The licensing of non-surgical cosmetic procedures in England

CIEH response to a Department of Health and Social Care consultation

October 2023

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Environmental health has an important and unique contribution to make to improving public health and reducing health inequalities. CIEH campaigns to ensure that government policy addresses the needs of communities and business in achieving and maintaining improvements to our environment and our health.

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Introduction

We warmly welcome the proposed England-wide licensing scheme for non-surgical cosmetic procedures. We look forward to working with the Department of Health and Social Care (DHSC) on the development of the scheme.

We are concerned, however, about the amount of fragmentation and duplication that will be involved in the regulation of cosmetic procedures. Many businesses offer a range of procedures and will want to be regulated in an efficient way.

We therefore believe that the scope of the new scheme should be extended to include all the non-surgical cosmetic procedures that are subject to registration under the Local Government (Miscellaneous Provisions) Act 1982, which would mean including tattooing, piercing and electrolysis, and that it is essential for the relevant part of that Act and all the current licensing legislation to be revoked in so far as they apply to procedures which are covered by the new scheme.

We believe that the licensing of these procedures would be justified by the evidence of public health risks associated with them. A study by Bone *et al*, for example, who looked at body piercings at anatomical sites other than the ear lobe, found that, in survey respondents aged 16-24, 31% of piercings had resulted in complications and 15% had resulted in complications for which professional help was sought.[1]

There are several reasons why the current system of regulation for cosmetic procedures does not work:

1) Regulators have no grounds to refuse a registration and there are no set standards or requirements businesses need to meet. There are also potential safeguarding issues, for example the possibility that someone who has a sexual offences conviction might be performing intimate piercings.
2) Once a business is registered, regulators have no grounds to go back to inspect the premises unless there is a complaint. The business may therefore bring in new practitioners and standards may drop over time without the local authority being aware of this. Members of the public often do not know where they can report their concerns.
3) Each local authority holds its own list of registered practitioners. This is not transparent or helpful for consumers looking to find out whether a business or practitioner is safe to use.
4) Many practitioners perform procedures from their home or at the client's home. Domestic premises are not necessarily included, however, and it is likely that some of these practitioners are poorly trained and operating in an unhygienic and/or unsafe manner under the radar.

[1] A. Bone, F. Ncube, T. Nichols and N. D. Noah, "Body piercing in England: a survey of piercing at sites other than earlobe", *BMJ*, vol. 336(7658), June 2008, pp. 1426–1428.

5) There are no enforcement powers and penalties for non-registration are very small. Prosecution is therefore rare and consequently relatively ineffective in providing a deterrent.

With these problems in mind, we would like to take this opportunity to make the following points about the design of the new scheme:

1) A clear set of conditions that practitioners and premises will have to fulfil in order to be licensed will need to be developed in order to ensure that standards are maintained. The appropriate standards will have to be established nationally in order to ensure a level playing field across England.
2) A system of regulated training for practitioners will need to be developed to ensure that practitioners are competent and, in particular, have an up to date knowledge of infection prevention and control in relation to the procedures they are to perform. A system of accreditation for training courses and training providers will be needed to make sure the licensing scheme works well at protecting the public.
3) There will be a need for periodic inspections of premises to ensure that they continue to meet the standards for hygiene, safety and infection control and that practitioners working there are appropriately licensed. The frequency of inspections could reflect assessed levels of risk. A national reporting mechanism for bad practice could help to inform such assessments. The scheme must also tackle the problems associated with mobile working. We believe that practitioners should not work from their own homes unless in a specifically designated room or rooms and should not work in the homes of their clients.
4) A national list of licensed practitioners and premises is essential in order to provide greater transparency so that consumers can easily check who is licensed and which procedures they are licensed to perform. A national list of refusals and revocations of practitioner licenses will also be needed so that, if a person has been deemed unsuitable to hold a license by one local authority, they cannot simply apply to another local authority without the second local authority becoming aware of the position.
5) The sanctions for practising without a licence need to be rigorous enough to provide a real deterrent. Also, the application fees and the fines for practising without a license should be high enough to fund effective enforcement of the scheme by local authorities. Fees should be set nationally so that practitioners cannot apply to one local authority rather than another in order to pay a lower fee.

Responses to consultation questions

INTRODUCTION

Introductory questions

We have not answered the introductory questions because they are not applicable to us as an organisation.

RESTRICTION OF COSMETIC PROCEDURES

Question

To better protect individuals who choose to undergo high-risk non-surgical cosmetic procedures, we propose introducing regulations to ensure that these procedures may only be undertaken by qualified and regulated healthcare professionals.

To what extent do you agree or disagree that we should set out in regulations that high-risk procedures should be restricted to qualified and regulated healthcare professionals only?

Answer

We strongly agree.

We think it would be very helpful for it to be clear that it is illegal for people who are not qualified and regulated healthcare professionals to perform high-risk procedures.

