

All-Party Parliamentary Group on Beauty, Aesthetics and Wellbeing

Minutes of Meeting

Inquiry session into non-surgical cosmetic procedures

Session 4: Regulation and Enforcement – Licensing

Date: Wednesday 21st October 2020

Time: 1300 - 1400

Location: Zoom

Members present

- Carolyn Harris MP, APPG Co-Chair
- Judith Cummins MP, APPG Co-Chair

Witnesses

- Sarah Clover – Barrister, Kings Chambers Barristers
- Charlotte Rose – Senior Environmental Health Officer at Wolverhampton Council
- Tamara Sandoul – Policy Manager, Chartered Institute for Environmental Health
- Caroline Larissey – Director of Quality and Standards, National Hair and Beauty Federation

Audience

- Louise Abraham, APPG Secretariat
- Allister Gair, APPG Secretariat

Minutes of the Meeting

Judith Cummins MP opened the meeting by welcoming the attendees and thanking them for their attendance, introduced the speakers and asked them to give some insight into the current legislative and regulatory regime around beauty and aesthetic practices. Invited **Sarah Clover** to speak first.

Sarah Clover introduced herself and outlined her career as a Barrister and her recent specialisation in licensing in all types and is on the board for the Institute of Licensing. Sarah stated that the current state of the law for cosmetic and aesthetic treatments is chaotic, inefficient and that there is a need to address this in a wholesale way. Sarah explained that the systems are not uniform across different parts of the country and highlighted that there is a scheme of registration in most parts of England but a scheme of licensing in London and she stated this is not working.

Sarah Clover explained that the different types of treatments that can be addressed under either the registration or licensing scheme are different, the system is not up-to-date or future-proofed, and modern treatments are left outside of the current regulatory scheme which can be some of the most dangerous. Sarah highlighted that there is little that local authorities can do in most of England to maintain standards either for premises or practitioners with little control over training. Sarah recommends that the time has come for this particular area - which has impacts on the public in the same way that it has for other areas of licensing like alcohol, gambling, animal licensing - to be brought up to modern standards with modern methods of regulation which there is experience and capability for. Sarah stated a belief that licensing is the best way to address and tackle this and there are models that can be used for a modern scheme of licensing for beauty and aesthetic treatments. Sarah added that this would involve primary legislation. Sarah finished by thanking the Chairs for the invitation to contribute to the inquiry.

Judith Cummins MP thanked **Sarah Clover** for their contribution and invited **Charlotte Rose** to speak.

Charlotte Rose started by thanking the Chairs for the invitation and introduced herself and her perspective on current remit provisions, how it differs between nations and how it is difficult for environmental health officers who do not have licensing regimes in their areas, and how they have to deal with internal lead investigations with difficulty to enforce. Charlotte added that environmental officers have found it difficult to act efficiently when dealing with risks on the high street that are serious enough to cause injury. Charlotte offered some recommendations on which treatments should be regulated via a licensing scheme and what the current system involves. Charlotte indicated their work with other officers across the country for safer high streets with suggestions for premises and practitioner licensing schemes.

Judith Cummins MP thanked **Charlotte Rose** for their contribution and invited **Tamara Sandoul** to speak.

Tamara Sandoul started by thanking the chairs for their invitation and introduced herself. Tamara explained that the CEIH are a professional membership body for environmental health. Tamara gave an outline into the work the organisation has done in this area explaining that they carried out a survey focusing on regulators who work in this field, together with the Institute of Licensing and published the reports in September. Tamara explained that both environmental practitioners and licensing professionals regulate some of the treatments offered on the high street and therefore gathered intelligence on the ground and what kinds of issues regulators had seen and to test some of the policy proposals. Tamara indicated that her contributions would be made from the evidence of this research.

Tamara Sandoul accepted that the APPG inquiry is limited in scope to just a few cosmetic treatments but wanted her contributions to convince the chairs that the inquiry recommendations should be wider than that and cover a greater range of treatments. Tamara explained that currently different cosmetic treatments are subject to a range of regulatory regimes and a range of legislation which varies by locality. Tamara stated that this inconsistency means that different standards across treatments and areas, and different regulators are responsible for different treatments, means some instances can fall through the cracks as no one is regulating them. Tamara highlighted this is especially the case for new treatments emerging on the market.

