

**To: The Members of the Licensing Committee  
(Councillors Jenns, Clews, N Dirveiks,  
Hanratty, Henney, Ingram, Jarvis, Lewis,  
Morson, Moss, Singh, Smitten, E Stanley,  
Watkins and A Wright)**

**For the information of other Members of the Council**

This document can be made available in large print and electronic accessible formats if requested.

For general enquiries please contact Jenny Price, Democratic Services Officer, on 01827 719450 or via e-mail [jennyprice@northwarks.gov.uk](mailto:jennyprice@northwarks.gov.uk).

For enquiries about specific reports please contact the officer named in the reports.

## **LICENSING COMMITTEE AGENDA**

**6 JUNE 2016**

The Licensing Committee will meet in the Council Chamber, The Council House, South Street, Atherstone, Warwickshire on Monday 6 June 2016 at 6.30pm.

### **AGENDA**

#### **PART I - PUBLIC BUSINESS**

- 1 Evacuation Procedure**
- 2 Apologies for Absence**
- 3 Disclosable Pecuniary and Non-Pecuniary Interests**

- 4 **Minutes of the meeting of the Committee held on 25 January 2016**  
– copy herewith to be approved as a correct record and signed by the Chairman.

5 **Public Participation**

Up to twenty minutes will set aside for members of the public to ask questions or to put their view to elected Members. Participants are restricted to five minutes each. If you wish to speak at the meeting please contact Jenny Price on 01827 719450 or email [democraticservices@northwarks.gov.uk](mailto:democraticservices@northwarks.gov.uk)

## **PART A**

### **ITEMS FOR DISCUSSION AND DECISION**

- 6 **Mandatory Safeguarding Training for Hackney Carriage and Private Hire Drivers** - Report of the Assistant Chief Executive and Solicitor to the Council

**Summary**

This report asks for Committee agreement to introduce a mandatory course on the subject of safeguarding training for all Hackney Carriage and Private Hire drivers licensed by the Council.

The Contact Officer for this report is Stephen Whiles (719326).

- 7 **Local Government (Miscellaneous Provisions) Act 1976 – Taxi Licensing - Policy Document And Guidance Relating To The Definition Of ‘Fit And Proper’ Persons** - Report of the Assistant Chief Executive and Solicitor to the Council

**Summary**

The report asks the Committee to consider recommending the adoption of a policy relating to the definition of ‘fit and proper’ persons to hold a hackney carriage or private hire drivers licence or a private hire operators licence.

The Contact Officer for this report is Stephen Whiles (719326).

- 8 **Animal Boarding Establishments Act 1963 – review of fees for home boarding** - Report of the Assistant Chief Executive and Solicitor to the Council

**Summary**

The report asks the Committee to consider adopting a revised scale of fees in respect of home boarding establishments.

The Contact Officer for this report is Stephen Whiles (719326).

- 9 **Adoption of Model Conditions in respect of Animal Licences -**  
Report of the Assistant Chief Executive and Solicitor to the Council

**Summary**

The report asks the Committee to consider adopting the Chartered Institute of Environmental Health (CIEH) model licence conditions in respect of animal boarding establishments, dog breeding establishments and pet shops.

The Contact Officer for this report is Stephen Whiles (719326).

- 10 **Local Government (Miscellaneous Provisions) Act 1982 Byelaws For Cosmetic Piercing And Semi-Permanent Skin Colouring -**  
Report of the Assistant Chief Executive and Solicitor to the Council

**Summary**

This report details the proposal for acceptance by the Council of two new sets of byelaws for cosmetic piercing and semi-permanent skin colouring.

The Contact Officer for this report is Stephen Whiles (719326).

JERRY HUTCHINSON  
Chief Executive

## NORTH WARWICKSHIRE BOROUGH COUNCIL

### MINUTES OF THE LICENSING COMMITTEE

25 January 2016

Present: Councillor Jones in the Chair

Councillors Davey, Ferro, Hanratty, Henney, Ingram, Jarvis, Jenns, Lewis, Moss, Singh, Watkins and A Wright

An apology for absence was received from Councillor E Stanley (Substitute Councillor Ferro).

Councillor Humphreys was also in attendance.

#### 7 **Disclosable Pecuniary and Non-Pecuniary Interests**

None were declared at the meeting.

#### 8 **Minutes**

The minutes of the meeting of the Committee held on 25 July 2015, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

#### 9 **Service Plan for the Licensing Section**

The Assistant Chief Executive and Solicitor to the Council sought the Committee's approval of the 2016/17 Service Plan for the Licensing Section.

##### **Resolved:**

**That the Service Plan as set out in the Appendix to the report of the Assistant Chief Executive and Solicitor to the Council, be agreed.**

#### 10 **General Fund Fees and Charges 2016/2017**

The Committee was asked to consider the fees and charges for 2015/16 and the proposed fees and charges for 2016/17.

##### **Resolved:**

**That the schedule of fees and charges for 2016/17, as set out in the report be accepted.**

**11 General Fund Revenue Estimates 2016/17**

The revised budget for 2015/16 and an estimate of expenditure for 2016/17, together with forward commitments for 2017/18, 2018/19 and 2019/20 were presented to the Committee.

**Resolved:**

- a The revised budget for 2015/16, be accepted; and**

**Recommendation to Executive Board:**

- b That the Estimates of Expenditure for 2016/17, as submitted in the report of the Deputy Chief Executive be included in the budget to be brought before the meeting of the Board on 9 February 2016.**

M Jones  
Chairman

## **Agenda Item No 6**

### **Licensing Committee**

**6 June 2016**

**Report of the  
Assistant Chief Executive And Solicitor to  
the Council**

**Mandatory Safeguarding Training  
for Hackney Carriage and Private  
Hire Drivers**

#### **1 Summary**

- 1.1 This report asks for Committee agreement to introduce a mandatory course on the subject of safeguarding training for all Hackney Carriage and Private Hire drivers licensed by the Council.

#### **Recommendation to the Council**

**That Council adopt as policy that all Hackney Carriage and Private Hire drivers licensed by the Council must undertake a safeguarding course approved by the Council within six months of the grant of a licence with effect from 1<sup>st</sup> October 2016.**

#### **2 Consultation**

- 2.1 Councillors Jenns (Chairman) and Lewis (Spokesperson) have been sent an advanced copy of this report for comment. The proposal has also been placed on the Council website for eight weeks and there has been consultation with the taxi trade, the Police and Child Protection Service. Any comments received will be reported verbally at the meeting.

#### **3 Report**

- 3.1 The primary role of the licensing authority is the protection, safety and wellbeing of the public
- 3.2 A number of high profile recent safeguarding cases around the country have been publicised, in particular relating to child sexual exploitation (CSE), some involving Hackney Carriage and Private Hire Drivers
- 3.3 In a report of inspection of Rotherham Metropolitan Borough Council (RMBC) by Louise Casey CB dated February 2015, inspectors considered whether RMBC took and continued to take sufficient steps to ensure that only fit and proper persons were permitted to hold a taxi licence. Inspectors concluded that this was not the case and one of the issues picked up on was that communications between licensing, the police and children's safeguarding was not sufficient and that CSE had 'not been given the priority and visibility it required'.

