

Public Document Pack



Executive Board Sub Committee

Thursday, 15 November 2007 at 10.00
a.m.

Marketing Suite, Municipal Building

A handwritten signature in black ink, appearing to read 'David W R'.

Chief Executive

SUB COMMITTEE MEMBERSHIP

Councillor Mike Wharton (Chairman)	Labour
Councillor Phil Harris	Labour
Councillor Steff Nelson	Labour

Please contact Gill Ferguson on 0151 471 7395 or e-mail gill.ferguson@halton.gov.uk for further information.

The next meeting of the Sub Committee is on Thursday, 29 November 2007

**ITEMS TO BE DEALT WITH
IN THE PRESENCE OF THE PRESS AND PUBLIC**

Part I

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1. MINUTES	
2. DECLARATION OF INTEREST	
Members are reminded of their responsibility to declare any personal or personal and prejudicial interest which they have in any item of business on the agenda no later than when that item is reached and (subject to certain exceptions in the Code of Conduct for Members) to leave the meeting prior to discussion and voting on the item.	
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In accordance with the Health and Safety at Work Act the Council is required to notify those attending meetings of the fire evacuation procedures. A copy has previously been circulated to Members and instructions are located in all rooms within the Civic block.

REPORT TO: Executive Board Sub Committee

DATE 15th November 2007

REPORTING OFFICER: Strategic Director: Corporate and Policy

SUBJECT: Acceptance of Tender Runcorn Town Hall Refurbishment

WARDS: Borough-wide

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to inform members that the Operational Director Property Services has accepted a tender relating to the refurbishment of Runcorn Town Hall and a contract has been entered into with the successful contractor.

2. RECOMMENDATION: That

- 2.1 Members note that the tender submitted by Globe Management Services Ltd has been accepted by The Operational Director Property Services, and a contract has been entered into, with a contract sum of £2,981,299.00**

3. SUPPORTING INFORMATION

- 3.1 Tenders were invited from six contractors in a two stage tendering process, designed to ensure that the contractor offering 'best value' was appointed to carry out the project. The first stage entailed the provision of a notionally priced document from each contractor based upon a pre-determined elemental cost analysis of the proposed project. The contractors invited to submit their tender at this stage were as follows: -

Cruden Construction Limited
Globe Management Services Limited
Mansell
Kier North West
Wilmott Dixon Construction
Thomas Barnes & Sons

- 3.2 From the analysis of the stage one bids which were assessed on both price and quality three contractors were chosen to progress to stage two. These were: -

Globe Management Services Limited
Thomas Barnes & Sons
Kier North West

- 3.3 A detailed presentation and rigorous interview of each of these contractors was undertaken by an appointed panel to establish quality levels as part of the overall review. The aggregate of both price and quality from this two stage process resulted in a preferred contractor, Globe Management Services Limited, being chosen for this project.
- 3.4 The tender price indicated above was developed using actual prices for each element of the work in an 'open book' approach where competitive prices are obtained for each main element of the work and compared with the original cost analysis to ensure that the overall budget is carefully controlled.
- 3.5 The tender sum above is within the overall budget allowance for the construction works for this project
- 3.6 The project programme and details of all health and safety issues have been agreed with our clients and the completion of the project is planned for July 2008.

4. POLICY IMPLICATIONS

- 4.1 The decision to refurbish the accommodation at Runcorn Town Hall was approved at the full Council meeting dated 7th March 2007, minute number COU73, where a budget of £4m was agreed, £2.5m from 2007/08, and a further £1.5m from 2008/09. The above works are therefore in respect of implementing this decision.
- 4.2 The works are being carried out in accordance with the accommodation strategy approved by Executive Board on 25th January 2007 minute no EXB 77.
- 4.3 The works are being carried out in line with the draft climate change policy and outline carbon management plan as a number of sustainability elements are being built into the scheme which will contribute to reducing carbon emissions within the borough.

5. OTHER IMPLICATIONS

None

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 Children and Young People in Halton

n/a

6.2 Employment, Learning and Skills in Halton

n/a

6.3 A Healthy Halton

n/a

6.4 A Safer Halton

n/a

6.5 Halton's Urban Renewal

n/a

6.6 Corporate Effectiveness and Business Efficiency

The newly refurbished offices will contribute towards maximizing the use of space owned by HBC, thus allowing us to create significant revenue savings by vacating rented accommodation elsewhere.

7. RISK ANALYSIS

7.1 Not applicable

8. LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

	Document	Place of Inspection	Contact Officer
8.1	Accommodation Strategy	Property Services	Jerry Goacher

REPORT TO: Executive Board Sub Committee

DATE: 15th November 2007

REPORTING OFFICER: Strategic Director - Environment

SUBJECT: The Provision of a Nuisance And
Abandoned Vehicle Prevention Service

WARDS: Borough-wide

1.0 PURPOSE OF THE REPORT

1.1 To request that standing orders be waived for the commissioning of a service to contribute towards the reduction in anti-social behaviour and environmental crime with regards to nuisance and abandoned vehicles.

