal advisor and the officer from Democratic Services, will leave the room to consider their decision.
7. The hearing resumes so that the Chairman can announce the decision including rights of appeal.

APPENDIX A4

HEARING PROCEDURE: NEW / VARIATION OF PREMISES

Pre-Hearing Matters

Democratic Services to seek nominations for the Appointment of Chairman.

1. Chairman to welcome everyone and read Fire Evacuation Procedure.
2. Apologies / Substitutes.

Chairman to read:

There is a substitute present at today's hearing. The reason for a substitute is that if anything happens to a member of the Sub-Committee before the hearing commences, the substitute can take their place. The substitute is remaining for the hearing and will retire with the Sub-Committee, to observe the discussion when it is arriving to its decision, for training purposes. Are there any objections to the substitute retiring with the Sub-Committee?

*(If there are objections, the Chairman will explain that the substitute will NOT therefore retire with the Sub-Committee)*

3. Declarations of interest and lobbying.
4. Chairman will introduce members of the hearing Sub-Committee.
5. Chairman will ask those present to introduce themselves:
  - The Legal Adviser to the Sub-Committee.
  - The officer from Democratic Services.
  - The Licensing Officer.
  - Applicant and any person representing or assisting them.
  - Responsible authorities that have made a relevant representation.
  - Interested parties who have made a relevant representation. (Interested parties should confirm whether a spokesman or spokesmen have been nominated and, if so identify them)
6. Confirm that all parties have received the papers for the hearing.
7. Ask all parties to the hearing whether they wish to withdraw their application or representation.
8. Ask the officer of the Licensing Officer to report:
  - Any requests for the appearance of any witnesses.
  - Any documentary or other information that a party to the hearing wishes to present.

Such additional material should only be admitted with other parties' consent. If they agree, the material will be distributed.

9. Ask Applicant and other parties who will be addressing the Sub-Committee for a time estimate. (This may not be absolutely necessary in all cases and time estimates are intended to be a broad guideline rather than a rigid allowance of time).
10. Resolve to go into Exempt Session (if required).

### **The Hearing**

Immediately after the pre-hearing matters have been dealt with the hearing will commence:

1. The Chairman will clarify with everyone present that they are clear about the procedure to be followed.  
[The Legal Adviser to explain if necessary]
2. The Chairman will ask the Licensing Officer to summarise the matter under consideration.
3. The Members, Applicant and those making representations (with Chairman's permission) may ask questions of the Licensing Officer.
4. The Applicant will present their case including calling any witnesses;
5. Members, the Licensing Officer and any person making representations (with Chairman's permission) may ask questions of the Applicant;
6. Each person making representations will present their case including calling any witnesses.
7. Members, the Applicant and the Licensing Officer (with Chairman's permission) may ask questions;
8. All parties will be asked to sum up their case.
9. The Sub-Committee, its legal adviser and the officer from Democratic Services, will leave the room to consider their decision.
10. After adjournment, the hearing resumes so that the Chairman can announce the decision including rights of appeal.



Appendix A5

**CHAIRMAN'S PROCEDURE – REVIEW OF PREMISES**

**Pre-Hearing Matters**

Democratic Services to seek nominations for the Appointment of Chairman.

1. Chairman to welcome everyone and read Fire Evacuation Procedure.
2. Apologies / Substitutes

Chairman to read:

There is a substitute present at today's hearing. The reason for a substitute is that if anything happens to a member of the Sub-Committee before the hearing commences, the substitute can take their place. The substitute is remaining for the hearing and will retire with the Sub-Committee, to observe the discussion when it is arriving to its decision, for training purposes. Are there any objections to the substitute retiring with the Sub-Committee?