- 3.4 The Rotherham report highlights that the safety of the public should be of the uppermost concern of any licensing and enforcement regime and that 'there is nowhere more important than in taxi licensing where sometimes vulnerable people are unaccompanied in a car with a stranger'.
- 3.5 At NWBC there is good communication between licensing the Police and children's safeguarding with regular monthly meetings attended by all three parties and good channels of communication at other times. Special joint operations are carried out from time to time targeting taxis in the evenings and at weekends.
- 3.6 However, the authorities can not monitor all the time and it is essential that taxi drivers are trained to recognise the signs of CSE. If drivers can be trained to look for the signs of potential CSE and know where to report their concerns, they can help stop vulnerable persons being exploited
- 3.7 During April 2016 a free course, run by Barnardo's Child Sexual Exploitation Service was offered to drivers on a choice of two dates.
- 3.8 The course covered – Safeguarding children and vulnerable persons  
– Legislation regarding human trafficking  
– Making referrals  
– Signposting to relevant agencies
- 3.9 Of the existing 117 licensed drivers, 76 attended the voluntary training courses (65%). Feedback from the drivers was overwhelmingly positive, 74 stating that the course was 'good' or 'very good'. One further free course has been arranged for late in June 2016.
- 3.10 The recommendation is that attendance upon a prevention of CSE course is made a compulsory requirement for all Hackney Carriage and Private Hire Drivers licences by adding this requirement to the Council's 'Fit and Proper Persons' policy.
- 3.11 Drivers' licences are three years in duration. If the mandatory requirement is introduced for all licence holders to undertake the course when their licence is due for renewal, it would take until the end of 2019 to ensure that all drivers had been trained. Therefore, it is proposed that all currently licenced drivers must have attended the course by 1<sup>st</sup> October 2016. Thereafter it is recommended that drivers must attend a course before the grant of a licence.
- 3.12 It is proposed that any driver that fails to attend the course by 1<sup>st</sup> October 2016 will be asked to appear before a Licensing Sub Committee in order to explain the reason for their failure to attend.
- 3.13 Ongoing courses are being organised to take place bi-monthly alternating between the North and South of the County.

#### **4 Report Implications**

#### **4.1 Finance and Value for Money Implications**

4.1.1 There are currently no finance or value for money implications. Should payment be required for future courses.

#### **4.2 Safer Communities Implications**

4.2.1 The proposal supports the Council priority of creating safer communities and will help to protect children and vulnerable people.

#### **4.3 Legal and Human Rights Implications**

4.3.1 There are no material legal implications arising from the adoption of the proposal provided the relevant statutory procedures are followed.

#### **4.4 Environment and Sustainability Implications**

4.4.1 There are no adverse environmental implications in the report

#### **4.5 Health, Wellbeing and Leisure Implications**

4.5.1 Greater awareness of safeguarding issues will enhance health, wellbeing and leisure.

#### **4.6 Human Resources Implications**

4.6.1 There are no human resources implications in the report.

#### **4.7 Risk Management Implications**

4.7.1 By failing to implement safeguarding training for drivers, the Council could be viewed as not undertaking all necessary measures for protecting the public.

4.7.2 Drivers could be unaware of the impact of CSE and unwittingly associated with a case. Any person who transports a child about whom they have concerns and does not report it to the relevant authorities may be subject to a charge of trafficking.

#### **4.8 Equalities Implications**

4.8.1 There is no negative impact of opportunity for any known group.

#### **4.9 Links to Council's Priorities**

4.9.1 Creating Safer Communities

The Contact Officer for this report is Stephen Whiles (719326).



### Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act,  
2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

## **Agenda Item No 7**

### **Licensing Committee**

**6 June 2016**

**Report of the  
Assistant Chief Executive and Solicitor to  
The Council**

**Local Government (Miscellaneous  
Provisions) Act 1976 – Taxi  
Licensing - Policy Document And  
Guidance Relating To The  
Definition Of ‘Fit And Proper’  
Persons**

## **1 Summary**

- 1.1 The report asks the Committee to consider recommending the adoption of a policy relating to the definition of ‘fit and proper’ persons to hold a hackney carriage or private hire drivers licence or a private hire operators licence.

### **Recommendation to the Council**

**That the policy relating to the definition of ‘fit and proper’ persons to hold a hackney carriage or private hire vehicle drivers licence, or a private hire operators licence (Appendix A) be adopted.**

## **2 Consultation**

- 2.1 Councillors Jenns (Chair) and Lewis (Spokesperson) have been sent an advanced copy of this report for comment. The proposal has also been placed on the Council website for eight weeks and there has been consultation with the taxi trade, the Police and Child Protection Service. Any comments received will be reported verbally at the meeting.

## **3 Report**

- 3.1 The objective of the taxi licensing regime is to ensure that, so far as possible, those licensed to drive taxis are suitable persons to do so. In particular that they are safe drivers with a good driving record and adequate experience, sober, medically fit, honest and trustworthy. At its meeting of 28<sup>th</sup> May 2012, your Committee agreed to recommend to Council the adoption of a policy relating to fit and proper persons and this was subsequently adopted by Council.
- 3.2 This document set out a stance for the Council on the relevance of convictions, cautions and medical matters in respect of applications for the grant of new licences and the renewal of existing licences and issues that may arise in respect of drivers at other times.

These guidelines are to assist the members of the Licensing Committee in their decision making and to maintain the consistency of decisions made. They also provide clearer information to current drivers/operators and potential applicants.

3.3 The policy has recently been reviewed in light of the recent incidents of child sexual exploitation involving taxi drivers that have come to light in places such as Rotherham. The policy has been simplified and written in a clearer format. The main changes are that a much more rigorous approach has been taken to crimes of a violent or sexual nature.

... 3.4 A draft policy is attached (Appendix A) and Members are asked to consider recommending its adoption as Council policy.

#### **4 Report Implications**

##### **4.1 Finance and Value for Money Implications**

4.1.1 There are no finance or value for money implications contained in the report.

##### **4.2 Safer Communities Implications**

4.2.1 The policy would assist the Council in preventing unsuitable people from obtaining taxi drivers licences thereby helping to protect the community from harm. A well regulated taxi service is important in providing safe transport for many people in vulnerable situations.

##### **4.3 Legal and Human Rights Implications**

4.3.1 There are no material legal implications arising from the adoption of the new policy provided the relevant statutory procedures are followed.

##### **4.4 Environment and Sustainability Implications**

4.4.1 There are no adverse environmental implications in the report.

##### **4.5 Health, Wellbeing and Leisure Implications**

4.5.1 A well regulated taxi service will allow more people access to health and leisure opportunities which will increase general wellbeing

##### **4.6 Human Resources Implications**

4.6.1 There are no human resource implications contained within the report.

#### 4.7 Risk Management Implications

4.7.1 There is a risk that if the Council does not have a policy it is more likely that it could face legal challenges over its decisions and that unsuitable and possibly dangerous people could obtain drivers' licences

#### 4.8 Equalities Implications

4.8.1 There are no negative impacts of opportunity for any known group. Applications will be considered in accordance with legislative requirements and Council policy and each case will be judged on its merits. Therefore there are no equality impact issues in respect to the granting of consents.

#### 4.9 Links to Council's Priorities

4.9.1 Creating Safer Communities  
Improving leisure and wellbeing opportunities  
Promoting sustainable and vibrant communities  
Supporting employment and business

The Contact Officer for this report is Stephen Whiles (719326).

#### Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date



# **NORTH WARWICKSHIRE BOROUGH COUNCIL**

## **TAXI LICENSING**

**(HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES)**

Policy Document and Guidance Relating to the  
Definition of 'Fit and Proper' Persons

Including

The consideration of the grant, suspension or revocation of hackney carriage and private hire driver's and operator's licences in respect of convictions, cautions and medical conditions.

## Contents

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## Introduction

This document sets out the Council's stance on the relevance of convictions and cautions and medical matters in respect of applications for the grant of new licences, and the renewal of existing hackney carriage and private hire vehicle, driver's operator's and proprietor's licences.

These guidelines are to assist the Licensing Committee and Licensing Sub Committee (collectively referred to as the Committee) in their decision-making and to maintain the consistency of the decisions made. They will also provide clearer information to current and potential applicants.

The objective of the licensing regime is to ensure that, so far as possible, those licensed to drive taxis are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience, sober, medically fit, honest and trustworthy. It is not to punish the applicant twice for a conviction or caution, but to ensure that public safety is not compromised.

These guidelines will be taken into account when dealing with new applications as well as renewal applications for an existing private hire/hackney carriage driver's licence, private hire/hackney carriage vehicle licence, and a private hire operator's licence, and also, when considering offences by, or other complaints about, an existing driver.

Each case will be considered on its own merits. Any necessary hearings will be conducted in privacy unless on balance the public interest suggests otherwise. The list of offences and other complaints detailed in this document is not exhaustive and the Council may take into consideration any other matters not specifically listed.

