

**Health and Safety Executive**

**Consultation on revision of guidance leaflet INDG209**

**'Reducing health risks from the use of UV tanning equipment'**



**A response by the Association of Personal Injury Lawyers**

**July 2008**

The Association of Personal Injury Lawyers (APIL) was formed by claimant lawyers with a view to representing the interests of personal injury victims. APIL currently has around 5,000 members in the UK and abroad. Membership comprises solicitors, barristers, legal executives and academics whose interest in personal injury work is predominantly on behalf of injured claimants.

The aims of the association are:

- To promote full and just compensation for all types of personal injury;
- To promote and develop expertise in the practice of personal injury law;
- To promote wider redress for personal injury in the legal system;
- To campaign for improvements in personal injury law;
- To promote safety and alert the public to hazards wherever they arise;
- To provide a communication network for members.

APIL's executive committee would like to acknowledge the assistance of the following members in preparing this response:

Amanda Stevens	President, APIL
John McQuater	Vice President, APIL

Any enquiries in respect of this response should be addressed, in the first instance, to:

David Spencer

Legal Policy Officer

APIL

11 Castle Quay, Nottingham NG7 1FW

Tel: 0115 958 0585; Fax: 0115 958 0885

E-mail: [david.spencer@apil.org.uk](mailto:david.spencer@apil.org.uk)

## Executive Summary

- APIL is keen for improved guidance in relation to the operation and use of UV tanning equipment.
- APIL believes that there are significant health risks from the use of UV tanning equipment by everyone, particularly those under the age of 18 years.
- APIL believes that the revised guidance should include the following:
  - UV tanning equipment should not be used if it has been supplied without operating instructions from the manufacturer or supplier.
  - UV tanning equipment should not be unstaffed at any time during use.
  - UV tanning equipment should not be used by anyone under 18 years of age.
  - Warning signs about the health risks of UV tanning equipment should be prominently displayed in commercial establishments.
  - A consent form should be signed and dated by every customer before every UV tanning session.

## Introduction

APIL welcomes the opportunity to respond to this HSE consultation regarding the revision of guidance about the use of UV tanning equipment as we believe the current guidance, which dates back to the mid-1990s, needs to be updated.

The current guidance takes account of expert medical opinion and has been endorsed by the Department of Health as part of the Health of the Nation initiative dating back to 1986. As the consultation paper says, there has been a considerable technological change in the sunbed industry as well as an expansion in sunbed use.

The World Health Organisation (WHO) suggests there is increasing evidence from both experimental and epidemiological data that cumulative exposure to UV radiation increases the risk of skin cancer.<sup>1</sup> We believe there are potentially very dangerous risks to health from the use of UV tanning equipment, particularly to children and young people.

Scotland has introduced a Public Health Bill, which includes prohibitions on the use of unstaffed, coin-operated tanning facilities and any use of tanning facilities by under 18s. The Scottish Public Health Minister, Shona Robison, said: 'This is about adults being given information to make an informed and educated choice and children being fundamentally protected.' APIL agrees with this entirely.

The HSE consultation paper highlights four main areas of concern:

- The use of cosmetic tanning equipment
- The use of unstaffed cosmetic tanning equipment
- Excessive exposure to UV by children and young people
- Lack of adequate information provided for customers

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<sup>1</sup> World Health Organization 2003 – Artificial Tanning Sunbeds Risks and Guidance (ISBN 92 4 159080 7)

## **The use of cosmetic tanning equipment**

The proposed revised guidance suggests that a UV tanning equipment operator should have received information from the manufacturer or supplier on the correct operation of the equipment and be following it.

It is APIL's view that it is potentially dangerous for UV tanning equipment to be operated or maintained without any knowledge of the manufacturer's or supplier's instructions. An employer is required, by virtue of Regulation 3 of The Management of Health and Safety at Work Regulations 1999 to carry out a risk assessment to identify any risks to their employees associated with using UV tanning equipment and to inform the employees of any risks identified. We believe that this cannot properly be achieved without all employees who will be operating the machinery being fully trained on the manufacturer's operating and maintenance instructions.

We believe that the proposed revised guidance should not just indicate that an operator should have received information from the manufacturer or supplier but that UV tanning equipment should not be used if it has been supplied without operating instructions from the manufacturer or supplier.

## **The use of unstaffed cosmetic tanning equipment**

The proposed revised guidance suggests that it is good practice to have trained staff that will be present while customers are using UV tanning equipment. The proposed revised guidance also suggests that ongoing health and safety training should be provided to staff to ensure that they can correctly run the equipment.

APIL welcomes this guidance but, in addition, we believe that UV tanning equipment should not be unstaffed at any time. The use of unstaffed UV tanning equipment, particularly coin-operated equipment, is potentially dangerous. No checks can be

carried out as to the length of time customers are remaining exposed and no-one is available should a customer get into difficulties.

This problem is being addressed in Scotland by legislation – the Public Health Bill will make it a criminal offence to operate unstaffed, coin operated tanning facilities with a fine of £50.

### **Excessive exposure to UV by children and young people**

The current guidance advises that cosmetic tanning equipment should not be used by anyone under 16 years of age.

The proposed revised guidance indicates that, based on World Health Organization (WHO) and Department of Health advice, cosmetic UV tanning equipment should not be used by anyone under 18 years of age.

We welcome any revised guidance to ensure the protection of children and young people.

APIL believes that it should be a criminal offence to allow anyone under 18 years of age to use UV tanning equipment. We propose that the age limit should be regulated. In Scotland this is being addressed by The Public Health Bill which will make it a criminal offence to allow anyone under 18 years of age to use cosmetic tanning equipment, with a fine of £100.

### **Lack of adequate information provided for customers**

The current guidance indicates that operators should ensure that customers are made aware of the customer information within the guidance and that it is made available to customers.

The proposed revised guidance indicates that operators must inform their employees of the risks associated with using UV tanning equipment and that it is also suggested good practice to share this information with customers. Operators are advised to provide customers with the 'Customer Advice' within the guidance.

We believe that this does not go far enough in ensuring that customers are protected. The WHO 2003 report 'Artificial Tanning Sunbeds Risks and Guidance'<sup>1</sup> (WHO 2003 report) recommends that warning notices be placed within the immediate view of every client entering the establishment and in each sunbed cubicle. It further recommends that the sunbed operator should ensure that a consent form is signed by the client to ensure that they have every opportunity to understand the risks associated with sunbed use. (The WHO 2003 report has a suggested sample in its Annex).

APIL submits that customers should be given information to help them make an informed and educated choice. The WHO 2003 report says: 'While WHO does not recommend the use of UV tanning devices for cosmetic purposes, it is recognised that sunbeds continue to be available to the public. For this reason there is a need for guidance to reduce the risks associated with their use'

We believe that the revised guidance proposed should go further than recommended. It should be essential that all sunbed operators provide warning signs and consent forms in line with the WHO 2003 report.

APIL welcomes any increase in guidance for the operators of UV tanning equipment to assist with the reduction in the risks associated with their use.

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<sup>1</sup> ISBN 92 4 159080 7