*(If there are objections, the Chairman will explain that the substitute will NOT therefore retire with the Sub-Committee)*

3. Declarations of interest (from members and officers) and lobbying.
4. Chairman will Introduce members of the hearing Sub-Committee.
5. Ask all of the following to introduce themselves in the following order:
  - The legal adviser to the Sub-Committee.
  - The officer from Democratic Services.
  - Licensing officer(s).
  - The Applicant for review who will in turn identify his/her colleagues and any others who will give evidence).
  - The holder of the premises licence or his/her representative (who will in turn introduce the rest of his or her team, including witnesses).
  - Representatives, if any, of responsible authorities (e.g. Police or Suffolk Fire and Rescue Service who may be combining with the applicant if they are not themselves the applicant for review).
  - Interested parties (e.g. local residents).
6. Ask, particularly the premises licence holder or representative, if he or she has received the papers for the hearing.
7. Ask if the applicant for review or any other interested party wishes to withdraw its application/representation (this could arise if pre-hearing discussions have led to a resolution of outstanding issues).
8. Ask:

- licensing representative if there have been any requests for the appearance of any witnesses.
  - whether any party wishes to introduce any extra document or other information. Such additional material should be admitted only with other parties' consent, since it should have been submitted prior to the hearing.
9. Ask applicant, premises licence holder and any others who will be addressing the Sub-Committee for time estimates. (This may not be absolutely necessary in all cases and when required time estimates are intended to be a broad guideline rather than a rigid allowance of time.)
  10. Resolve to go into Exempt Session (if required).

### **The Hearing**

Immediately after the pre-hearing matters have been dealt with the hearing will commence:

1. The Chairman will clarify with everyone present that they are clear about the procedure to be followed.  
[The Legal Adviser to explain if necessary]
2. Chairman invites licensing representative to summarise the matter before the Sub-Committee (with reference to the written report which will have been prepared and circulated).
3. Members of the Sub-Committee and other parties may ask the licensing representative questions.
4. The applicant for review or his/her representative introduces the reasons for seeking the review, and presents evidence in support.
5. Chairman to allow questioning of applicant's witnesses, from Sub-Committee members and other parties.
6. Chairman invites premises licence holder or representative to present his/her response to the review application (with witnesses if applicable).
7. Chairman to allow questioning of licence holder's witnesses, from Sub-Committee members and other parties.
8. Other interested parties address the hearing – the Chairman may allow them to be questioned.
9. The licence holder and then the review applicant's representative sum up, if they wish. The review applicant's representative normally has the last word.
10. The Sub-Committee, Legal Adviser and the officer from Democratic Services will leave the room to consider their decision.
11. The hearing resumes so that the Chairman can announce the decision including rights of appeal.

APPENDIX A6

**CHAIRMAN'S PROCEDURE – SUMMARY REVIEW 1<sup>ST</sup> HEARING**

Democratic Services to seek nominations for the Appointment of Chairman.

1. Chairman to welcome everyone and read Fire Evacuation Procedure.
2. Apologies / Substitutes.

Chairman to read:

There is a substitute present at today's hearing. The reason for a substitute is that if anything happens to a member of the Sub-Committee before the hearing commences, the substitute can take their place. The substitute is remaining for the hearing and will retire with the Sub-Committee, to observe the discussion when it is arriving to its decision, for training purposes. Are there any objections to the substitute retiring with the Sub-Committee?

*(If there are objections, the Chairman will explain that the substitute will NOT therefore retire with the Sub-Committee)*

3. Ask for declarations of interest (from members and officers) and lobbying
4. Chairman will Introduce members of the hearing Sub-Committee.
5. Chairman will ask those present to introduce themselves.
6. Chairman will remind all present that the hearing will be a public hearing therefore if there is any information which parties do not wish to be made public, the parties will need to ask the Sub-Committee to consider, under regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, whether anyone present or any members of the public should be excluded from the hearing.
7. The hearing will then commence.
8. The Chairman will clarify with everyone present that they are clear about the procedure to be followed.  
[The Legal Adviser to explain if necessary]
9. Chairman invites licensing representative to summarise the matter before the Sub-Committee.
10. Members of the Sub-Committee and other parties may ask the licensing representative questions.
11. Chairman invites the premises licence holder to address the Sub-Committee on why s/he is of the view that the interim steps put in place should be withdrawn or modified.
12. Allow questioning of the premises licence holder by police and/or Sub-Committee members.