2.0 RECOMMENDATION: That

- (1) the Operational Director for Environmental and Regulatory Services in consultation with the portfolio-holder for Environment be authorised to award the contract for vehicle regulation enforcement services to The Environment Agency in the sum of £33,500 starting immediately and continuing for an initial period expiring 31 March 2008 with scope for extension at the Council's option for a period of up to a further two years;**
- (2) the Operational Director for Environmental and Regulatory Services, in consultation with the Portfolio Holder for the Environment be authorised to enter into negotiations with the Environment Agency to agree a Service Level Agreement for dealing with Nuisance and Abandoned Vehicles. In light of the exceptional circumstances set out below, in accordance with Procurement Standing Order 1.6, Standing Orders 3.1-3.7 and 3.9-3.10 be waived on this occasion in view of the fact that compliance with these Standing Orders would be inconsistent with partnership/special external funding arrangements in that this service can only be prescribed by the amalgamation of internal and external stakeholders with specialist knowledge, skills and privileges that undertake similar environmental duties, that is administered and enforced through local government to detect and deter vehicle crime; and**
- (3) the Operational Director for the Environmental and Regulatory Services be authorised to take whatever other action is necessary to give effect to this contract.**

3.0 SUPPORTING INFORMATION

- 3.1 As part of the Safer Halton Partnership Tasking and Co-Ordination Group the Councils Waste Management Division is currently working in partnership with the local Fire Brigade, Police, RSL's and landowners on a number of initiatives to reduce the number of nuisance and abandoned vehicles across the borough. Such vehicles are the target of anti-social behaviour, environmental crime, theft and arson. Officers from the Environment Directorate are already delivering a series of comprehensive services under the Mersey Corridor project to help reduce nuisance and abandoned vehicles across the borough through pro-active enforcement, waste workshops, and associated communication campaigns.
- 3.2 The Council has agreed to a Local Public Service Agreement target of reducing the number of incidents of vehicle arson and to support the current activities of the Waste Management Division to meet this target it is now proposed to provide a dedicated resource to deal with problems associated with nuisance and abandoned vehicles across Halton.
- 3.3 In order to provide this additional resource, which is to be funded from LPSA 'pump prime' money, the Waste Management Division has 2 Options;
 - 3.3.1 To recruit a suitably qualified individual on a temporary basis, or;
 - 3.3.2 To acquire the services of an external agency or organisation to provide this function to the Authority.
- 3.4 If the authority was to create a new post within the establishment to provide this support, this would be a temporary appointment, and it is likely that there would be difficulty in attracting a suitably qualified candidate with the required experience and environmental legislation background. Overall, the recruitment process could be lengthy and it is expected that there would be training and development issues associated with this role. This would not fit within the Division's timetable for achieving the relevant targets and as such this is not seen as a viable option.
- 3.5 The second, and preferred, option is to acquire the services of an external agency or organisation to provide this function, which would involve the provision of dedicated personnel to work alongside Council Officers to provide the required support by carrying out predefined activities. As the estimated value of such a service provision is estimated to be up to £33,500 per annum, the Council would be required to seek quotations from suitable organisations. However, for the reasons outlined in paragraphs 4.1 to 5.3 of this report, it is requested that Standing Orders be waived and a Service Level

Agreement (SLA) be developed and agreed with the Environment Agency without seeking quotations from other organisations/agencies.

- 3.6 Any such SLA would see a dedicated individual assigned to work alongside officers of the Council. The aim of the role is to detect and deter motorists from causing a nuisance and abandoning their vehicles in Halton. Working with other Agencies, partners and contractors to provide a sustainable and comprehensive service across the borough. The service will be administered through the Waste Management Division as part of the Safer Halton Partnership development programme. The assigned individual will develop a targeted enforcement approach to vehicle crime through a promotions campaign including education and awareness. This will promote Halton Borough Councils existing abandoned vehicle policy and procedures and seek a reduction in vehicle crime. The results will be monitored and reports will be produced to identify patterns and inform future activities to effect a year on year reduction in vehicle crime.
- 3.7 It is unclear at this stage whether a 3, 6 or 12 month service will be commissioned, however, the cost for this service for a 12 month period is estimated to be £33,500, including all salary, administration and supporting material costs. The costs of the service will be met from a combination of LPSA pump priming money and existing Waste Management revenue budgets.

4.0 POLICY IMPLICATIONS

- 4.1 In making this recommendation, consideration should be given to relevant undertaking of similar roles within the Environment Agency, which is work currently conducted by the Environmental Crime Team. The Officers from that team, one of whom may be appointed to carry out the role in Halton, are authorised to conduct Personal Number Plate Recognition requests from the DVLA, liaise with the Police and emergency services, conduct environmental investigations, detect and prevent environmental crime and are experienced in taking forward enforcement actions, from advise to prosecutions, attend court as expert witnesses, provide and take statements and supplementary support, conduct cautioned interviews with suspects and offenders and follow the Enforcement Concordat. Officers are Police and Criminal Evidence (PACE) trained, warranted and familiar with the DPA and FOI Act. The Officers undertake surveillance work and use RIPA 2000 and are converse with the Human Rights Act and Health and Safety legislation and procedures.
- 4.2 Other Agencies that conduct similar tasks are the Transport Police, Cheshire Police and the Security Services who work independent of one another conducting different duties, all of which could be used at excessive cost.