Tamara Sandoul indicated that regulators have been aware of a range of serious examples of infections, injuries, scarring, burns and allergic reactions as a result of a range of treatments which are not just injectables, Botox and fillers – this includes piercings, lasers and a range of others. Tamara stated that their key recommendation is for an England-wide licensing scheme and alongside this better data gathering and reporting is essential to support this and that the Department of Health and Social Care should be collecting some data on how often and what kinds of things go wrong when these types of treatments go wrong to allow comparisons on the current situation and where it needs to get to. Tamara also highlighted the need to raise public awareness and have a database or register of all licensed practitioners and warn the public of adverse effects and the licensing scheme should work alongside these.

Judith Cummins MP thanked **Tamara Sandoul** for their contribution. Judith reiterated all attendees' recommendations for licensing reform and asked how legislation can effectively keep up with the new and everchanging treatments to make sure there is regulation throughout the industry. Judith further asked what greater powers are needed in local authorities to enforce a more effective licensing regime and whether they would need corresponding money. Judith asked **Sarah Clover** to respond first.

Sarah Clover responded by explaining that licensing is essentially a label as a way of controlling activities that have impact on the public, like alcohol and taxis which come under the label of licensing. Sarah highlighted the thinking behind licensing where the impact on the public is considered - whether the issue is something the state should be involved in regulating, the extent the state should take in regulating activities that otherwise people should be otherwise free to partake in on their own account, how far should they restrict this and what this is based on. Sarah went on to explain that these decisions are based on negative, harmful impact and accepted that while something like alcohol has pros and cons it can go too far and have a harmful impact on members of the public. Sarah stipulated that these

are the lines upon which intervention is made to regulate and the state says, 'that far, but no further'. Sarah reiterated licensing is just the label for this process.

Sarah Clover explained that the way this is done is by identifying the activity and identifying the harmful impact. Sarah indicated that this would be how it would work with beauty cosmetics and aesthetics – defining the licensable activity around the impact widely enough that something new coming onto the market will slot into one of those predefined activities. Sarah explained further how cosmetic and beauty treatments can be split up in this way – piercing the skin, changing cell structure through light, changing cell structure through heat, chemical intervention. Sarah reiterated that this is how the system can be future-proofed but that the systems out there already are not good enough and that licensing needs to be a start-again exercise. Rather than adding wheels on and taking wheels off the current vehicle, she expressed the need for a new vehicle.

Judith Cummins thanked **Sarah Clover** for her response and invited **Charlotte Rose** to respond next.

Charlotte Rose agreed with Sarah's recommendations and highlighted the need for greater powers to act quickly and deal with the different emerging trends which would fit into the categories that Sarah is currently looking into. Charlotte indicated that it would be similar to the food and hygiene approach and how they risk-rate food businesses – they would give each category and treatment an assessment which would include the competency of the practitioner to the stability of the premises which would then dictate how to risk-rate the practices and how often to engage with the businesses. Charlotte expressed that this would give officers greater powers to enforce and deal with treatments and practices and reiterated Sarah's comments.

Judith Cummins asked **Charlotte Rose** if she thought local authorities had adequate funding to be able to have an enhanced and proper enforcement role.

Charlotte Rose responded by saying they did not have adequate funding at the moment.

Sarah Clover added that the way most licensing regimes work is by having a fee and that the regimes are self-funding which covers the cost of investigation and enforcement.

Judith Cummins asked **Sarah Clover** how this affects mobile practitioners.

Sarah Clover responded that there would need to be minimum standards of hygiene that must be met that might have to be bespoke to a mobile unit and that it is not impossible to have mobile premises which has been seen under the Licensing Act 2003. Sarah expressed that mobile units and home visits are among the most problematic areas in the current system and fall outside of any regulation and highlighted a need for them to be drawn in.