13. Chairman invites the police to present their response – their reasons why the interim steps should remain in place or be modified.
14. Allow questioning of police by premises licence holder and/or Sub-Committee members.
15. Invite premises licence holder to sum up.
16. The Sub-Committee, Legal Adviser and the officer from Democratic Services leave the room to consider their decision.
17. The hearing resumes so that the Chairman can announce the decision including rights of appeal.

**HEARING PROCEDURE – SUMMARY REVIEW 2<sup>nd</sup> Hearing S.53C****Pre-Hearing Matters**

Democratic Services to seek nominations for the Appointment of Chairman.

1. Chairman to welcome everyone and read Fire Evacuation Procedure.
2. Apologies / Substitutes.

Chairman to read:

There is a substitute present at today's hearing. The reason for a substitute is that if anything happens to a member of the Sub-Committee before the hearing commences, the substitute can take their place. The substitute is remaining for the hearing and will retire with the Sub-Committee, to observe the discussion when it is arriving to its decision, for training purposes. Are there any objections to the substitute retiring with the Sub-Committee?

*(If there are objections, the Chairman will explain that the substitute will NOT therefore retire with the Sub-Committee)*

3. Declarations of interest and lobbying.
4. Chairman will introduce members of the Hearing Sub-Committee.
5. Chairman will ask those present to introduce themselves:
  - The Legal Advisor to the Sub-Committee.
  - The officer from Democratic Services.
  - Licensing Officer(s).
  - The Applicant for review (police) (who will in turn identify his/her colleagues and any others who will give evidence).
  - The holder of the premises licence or his/her representative (who will in turn introduce the rest of his or her team, including witnesses).
  - Interested parties who have made relevant representations (e.g. local residents) (Interested parties should confirm whether a spokesman or spokesmen have been nominated and, if so identify them).
6. Legal Adviser will explain that the hearing will be a public hearing which means that members of the public as well as members of the press are able to attend the hearing and that the minutes of the meeting will be published on the Council's website. If any party does not wish for the hearing to be public, they should let the Sub-Committee know the reason for this now - for example, because personal details will be discussed during the hearing.
7. The Sub-Committee will then consider, as appropriate and in accordance with regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, whether the public interest in excluding the public from the hearing outweighs the public interest in the hearing taking place in public.

8. Ask if parties have received the papers for the hearing.
9. Ask if the Applicant for review or any other interested party wishes to withdraw its application/representation (this could arise if pre-hearing discussions have led to a resolution of outstanding issues).
10. Ask Licensing Officer if there have been any requests for the appearance of any witnesses and whether any party wishes to introduce any extra document or other information.

Such additional material should be admitted only with other parties' consent, since it should have been submitted prior to the hearing.

11. Ask Applicant, premises licence holder and any others who will be addressing the Sub-Committee for time estimates (this may not be absolutely necessary in all cases and when required time estimates are intended to be a broad guideline rather than a rigid allowance of time).

## **The Hearing**

Immediately after the pre-hearing matters have been dealt with the hearing will commence.

1. Chairman invites Licensing Officer to summarise the matter before the Sub-Committee (with reference to the written report which will have been prepared and circulated).
2. Members of the Sub-Committee and other parties may ask the Licensing Officer questions.
3. The Applicant for review or his/her representative introduces the reasons for seeking the review, and presents evidence in support.
4. Chairman to allow questioning of Applicant's witnesses, from Sub-Committee members and other parties.
5. Chairman invites premises licence holder or representative to present his/her response to the review application (with witnesses if applicable).
6. Chairman to allow questioning of licence holder's witnesses, from Sub-Committee members and other parties.
7. Other interested parties address the hearing – the chairman may allow them to be questioned.
8. The licence holder and then the review Applicant's representative sum up, if they wish. The review Applicant's representative normally has the last word.
9. The Sub-Committee will leave the room (or ask all others present to leave) to consider their decision. The Sub-Committee will be accompanied by its legal adviser and the officer from Democratic Services.
10. The hearing resumes so that the Chairman can announce the decision including rights of appeal.