- 4.3 It is unlikely that the above experiences are unlikely to be provided by any other external organisation/body without incurring excessive costs and protracted arrangements.
- 4.4 The audit process would be carried out under the supervision of the Operation Director and Head of Service to ensure the Portfolio Holder is updated with quarterly, half yearly and annual returns in accordance with the environmental information regulations.
- 4.5 Accountability will remain with the Operational Director awarding the contract.
- 4.6 The position of the contract under the Public Contracts Regulations 2006 makes this service exempt as the total value of the contract is less than £144,459.00 dispersing the requirement to advertise.

5.0 OTHER IMPLICATIONS

- 5.1 If the Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or having done or forborne to do any action in relation to the obtaining of the Contract or any other Contract with the Authority or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Authority or if the like acts shall have been done by any person employed by the Contractor or acting on behalf of the Contractor (whether with or without the knowledge of the Contractor) or if in relation to the Contract or any other Contract with the Employer the Contractor or any person employed by the Contractor or acting on behalf of the Contractor shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916 or shall have given any fee or reward to any officer of the Employer which shall have been exacted or accepted by such officer by virtue of his office or employment and is otherwise than the proper remuneration of such officer contrary to Section 117 of the Local Government Act 1972 the Authority shall be entitled to terminate the Contract and to recover from the Contractor the amount of any loss resulting from such termination.
- 5.2 The CONTRACTOR shall not give, provide or offer any loan, fee, reward or gift or any emolument or advantage whatsoever to any Member, Officer or Servant of the AUTHORITY and in the event of any breach of this condition the AUTHORITY may, without prejudice to any other right it may possess, forthwith cancel the Contract and recover from the CONTRACTOR any loss or damage consequent upon such cancellation. Provided that this Clause shall not operate in any case in which a Member of the AUTHORITY has disclosed his/her interest in accordance with the provisions of Sections 94-98 inclusive and Section 117 of the Local Government Act 1972 or Section 106 of the Local Government Finance Act 1992, and has declared the extent of any offer or provision

of loan, fee, reward gift, emolument or advantage, and this was considered by the Committee when awarding the Contract.

- 5.3 The Contractor shall not within two years of the date of this contract, except with the prior written consent of the Authority, employ any person employed by the Authority and who has had any part in the preparation, commissioning, scopeing, administration or development of this Agreement whether before or after the date of this Agreement.

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 Children and Young People in Halton

6.2 Employment, Learning and Skills in Halton

6.3 A Healthy Halton

6.4 A Safer Halton

The project will contribute towards;

- Area of Focus 27: Reducing the physical effects of anti social and criminal behaviour.
- Area of Focus 29: Improving the quality of community life by enhancing the visual amenity of Halton's neighbourhoods.
- Area of Focus 30: Improving the social and physical well-being of those groups most at risk within the community.

6.5 Halton's Urban Renewal

7.0 RISK ANALYSIS

- 7.1 The key risks associated with not delivering this project are the potential failure to meet LPSA targets in relation to the reduction in the number of incidents of vehicle arson, and an increase in the number of dangerous and nuisance abandoned vehicles in Halton.

8.0 EQUALITY AND DIVERSITY ISSUES

- 8.1 There are no equality and diversity implications arising as a result of the proposed action in this report.

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Working files	Waste Management Services, Lowerhouse Lane	Simon Walker Ext 5026

REPORT TO: Executive Board Sub Committee

DATE: 15th November 2007

REPORTING OFFICER: Strategic Director – Environment

SUBJECT: Registered Social Landlord (RSL) Joint Procurement Partnership Contracts for Delivery of Landscape Maintenance and Cleansing in Runcorn

WARD(S): All Runcorn Wards

1.0 PURPOSE OF REPORT

- 1.1 To explain the forthcoming arrangements and proposals of the RSL's (Registered Social Landlords) for procuring the delivery of landscape and cleaning services in Runcorn.

2.0 RECOMMENDED: That

- (1) the Strategic Director, Environment be given delegated authority to complete and prepare bids for the four separate contacts proposed; and**
- (2) the Strategic Director, Environment be given delegated authority to bid for any further contracts that are advertised by the RSL Joint Procurement Partnership.**

3.0 SUPPORTING INFORMATION

- 3.1 At present the Liverpool Housing Trust (LHT), Riverside Housing Trust (RHT) Cooperative Development Services (CDS) and Maritime Housing, RSLs, who have properties mostly in the Runcorn New Town area, have between them fourteen contracts for the delivery of landscape maintenance and cleansing on their respective land holdings. All four RSLs are acutely aware that this current arrangement does not provide a good level of service, often leads to confusion of responsibility and does not offer the best value for money. The four RSLs, led by the largest partner LHT have, over the past year, worked together to develop a joined up approach to the issue of public realm maintenance. The result of this Joint Procurement Partnership is that four distinct contact areas have been created based on geography rather than land ownership. The areas are Castlefields, Murdishaw, Palacefields and Windmill Hill. The idea being that a single contractor will have responsibility for all aspects of landscape maintenance and

cleansing in a specific area in a similar way to how the Council has modelled its Streetscene operations. This approach has been supported by the Neighbourhood Boards.