As part of this policy, the Council does not permit a person to apply for a hackney carriage or private hire licence until:

1. They have held a driving licence for a minimum of 2 years.
2. They have passed as a minimum the DVSA standard taxi driving test or a higher qualification at least QCF Level 2.
3. They can demonstrate that they have the right to work in the UK.

Furthermore all applicants must have undertaken training approved by the Licensing Authority in Safeguarding Vulnerable Persons & Prevention Of Child Sexual Exploitation within six months of the grant of a licence.

Any appeals against decisions in respect of refusal to grant must be made to the Magistrates Court.

## Legislation

The Local Government (Miscellaneous Provisions) Act 1976 Section 51 deals with the issue of driver suitability:

"...Council shall not grant a licence to drive a (Private Hire/Hackney Carriage Vehicle) unless they are satisfied that the person is a **fit and proper person** to hold a driver's licence."

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states:

...the District Council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds.

1. That he has since the grant of the licence.
  - i) Been convicted of an offence involving dishonesty, indecency or violence; or
  - ii) Been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of Part of this Act; or
2. Any other reasonable cause.

Therefore the wording of the legislation makes it clear that the Council may grant a licence ONLY if it is satisfied that the person is fit and proper - the onus is on the applicant to prove this, NOT the Council to demonstrate that they are not.

### **Procedure**

1. The completed application and associated documents will be considered.
2. The Licensing Manager will then grant the licence or renewal where the Applicant is deemed to be fit and proper in accordance with the policy.
3. Where the policy indicates that an application should be refused the Licensing Manager will write to the Applicant and advise that refusal is proposed and indicate the reason why.
4. The Applicant will then be given the chance to make representations to the Councils Licensing Sub Committee ("the Committee") before a decision is made. Representations can be made in person or in writing.
5. The Applicant will need to notify the Council within 21 days if they want their application to be considered by the Committee.
6. When this notification is received a hearing before the Committee will be arranged and the Applicant notified of the date.
7. A report will be prepared and submitted to the Committee which will contain details of why refusal of the application has been proposed and include any evidence that the Applicant has already submitted. The Applicant will be given a copy of the report and the opportunity to submit further evidence in advance of the hearing.
8. The Applicant may attend the hearing and address the Members of the Committee. The Applicant may choose to attend with a legal representative or a friend who may speak on their behalf. The Applicant may choose not to attend but to send in written representations for the Committee to consider. If the Applicant does not attend the Committee may decide to consider the application in their absence.
9. The Committee will then decide whether to grant or refuse the application based on whether they believe that the applicant is fit and proper to hold a licence. The Applicant will be notified of the decision in writing. If the decision is to refuse the application then the written notification will include reasons for the refusal and details of how to appeal.
10. If an Applicant indicates that they do not want their application or renewal to be considered by the Committee or does not respond then the Licensing Manager will review the application after 21 days and decide whether to grant or refuse the licence.



The Applicant will then be informed of the decision and reasons in writing along with the right of appeal.

### **“Fit and Proper Person”**

There is no absolute definition as to what constitutes a “fit and proper person”. However, considering the range of passengers that a driver may carry, for example, elderly people, unaccompanied children, people with disabilities, those who have had too much to drink, lone women and foreign visitors, the Committee will want to have confidence that such people would be able to rely on the driver.

Some important areas that will be considered by the Committee are:

- Honesty and trustworthiness - taxi drivers often have knowledge that a customer is leaving a house empty; they have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars; any passenger would expect to be charged the correct fare for a journey and then given the correct change; they would also expect a driver to hand in any article left by a passenger in a vehicle, and also to maintain confidentiality between driver and fare.
- Courtesy - taxi drivers are often subject to unpleasant or dishonest behaviour. The Council does not consider that this excuses any aggressive or abusive conduct on the part of the driver. A driver will be expected not to have any convictions or cautions for offences of a violent or threatening nature.
- Consistently good and safe driving - those paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to the licence.
- Good knowledge of the area that they are working in.
- Good physical and mental health.
- Ability to read, speak and understand English, together with a working knowledge of arithmetic in giving the correct change, etc.
- Good knowledge and awareness of any special requirements that disabled passengers may have.
- To be able to exercise judgement in deciding whether a young person or vulnerable adult entering a taxi is placing him / herself in harm's way by association with a controlling or over solicitous adult or by the influence of drugs and / or alcohol.

### **Protecting the Public**

The over-riding consideration of the members of the Committee is to protect the travelling public. Having considered and applied the appropriate guidelines, the following question should be applied:

*“Would I allow my daughter or son, granddaughter or grandson, spouse, mother or father, or any other person I care for or any vulnerable person I know, to get into a vehicle with this person alone?”*

If answer is yes, then favourable consideration should be given towards allowing the application to proceed (subject to any other test being completed); or permitting the licence to continue if there is one in force.

If the Committee has reasonable doubts, then an application should be refused until those doubts can be allayed through further evidence being supplied or consideration be given to revocation or suspension of the licence. It is the applicant’s responsibility to provide sufficient evidence to this effect.

### **Compliance With Conditions And Requirements Of The Licensing Authority**

The Committee may take into account an applicant’s relevant history while holding a licence, from this or any other authority, and also, in deciding whether a person is a fit and proper person to hold a licence, or continue to hold, such matters as their record of complaints, or positive comments from members of the public, their compliance with Licence conditions and their willingness to co-operate with Licensing Officers.

### **Convictions / Cautions**

The licence application form requires that the applicant must disclose all convictions and cautions. These include any spent convictions under the Rehabilitation of Offenders Act 1974 s 4, and Rehabilitation of Offenders Act (Exceptions) Order 2003. An existing licence holder must report any such convictions within seven days to the Licensing Authority.

The Committee is required to look at any past indicators (convictions, speeding offences etc.) that may affect a person’s suitability to hold, or continue to hold, a licence and consider the possible implications of granting such a licence, or allowing an existing licence to continue.

Applicants must disclose any cautions they have received or any pending matters. Existing licence holders must report these within 7 days to the Licensing Authority.

If a licence is granted to a person on the basis of false or incomplete information supplied by them the Committee may revoke the Licence and require the applicant to submit a further application which will be considered in the light of the full information now available to the Committee.

The disclosure of any conviction will not necessarily preclude an applicant from being issued a licence. However, all convictions, spent or live, will be assessed, and may be taken into consideration.

All hackney carriage and private hire drivers and operators, proprietors and drivers currently holding a licence must disclose any conviction or caution imposed on them, whether for motoring offences or any other reason, in writing to the Council within 7 days.

## **Rehabilitation Periods**

These guidelines have separated the various offences affecting such an application into categories, each detailing the period that must usually elapse after a particular offence within that category, before an applicant can be considered a fit and proper person to hold a licence. If, after consideration by the Committee, a person does not satisfy these guidelines, then the application should be refused or the licence revoked or suspended until the applicant is able to satisfy them.

The Committee will not consider evidence as to whether an applicant did or did not commit an offence of which a Court has convicted them. The applicant may, however, explain any mitigating factors, which they may consider led to them committing the offence. The Committee may choose to take these factors into account, together with all other relevant information, in deciding whether the applicant is a fit and proper person to hold or retain a licence.

If the applicant or holder of a licence has notified the Council of a conviction but is appealing against it to a higher court, the matter may be referred to the Committee for a decision as to whether the licence / application should be suspended pending the outcome of the appeal.

Convictions for offences may not automatically prevent a person from proceeding with an application or mean that his licence is revoked or suspended. However, the number, type and frequency of any offences will be taken into account. In some cases it may be appropriate to issue a licence together with a strong warning as to future driving conduct, or to give a similar warning to an existing licence holder. If a significant history of offences is disclosed, refusal of an application or a revocation or suspension may result.