Judith Cummins thanked **Sarah Clover** for their response and invited **Tamara Sandoul** to speak.

Tamara Sandoul agreed with the points made by Sarah and Charlotte and added that a licensing scheme would be an improvement on registration in a number of ways. Tamara explained that it would cover all treatments to allow taking action on all treatments, it would be future-proofed if the system is defined in such a way, it could cover mobile and home-working practitioners. Tamara reiterated that local authorities do not currently have powers to enforce in this area and health and safety executives do this. However unfortunately this is not a priority for health and safety executives who deem these kinds of treatments as low risk. Tamara was unaware of any investigations by them in this area.

Tamara Sandoul said that a licensing scheme would be underpinned by practice standards and procedure conditions, which the registration regime is not. Tamara highlighted that all practitioners would need to meet these conditions to operate and added that this would be easier for practitioners and regulators to have a consistent system across the whole country. Tamara expressed concern over the lack of educational standard requirements for practitioners performing the treatments. She said a licensing scheme could enforce the holding of a regulated qualification from an accredited training

provider and stand-alone level to hygiene qualification which is what is done in Wales as part of their licensing scheme.

Judith Cummins thanked **Tamara Sandoul** for their contribution and introduced **Carolyn Harris MP**.

Carolyn Harris MP asked how big an issue this is.

Tamara Sandoul responded first by expressing uncertainty around how big the issue is due to a lack of data. Tamara highlighted their secondary research where there have been some studies on this but there is no information on how many people have cosmetic treatments, how many people for whom it goes wrong, or how many people are hospitalised or need to see a doctor. Tamara highlighted that there are various routes that members of the public use to get help and they are not always fed back to BHE or recorded.

Carolyn Harris MP asked how much public awareness there is on this industry and what they should or should not be doing and what they could do.

Sarah Clover agreed on Tamara's point of a lack of data but raised concerns about the industry and that the proliferation of beauty treatments on the high street indicates it is great and growing and is a big sector of the economy, a developing sector of the economy. Sarah highlighted the number of shops that pop up on the high street and the huge development in this area alongside huge demand for it driven by social media and new trends especially amongst young people. Sarah stated a belief that the public are very confused but this is not surprising given the nature of the current regimes and that professionals are confused about it. Sarah explained further that the public would not know who to complain to, or whether it is worth complaining. Sarah pointed out a number of campaigns for people to complain to which have seen an increase in complaints but suggested these are not equitable to the number of procedures going wrong.

Carolyn Harris MP asked **Charlotte Rose** how to tackle the lack of training amongst practitioners given that a lot of training standards have already decimated and asked how productive local authorities are in looking at this industry as part of the trading standards enforcement.

Charlotte Rose responded that it varies across authorities and indicated that it is predominantly Environmental Health Officers who would deal with this issue and not trading standards officers. Charlotte highlighted some projects done through intel and this is how the public in Charlotte's region are made aware of the issues. Charlotte explained that the public only gets to know who deals with the issues when it goes wrong and it is usually a process of referrals and by the time it reaches the Environmental Health Officers it is often too late. Charlotte pointed to her work with Public Health to campaign, promote awareness amongst the public to use practitioners who are competent, and promote the use of the JCCP website. Charlotte also explained how they encourage practitioners in the area to engage with organisations like the JCCP to look at how they themselves can become more competent and better trained. Charlotte highlighted a number of training schools which are not official schools allowing anyone with a lack of previous experience to be on board of emerging trends.

Carolyn Harris MP asked in what way the messaging can change to ensure that the public are aware that what they see is not always what they get.

Sarah Clover responded by stating that it is difficult because the nature of the activity in itself might be good or bad so where a scam is always bad, a beauty treatment done well can be a positive thing which is not dissimilar to alcohol or riding a taxi. Sarah reiterated that done well, it is a benefit, done badly and it is a harmful impact which is the challenge as there is no need to stop it as it is a strong driver for the economy.

Carolyn Harris MP agreed but asked at what point the industry can be rid of the bad and be left with the good - what it is that can be given to the good.