- 3.2 The RSL Joint Procurement Partnership have engaged with consultants 'The Environment Partnership' (TEP) and 'The Appleton Group' to design contracts that offer more than just a basic maintenance service. Successful contractors will be expected to meet a high standard of environmental good practice, will have to facilitate the training and employment of local people through partnerships with the intermediate labour market and through the delivery of apprenticeships and will have to demonstrate that they can form effective partnerships with other organisations. The intention to let the four contracts was advertised on the 21st October 2007 in the OJ. The RSL Joint Procurement Partnership has made it clear that no single contractor will be allowed to hold more than two contracts at any one time. The total value of the contracts will be about £670,000.00.
- 3.3 In December 2005 the Council's Housing Stock was transferred to the Halton Housing Trust (HHT). The Landscape Services Division secured a two year SLA Contract with HHT to deliver landscape maintenance. In September 2007 HHT notified the Council that they would be extending the SLA contract until October 2008 after which they would seek to join the Joint Procurement Partnership with the other RSLs.
- 3.4 Currently the Council's Landscape Services Division provides services to a number of external customers as a contractor. Landscape maintenance and cleansing services are provided to 70% of the Borough's schools, the Halton Housing Trust, Norton Priory Museum, The Bridgewater Canal Trust, The Guinness Trust and Peel Holdings. The Division provides these services separately from its core budgeted services which include Streetscene Operations and Parks and Open Spaces management and maintenance. The Landscape Services Division has the necessary expertise to bid for, secure and operate contracts such as those advertised by the RSL partnership. There would have to be a remodelling of the Division to better enable it to focus on its contracted element. Work has already commenced on this exercise and will be progressed as part of the current and on-going restructure of the Division.
- 3.5 This restructure, if two of the advertised contracts are secured, would be likely to give rise to the need for additional full time staff as well as opportunities for additional apprentice placements. Partnerships would also be formed to create Intermediate Labour Market (ILM) positions. This would make a significant contribution to Employment, learning and skills in Halton.
- 3.6 The RSL Partnership has made it clear that it would welcome a bid from the Council for its advertised contracts.

4.0 POLICY IMPLICATIONS

4.1 None.

5.0 OTHER IMPLICATIONS

5.1 None.

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 Children and Young People in Halton

The RSL Joint Procurement Partnership contracts will include maintenance and inspection of fixed equipment Children's Play Areas. The Landscape Services Division has developed extensive expertise in this aspect of management of children's facilities which could be applied in RSL areas.

6.2 Employment, Learning and Skills in Halton

The RSL Joint Procurement Partnership contracts will require that the successful bidders provide apprentice places for local young people. This will have a positive impact on employment and the creation of a skilled workforce.

6.3 A Healthy Halton

By securing up to two of the advertised contracts, and applying its expertise to the delivery of an enhanced service in the RSL areas of Runcorn a significant contribution could be made to the objective of creating a healthy Halton.

6.4 A Safer Halton

By securing up to two of the advertised contracts, and applying its expertise to the delivery of an enhanced service in the RSL areas of Runcorn, a significant contribution could be made to the objective of creating a Safer Halton.

6.5 Halton's Urban Renewal

The RSL Joint Procurement Partnership contracts will provide a significant enhancement of service delivery which will have a direct impact on urban renewal.

7.0 RISK ANALYSIS

7.1 At present the Landscape Services Division provides an SLA Contract service to the Halton Housing Trust. The contract term was for two years and was due to end in December 2007. Halton Housing Trust

have extended its contract with Landscape Services until October 2008. The Chief Executive of HHT has indicated that after this date his organisation will join the RSL Joint Procurement Partnership arrangements and a fifth contract will be created. The present HHT contract employs eight full time and six seasonal staff. If the Council decided not to bid for the recently advertised RSL Contracts, or if it failed to secure at least one of the advertised contracts it is very likely that it would not be invited to tender for the HHT contract in October 2008. This would put the current staff that deliver the present HHT contract at risk as there would be no other work for them and no funding for their retention. The staff would of course have rights under TUPE Legislation.

8.0 EQUALITY AND DIVERSITY ISSUES

8.1 No significant Equality and Diversity Issue have been identified.

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

9.1 There are no background papers under the meaning of the Act.

REPORT TO: Executive Board Sub Committee

DATE: 15 November 2007

REPORTING OFFICER: Strategic Director Environment

SUBJECT: Adoption of Section 120 Schedule 6 of the Local Government Act 2003 -Regulation of Cosmetic Piercing and Skin Colouring Businesses

WARDS: Borough Wide

1.0 PURPOSE OF THE REPORT

- 1.1 To advise Members of a single new combined byelaw which allows for the regulation of persons carrying on businesses of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis, and to seek adoption of new byelaws under the Local Government Act 2003 and set fees for registration. In essence pass a resolution. The power for making, amending, revoking, re-enacting or adopting byelaws is reserved in the Council's constitution to the full Council.
- 1.2 To inform the committee about the work plan to implement the changes this would bring about in current regulatory activity.
- 1.3 To inform the committee of the review of charges to business who register premises in order to provide these services and of the additional new charge and registration for individuals carrying out the activity.