## **Hackney Carriage/Private Hire Offences**

<b>Offence</b>	<b>Minimum period free from conviction</b>
Providing false information on licence application	5 Years
Using an unlicensed vehicle	5 Years
Driving a licensed vehicle without a licence/Operating a vehicle without an operator's licence/Proprietor using an unlicensed driver	5 Years
Not wearing identity badge	2 Years
Obstruction of an authorised officer/constable/failing to comply with requirement of authorised officer or Constable.	2 Years
Overcharging/Unnecessarily prolonging journey	5 Years
Failing to produce records/documents on request	5 Years
Failing to notify change of details including address, convictions, cautions and accidents.	5 Years

These minimum periods are following conviction by a court or where a driver has accepted a Simple Caution. Officers will prosecute for these offences in accordance with the Enforcement Policy which is available on the Council website.

The Enforcement Policy describes how action will be taken in a graduated manner which is

proportionate to the matter under consideration. For example the actions that can be taken are:

- Informal warning
- Formal Warning
- Formal Action, including Simple caution, Prosecution or actions by the Committee.

## **TRAFFIC OFFENCES**

### **New applicants:**

Any new applicant who has 9 penalty points or more on his driving licence will be required to appear before the Council's Licensing Committee and should expect their application to be rejected. The Licensing Committee may, upon considering any representations by the applicant at a meeting:

- Issue the licence with or without a written warning
- Refuse the application.

For any offences totaling 8 or fewer points on an applicant's driving licence, a licence may be granted, with a formal warning with regard to future conduct.

Any applicant that has been convicted of a major traffic offence will be assessed in accordance with the table below.

### **Existing Licence Holders**

Private hire and hackney carriage drivers are professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at **all** times. Any traffic offences could show a lack of responsibility whilst driving either due to the maintenance and safety of their vehicles or in the manner of their driving.

Convictions for traffic offences may not automatically prevent a person from proceeding with a renewal of their licence, or from keeping their licence. However, the number, type and frequency of an offence will be taken into account. In some cases it may be appropriate to issue a licence together with a strong warning as to future driving requirements.

Any existing licence holder who has 9 penalty points or more on his driving licence will be required to appear before the Committee to explain their convictions. The Committee then have the option of:

- Taking no further action
- Giving a written warning
- Requiring the driver to pass a DSA private hire/hackney drivers test, **at the driver's own expense**, within 2 months of their decision.
- Suspending the Licence upon conditions or for a period of time
- Revoking the licence.

Any driver who has been convicted of a major traffic offence will be assessed in accordance with the table below.

<b>Offence</b>	<b>Offence Code</b>	<b>Minimum period free from conviction</b>
Death/serious injury by dangerous driving	DD10/DD80	Not suitable to be licensed
Manslaughter or Culpable Homicide whilst driving a vehicle	DD60	Not suitable to be licensed
Death by careless driving	CD40/CD50/CD60 CD70/CD80/CD90	Not suitable to be licensed
Dangerous/Furious Driving	DD40/DD90/MR09	Not suitable to be licensed
Careless Driving	CD10/CD20/CD30	10 Years
Driving/Attempting to drive under the influence of alcohol or drugs	DR10/DR20/DR80 MR29	10 years
Failing to stop/report an accident/accident offences	AC10/AC20 AC30/MR19	10 Years
In charge of vehicle under the influence of alcohol/drugs	DR40/DR50/DR90	7 Years
Failing to provide a specimen for analysis/refusing to give permission for specimen analysis	DR30/DR31/DR61 DR60/DR70	10 Years
Driving without insurance	IN10	5 Years
Driving or attempting to drive whilst disqualified	BA10/BA30/MR49	10 years
Driving other than in accordance with a licence	LC20/LC50	5 Years
Driving having failed to notify a disability/false declaration about fitness	LC30/LC40	10 Years
Driving whilst using a mobile phone	CU80	5 years
Disqualification following totting up	TT99	4 years from end of disqualification period

## **MEDICAL PROBLEMS PRESENTED**

### **New applicants**

Any applicant who's driving licence has been revoked or refused on medical grounds by the DVLA within the last 5 years; or has received a conviction for driving a vehicle after failing to notify a disability; or made a false declaration about fitness and medical health, will be required to appear before the Licensing Committee and should expect their application to be rejected, until medical proof of current fitness can be provided.

The onus is on the applicant to provide appropriate medical proof from their GP/consultant or nominated practitioner at their own expense, which may be required be brought to any Committee hearing. The Committee may consider issuing a licence if they are satisfied that the report shows a clean bill of health, and that the applicant is a fit person to recommence driving and is deemed to be of no threat to public safety.

If the Committee has any doubts over the applicant's fitness, then the application should be adjourned or refused until further evidence can be produced by the applicant to overcome these doubts.

### **Existing Licence Holders**

Any existing licence holder whose driving licence has been revoked or refused on medical grounds by the DVLA or who has received an offence of driving a vehicle after failing to notify a disability or a false declaration about fitness and medical health, will be required to appear before the Licensing Committee and should expect their renewal application to be rejected, until medical proof of current fitness can be provided.

If evidence to the above is not declared, but is discovered by officers, the driver must attend a meeting of the Committee to explain why they failed to declare it.

All licensed drivers must submit to a medical inspection every three years by either their own GP/consultant or one of the nominated medical practitioners. However, if at any time the Environmental Health Manager or the Committee feel that a medical condition has arisen or an existing one has deteriorated since a previous medical was taken, an additional medical report may be required to be obtained at the driver's own expense.

## **SEXUAL OFFENCES**

<b>Offence</b>	<b>Minimum Period Free From Conviction</b>
Rape	Not suitable to be licensed
Assault by penetration	Not suitable to be licensed
Sexual assault	Not suitable to be licensed
Sexual offences involving a child or young person	Not suitable to be licensed
Indecent exposure	Not suitable to be licensed
Prostitution/Soliciting	Not suitable to be licensed
Soliciting prostitutes from a motor vehicle or kerb crawling	Not suitable to be licensed

## **DRUG OFFENCES**

<b>Offence</b>	<b>Minimum Period Free From Conviction</b>
Supply of controlled drugs/Possession with intent to supply	Not suitable to be licensed
Possession of a controlled drug	5 Years

## **VIOLENCE AND PUBLIC ORDER OFFENCES AND OFFENCES AGAINST PROPERTY**

<b>Offence</b>	<b>Minimum Period Free From Conviction</b>
Murder	Not suitable to be licensed
Manslaughter	Not suitable to be licensed
Grievous Bodily Harm/Unlawful Wounding	Not suitable to be licensed
Robbery	Not suitable to be licensed
Arson With Intent To Endanger Life	Not suitable to be licensed
Arson	10 Years
Riot Or Violent Disorder	10 Years
Possession Of A Firearm	Not suitable to be licensed
Assault Occasioning Actual Bodily Harm	10 Years
Assaulting A Police Officer	10 Years
Threats To Kill	Not suitable to be licensed
Witness Intimidation	10 Years
Affray	10 Years
Possession Of An Offensive Weapon Or Bladed Article	Not suitable to be licensed
Harassment With Fear Of Violence	Not suitable to be licensed
Harassment	10 Years
Criminal Damage (Value Over £5000)	5 Years
Criminal Damage (Value Under £5000)	3 Years
Threatening Behaviour – Section 4 & 4A Public Order Act	7 Years
Common Assault	7 Years
Drunk And Disorderly In A Public Place	5 Years
Disorderly Behaviour – Section 5 Public Order Act	5 Years

## **OFFENCES OF DISHONESTY**

Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public, for example, by demanding more than the legal fare or giving incorrect change. Overseas visitors can be confused by the change in currency and become “fair game” for an unscrupulous driver. Similarly, any customer can be defrauded by a driver taking them by any other than the shortest route or by them retaining any lost property left in their vehicle.

Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. For these reasons a serious view is taken at any convictions involving dishonesty.