## APPENDIX A8

### HEARING PROCEDURE: PERSONAL LICENCE / TRANSFER / DPS

#### Pre-Hearing Matters

Democratic Services to seek nominations for the Appointment of Chairman.

1. Chairman to welcome everyone and read Fire Evacuation Procedure.
2. Apologies / Substitutes.
3. Ask for declarations of interest and lobbying.
4. Chairman will Introduce members of the hearing Sub-Committee.
5. Chairman will ask those present to introduce themselves in the following order:
  - The Legal Adviser.
  - The officer from Democratic Services.
  - Licensing officer(s).
  - Applicant and any person representing or assisting them.
  - Any other party to the hearing (normally the Suffolk Constabulary).

*(The Police have indicated that they will request the applicant be excluded from the proceedings under Regulation 14)*
6. The Chairman will ask all parties to the hearing whether they wish to withdraw their application or representation.
7. The Chairman will ask the Licensing Officer to report any documentary or other information that a party to the hearing wishes to present. If there is any such material, the Chairman will ask all the other parties to the hearing whether they consent to it being presented. If they agree, the material will be distributed.  
*(additional documents provided by Suffolk Constabulary have already been circulated)*
8. Resolve to go into Exempt Session (if required).

#### The Hearing

Immediately after the pre-hearing matters have been dealt with, the Sub-Committee hearing will commence:

1. The Chairman will clarify with everyone present that they are clear about the procedure to be followed.  
 [The Legal Adviser to explain if necessary]
2. The Chairman will ask the Licensing Officer to summarise the matter under consideration.

3. The Members, Applicant, and those making representations (Suffolk Constabulary) may ask questions of the Licensing Officer.
4. Starting with the Applicant, each party will exercise their rights as follows:
  - Each party to present their case and call any approved witness in support of their case.
  - If given permission by the Chairman, and only through the Chairman of the hearing, each party may raise questions for any other party or witness.
5. The Applicant or his representative will be asked to sum up their case.
6. The Sub-Committee will leave the room to consider its decision, along with the legal advisor and the officer from Democratic Services.
7. After Adjournment, the hearing resumes so that the Chairman can announce the decision including rights of appeal.
8. The decision and rights of appeal will be confirmed in writing by the Licensing Officer.





## LICENSING COMMITTEE

Monday 15 July 2019

## SKIN PIERCING BYELAWS

### EXECUTIVE SUMMARY

1. The Council is responsible for registering businesses that carry out certain skin piercing activities such as acupuncture, tattooing, electrolysis and ear piercing and inspect these businesses to ensure that the premises and practices are hygienic and there are controls in place to prevent the risk of blood-borne infection.
2. Following the creation of East Suffolk Council we have two sets of byelaws which need to be consolidated and brought in line with national model byelaws produced by the Department of Health.
3. This report seeks Committee approval to recommend that Council:
  - i) agree to make a consolidated set of byelaws for the regulation of acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis in East Suffolk for submission to the Secretary of State for Health for confirmation;
  - ii) agree that the current byelaws relating to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis and hairdressing be revoked on confirmation of new consolidated byelaws.

Is the report Open or Exempt?	Open

<b>Wards Affected:</b>	All
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<b>Cabinet Member:</b>	<p>Cllr Mary Rudd</p> <p>Cabinet Member for Community Health</p>
<b>Supporting Officer:</b>	<p>Phil Gore</p> <p>Head of Environmental Services &amp; Port Health</p> <p>01394 444286</p> <p>Phil.gore@eastssuffolk.gov.uk</p>