Sarah Clover indicated that this is why licensing is good because it takes the responsibility away from the public to a certain extent so that they have the confidence that when they approach premises or practitioners, they are aware that it has been quality controlled. Sarah explained that this quality control is given to the regulators who know what they are doing with it. Therefore before accessing the market there is a gate-keeping process which is held by the regulators and failure is an offence. Sarah indicated there are powers to deal with this failure to comply alongside funding which is gained through the licensing scheme to allow local authorities to be proactive and go out and look for those who have failed to go through the process.

Carolyn Harris MP asked why there is so much resistance to licensing within the industry.

Sarah Clover said it is uncertain the industry are resistant to an improved scheme, or whether they are resistant to their part within it, or how the scheme would regulate them because they may feel it is holding people out of the market who should be allowed in, or are concerned increasing training requirements or standards imposed on them they would not otherwise want. Sarah highlighted this is the same amongst all licensing schemes in different industries and is the fine line of deciding where the state draws the line of where the standards needed to be met are. Sarah reiterated uncertainty over whether it is argument about the overall scheme.

Judith Cummins MP asked a follow-up question on whether a mandatory national register of license practitioners should be established.

Sarah Clover pointed to the Licensing Act 2003 around which there has been a lot of resistance from government to a national register. Sarah expressed support for a national register amongst regulators, but that government have blocked the need for a national register. Sarah expressed a belief that it is not the best policy but remained neutral as it is the local regulation that counts and deferred to **Tamara Sandoul** for further comment.

Tamara Sandoul stated that a register of practitioners who have been vetted by a licensing scheme is the natural next step from a licensing scheme. Tamara highlighted that this would allow individuals to look up online to see whether a practitioner has met the requirements to practice and agreed that this is what is needed.

Tamara Sandoul added there is a need for an awareness raising campaign for the public from organisations like Public Health England as it has been previously absent. Tamara pointed out that the government has set up a Joint Council of Cosmetic Practitioners which is a voluntary register, so presumes support from the government for a national register as they have already set one up, it is just not mandatory.

Charlotte Rose responded in agreement with Tamara to give better informed choice to the public. Charlotte also highlighted that due to the pandemic they have seen an increase in premises that they were not aware of and the numbers are creeping up to the same number of restaurants. Charlotte stated that a register similar to the food, hygiene rating scheme is needed, where there are a list of businesses that people can go to and are aware that the local authority have had some engagement with the premises.

Judith Cummins MP asked if a licensing scheme would license people, premises, or both.

Sarah Clover responded by explaining there are various models that can be used. Sarah pointed to the gambling and taxi regimes which have operators' licenses, premises licenses and individual licenses in some cases, while the alcohol regime has premises licences and individual or personal licenses. Sarah recommended that the preferable solution is to license premises because then the structure of the building in terms of the infrastructure and hygiene is known regardless of who is in it and then a personal license of some description to the practitioner that matches to the skillset that they need for the particular treatment that they are offering. Sarah indicated that this personal licence would have to be more nuanced but is entirely doable.

Charlotte Rose agreed that there should be a practitioner and a premises license. Charlotte also explained an exemption list for certain treatments that should be exempt from mobile practice to ensure certain treatments are carried out in a safe environment.

Tamara Sandoul agreed with both responses and reiterated that the premises need to be safe and that even if someone is working from home, they must set up a safe environment with adequate hygiene facilities and procedures. Tamara reiterated the need for practitioners to have certain qualifications.

Judith Cummins MP invited anyone else to speak.

Caroline Larissey expressed support for a licensing scheme and stated a belief that it is the business who should take the ownership as they are the ones with most to lose or gain and should take responsibility. Caroline indicated that there is such a turnover of staff in salons with a number of self-employed staff and so if it is at the business level it will cover self-employed individuals as part of the licensing scheme. Caroline stated that there should be premises inspections to ensure businesses are able to cover all eventualities and ensure people have the appropriate training for what they are administering and ensure appropriate insurance is in place with the right to work.

Judith Cummins MP thanked all attendees for their contributions and concluded the meeting.