2.0 RECOMMENDATION: That

- 2.1 **It is recommended to the Council to resolve to apply to the whole of the Halton Borough Section 15 of the Local Government (Miscellaneous) Provisions Act 1982 adopting the new byelaw to cover: acupuncture, tattooing, semi permanent skin-colouring, cosmetic piercing and electrolysis introduced by Section 120 and Schedule 6 of the Local Government Act 2003;**
- 2.2 **And in so doing**
 - a) **Authorising the affixing of the common seal to the byelaws and**
 - b) **Authorising the Council Solicitor to carry out the necessary procedure and apply to the Secretary of State for confirmation.**
 - c) **Upon adoption of the bylaws that the powers and duties within the bylaws necessary to effect regulation be delegated to the Council Solicitor and the Operational Director Environmental and Regulatory Services as appropriate**

- d) That new charges and costs are adopted and that these will reflect the administrative and officer costs involved in the process of registering a premises and a practitioner.
- e) That the plan for updating registration certificates including the retrospective application of the process to existing businesses is accepted.

3.0 SUPPORTING INFORMATION

3.1 Background

3.1.1 Adopting the byelaws will ensure that cosmetic piercing and skin colouring businesses can be registered and regulated in the same way as those who carry out electrolysis; tattooing, ear piercing and acupuncture are currently regulated. The power for making, amending, revoking, re-enacting or adopting byelaws is reserved in the Council's constitution to the full Council.

3.1.2 Cosmetic piercing and semi-permanent skin-colouring carry a potential risk of blood borne virus (BBV) transmission if infection control procedures are not observed (e.g. the use of sterile equipment for each client) Until the change in the law in the Local Government Act 2003, local authorities in England and in Wales did not have the powers to require businesses offering cosmetic piercing and semi-permanent skin-colouring to register and observe byelaws relating to the cleanliness and hygiene of the premises. Local authority's powers were limited to regulating ear piercing, tattooing, electrolysis and acupuncture. A joint Department of Health and Welsh office consultation exercise in 1996 elicited widespread support for changing the law to extend Local Authorities powers.

3.2 Changes in the Law

3.2.1 On the first of April 2004 Section 120 and Schedule of the Local Government Act 2003 on the regulation of cosmetic piercing and skin-colouring businesses, which amends section 15 of the Local Government (Miscellaneous Provisions) Act 1982 came into force. Halton along with other LA's waited to adopt these regulations until the Department of Health had published guidance .The guidance includes a set of model byelaws which local authorities can adopt in their entirety. It wasn't until the end of 2006 that this guidance was published. Halton waited for the guidance to be published in order for them to adopt one single set of Byelaws not lots of individual ones as some authorities did early on and which proved harder to apply and use.

3.2.2 These new provisions give local authorities in England and in Wales, specific powers relating to persons carrying on the businesses of cosmetic piercing (piercing of the body including the ears) and semi-permanent skin-colouring (including micro pigmentation, semi-permanent make-up and temporary tattooing) Local Authorities who adopt the byelaws will be able to require such businesses:

- To register themselves and their premises; and
- To observe the byelaws relating to cleanliness and hygiene of premises, practitioners and equipment.

3.2.3 These measures are intended to increase health protection and reduce the risk of transmission of blood-borne virus (BBV) infections such as HIV, Hepatitis B and C and other infections. The Department of Health have produced model byelaws that local authorities may wish to adopt in their area to facilitate consistency of enforcement. These have been appended to this report and it is intended that they will be adopted in their entirety in Halton.

3.2.4 Local businesses have been requesting that we adopt this legislation, as they want to have registration certificates which they can display. They wish to be regulated, as they are aware that there may be rogue traders who will be more noticeable to the public by their lack of a Registration Certificate. The intention is to publicise heavily in the local press the need for the public to check for a registration certificate before undergoing a treatment and if they are at all in doubt they should contact the Council's Environmental Health Section.

3.2.5 currently there are 45 premises that are registered under the existing byelaws for ear piercing, electrolysis, acupuncture and tattooing. Some of these are known to provide cosmetic piercing and or semi –permanent make-up which currently they are not registered for. We are not aware of any premises offering cosmetic piercing and or semi-permanent make-up which are not already registered for other treatments.

3.3 The new Provisions.

3.31- Section 120 of the 2003 Act

The provisions in section 120 of the Local Government Act 2003 essentially adds cosmetic piercing and semi-permanent skin-colouring businesses to section 15 of the 1982 Act so that local authorities may require persons carrying on such businesses to register themselves and their premises and may make byelaws in respect of matters related to the cleanliness of such businesses.

3.3.2 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
- Micro pigmentation, 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” This approach allows for other similar activities to be covered in future.

3.3.3 Transitional Provisions: Schedule 6 of the 2003 Act

The schedule is intended to provide for the transition from current legislation to the amended legislation and to avoid disruption to Local Authorities and businesses by providing that:

- 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 colouring. Halton adopted the 1982 Act provisions and therefore transition to the 2003 Act will be straightforward.