<b>Offence</b>	<b>Minimum Period Free From Conviction</b>
Burglary	Not suitable to be licensed
Fraud (Sentence Of Imprisonment)	Not suitable to be licensed
Fraud (No Sentence Of Imprisonment)	5 Years
Theft (Sentence Of Imprisonment)	Not suitable to be licensed
Theft (No Sentence Of Imprisonment)	10 Years
Vehicle taking	5 Years

## **COMPLAINTS AGAINST DRIVERS**

Complaints are occasionally made against hackney carriage and private hire drivers. Such complaints include refusal to assist a disabled passenger, use of abusive language or refusal to accept a fare or threatening or failing to respond to a reasonable request by officers. Such complaints should be considered first by the Licensing Officer for consideration as to the nature of the complaint being serious enough to be forwarded to the Licensing Committee.

The Committee should then consider the complaint together with any history of complaints made against the driver to assess any patterns. On the basis of the evidence, the Committee should consider whether the driver is a fit and proper person to hold a licence.

## **APPEALS**

Any applicant refused a driver’s licence on the grounds that the Committee is not satisfied they are a fit and proper person to hold such a licence, or who has had their licence suspended, revoked or had a condition attached with which they disagree has a right of appeal to the magistrates’ court within 21 days of the notice of decision .

## **GLOSSARY**

Appeal A means by which a Committee hearing decision can be reviewed by the Magistrates Court or the Crown Court. The decision of the Committee may be upheld or overturned.

Caution A signed admittance of guilt of committing an offence where no further action is taken at that time. It may be taken into account in the case of re-offending.

Committee A panel of the Licensing Committee gathered together to consider the suitability of a person to hold a taxi related licence.



Any reference to “Committee” will be classed as the Licensing Committee for the purposes of Licensing.

Conviction Judicial determination that someone is guilty of a criminal offence

Fit and Proper Person A person who is of no threat to the general public, has a good character and is therefore deemed fit and suitable to hold a licence.

Hackney Carriages A vehicle that can carry passengers for hire or reward, can be hailed by a prospective passenger and can park on a rank to await the approach of passengers; a car available for public hire.

Mitigating Circumstances The conditions surrounding a conviction. These conditions may alter the perceived seriousness of a crime.

Plying for Hire To actively invite or respond to a hail for a taxi with the intent to charge a specific fare for the service

Private Hire Vehicles A car which must be pre-booked with a private hire operator. This type of vehicle cannot stand in a rank or ply for hire.

Proprietor The person in possession of a vehicle which is the subject of a hiring agreement or hire purchase agreement.

Operator This is the business, which in this country can cover anything from a one person business up to the largest firm in the country

Rehabilitation The period to which the standing authority feels a person has repented their crimes.

Revoke To take back something for an indefinite period of time.

Suspend To hold something away from its owner for a period of time.

Written Warning A letter advising that although an offence was not serious enough to have warranted the suspension or revocation of the licence, the offence committed is unacceptable and has caused concern to the committee as to the person’s suitability to hold such a licence. If, in the future, similar behaviour is exhibited, the consequences could be much more severe, possibly leading to the suspension of the licence.

## **Agenda Item No 8**

### **Licensing Committee**

**6 June 2016**

**Report of the  
Assistant Chief Executive And Solicitor to  
the Council**

**Animal Boarding Establishments  
Act 1963 – Review Of Fees For  
Home Boarding**

#### **1 Summary**

- 1.1 The report asks the Committee to consider adopting a revised scale of fees in respect of home boarding establishments.

#### **Recommendation to the Committee**

**That the revised fee structure for the grant of an animal boarding licence to home boarders set out in paragraph 3.5 be agreed.**

#### **2 Consultation**

- 2.1 Councillors Jenns (Chairman) and Lewis (Spokesperson) have been sent an advanced copy of this report for comment. Any comments received will be reported verbally at the meeting.

#### **3 Report**

- 3.1 The Council is responsible for the grant of licences to board cats and dogs under the provision of the Animal Boarding Establishments Act 1963. The purpose of the legislation is to ensure the welfare of the animals and to that end the Council applies a set of conditions that must be met before a licence is granted. To ensure that the conditions are being complied with the premises are inspected at least once annually and more often if there are complaints or intelligence to suggest there may be a problem.
- 3.2 Traditionally boarding establishments have been quite large, some boarding up to seventy animals. However there has recently been a new trend for 'home boarders' who typically board one to three animals in their own homes.
- 3.3 The inspection of home boarders takes much less time than inspecting a large kennels. It seems unfair to charge both types of establishment the same licence fee and furthermore under the EU Services Directive the Council must only charge fees that will cover the cost of administering the licence regime.
- 3.4 Detailed records have been kept in respect of issuing new and renewing existing licences. New applications typically involve around one extra hours

work compared to the renewal of an existing licence. A suggested scale of fees has therefore been calculated.

3.5

Type	Current Fee (All Boarding Premises)	Proposed Fee (Home Boarders)
New application	£219.70	£117.00
Renewal	£167.70	£90.00
Variation	£50.00	£50.00

## 4 Report Implications

### 4.1 Finance and Value for Money Implications

4.1.1 The proposals will enable the Council to make full recovery of the cost of administering the licensing function without making a profit or loss. The scale of fees will be kept under review to ensure that this balance is maintained. The additional fee for a new licence is based on one additional hour of Officer time in carrying out visits and associated administration based on the current hourly rate of £27.10

### 4.2 Safer Communities Implications

4.2.1 There are no safer communities implications contained in the report.

### 4.3 Legal and Human Rights Implications

4.3.1 There are no material legal implications arising from the adoption of the new fee structure provided all the relevant statutory procedures are followed.

### 4.4 Environment and Sustainability Implications

4.4.1 There are no adverse environmental implications in the report.

### 4.5 Health, Wellbeing and Leisure Implications

4.5.1 The provision of sufficient well run animal boarding establishments assists leisure opportunities.

### 4.6 Human Resources Implications

4.6.1 There are no human resource implications contained in the report.

### 4.7 Risk Management Implications

4.7.1 There is a risk that if the Council does not adopt this revised fee structure it could face a challenge over its fees.

### 4.8 Equalities Implications

4.8.1 There are no negative impacts of opportunity for any known group.

#### 4.9 Links to Council's Priorities

- 4.9.1 Responsible financial and resource management.  
Improving leisure and wellbeing opportunities.  
Supporting employment and business.

The Contact Officer for this report is Stephen Whiles (719326).

#### Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date



**For the attention of Stephen Whiles**

Licencing Officer  
North Warwickshire Borough Council

03 May 2016

Dear Stephen

**Re: Fees for Animal Boarding Establishment Licence**

Can you help please?

We are Jeff & Donna Garratty and we are a start-up business called Animals at Home (North Warwickshire) Ltd, one of over 50 branches of a franchised network of professional pet carers.

AAHNW Ltd is based in Atherstone, and serves approximately 134,000 domestic dwellings in the North Warwickshire area. We're writing regarding the fees charged by NWBC for dog hosting/animal boarding in the hope that you will consider our request in relation to these fees.

Animals at Home operates differently to a boarding kennels which these licences were originally designed for.

For an overview of the hosting services, please see <http://www.animalsathome.co.uk/North-Warwickshire/Dog-Boarding>.

We've included further details below about how our business model works for Host Families for dogs, and hope that you may be able to help.

Our goal is to grow and develop a new local business and we decided to join an established and successful franchise. However, we still need the help of our local community and its leaders with our new enterprise, and here we find we are being held back.

Here is the scenario. Animals at Home Ltd is a national pet care company which provides care for people's pets when they themselves are unable to, for example when they're at work, on holiday or in hospital. Much of this care involves us visiting the owner's home and feeding and exercising their pets. We also collect stray dogs for some LA's and we are members of the National Dog Wardens Association.

Jeff & Donna Garratty  
Animals at Home (North Warwickshire) Ltd  
44 Radford Close  
Atherstone  
CV9 3LA  
01827 768198  
07533 542928  
Company No: 10111480



All of our vehicles are authorised by the DEFRA department, Animal & Plant Health Agency, Type 2 to carry pets for all journeys and they are designated as Animal Ambulances.

