

# Guidance notes



## Registering skin piercing activities

Updated November 2015

### Do you need to register with North Devon Council?

North Devon Council has adopted Part VIII of the Local Government (Miscellaneous Provisions) Act 1982, which covers the registration of various skin piercing activities. In addition, the council has made local byelaws under this legislation in relation to acupuncture. These can be found on our website.

### What are skin piercing activities?

- Acupuncture - the insertion of needles into living tissue for remedial purposes
- Electrolysis - the destruction of hair roots, warts and moles by means of an electric current
- Cosmetic piercing – both ear piercing and body piercing
- Semi-permanent skin colouring - the insertion of semi-permanent colouring into a person's skin
- Tattooing - the insertion into the skin of any colouring material designed to leave a permanent mark

### Personal registration

To carry out any of the above skin piercing activities as a business in North Devon, you must be registered with North Devon Council. Personal registration will not be required by someone who is registered as (or working under the supervision of) a medical practitioner (or dentist in the case of someone undertaking acupuncture).

### Premises registration

You can only carry out one of the above skin piercing activities in North Devon if the premises where this takes place is also registered with us.

If you are registered with us to carry out any of these activities at your premises, you can on occasions visit people at their request to carry out your activity, without contravening the law.

Premises where a skin piercing activity is carried out by or under the supervision of a medical practitioner (or a dentist in the case of acupuncture) do not require premises registration.

## **The applicant**

When applying for a personal registration, you should be able to demonstrate that you:

- are competent in the relevant skin piercing activity and associated cleaning processes
- have high standards of personal hygiene
- have knowledge of the risks associated with acupuncture (for example, blood borne infection)
- have knowledge of the required standards for premises in which you are to operate
- understand the importance of gaining knowledge about the health of your clients
- understand the benefits of record keeping

In your application, you must state whether you hold previous convictions under the Local Government (Miscellaneous Provisions) Act 1982 or whether any previous registration issued to you has been cancelled.

Where your registration has been previously cancelled by a court, you can't again be registered, except with the consent of the magistrates court that convicted you.

## **Application process**

To gain personal or premises registration for a skin piercing activity, please complete an application form and return it with the appropriate fee to the Licensing team.

When your application has been received, a licensing officer will contact you within five working days. If an officer has not been in contact within this period, please contact us to ensure that your application has been correctly made and received. If you have not heard anything, it does not mean that your registration has been completed, as usually further contact from an officer is required.

Depending on whether your application relates to a personal or premises registration, a licensing officer will contact you to arrange a convenient time and date to carry out either:

- a short interview with you to gain an idea of your experience and ability

- a premises inspection to ascertain the level of compliance with the council's byelaws and tattooing and body piercing guidance, as set out by the Chartered Institute of Environmental Health (please see our website)

On completion of registration, you will gain a Certificate of Registration.

### **How long will it take to process your application?**

We will aim to issue your certificate of registration within 28 working days of your application. If you have not heard from us within five working days, please call us to ensure your registration paperwork has been received. In cases where we are unable to process your registration within 28 working days, your activity will be considered to be registered.

### **How long does a Certificate of Registration last?**

Your certificate for either yourself or your premises will last indefinitely and you are not required to renew your certificate at any stage.

### **What are the byelaws that are relevant to registration?**

North Devon Council has adopted byelaws relating to acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis. These can be found on our website and are to secure:

- the cleanliness of premises and their fittings
- the cleanliness of registered people and their assistants
- the cleaning and where appropriate sterilisation of instruments, materials and equipment used in connection with a skin piercing business

### **Rights of entry**

An authorised officer may, when in possession of a warrant, enter a North Devon premises if they have reason to suspect that an offence is being committed.

### **Offences and penalties**

If, without reasonable excuse, you refuse to allow an authorised officer entry under warrant, you shall for every such refusal be liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

It is also an offence if you contravene any of North Devon Council's byelaws. Again, you will be liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000). If you are found guilty of an offence under a byelaw, a court may instead or in addition to imposing a fine, order the suspension or cancellation of

your registration.