## **1 INTRODUCTION**

- 1.1 The Council is required under the Local Government (Miscellaneous Provisions) Act 1982, Part VIII to register business and individuals who provide certain skin piercing services such as tattooing, electrolysis and ear piercing. On receipt of an application for registration of a business and/or an individual an inspection is carried out to ensure that individuals and the premises they operate from are hygienic and exercise appropriate controls to prevent the spread of blood-borne infections.
- 1.2 Byelaws provide defined roles and responsibilities for operators and proprietors at relevant businesses. They also define minimum hygiene standards for registered premises and for persons carrying out relevant practices. Clearly defined standards provided by byelaws help businesses to provide and maintain premises and practices that are safe, hygienic and minimise risk of potentially serious infection to customers. Of particular concern are blood-borne viral infections including HIV and Hepatitis C.
- 1.3 In the absence of byelaws, the Council would have to rely on the goalsetting aims of the Health and Safety at Work etc Act 1974 to regulate skin piercing businesses. This Act places general duties on employers etc. to ensure the health, safety and welfare of those affected by their undertaking allowing an open approach to how this is done. This approach is not compatible with the strict hygiene standards expected of skin piercing businesses to prevent the risk of infection.

## **2 ADOPTING NEW CONSOLIDATED BYELAWS**

- 2.1 A prescribed procedure for adoption of byelaws is specified in section 236 of the Local Government Act 1972 as follows:
  - i) The Council makes the byelaws under common seal;
  - ii) An advert is placed in the press stating that the Council intends to apply for confirmation of the byelaws, and a copy of the byelaws is to be deposited at East Suffolk Council's offices and made available for public inspection at reasonable hours;
  - iii) Consultation with interested parties also takes place;
  - iv) After the expiry of the notice period an application is made to the Secretary of State for Health for confirmation of the byelaws;
  - v) If the byelaws are confirmed, the Secretary of State for Health will give the date for the new byelaws to come into force, or alternatively the byelaws will come into force one month after confirmation.

### **3 HOW DOES THIS RELATE TO THE EAST SUFFOLK BUSINESS PLAN?**

- 3.1 This proposal supports the Council's key theme of community health, enabling people to take responsibility for their own mental and physical health and well-being, helping them to live active and healthy lives, while remaining safe within their homes and communities.
- 3.2 New consolidated byelaws covering skin piercing activities across the district will ensure a common standard is applied and public health is protected.

### **4 FINANCIAL AND GOVERNANCE IMPLICATIONS**

- 4.1 A registration fee for skin piercing practitioners and premises allows the Council to recover the cost of registration and the initial inspection. Fees are reviewed by the Licensing Committee and set annually. The criteria for registration are set out in the Local Government (Miscellaneous Provisions) Act 1982 and these criteria are not changed by the consolidation of the byelaws. There are no additional financial implications for the Council from the recommendation in this report and the financial implications for businesses that will need to comply with the new byelaws is considered to be very small as most, if not all, meet the standard being proposed.
- 4.2 The results of the consultation will enable a more informed assessment of the impact on businesses.

### **5 OTHER KEY ISSUES**

- 5.1 This report has been prepared having taken into account the results of an Equality Impact Assessment. No significant issues have been identified.

### **6 CONSULTATION**

- 6.1 The Council's Legal Team has been consulted on the draft byelaws and, subject to Committee approval, a wider consultation with businesses affected by the proposed change will take place the results of which will be reported to Council.

### **7 OTHER OPTIONS CONSIDERED**

- 7.1 The option of retaining the two existing standards has been considered but ruled out as being inequitable, confusing and not setting a suitable standard for the hygiene of skin piercing operations.

### **8 REASON FOR RECOMMENDATIONS**

- 8.1 To ensure that the Council has a single set of clear and up to date byelaws covering skin piercing activities within the district.

#### **RECOMMENDATIONS**

That the Licensing Committee agrees to recommend to Full Council:

- 1. That it approves the adoption of the byelaws set out in Appendix A of this report;
- 2. That it authorises the Head of Environmental Services and Port Health to carry out the necessary procedure in relation to the creation of new byelaws and to apply to the Secretary of State for confirmation;
- 3. That it authorises the affixing of the common seal of the Council to the new byelaws;

4. That it approves the revocation of the existing byelaws referred to at paragraphs 6 to 10 of the byelaws set out in Appendix A of this report, upon the coming into force of the new byelaws.