All Animals at Home franchisees are trained by vets to handle a variety of pets in different conditions of health and all of our ambulances carry animal first aid kits and microchip scanners. We have over 50 pet taxi/animal ambulances on the road throughout the UK and we have a qualified and practicing vet on our Board of Directors.

Some dogs are unsuitable for kennels; for example a dog who has come from a rescue centre such as Blue Cross or Dogs Trust, or our own local rescue centre – Ruff Luck. If the owners go on holiday in the first couple of years since having the dog, putting that dog into a kennel is not advisable as it will cause great insecurity. Some other dogs may be infirm and kennels do not like these dogs as guests.

Animals at Home will find occasional Host Families who may only host a dog a couple of times a year and so not make a living from this but do it as an almost altruistic service. They are paid a small amount to do this which is expenses plus a fee for walking the dog. They will never have more than 2 dogs (however, if they were willing to have more than one, the dogs must be from the same family).

Our risk assessment is we believe quite demanding and we make sure there are registers and vet details held by the host, along with individual feeding regimes, health history, habits and characteristics of the dog.

In order to board a dog within your own home for profit the householder will need to have a license from the LA. That's fine but unfortunately many LA's categorise this in exactly the same way as a commercial kennel with say 40 dogs on site. We're aware that the relevant Act is the Animals Boarding Act 1963.

When that act was adopted there was no concept of the dog boarding scenario. Consequently they are asking for extremely high annual fees which make the whole thing unviable, as every individual house has to have one, not just one kennel establishment. Other Councils have adopted a different approach and developed a license for dog boarding as well as maintaining their Kennel License for appropriate premises.

There are over 50 franchised Animals at Home branches nationwide and it is very rare indeed (almost unheard of) for a local council to request a vet to visit private homes for licensing applications. Swindon Borough Council for example have said that DEFRA confirm a license will be required for dog boarding, but that the main company, in this case our franchise, should hold the license, and list the houses where the hosts live and the dogs will be accommodated.

**Jeff & Donna Garratty**  
**Animals at Home (North Warwickshire) Ltd**  
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This same situation has been suggested by Nottingham Council and others. Adopting this position will have no negative impact on the health and welfare of dogs, or the environment and indeed allows many of them to be housed in a more suitable environment.

The reality is that while a charge for the license is clearly acceptable, we feel that the vet visit is simply not necessary. We would be very content to have a main license for ourselves and then ideally no charge for hosts, but understand a small fee for each new host may be charged.

We are a very new business offering all pet care services and are part of a national franchise with a very successful business plan and many other franchised branches. As a new franchise, we have the support of the management team and access to their knowledge and expertise.

We would very much like to achieve our goal of becoming a successful business in our home county by offering a professional and reliable pet care service to the community. In order to become successful, with the potential of many, many clients and also with a view to employ locally; we at this stage know that without having available hosts for guest dogs then the business would not thrive.

The only obstacle preventing success is the level of the fees that are required by NWBC for each host license as they are somewhat higher than some other councils and they far outweigh any initial monetary return.

Can we please ask for your help in considering our request in allowing our home property (and business address) to be licensed in accordance with the Act, and request the waiver of a vet visit to our and each individual host home, therefore allowing us to hold one license for this council area and list the hosts homes on that license?

However, if that is not possible and a licence for each host family is required, can we please ask you to review the relevance of the current licences to our business and consider having a different licence format/agreement? Or could we have a significantly reduced fee for each current host licence?

We thank you very much for your consideration in this very important matter and thank you for your help in hopefully assisting a new local business at the vital stage of start-up.

Yours sincerely,

Jeff & Donna Garratty  
Animals at Home (North Warwickshire) Ltd

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## **Agenda Item No 9**

### **Licensing Committee**

**6 June 2016**

#### **Report of the Assistant Chief Executive And Solicitor to the Council**

#### **Adoption of Model Conditions in Respect of Licences for Animal Establishments**

### **1 Summary**

- 1.1 The report asks the Committee to consider adopting the Chartered Institute of Environmental Health (CIEH) model licence conditions in respect of animal boarding establishments, dog breeding establishments and pet shops.

#### **Recommendation to the Committee**

**That it be made a condition of animal boarding, dog breeding and pet shop licences issued by the Council that the premises must always comply with the current model licence conditions of the CIEH**

### **2 Consultation**

- 2.1 Councillors Jenns (Chair) and Lewis (Spokesperson) have been sent an advanced copy of this report for comments. Any comments received will be reported verbally at the meeting. Full consultation was carried out with all licence holders in 2015 and no adverse comments were received. Copies of the current CIEH model licence conditions have been made available in the Members rooms.

### **3 Report**

- 3.1 The Council is responsible for licensing certain premises to ensure proper standards of animal welfare are maintained. Amongst these are
- Boarding of dogs and cats, including day care (Animal Boarding Establishments Act 1963)
  - Breeding of dogs (Breeding of Dogs Acts 1973 and 1991, Breeding and Sale of Dogs (Welfare) Act 1999)
  - Sale of pets (Pet Animals Act 1951)
- 3.2 The Council has always had conditions attached to these licences designed to ensure that high standards of animal welfare are maintained.
- 3.3 The Chartered Institute of Environmental Health has for some years produced model conditions for all of these licences and the majority of local authorities around the Country have adopted these conditions.



3.4 The Committee is asked to consider adopting these conditions. By doing so the Council would fall into line with nationally accepted standards. By specifying that premises must always comply with the current model conditions the Council can ensure that the latest standards are always applied.

#### **4 Report Implications**

##### **4.1 Finance and Value for Money Implications**

4.1.1 There are no financial implications in the report.

##### **4.2 Safer Communities Implications**

4.2.1 There are no safer communities implications in the report.

##### **4.3 Legal and Human Rights Implications**

4.3.1 There are no material legal implications arising from the adoption of the proposal provided the relevant statutory procedures are followed.

##### **4.4 Environment and Sustainability Implications**

4.4.1 There are no adverse environmental implications in the report

##### **4.5 Health, Wellbeing and Leisure Implications**

4.5.1 There are no health, wellbeing or leisure implications in the report.

##### **4.6 Human Resources Implications**

4.6.1 There are no human resources implications in the report.

##### **4.7 Risk Management Implications**

4.7.1 There is a risk that if the most up to date conditions are not applied animal welfare could be prejudiced.

##### **4.8 Equalities Implications**

4.8.1 There is no negative impact of opportunity for any known group.

##### **4.9 Links to Council's Priorities**

4.9.1 Supporting employment and business

The Contact Officer for this report is Stephen Whiles (719326).

**Background Papers**

Local Government Act 1972 Section 100D, as substituted by the Local Government Act,  
2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

## **Agenda Item No 10**

### **Licensing Committee**

**6 June 2016**

**Report of the  
Assistant Chief Executive and Solicitor**

**Local Government (Miscellaneous  
Provisions) Act 1982 Byelaws For  
Cosmetic Piercing And Semi-  
Permanent Skin Colouring**

## **1 Summary**

- 1.1 This report details the proposal for acceptance by the Council of two new sets of byelaws for cosmetic piercing and semi-permanent skin colouring.

### **Recommendation to the Committee**

- a To consider the legislation and proposed byelaws; and recommend to the Council the adoption of the model byelaws; and**
- b To adopt the existing fee for ear piercing and apply that fee to these activities in the interests of consistency. These charges would be subject to yearly review.**

## **2 Consultation**

- 2.1 Councillors Jenns (Chair) and Lewis (Vice Chair) have been sent an advanced copy of this report for comment. Any comments received will be reported verbally at the meeting.

## **3 Report**

- 3.1 Cosmetic piercing and semi-permanent skin colouring carry a potential risk of blood borne virus transmission if infection control procedures are not observed (e.g. the use of sterile equipment for each client). Before the new provisions were introduced by the Local Government Act 2003, local authorities had powers under the Local Government (Miscellaneous Provisions) Act 1982 to regulate ear piercing, tattooing, acupuncture and electrolysis by requiring registration and observance of byelaws.
- 3.2 The Local Government Act 2003 amends the 1982 Act to include cosmetic piercing and semi-permanent skin colouring businesses in the list of those which local authorities have powers to regulate. The new provisions are explained in more detail below, including the new terminology that the legislation uses i.e. cosmetic piercing and semi-permanent skin colouring.