CQC regulation of cosmetic procedures

Question

To what extent do you agree or disagree with the proposal to amend CQC's regulations to bring the restricted high-risk procedures into CQC's scope of registration?

Answer

We strongly agree.

We accept that environmental health practitioners would not have the right kind of expertise to deal with these high-risk procedures and that these procedures would be more appropriately dealt with by CQC.

PROCEDURES IN SCOPE OF THE LICENSING SCHEME

Question

The 3-tier system uses green, amber and red to categorise procedures depending on the risks (including level of complexity and degree of invasiveness) and potential complications associated with the procedure.

To what extent do you agree or disagree with using the 3-tier system to classify the different categories for cosmetic procedures based on the risk they present to the public?

Answer

We strongly agree.

We believe the simplicity and clarity of the 3-tier system would make it easier for businesses and regulators to understand.

Green: procedures with the lowest risk of complications

Question

To what extent do you agree or disagree with the categorisation of the procedures listed in the green category?

Answer

We agree subject to the changes discussed below.

Question

Do you think that any changes should be made to the listed procedures?

Answer

Yes

We believe that the scope of the new scheme should be extended to include all the non-surgical cosmetic procedures which are subject to registration under the Local Government (Miscellaneous Provisions) Act 1982, which would mean including tattooing, piercing and electrolysis. Our reasons are set out in the introduction to this consultation response. We are suggesting these procedures should be added to the green category.

We also endorse the following changes proposed by the Joint Council for Cosmetic Practitioners (JCCP).

- All non-ablative Lasers with the exception of Low Light Intensity Lasers and Hair Removal and Photorejuvenation lasers (parameters to be defined) should be moved to the 'Amber Category'. All Ablative and CO2 Lasers must be moved to the RED category.
- Radiofrequency and electro-cautery – to be defined by parameters and scoped by range/spectrum and wavelength and by a required evidence based review.
- There is a need for greater definition of 'two or more combined interventions' where both procedures are defined as being 'non-invasive'.
- No needle fillers should be moved from GREEN to AMBER (subject to a required evidence based review regarding 'fail safe' devices)
- Cellulite subcision – should be moved from AMBER to RED

Amber: procedures with medium risk of complications

Question

To what extent do you agree or disagree with the categorisation of the procedures listed in the amber category?

Answer

We agree subject to the changes discussed below.

Question

Do you think that any changes should be made to the listed procedures?

Answer

Yes

We endorse the following changes proposed by the JCCP.

- For procedures that incur the actual or adjunctive use of prescription medicines, the requirement for onsite supervision by a prescriber is deemed to be essential. If this is not mandated, then we consider that such procedures should be moved to the RED category.
- Move all permanent dermal fillers to the RED category.
- Move all weight loss injectable and vitamin injectable procedures to the RED category.
- All ablative lasers should be moved to the RED category. Non-ablative lasers should remain within the AMBER category.
- 'No needle' fillers should be moved from GREEN to AMBER (subject to a required evidence based review regarding the use of 'fail safe' devices)
- Ensure that fat dissolving injections which use medical devices or cosmetic injectable products for the purposes of Lipolysis remain in the AMBER category– e.g., Aqualyx).
- All fat dissolving injections using prescription medicines should be moved to the RED category.
- Move cellulite subcision to the RED category.

Red: procedures with the highest risk of complications

Question

To what extent do you agree or disagree with the categorisation of the procedures listed in the red category?

Answer

We agree subject to the changes discussed below.

Question

Do you think that any changes should be made to the listed procedures?

Answer

Yes

We endorse the following changes proposed by the JCCP.

- Move all permanent dermal fillers to the RED category.
- For procedures that incur the actual or adjunctive use of prescription only medicines, the requirement for onsite supervision by a prescriber is deemed to be essential. If this is not mandated, then we consider that such procedures should be moved to the RED category.
- **Any** TDDI treatment/procedure (Treatment of Disease, Disorder and Injury) should remain and be ascribed to the RED category
- Weight loss and vitamin injections should be moved to the RED category
- Cellulite subcision should be moved to the RED category
- All fat dissolving injections using prescription medicines should be moved from the AMBER to the RED category.

MINIMUM AGE OF CLIENT

Question

Our intention is that licensed procedures should be restricted to those above the age of 18 unless approved by a doctor and carried out by a healthcare professional. To what extent do you think that these procedures should be age-restricted?

Answer

We strongly agree with this intention in relation to all of the procedures currently proposed for inclusion in the scheme (although, if the scope of the scheme were to be extended, there might be certain procedures, for example ear piercing, where a lower age limit would be appropriate).

We also believe that licensed practitioners, at least for intimate procedures, should be aged 18 and over.

NEXT STEPS

Question

Do you have any other comments on the issues raised in this consultation?

Answer

Our other comments are in the introduction to this consultation response.