

SCOTTISH EXECUTIVE CONSULTATION

REGULATION OF SKIN PIERCING

A RESPONSE BY THE ASSOCIATION OF PERSONAL INJURY LAWYERS

12 APRIL 2001

The executive committee would like to acknowledge the assistance of David Short, member of the APIL Executive Committee for assisting with the preparation of this response.

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

Annette Morris
Policy Research Officer
APIL
11 Castle Quay
Nottingham
NG7 1FW

Tel: 0115 958 0585

Fax: 0115 958 0885

E-mail: Annette@apil.com

REGULATION OF SKIN PIERCING

1. The Association of Personal Injury Lawyers (APIL) was formed in 1990 and represents around 5000 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 prompt compensation for all types of personal injury;
 - To improve access to our legal system by all means including education, the exchange of information and the enhancement of law reform;
 - To promote health and safety;
 - To alert the public to dangers in society such as harmful products and dangerous drugs;
 - To provide a communication network exchanging views formally and informally.

2. APIL fully supports the aim of reducing the risks of transmitting blood borne viruses and infections caused by skin piercing as much as possible. As skin piercing increases so do the opportunities of risks arising. For this reason, APIL believes it is necessary to introduce a regulatory framework to reduce those opportunities arising as much as possible. Most risks to the health and safety of the public are dealt with through a regulatory framework and APIL can see no justification for skin piercing to be treated any differently. It is believed that such a framework could most effectively be introduced through primary legislation.

Do you consider that the current controls provided under the Health and Safety legislation are sufficient to ensure, so far as possible, the safe practice of skin and body piercing in Scotland?

3. The Scottish Executive recognises in paragraph 2.7, as does APIL, the shortcomings of the Health and Safety at Work Act 1974 in ensuring that the

health risks posed by skin piercing are reduced as much as possible. APIL believes that such a reduction could be achieved by requiring that the:

- Premises used for skin piercing are suitable
- Practices adopted by skin piercers are hygienic
- Skin piercing equipment used is hygienic
- Skin piercer is fully aware of the risks arising from unhygienic skin piercing and fully aware of how such risks can be reduced
- Public are fully aware of the risks of unhygienic skin piercing and the importance of selecting a skin piercer carefully.

4. Ensuring that premises are suitable for skin piercing depends upon four factors:

- A mechanism to allow for the identification of premises on which piercing is being conducted
- Clear criteria as to the suitability of premises for skin piercing
- The inspection and assessment of those premises against those criteria on an ongoing basis
- The availability of effective measures to prevent skin piercing being conducted on unsuitable premises.

5. Ensuring that skin piercers use hygienic equipment and adopt adequate practices depends upon:

- The establishment of standards for procedures, equipment and use of equipment and an obligation on skin piercers to achieve those standards
- Monitoring of compliance with those established standards
- The availability of a range of effective sanctions for non-compliance

6. The Health and Safety at Work Act is inadequate in view of the above because:

- It does not assist in the identification of premises on which body piercing is being conducted
- It is not a tool that can be directly used to prevent body piercing on unsuitable premises
- It does not impose obligations or set standards specifically in relation to skin piercing but imposes general obligations in relation to risks to health and safety only.

Do you consider that regulatory controls similar to those currently available in London would be appropriate in Scotland?

7. APIL believes that the London controls have serious limitations and, for this reason, would not be appropriate in Scotland. Firstly, the regulatory controls do not apply to all types of skin piercing but to ear piercing, body piercing and semi-permanent make up only. Whilst different types of skin piercing pose differing levels of health risks, nobody should be exposed to any such risks unnecessarily, however serious.
8. In addition, the scheme is discretionary, in that, local authorities may, but are not required to, regulate certain aspects of skin piercing. This is undesirable because it would not protect all those at risk. As noted above, nobody should be exposed to unnecessary risks to their health.

Do you consider that further measures are needed to reduce the risk of infection from skin and body piercing? If so, what steps do you think should be taken?

9. As is obvious from the above, APIL does believe that further measures are necessary to reduce the risk of infection from skin piercing as follows:
 - A mandatory requirement to apply for a licence to conduct skin piercing on premises

- The assessment of premises by the relevant authority as to its suitability for skin piercing against defined objective criteria
- An obligation on the relevant authority to inspect premises once licensed and assess the suitability of those premises, the practices used and the equipment used against defined objective criteria
- The ability for the relevant authority to revoke a licence if the premises later become unsuitable
- A range of sanctions that can be imposed to improve, punish and prevent non-compliance with established standards as appropriate
- An obligation upon skin piercers to familiarise themselves with the risks posed by skin piercing and how such risks can be avoided or reduced.

Are there any forms of piercing which you consider should be subject to less stringent controls than for other kinds of piercing; and, if so, which and for what reasons?

10. APIL considers that it would be desirable, and indeed, much simpler to regulate all types of skin piercing in the same manner. All types of skin piercing pose health risks and whilst some may pose more serious risks than others, the public should not be exposed to any unnecessary risks, however serious the implications. Essentially, hygienic practice is good practice and should be adopted for all types of skin piercing.

Do you think there is any need to prohibit by law any particular forms of skin or body piercing?

11. APIL does not believe that there is any need to prohibit by law any particular form of skin or body piercing. It is recognised in paragraph 4.2 of the consultation paper that if skin and body piercing is carried out by a competent practitioner using sterile equipment and hygienic procedures, there should be little risk of infection. In view of this, adequate measures as outlined above should be sufficient.

Which of the options set out in this section do you favour and why? If you favour other controls or regulatory schemes, what specific measures do you feel are appropriate?

9. APIL has set out in detail the measures that it is believed are necessary to reduce the health risks posed by skin piercing to the lowest level possible and it is obvious from this that a regulatory framework would be necessary to achieve this. This could be most easily achieved through primary legislation as this would:

- Ensure that the same measures are introduced across Scotland
- Have the strongest impact on skin piercers and the public
- Lead to a clear and unified regulatory framework.

10. The risk with introducing a licensing system under s.44 Civic Government (Scotland) Act 1982 is that approach is more likely to allow regional variance. If, however, the measures outlined above could be achieved through licensing, APIL would have no particular objections to this approach.

If you favour further controls by way of local authority licensing, do you consider local councils should have discretionary powers to introduce licensing schemes appropriate to local circumstances or should licensing be mandatory across Scotland?

11. For the reasons noted in paragraph 8, APIL believes that it is imperative that any regulatory system should be mandatory.

Should operators be required to obtain an appropriate qualification before being allowed to practise and, if so, what should that qualification be and by whom should it be accredited?

12. APIL does not believe it is imperative to require operators to obtain an appropriate qualification before being allowed to practise skin piercing provided they are legally obliged to familiarise themselves with the risks posed by skin piercing and how such risks can be reduced.