- 3.3 The provisions in section 120 of the Local Government Act 2003 essentially require cosmetic piercing and semi-permanent skin colouring businesses to register themselves and their premises. Local Authorities may make byelaws in respect of matters related to the cleanliness of such businesses.
- 3.4 Section 120 introduces new terminology for simplicity and clarity as follows: Ear piercing and cosmetic body piercing are encompassed in the single term “cosmetic piercing”; and micropigmentation, semi-permanent make-up and temporary tattooing are covered by the umbrella term “semi-permanent skin-colouring”. Semi-permanent skin colouring is defined as “the insertion of semi-permanent colouring into a person’s skin” (section 120(5)). This approach allows for other similar activities to be covered in future.
- 3.5 Schedule 6 of the 2003 Act is intended to provide for transition from the current legislation to the amended legislation and to avoid disruption to local authorities and businesses by providing that:

Persons and premises already registered for activities covered by section 15 of the current legislation (i.e. tattooing, ear piercing and electrolysis) are unaffected;

Where a local authority has already resolved that section 15 of the 1982 Act should be brought into force in their area for tattooing, ear piercing and electrolysis, then the local authority will be automatically enabled to apply the registration and byelaws regime to cosmetic piercing and semi-permanent skin colouring;

A person and premises already registered for ear piercing shall be counted as registered for cosmetic piercing until that person subsequently provides another form of cosmetic piercing (i.e. cosmetic piercing of a part or parts of the body other than the ear), when a new registration would be required. The wording of the schedule appears in full at Appendix 1.

...

The Council resolved at it’s meeting on the 16th November 1983 that the provisions of section 15 of the 1982 Act should apply in the Borough

- 3.6 Section 16 of the 1982 Act also applies to cosmetic piercing and semi-permanent skin colouring businesses. It provides for offences and for non-custodial penalties (summary conviction and fine) for trading without local authority registration or breaching local authority byelaws. The Court may also order suspension or cancellation of registration (whether of a person or premises) on conviction. When cancellation of registration happens, the Court may order a fine, increased on a daily basis for late surrender of the cancelled registration certificate. There is also an offence of not displaying a certificate of registration or byelaws (for which a person is liable on summary conviction to a fine).
- 3.7 Section 15(6) of the Local Government (Miscellaneous Provisions) Act 1982 enables local authorities to charge reasonable registration fees for registration of persons carrying on businesses of cosmetic piercing or semi-permanent skin-colouring. The fee might cover initial inspection(s) associated with

registration, advising the business about registration and associated administration.

3.8 Section 15(7) of the Local Government (Miscellaneous Provisions) Act 1982 provides for local authorities to make byelaws for cosmetic piercing and semi-permanent skin-colouring for the purpose of securing:

- the cleanliness of premises and fittings;
- the cleanliness of the operators;
- the cleansing and, if appropriate, sterilization of instruments, materials and equipment.

3.9 Model byelaws for cosmetic piercing and semi-permanent skin-colouring businesses are attached at Appendix 2.

3.10 The Committee is requested to consider the byelaws with a view to recommending adoption by resolution by the Council.

3.11 Subsequently following adoption, the Council has to apply to the Secretary of State for formal confirmation under Section 236 of the Local Government Act 1972.

3.12 The Committee is requested to adopt the existing registration fee for ear piercing, acupuncture and tattooing which are currently set at £154.40

## 4 **Report Implications**

### 4.1 **Finance and Value for Money Implications**

4.1.1 The proposed registration fee is intended to cover the Council's costs in administering this function

### 4.2 **Safer Communities Implications**

4.2.1 Adoption of the byelaws will help to protect residents and visitors to the Borough who undergo these procedures from blood borne infection. It will also protect responsible businesses from being undercut by unscrupulous operators who may put people's health at risk.

### 4.3 **Legal and Human Rights Implications**

4.3.1 The Council can only enforce this legislation if the byelaws are adopted. There are no material legal implications arising from the adoption of the byelaws provided all the relevant statutory procedures are followed.

### 4.4 **Environment and Sustainability Implications**

4.4.1 There are no adverse environmental or sustainability implications in the report.

#### 4.5 Health, Wellbeing and Leisure Implications

4.5.1 Adoption of the byelaws offers a way of effectively regulating these businesses which will help protect the health and wellbeing of customers.

#### 4.6 Human Resources Implications

4.6.1 Adoption of these byelaws will not be a major commitment as there are currently very few body piercers who are not already registered as ear piercers. It is considered that any extra work can be met from within existing staff resources.

#### 4.7 Risk Management Implications

4.7.1 There is a risk that if the byelaws are not adopted cosmetic piercing and semi permanent skin colouring will carry on unregulated thereby exposing customers to risk of infection.

#### 4.8 Equalities Implications

4.8.1 There are no negative impacts of opportunity for any known group.

#### 4.9 Links to Council's Priorities

4.9.1 Creating safer communities

4.9.2 Supporting employment and business

The Contact Officer for this report is Stephen Whiles (719326).

#### Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

## Appendix 1

### Local Government Act 2003 – Regulation of Cosmetic Piercing and Skin-Colouring Businesses

(Section 120 and Schedule 6)

120 Regulation of cosmetic piercing and skin-colouring businesses

(1) Section 15 of the Local Government (Miscellaneous Provisions) Act 1982 (c.30) (regulation of tattooing, ear piercing and electrolysis businesses) is amended as follows.

(2) In subsection (1) (requirement for person carrying on business to be registered), for paragraph (b) (ear piercing) there is substituted –

“(aa) of semi-permanent skin-colouring;

(b) of cosmetic piercing; or”

(and in the side-note for “ear piercing” there is substituted “semi-permanent skin-colouring, cosmetic piercing”)

(3) In subsection (2) (requirement to register premises where business carried on)-

(a) for “ear-piercing” there is substituted “semi-permanent skin-colouring, cosmetic piercing”,  
and

(b) for “pierce their ears” there is substituted “carry out semi-permanent skin-coloring on them, pierce their bodies”.

(4) In subsection (5) (local authority may not require particulars about individuals whose ears have been pierced etc.), for “or whose ears he has pierced” there is substituted “, whose bodies he has pierced or on whom he has carried out semi-permanent skin colouring”.

(5) After subsection (8) there is inserted –

“(9) In this section “semi-permanent skin-colouring” means the insertion of semi-permanent colouring into a person’s skin”.

(6) Schedule 6 (which makes provision about transition) has effect.

## SCHEDULE 6

### SECTION 120: TRANSITION

Commencement not to affect existing application of section 15 of the 1982 Act

1 The coming into force of section 120 shall not affect the descriptions of person in relation to whom section 15 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) applies in an area in which that section is already in force.

Commencement not to affect pending resolutions about the application of section 15 of the 1982 Act

2 (1) This paragraph applies where immediately before the coming into force of section 120—

(a) there is in force a resolution under section 13(2) of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) that section 15 of that Act is to apply to an authority's area, and

(b) the resolution specifies as the day for the coming into force of that section the day on which section 120 comes into force, or any later day.

(2) The coming into force of section 120 shall not affect—

(a) the validity of the resolution, or

(b) the descriptions of person in relation to whom section 15 of that Act applies in pursuance of the resolution.

Additional powers of commencement in relation to section 15 of the 1982 Act as amended

3 (1) This paragraph applies where an authority has before the coming into force of section 120 passed a resolution that provides, or resolutions that between them provide, for section 15 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) to apply to the authority's area in relation to all of the existing descriptions of person.

(2) Section 13 of that Act shall have effect for the purpose of enabling the authority to bring section 15 of that Act into force in its area—

(a) in relation to persons carrying on the business of cosmetic piercing, and

(b) in relation to persons carrying on the business of semi-permanent skin-colouring.

