

Cheltenham Borough Council

Licensing Committee – 4 July 2014

Tattoo Hygiene Rating Scheme (THRS)

Report of Senior Environmental Health Officer

1. Executive Summary

- 1.1 To ensure that infection control arrangements are adequate and effectively carried out, persons carrying out tattooing must be registered with the Cheltenham Borough Council, under the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 The proposed Tattoo Hygiene rating Scheme would compliment the existing registration requirements. The main objectives would be to:
 - (a) inform the public about the hygiene standards in the premises at the time of the most recent inspection
 - (b) drive up standards and adoption of best practice across the industry
 - (c) reduce the risk of incidents of infection and transmission of infectious disease from tattooing procedures
 - (d) promote the use of and improve the reputation of registered, legitimate, tattooists that has been damaged by “scratchers”
- 1.3 The scheme has been developed with the support of the Chartered Institute of Environmental Health Wales (CIEH), the Tattoo and Piercing Industry Union and all local authorities are welcome to deliver it. A number of local authorities across the UK will be launching the scheme from April 2014. The CIEH Wales website will maintain a list of all premises in the UK that have a rating under the scheme and a list of premises within the district of Cheltenham Borough Council will be maintained on the council's website.
- 1.4 Research carried out prior to development of the scheme found that 80% of the trade thought that a tattoo hygiene rating scheme would be beneficial to the industry. 80% also thought that the current registration system is not adequate.

2. Recommendation

The Committee is recommended to resolve that, subject to Cabinet Member approval of the fees:

The Tattoo Hygiene Rating Scheme (THRS), as outlined in this report, is adopted in Cheltenham Borough Council's district.

3. Implications

Financial As it is proposed to charge for the scheme, there would be no financial impact.

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Legal The statutory framework for regulating is outlined in the main body of the report. Participating businesses and the council will be bound by the rules of the scheme.

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4 Alternative Options Considered

4.1 The Council could continue with its existing controls. However, these will not help to drive up standards further or provide information about hygiene standards to the public.

5. Background

5.1 Tattooing has become more fashionable and mainstream in the United Kingdom as a whole, particularly in the last decade.

5.2 There are well known and well reported health risks which can be attributed to tattooing procedures. Improper and unhygienic practice may result in localised skin infections – see pictures below. There is also the risk of transmission of blood-borne viruses, for example Hepatitis B or HIV.



5.3 It is increasingly easy to access tattooing equipment via the internet and there is no control over who can purchase equipment on line. This can lead to an increase in people carrying out tattooing in their own homes and a rise in the underground trade, commonly referred to as “scratchers”.

- 5.4 To ensure that infection control arrangements are adequate and effectively carried out, persons carrying out tattooing must be registered with the Cheltenham Borough Council, under the Local Government (Miscellaneous Provisions) Act 1982. The Council has also adopted byelaws under the Act for the purpose of securing:
- (a) The cleanliness of premises and fittings
 - (b) The cleanliness of registered persons or persons assisting
 - (c) The cleansing and sterilisation of instruments, materials and equipment used
- 5.5 The Health and Safety at Work etc. Act 1974 also applies – the general duties being:
- (a) for employers to ensure the health, safety and welfare of employees
 - (b) for employers and the self-employed to ensure that their activities do not expose them or the general public to risks to their health or safety
- 5.6 In addition, it is an offence under the Tattooing of Minors Act 1969 to tattoo a person under the age of eighteen years. This would be classed as an assault and, as such, is enforced by the police.
- 5.7 Currently, there are persons registered to carry out tattooing at 12 premises in Cheltenham Borough Council's district.
- 5.8 Ratings would be allocated, in accordance with a table of ratings with set criteria, dependant on the standards found at the rating inspection:
1. Needs improvement
 2. Satisfactory
 3. Good
 4. Very good
- 5.9 The premises would be provided with a certificate and a window sticker – see **appendix 1**. The rating would also be published on the Borough Council's website. Premises owners would be advised about the works needed for them to improve their rating and encouraged to undertake them. Operators would be able to request a re-rating subject to three months having elapsed since the last rating visit.
- 5.10 The scheme would be voluntary and it is proposed that the following charges will apply:
- £100: initial rating visit
 - £50: visit following request to re-rate
 - £100: annual rating visit
- 5.11 This is based on officer time carrying out the visit and the associated follow up administration.
- 5.12 The proposed rules of the scheme can be found at **appendix 2**.

6. Probity in Licensing

- 6.1 Cheltenham Borough Council's Licensing Committee operates in a quasi-judicial way in determining contentious licensing applications, policy issues and related matters.

- 6.2 The decisions that the Committee makes are significant and weighty. The Committee operates, for the most part, under its extensive delegated powers and it, rather than any other part of the Council, actually makes the decisions. The decisions can have a considerable effect on the value of premises or other capital assets, on the amenities of people living near licensed premises and on the lives of applicants. Furthermore if the Committee makes a wrong or irrational decision this may mean that the Council will face substantial costs if there is a successful appeal against the decision or if the decision is the subject of a legal challenge from an aggrieved third party.
- 6.3 Some licensing legislation specifies procedures to be followed but in all cases human rights and natural justice considerations dictate that the Committee adheres to the following principles in that decisions must:
- Be made on the individual merits of a case.
 - Have regard to all relevant national and local guidance.
 - Be made impartially and in good faith.
 - Be made by the body that receives all the relevant information and evidence.
 - Relate to the issue or question placed before the committee.
 - Be based only on consideration of relevant and material matters.
 - Be rational and reasoned.
 - Be made in a way that does not give rise to public suspicion or mistrust.
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- 6.4 Licensing Committee Members must vote in the best interests of the Borough as a whole and must not vote on the basis of local ward interests that may be contrary to a balanced licensing assessment in the light of the evidence before the members and wider policies and guidance.
- 6.5 Licensing applications must be determined on the basis of the documents and information that have been formally submitted and where all parties have had a proper opportunity to consider them.
- 6.6 Members must read and carefully consider the content of the circulated report before the meeting and they must have regard to its contents in reaching their decisions.
- 6.7 Where Members propose to make a decision contrary to the officer recommendation clear licensing reasons must be established and these must be seconded and minuted.