- An interrogation of the current database for registered premises will be completed and any premises already registered for activities covered by section 15 of the current legislation (i.e. tattooing, ear piercing, acupuncture and electrolysis) will be unaffected. They will simply be sent an up dated replacement certificate copy of the byelaws to display in the premises.
- If they are already known to offer cosmetic piercing or semi-permanent colouring, they will not be charged for this updated and new certificate; however they will require an inspection and each operative carrying out the procedure will have their practices examined.
- As the registration scheme will be expanded to include an individual person registration. All existing premises will be required to provide a list of current employees and a registration certificate will be issued for each individual person specifying the treatments that they are competent to undertake and each individual will have their practices examined.
- In order to minimise the costs to businesses the first individual will be included in the cost of initial registration fee ('premises fee'). Any subsequent individual person(s) identified as offering a registerable treatment will be charged for at the individual 'operators' rate.
- No registration certificate for either a premises or an individual person is transferable and remain the property of Halton Borough Council.
- Any premises which is already registered at any stage for any one or more of the registerable practices who later goes on to carry on the business of any of the remaining register able practices will be required to go through the full registration process in order to up date their existing registration.

3.3.4 Section 16 of the 1982 Act.

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).

3.4 Registration Fees.

3.4.1 The Act 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. It is proposed that Halton will charge the fees set out below having benchmarked against other Merseyside LA's. The cost has been kept as reasonable as possible so as not to burden business however it is important that the cost of undertaking the work is covered.

3.4.2 Proposed fees

- Premises Registration -a fee of £90 – This includes the premises plus one operator (usually the owner/manager if they are an operator) For this fee the premises will be thoroughly inspected in accordance with the byelaws and the owner will receive a certificate and a copy of the byelaws which must be displayed. The operator will be “interviewed” to determine that their practices are suitable and where possible they will be observed carrying out a procedure. The operator will be given a certificate which must be displayed at the premises when they are operating and a copy of the byelaws for them to keep individually.
- Additional operators Registration a fee of - £30 The operator will be “interviewed” to determine that their practices are suitable and where possible they will be observed carrying out a procedure. The operator will be given a certificate, which must be displayed at the premises when they are operating and a copy of the byelaws for them to keep individually.
- Additional Activities- a fee of £5 this is a nominal fee. A visit may be conducted to determine whether the premises have suitable facilities to offer additional activities.

3.4.2 In addition any business, which moves location, will have to apply and pay the appropriate fees, as registration is none transferable.

3.6 Resources

Costs to the authority of implementing these new provisions are estimated to be relatively small and will be off set by several factors. As mentioned above, local authorities will be able to charge reasonable registration fees. The department is already inspecting many of the businesses, as the majority are registered for other activities, such as ear-piercing, tattooing or electrolysis. In addition, local authorities already inspect these businesses under health and safety at work legislation. Therefore additional resources will not be made available by central government. The registration fee will cover the cost of administration and registration inspections. However there will be the initial cost of preparing, consulting and advertising the byelaw which will have to be met within the existing budgetary provision.

4.0 POLICY IMPLICATIONS

4.1 The Division’s enforcement policy will be reviewed to include the requirements of the new bye laws which in essence will be simply an expansion of existing policy for ear piercing and tattooing etc to cover more activities under the headings cosmetic piercing and semi-permanent skin-colouring.

4.2 The Council may charge reasonable fees for registration of skin piercing.

5.0 OTHER IMPLICATIONS

5.1 The only way in which the Council can effectively control skin piercing is by adopting the provisions outlined above .Not to adopt the recommendation above which will result in the Local Authority not being able to legally enforce

hygiene standards within cosmetic piercing and skin colouring establishments thus reducing human health protection from the spread of Blood Borne Viral infections

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 Children and Young People in Halton

Effective regulation and information will contribute to a safer and healthier environment for young people and help them to make considered choices. Cosmetic piercing and semi-permanent skin-colouring are services that are more and more frequently accessed by young people. By ensuring that all premises that carry out these activities display both the premises and the operators registration certificates young people in the borough will be encouraged to only select premises displaying these documents. It is intended to publish in the media the new registration requirements and to update the website. At present there is no statutory age of consent for cosmetic piercing and so it is essential that young people are aware of the risks and the controls that must be in place before proceeding with a treatment.

6.2 Employment, Learning and Skills in Halton **No direct implication as a result of this report**

6.3 A Healthy Halton

Not only will this address a health risk but can help promote a healthier lifestyle. These requirements will ensure that the risk of members of the public and the operators contracting a Blood Borne Virus (BBV) or other infections are reduced. The council will be in a position to insist on the best practises by the operators. This is essential in ensuring the health of the population of the borough. Recent cases in Manchester and Sheffield have proved the need for this. In Sheffield an 18-year-old male died from septicaemia after a lip piercing. A better-informed customer base may well help to deprive rogue unregistered clandestine practitioners of custom.

6.4 A Safer Halton

A better-informed customer base may well help to deprive rogue unregistered clandestine practitioners of custom and protect the vulnerable. All premises which provide cosmetic piercing and semi-permanent makeup and all operators who carry out these activities will have to be registered and will be required to display the certificate. This will guide the public to make safe choices as all registered premises displaying a certificate will have complied with the requirements of the byelaws that cover the safety of operators and customers to ensure the risk of BBV's are reduced.