(3) In sub-paragraph (1), the reference to the existing descriptions of person is to the descriptions of person specified in section 15(1) of that Act immediately before the coming into force of section 120.

Effect of existing ear-piercing registrations following extension of control to cosmetic piercing

4 (1) This paragraph applies where, immediately before section 15 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) comes into force in an authority's area in relation to persons carrying on the business of cosmetic piercing—

(a) that section is in force in the area in relation to persons carrying on the business of earpiercing, and

(b) a person is registered under that section by the authority to carry on a business of earpiercing at premises in the area which are registered under that section for the carrying-on of that business.

(2) From the coming into force of that section in that area in relation to persons carrying on the business of cosmetic piercing, the registrations of the person and the premises in respect of ear-



piercing shall have effect as registrations in respect of cosmetic piercing, subject to sub-paragraph (3).

(3) Sub-paragraph (2) ceases to apply when the business of cosmetic piercing carried on by the person at the premises subsequently first involves cosmetic piercing other than ear-piercing.

#### Interpretation

5 In this Schedule, except paragraph 2(1)(a) and 3(1), any reference to section 15 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) includes a reference to section 16 of that Act so far as it has effect for the purposes of that section.

## **APPENDIX 2 (1)**

### **Draft model byelaws**

#### **Cosmetic piercing**

Byelaws for the purposes of securing the cleanliness of premises registered under section 15 of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in those premises and of registered persons and persons assisting them and the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the business of cosmetic piercing made by North Warwickshire Borough Council. in pursuance of Section 15(7) of the Act.

1. Interpretation:

a. In these byelaws, unless the context otherwise requires –

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

“Client” means any person undergoing treatment;

“Operator” means any person giving treatment;

“Premises” means any premises registered under Part VIII of the Act;

“Proprietor” means any person registered under Part VIII of the Act;

“Treatment” means any operation in effecting cosmetic piercing;

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

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

2. For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that –

a. All internal walls, doors, windows, partitions, floors and floor coverings, and ceilings are kept clean and in such good repair as to enable them to be cleaned effectively;

b. All waste materials, and other litters, arising from the treatment should be handled and disposed of as clinical waste in accordance with relevant legislation and guidance as advised by the local authority;

c. All needles used in treatment are single-use and disposable, as far as is practicable; and are stored and disposed of as clinical waste in accordance with the relevant legislation and guidance as advised by the local authority;

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

- e. All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 3b below are placed immediately prior to treatment, have a smooth impervious surface which is disinfected immediately after use and at the end of each working day;
  - f. Where tables and couches are used, they are 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”, “No Eating or Drinking” is prominently displayed there.
3. For the purpose of securing the cleansing and so far as is appropriate, the sterilization of instruments, materials and equipment used in connection with the treatment –
- a. An operator shall ensure that, before use in connection with treatment, any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in the treatment –
    - i. is clean and in good repair, and, so far as is appropriate, sterile;
    - ii. has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned and, so far as is appropriate, sterilized.
  - b. An operator shall ensure that any needle, metal instrument, or other item of equipment, used in treatment or for handling instruments and needles used in the treatment is in a sterile condition and kept sterile until it is used;
  - c. A proprietor shall provide –
    - i. adequate facilities and equipment for the purpose of sterilization (unless pre-sterilized items are used) and of cleansing, as required in pursuance of these byelaws;
    - ii. sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;
    - iii. an adequate constant supply of clean hot and cold water readily available at all times on the premises;
    - iv. adequate storage for all items mentioned in byelaw 3 a and b above, so that those items are properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.
4. For the purpose of securing the cleanliness of operators –
- a. A proprietor shall ensure that –
    - i. any operator keeps his hands and nails clean and his nails short;

- ii. any operator wears disposable surgical gloves that have not previously been used with any other client;
  - iii. any operator of the premises 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 any other client;
  - iv. any operator keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;
  - v. any operator does not smoke or consume food or drink in the treatment area.
- b. A proprietor shall provide;
- i. suitable and sufficient washing facilities for the sole use of operators, including hot and cold water and sanitising soap or detergent;
  - ii. suitable and sufficient sanitary accommodation for operators.

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                      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

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

B. Section 16(2) of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who contravenes any of 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 his registration and 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 sub-sections (1), (2), (8) or (10) of Section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

C. Nothing in these byelaws extends to the practice of cosmetic piercing by or under the supervision of a person who is registered as a medical practitioner or to premises on which the practice of cosmetic piercing is carried on by or under the supervision of such a person.

## **APPENDIX 2 (2)**

### **Draft model byelaws**

#### **Semi – permanent skin colouring**

Byelaws for the purposes of securing the cleanliness of premises registered under section 15 of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in those premises and of registered persons and persons assisting them and the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the business of semi-permanent skin colouring made by North Warwickshire Borough Council in pursuance of Section 15(7) of the Act.

1. Interpretation:

a. In these byelaws, unless the context otherwise requires –

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

“Client” means any person undergoing treatment;

“Operator” means any person giving treatment;

“Premises” means any premises registered under Part VIII of the Act;

“Proprietor” means any person registered under Part VIII of the Act;

“Treatment” means any operation in effecting cosmetic piercing;

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

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

2. For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that –

a. All internal walls, doors, windows, partitions, floors and floor coverings, and ceilings are kept clean and in such good repair as to enable them to be cleaned effectively;

b. The treatment area is used solely for the giving of treatment

c. The floor of the treatment area is provided with a smooth impervious surface

- d. All waste materials, and other litters, arising from the treatment should be handled and disposed of as clinical waste in accordance with relevant legislation and guidance as advised by the local authority;
  - e. All needles used in treatment are single-use and disposable, as far as is practicable; and are stored and disposed of as clinical waste in accordance with the relevant legislation and guidance as advised by the local authority;
  - f. All furniture and fittings in the premises are kept clean and in such good repair as to enable them to be cleaned effectively;
  - g. All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 3b below are placed immediately prior to treatment, have a smooth impervious surface which is disinfected immediately after use and at the end of each working day;
  - h. Where tables and couches are used, they are covered by a disposable paper sheet which is changed for each client;
  - i. No eating, drinking or smoking is permitted in the treatment area and a notice or notices reading "No Smoking", "No Eating or Drinking" is prominently displayed there.
3. For the purpose of securing the cleansing and so far as is appropriate, the sterilization of instruments, materials and equipment used in connection with the treatment –
- a. An operator shall ensure that, before use in connection with treatment, any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in the treatment –
    - i. is clean and in good repair, and, so far as is appropriate, sterile;
    - ii. has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned and, so far as is appropriate, sterilized.
  - b. An operator shall ensure that any needle, metal instrument, or other item of equipment, used in treatment or for handling instruments and needles used in the treatment is in a sterile condition and kept sterile until it is used;
  - c. A proprietor shall provide –
    - i. adequate facilities and equipment for the purpose of sterilization (unless pre-sterilized items are used) and of cleansing, as required in pursuance of these byelaws;
    - ii. sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;
    - iii. an adequate constant supply of clean hot and cold water readily available at all times on the premises;

iv. adequate storage for all items mentioned in byelaw 3 a and b above, so that those items are properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.

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

a. A proprietor shall ensure that –

i. any operator keeps his hands and nails clean and his nails short;

ii. any operator wears disposable surgical gloves that have not previously been used with any other client;

iii. any operator of the premises 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 any other client;

iv. any operator keeps any open boil, sore, cut or open wound on an exposed part of his y covered by an impermeable dressing;

v. any operator does not smoke or consume food or drink in the treatment area.

b. A proprietor shall provide;

i. suitable and sufficient washing facilities for the sole use of operators, including hot and cold water and sanitising soap or detergent;

ii. suitable and sufficient sanitary accommodation for operators.

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

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

B. Section 16(2) of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who contravenes any of 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 his registration and 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 subsections (1), (2), (8) or (10) of Section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

C. Nothing in these byelaws extends to the practice of skin-colouring by or under the supervision of a person who is registered as a medical practitioner or to premises on which the practice of cosmetic piercing is carried on by or under the supervision of such a person.