7. Officer Comments

- 7.1 Similarly to the food hygiene rating scheme, implementation of the THRS will help raise standards across the industry and inform the public about hygiene standards in premises.
- 7.2 The scheme will help make the High Street the location of choice for a tattoo and improve the reputation of the legitimate trade whilst highlighting the risks associated if people are tempted to go to “scratchers” or use tattooing kits in their own homes.

8.0 Future Work and Conclusions

- 8.1 The popularity of tattoos shows no sign of falling away. It is, therefore, important to make the sector as safe as possible. Adopting the scheme will help to drive up standards and give the public information that they have no other way of getting.

Tattoo Hygiene Rating Scheme

..... achieved tattoo hygiene rating



GOOD

Inspection date

The Tattoo Hygiene Rating Scheme is delivered by

and supported by



The Tattoo Hygiene Rating Scheme (THRS)

Rules of the scheme

1. All operators of premises offering tattooing within Cheltenham Borough Council's administrative area shall be eligible to apply to participate in the THRS. Application to join the scheme constitutes acceptance of the rules of the scheme.
2. Irrespective of any other services offered at the premises, the THRS shall apply to the tattooing procedure only.
3. Tattooing premises will be rated by the inspecting officer in accordance with the rating scheme following a programmed or initial inspection carried out under the Local Government (Miscellaneous Provisions) Act 1982 (hereinafter called 'the Act').
4. Where the inspecting officer requires remedial works or action to be taken in consequence of conditions found at the time of the initial inspection, at the request of the operator, the rating may be deferred to allow the works or action to be undertaken and the premises shall be rated upon the completion of the works.
5. Upon the THRS rating being awarded, Cheltenham Borough Council shall give the operator of the premises a THRS Certificate indicating the date of the rating inspection and the rating awarded, and a THRS self clinging window sticker indicating the rating awarded. The operator of the premises may display the certificate within the premises to which it relates and may display the window sticker in a prominent position on a window, door or other entry to the premises to which it relates where it will be readily seen by potential purchasers.
6. The THRS certificate and THRS window sticker remain the property of Cheltenham Borough Council and must be returned by the premises operator to Cheltenham Borough Council on demand.
7. A list of all premises having a rating awarded under the THRS will be maintained on the Chartered Institute of Environmental Health Cymru Wales Region website www.cieh-cymruwales.org
8. Cheltenham Borough Council may display the rating of tattoo premises within Cheltenham Borough Council's area on its website and may, at their discretion, provide a link to the CIEH Cymru Wales website from their own website.

9. Operators of premises with a THRS rating may refer to or display their current rating on advertising material and websites should they wish to do so.
10. Where an operator of premises displays a THRS certificate or sticker that is no longer valid through its being superseded or claims in any advertising material display or manner to be the holder of a THRS rating that is incorrect or makes any claim with regard to the scheme that is misleading in any material particular, he shall be liable to prosecution under the Consumer Protection from Unfair Trading Regulations 2008.
11. Operators of premises holding current THRS rating may apply to be re-rated but may not do so until three months after the most recent inspection under the Local Government (Miscellaneous Provisions) Act 1982 inspection and THRS rating visit has elapsed.
12. Operators of premises may ask Cheltenham Borough Council to re-rate their premises where they are of the view that the rating currently awarded to the premises no longer reflects the conditions existing there. Cheltenham Borough Council may not re-rate a premises within three months of a rating visit carried out contemporaneously with a programmed (or initial) inspection carried out under the Act and may at its discretion decline to re-rate a premises where the request to re-rate is received within two months of a programmed inspection under the Act being due.
13. Where an operator of premises is aggrieved by the tattoo hygiene rating awarded to his premises, he may appeal to Cheltenham Borough Council. The grounds under which an appeal may be made are:
 - a. That the rating allocated to the premises does not properly reflect conditions existing within it at the time of the rating visit, OR
 - b. That the rating criteria were incorrectly applied.
14. The appeal must be made in writing within 28 days of the notification of the THRS rating and must state the grounds upon which the appeal is founded. The appeal shall be determined in accordance with Cheltenham Borough Council's appeal mechanism which will be communicated to the operator at the same time as the THRS rating is communicated, and the determination shall be binding on both parties.

Cheltenham Borough Council's Appeal Mechanism:

Appeals must be made in writing within 28 days of notification of the THRS rating and must state the grounds upon which the appeal is founded. Appeals must be made to Sarah Clark, Team Leader, Public Protection, Cheltenham Borough Council, Municipal Offices, Promenade, Cheltenham, GL50 1PP. The decision of the appeal will be binding on both parties. There is no mechanism for further appeal.

Fees and inspection frequencies:

Premises under the scheme will be inspected annually.

Application and initial inspection	£100
Request for a revisit to re-score	£50
Annual inspection	£100

Withdrawal from the scheme:

Where an operator wishes to withdraw from the scheme they must write to Cheltenham Borough Council advising of their intention to withdraw. On withdrawal from the scheme, the operator should return the certificate and window sticker and Cheltenham Borough Council will remove the details from the database and website.

Background Papers None

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