6.5 Halton's Urban Renewal

No direct implication as a result of this report

7.0 RISK ANALYSIS

7.1 Adoption of the new provisions and byelaws will be consistent with the byelaws already adopted. The adoption should enhance the reputation of the Council in its aim to protect the public and public health. As reasonable fees are chargeable for registration there is little financial risk other than the initial cost of preparation and advertising of the byelaw. The department's enforcement policy will mitigate against any potential negative issues on how the byelaws are enforced and their impact.

8.0 EQUALITY AND DIVERSITY ISSUES

8.1 The division's regulatory services aim to be consistent and even handed in all regards and as such the service does not apply differently to any particular group. The enforcement of this piece of legislation is not intended to have either a positive or negative impact upon equality and diversity. The service invites and seeks feedback on its regulatory activities and would respond to any suggestion of differential impact.

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Department Of Health Regulation of Cosmetic Piercing and Skin Colouring Businesses - Guidance On Section 120 Schedule 6	Environmental Health Section – Environmental and Regulatory Services Department, Rutland House, Halton Lea, Runcorn	Jeannette Pope or Angela Yates

Appendix 1



DRAFT

THE HALTON BOROUGH COUNCIL
(ACUPUNCTURE, TATTOOING, SEMI-PERMANENT SKIN- COLOURING,
COSMETIC PIERCING AND ELECTROLYSIS)
BYELAW 2007

Halton Borough Council
Corporate & Policy
Municipal Building
Kingsway
Widnes
Cheshire
WA8 7QF

**THE HALTON BOROUGH COUNCIL (ACUPUNCTURE, TATTOOING,
SEMI-PERMANENT SKIN- COLOURING, COSMETIC PIERCING AND
ELECTROLYSIS) BYELAW 2007**

Byelaws for the purposes of securing the cleanliness of premises registered under sections 14(2) or 15(2) or both of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and of persons registered under sections 14(1) or 15(1) or both of the Act and persons assisting them and of securing the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis, or any two or more of such practice and businesses made by Halton Borough Council in pursuance of sections 14(7) or 15(7) or both of the Act.

Interpretation

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

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

“client” means any person undergoing treatment;

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

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

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

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

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

“treatment” means any operation in effecting acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis;

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

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

2.—(1) For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that —

- (a) any internal wall, door, window, partition, floor, floor covering or ceiling is kept clean and in such good repair as to enable it to be cleaned effectively;
- (b) any waste material, or other litter arising from treatment is handled and disposed of in accordance with relevant legislation and guidance as advised by the local authority;
- (c) any needle used in treatment is single-use and disposable, as far as is practicable, or otherwise is sterilized for each treatment, is suitably stored after treatment and is disposed of in accordance with relevant legislation and guidance as advised by the local authority;
- (d) any furniture or fitting in premises is kept clean and in such good repair as to enable it to be cleaned effectively;
- (e) any table, couch or seat used by a client in the treatment area which may become contaminated with blood or other body fluids, and any surface on which a needle, instrument or equipment is placed

immediately prior to treatment has a smooth impervious surface which is disinfected—

- (i) immediately after use; and
- (ii) at the end of each working day.

(f) any table, couch, or other item of furniture used in treatment is covered by a disposable paper sheet which is changed for each client;

(g) no eating, drinking, or smoking is permitted in the treatment area and a notice or notices reading “No Smoking”, and “No Eating or Drinking” is prominently displayed there.

(2) (a) Subject to sub-paragraph (b), where premises are registered under section 14(2) (acupuncture) or 15(2) (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the 1982 Act, a proprietor shall ensure that treatment is given in a treatment area used solely for giving treatment;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

(3) (a) Subject to sub-paragraph (b), where premises are registered under section 15(2) (tattooing, semi-permanent skin-colouring and cosmetic piercing) of the 1982 Act, a proprietor shall ensure that the floor of the treatment area is provided with a smooth impervious surface;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

3.—(1) For the purpose of securing the cleansing and so far as is appropriate, the sterilization of needles, instruments, jewellery, materials and equipment used in connection with treatment—

(a) an operator shall ensure that—

(i) any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in treatment—

(aa) is clean and in good repair and, so far as is appropriate, is sterile;

(bb) has not previously been used in connection with another client unless it consists of a material which can be and has been adequately cleansed and, so far as is appropriate, sterilized.

(ii) any needle, metal instrument, or other instrument or equipment used in treatment or for handling such needle, instrument or equipment and any part of a hygienic piercing instrument that touches a client is sterile;

(iii) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;

(iv) any dye used for tattooing or semi-permanent skin-colouring is sterile and inert;

(v) any container used to hold dye for tattooing or semi-permanent skin-colouring is either disposed of at the end of each treatment or is cleaned and sterilized before re-use.

(b)a proprietor shall provide—

(i) adequate facilities and equipment for—

(aa) cleansing; and

(bb) sterilization, unless only pre-sterilized items are used.