A court which orders the suspension or cancellation of a personal registration may also order the suspension or cancellation of any registration of the premises in which the offence was committed, if they are occupied by someone found guilty of the offence.

A court ordering the suspension or cancellation of a personal registration may suspend the operation of the order until the expiration of the period prescribed by crown court rules for giving notice of appeal to the crown court.

### **Right of appeal**

If you want to appeal against a refusal to be granted registration, then you can do so to the Magistrates Court.

### **Complaints**

If you want to make a complaint about a premises that practices skin piercing, please contact us.

If you feel we have failed to provide a good service or are concerned about the progress of your application, please contact us and we will try to resolve any concerns you may have. The council also has a formal complaints procedure.

### **About specific skin activities**

- **Moving from ear piercing to piercing other parts of the body**

Prior to registering for cosmetic piercing, we previously registered people and premises for ear piercing. If you are registered for ear piercing and want to provide another form of cosmetic piercing, or if premises are subsequently used to provide another form of cosmetic piercing (other than the ear), a new registration is required.

- **Tattooing of Minors Act 1969**

The Tattooing of Minors Act 1969 makes it an offence to tattoo a person under the age of 18, except when the tattoo is performed for medical reasons by a qualified medical practitioner or by a person working under their direction.

Anyone committing such an offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

- **Body and Genital Piercings**

Recent announcements from the Department of Health and National Health Service (NHS) have indicated that the presence of genital piercings will be a matter to be observed and recorded on female patient records as a measure to support the identification of Female Genital Mutilation (FGM) and women at risk of FGM.

The rationale being that while there are challenges in this area and adult women may have genital piercings, in some communities girls are forced to have them and The World Health Organisation has defined this as a form of FGM. The introduction by the NHS of an 'enhanced FGM dataset' is designed to establish the number of victims in this country, with women classified as having undergone a 'harmful procedure'.

It has been generally accepted that the legislation does allow genital piercing of adults to be carried out by persons registered by their local authority and where informed consent has been given. As such, registered piercers may wish to consider their own policies and procedures in respect of how they gain evidence of written consent and how they inform women electing to have such piercings of the new NHS measures.

- **Age of consent for cosmetic piercings**

There is no statutory age of consent for cosmetic piercing (both body piercing and ear piercing). Cosmetic piercing of a minor is lawful, provided valid parental consent is given, or if a child is competent to make a decision and understands the nature of the act to be done. However, under the Sexual Offences Act 1956, girls and boys under the age of 16 cannot legally give consent to intimate sexual contact under any circumstances, so piercing of nipples and genitalia (for girls) or genitalia (for boys) can be regarded as an assault offence. Evidence that such contact was for sexual gratification would be required in order to constitute an indecent assault. Body piercers are advised to always refuse a genital piercing/female nipple piercing on anyone under the age of 18 years/those who cannot provide proof of their age.

### **Further information**

Copies of Local Government (Miscellaneous Provisions) Act 1982, the Health and Safety at Work etc. Act 1974 and The Local Government Act 2003 can be purchased from Her Majesty's Stationery Office.

The Health and Safety at Work Etc. Act 1974 also applies to the practice of skin piercing. Section 3 of the Act places duties on employers and the self employed to ensure that they conduct their undertaking in such a way as to ensure, so far as is reasonably practicable, that a person having their skin pierced is not exposed to risks to their health or safety. Please note, North Devon Council undertakes health and safety

interventions that fall outside the scope of registration and our byelaws, where separate offences and penalties apply.

The Health and Safety Executive's "Blood-borne viruses in the workplace: guidance for employers and employees" may also be of use.

For the definition of medical practitioner, please see The Medical Act 1983, s55. For the definition of dentist, please see The Dentist Act 1957, s16.

Information about jewellery standards can be gained from Trading Standards, County Hall, Topsham Road, Exeter, Devon. EX2 4QH or by phoning 01392 381381.

### **Trade organisations**

- The Tattoo and Piercing Industry Union
- Hairdressing And Beauty Industry Authority
- The British Acupuncture Council
- The British Medical Acupuncture Society
- Royal London Homoeopathic Hospital