## APPENDICES

<b>Appendix A</b>	Draft Skin Piercing Byelaws
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## BACKGROUND PAPERS

Please note that copies of background papers have not been published on the Council's website [www.eastsuffolk.gov.uk](http://www.eastsuffolk.gov.uk) but copies of the background papers listed below are available for public inspection free of charge by contacting the relevant Council Department.

Date	Type	Available From
13 Dec 2007	Acupuncture, Tattooing & Semi-permanent Skin Colouring, Cosmetic Piercing and Electrolysis (Waveney District Council)	<a href="https://www.eastsuffolk.gov.uk/business/licensing/other-licences/registration-of-skin-piercing-businesses/">https://www.eastsuffolk.gov.uk/business/licensing/other-licences/registration-of-skin-piercing-businesses/</a>
13 March 1984	Ear Piercing & Electrolysis Byelaws (Suffolk Coastal District Council)	<a href="https://www.eastsuffolk.gov.uk/business/licensing/other-licences/registration-of-skin-piercing-businesses/">https://www.eastsuffolk.gov.uk/business/licensing/other-licences/registration-of-skin-piercing-businesses/</a>
13 March 1984	Tattooing Byelaws (Suffolk Coastal District Council)	<a href="https://www.eastsuffolk.gov.uk/business/licensing/other-licences/registration-of-skin-piercing-businesses/">https://www.eastsuffolk.gov.uk/business/licensing/other-licences/registration-of-skin-piercing-businesses/</a>
7 Feb 1996	Hairdressers and Barbers Byelaws (Waveney District Council)	<a href="mailto:phil.gore@eastsuffolk.gov.uk">phil.gore@eastsuffolk.gov.uk</a>
27 Aug 1980	Hairdressers and Barbers Byelaws (Suffolk Coastal District Council)	<a href="https://www.eastsuffolk.gov.uk/business/licensing/other-licences/registration-of-skin-piercing-businesses/">https://www.eastsuffolk.gov.uk/business/licensing/other-licences/registration-of-skin-piercing-businesses/</a>

## EAST SUFFOLK COUNCIL

### 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 East Suffolk Council in pursuance of sections 14(7) or 15(7) or both of the Act.

#### Interpretation

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

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

“client” means any person undergoing treatment;

“hygienic piercing instrument” means an instrument such that any part of the instrument that touches a client is made for use in respect of a single client, is sterile, disposable and is fitted with piercing jewellery supplied in packaging that indicates the part of the body for which it is intended, and that is designed to pierce either—

- (a) the lobe or upper flat cartilage of the ear, or
- (b) either side of the nose in the mid-crease area above the nostril;

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

“premises” means any premises registered under sections 14(2) or 15(2) of the Act;

“proprietor” means any person registered under sections 14(1) or 15(1) of the Act;

“treatment” means any operation in effecting acupuncture, tattooing, semi-permanent 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, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis that were made by Waveney District Council on the *13 December 2007* and were confirmed by the Secretary of State for Social Services on 11 April 2008 are revoked.

7. The byelaws relating to ear piercing and electrolysis that were made by Suffolk Coastal District Council on the 13 March 1984 and were confirmed by the Secretary of State for Social Services on 25 July 1984 are revoked.

8. The byelaws relating to tattooing that were made by Suffolk Coastal District Council on the 13 March 1984 and were confirmed by the Secretary of State for Social Services on 25 July 1984 are revoked.

9. The byelaws relating to Hairdressers and Barbers that were made by Suffolk Coastal District Council on 27 August 1980 and were confirmed by the Secretary for State for Environment on 20 October 1980 are revoked.

10. The byelaws relating to Hairdressers and Barbers that were made by Waveney District Council on 7 February 1996 and were confirmed by the Secretary for State for Environment on 12 April 1996 are 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).*