(ii) sufficient and safe gas points and electrical socket outlets;

(iii) an adequate and constant supply of clean hot and cold water on the premises;

(iv) clean and suitable storage which enables contamination of the articles, needles, instruments and equipment mentioned in paragraphs 3(1)(a)(i), (ii), (iii), (iv) and (v) to be avoided as far as possible.

4.—(1) For the purpose of securing the cleanliness of operators, a proprietor—

(a) shall ensure that an operator—

- (i) keeps his hands and nails clean and his nails short;
- (ii) keeps any open lesion on an exposed part of the body effectively covered by an impermeable dressing;
- (iii) wears disposable examination gloves that have not previously been used with another client, unless giving acupuncture otherwise than in the circumstances described in paragraph 4(3);
- (iv) wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with another client;
- (v) does not smoke or consume food or drink in the treatment area; and

(b) shall provide—

- (i) suitable and sufficient washing facilities appropriately located for the sole use of operators, including an adequate and constant supply of clean hot and cold water, soap or detergent; and
- (ii) suitable and sufficient sanitary accommodation for operators.

(2) Where an operator carries out treatment using only a hygienic piercing instrument and a proprietor provides either a hand hygienic gel or liquid cleaner, the washing facilities the proprietor provides need not be for the sole use of the operator.

(3) Where an operator gives acupuncture a proprietor shall ensure that the operator wears disposable examination gloves that have not previously been used with another client if—

- (a) the client is bleeding or has an open lesion on an exposed part of his body; or

- (b) the client is know to be infected with a blood-borne virus;
- or
- (c) the operator has an open lesion on his hand; or
- (d) the operator is handling items that may be contaminated with blood or other body fluids.

5. A person registered in accordance with sections 14 (acupuncture) or 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act who visits people at their request to give them treatment should observe the requirements relating to an operator in paragraphs 3(1)(a) and 4(1)(a).

6. The byelaws relating to acupuncture, tattooing, and ear piercing and electrolysis that were made by Halton Borough Council on the 4 October 1983 and were confirmed by the Secretary of State, Department of Health and Social Security on the 30 December 1983 are revoked.

EXECUTED as a DEED by hereunto
affixing the **COMMON SEAL** of
HALTON BOROUGH COUNCIL
this XX day of XXXXXXXX 2007
in the presence of-

Council Solicitor

The foregoing byelaws are hereby confirmed by the Secretary of State for Health
on XX day of XXXXXXXX 2007 and shall come into operation on XX day of XXXXXXXX 2007

Member of the Senior Civil Service
Department of Health

NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on premises. Section 16(9) of the Local Government (Miscellaneous Provisions) Act 1982 provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act. A person who contravenes section 16(9) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale (see section 16(10)).

Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 also provides that any person who contravenes these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. If a person registered under Part VIII of the Act is found guilty of contravening these byelaws the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of the person's registration. A court which orders the suspension of or cancellation of a person's registration may also order the suspension or cancellation of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence for the person charged under the relevant sub-sections of section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Nothing in these byelaws extends to the practice of acupuncture, or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis by or under the supervision of a person who is registered as a medical practitioner, or to premises in which the practice of acupuncture, or business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis is carried out by or under the supervision of such a person.

Nothing in these byelaws extends to the practice of acupuncture by or under the supervision of a person who is registered as a dentist, or to premises in

which the practice of acupuncture is carried out by or under the supervision of such a person.

The legislative provisions relevant to acupuncture are those in section 14. The provisions relevant to treatment other than acupuncture are in section 15. The key differences in the application of requirements in respect of the various treatments are as follows:

*The references in the introductory text to provisions of section 14 (acupuncture) of the Local Government (Miscellaneous Provisions) Act 1982 **only apply to acupuncture.***

*The references in the introductory text to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Local Government (Miscellaneous Provisions) Act 1982 **do not apply to acupuncture.***

*The references in paragraph 1(1) in the definition of "premises" to provisions of section 14 (acupuncture) **only apply to acupuncture.***

*The references in paragraph 1(1) in the definition of "premises" to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) **do not apply to acupuncture.***

*The requirement in paragraph 2(2) that treatment is given in a treatment area used solely for giving treatment **applies to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis but not to ear-piercing or nose-piercing using a hygienic piercing instrument.***

*The requirement in paragraph 2(3) that the floor of the treatment area be provided with a smooth impervious surface **applies to tattooing, semi-permanent skin-colouring and cosmetic piercing but not to acupuncture or electrolysis or ear-piercing or nose-piercing using a hygienic piercing instrument.***

*The requirements relating to dye or a container used to hold dye used for treatment in paragraphs 3(1) (a) (iv) and (v) **apply to tattooing and semi-permanent skin-colouring.***

*The requirement in paragraph 4(1)(a)(iii) that an operator wears disposable examination gloves that have not previously been used with another client **does not apply to acupuncture otherwise than in the circumstances described in paragraph 4(3).***

*The provisions of paragraph 4(2) in relation to washing facilities **apply to cosmetic piercing using only a hygienic piercing instrument.***

*The exception whereby the byelaws do not apply to treatment carried out by or under the supervision of a **dentist** applies only to **acupuncture** (see **section 14(8) of the Act**).*

end

APPENDIX 2: Flow Diagram for Updating Registration Certificates for Invasive Treatments

