



COUNCIL

27TH FEBRUARY 2014

AGENDA ITEM (15)

ADOPTION OF MODEL BYELAWS FOR ACUPUNCTURE, TATTOOING, SEMI-PERMANENT SKIN COLOURING, COSMETIC PIERCING AND ELECTROLYSIS

Accountable Member	Councillor Mrs. CH Topple Cabinet Member for Communities and Health
Accountable Officer	Amanda Morgan Commercial Manager 01285 623000 amanda.morgan@cotswold.gov.uk
Purpose of Report	To seek the adoption of the model byelaws relating to cosmetic piercing
Recommendation(s)	<p>(a) That the byelaws for acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis, attached at Appendix 'A', be adopted and sealed on behalf of the Council;</p> <p>(b) that the Head of Legal and Property Services be authorised to take all necessary steps in connection with the making of these byelaws, including:-</p> <ul style="list-style-type: none">(i) sealing the byelaws on behalf of the Council;(ii) giving public notice of the byelaws;(iii) making application to the Secretary of State for Health for their confirmation; <p>(c) that, subject to confirmation of the new byelaws, the existing byelaws relating to acupuncture, tattooing and ear-piercing and electrolysis, made by the Council on 25th July 1983 and confirmed by the Secretary of State for Social Services on 15th December 1983, be revoked.</p>
Reason(s) for Recommendation(s)	To ensure effective regulation of processes involving the matters referred to within the District
Ward(s) Affected	All
Key Decision	No
Financial Implications	None arise directly from this report

<p>Legal and Human Rights Implications</p>	<p>Legal Implications - Byelaws in respect of the matters referred to in this report are made under Section 15 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Local Government Act 2003. Under the provisions of the Local Authorities (Functions and Responsibilities) Regulations 1999 and the Council's Constitution, the approval of draft byelaws is reserved to the Council.</p> <p>The process for making byelaws is contained within Section 236 of the Local Government Act 1972. This requires that, following approval by the Council, the byelaws will be sealed on behalf of the Council.</p> <p>The making (i.e. sealing) of the byelaws is then advertised in the local Press and a copy of the byelaws is placed on deposit at the Council's offices for a period of one month (additionally, a copy will be posted on the Council's Web Site). During this period, the public may make representations or objections to the content of the byelaws to the Secretary of State for Health.</p> <p>When the public notice period has expired, the Head of Legal and Property Services will apply to the Secretary of State for Health for confirmation of the byelaws. When making a decision, the Secretary of State will take account of any representations or objections received. The byelaws will take effect on the date specified by the Secretary of State (usually the first day of the month following confirmation).</p> <p>Human Rights Implications - the byelaws impose an additional regulatory burden on businesses. However, this is considered to be justifiable and necessary in order to ensure consistent standards are met in terms of infection control.</p> <p>Unlike the practice of tattooing, there is no statutory age of consent for cosmetic piercing (cosmetic ear and body piercing). Cosmetic piercing of a minor is lawful provided that valid consent is given.</p>
<p>Environmental and Sustainability Implications</p>	<p>None</p>
<p>Human Resource Implications</p>	<p>None</p>
<p>Key Risks</p>	<p>None</p>
<p>Equalities Analysis</p>	<p>No effect on protected groups</p>

<p>Related Decisions</p>	<p>Council - February 1983 Licensing Committee - 8th October 2012</p>
<p>Background Documents</p>	<p>Sections 14-17 of the Local Government (Miscellaneous Provisions) Act 1982 Local Government Act 2003 Regulation of Cosmetic Piercing and Skin Colouring Businesses (Guidance on Section 120 and Schedule 6)</p>

Appendices	Appendix 'A' - Model Byelaws
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Performance Management Follow Up	A record of the number of businesses will be maintained by the Public Protection Service. Inspections for compliance will be undertaken and recorded
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Background Information

1. In February 1983, the Council adopted Sections 14-17 of the Local Government (Miscellaneous Provisions) Act 1982 in respect of the provisions relating to acupuncture, tattooing, ear piercing and electrolysis.
2. Following adoption, three sets of byelaws aimed at regulating those activities were prepared and sealed on behalf of the Council on 25th July 1983. Those byelaws were confirmed by the Secretary of State for Social Services on 15th December 1983 and they came into effect on 1st February 1984.
3. In 2003, following developments in the cosmetic industry, the Government introduced the Local Government Act 2003. This amended the provisions of the 1982 Act to include:-
 - cosmetic piercing (piercing of the body, including the ears);
 - semi-permanent skin colouring (including, for example, micro-pigmentation, semi-permanent make-up and temporary tattooing).
4. These measures are intended to increase health protection and reduce the risk of the transmission of blood-borne virus (BBV) infections such as HIV, hepatitis B and C and other infections.
5. The measures came into force on 1st April 2004 and local authorities were given discretion to decide whether or not to implement the changes.
6. The associated guidance issued by the Department of Health provided for separate, new model byelaws for cosmetic piercing and semi-permanent skin colouring. Those byelaws supplemented the existing, separate model byelaws for acupuncture, ear-piercing, electrolysis and tattooing.
7. In 2006, the Department of Health issued a new, multi-purpose set of model byelaws that could be used for all types of skin piercing/skin colouring currently regulated.
8. At its Meeting on 8th October 2012, the Licensing Committee considered the following two issues:-
 - (i) the introduction of new model byelaws to update the regulation of acupuncture, tattooing, semi-permanent skin colouring; cosmetic piercing and electrolysis business in the District;
 - (ii) the revocation of the three existing byelaws previously made by the Council, which came into force on 1st February 1984 relating to:-
 - (a) the practice of acupuncture;
 - (b) the business of ear-piercing and electrolysis; and
 - (c) the business of tattooing.
9. The Licensing Committee recommended the revocation of the existing byelaws at 8(ii) above; the introduction of new, consolidated byelaws relating to acupuncture, cosmetic piercing, semi-permanent skin colouring, and electrolysis; and the authorisation of the Head of Legal and Property

Services to carry out the necessary procedure and to apply to the Secretary of State for Health for confirmation of the byelaws.

10. Officers cannot find a record of subsequent approval of the changes by the Council, hence this report. The previous byelaws continued to be applied in the interim, alongside health and safety legislation. Having reviewed the situation, it is considered that the changes previously recommended remain relevant.

11. Impact on Businesses

11.1 Persons and premises offering cosmetic piercing and semi-permanent skin colouring will be required to register with the Council and to observe the byelaws relating to the cleanliness and hygiene of premises, practitioners and equipment.

11.2 The first stage will be to identify the persons/premises within the District offering cosmetic piercing and/or semi-permanent skin colouring treatments. An advisory leaflet will be distributed to those persons/premises explaining the requirement to register the treatment with the Council. As part of the registration process, Officers will undertake visits to assess compliance with infection control.

11.3 There is no requirement for registration if the treatment is carried out under the supervision of a person who is a registered medical practitioner or to premises on which any such business is carried out by or under the supervision of such a person.

11.4 Persons and premises already registered for activities covered by Section 15 of the current byelaws (i.e. tattooing, ear-piercing and electrolysis) are unaffected. Any new businesses will be required to register.

11.5 Persons already registered for ear-piercing shall be deemed registered for cosmetic piercing until that person subsequently provides another form of cosmetic piercing, or until the premises are subsequently used to provide another form of cosmetic piercing (i.e. cosmetic piercing of a part or parts of the body other than the ears), when a new registration would be required.

11.6 If the new model byelaws are not adopted, there would not be any requirement for operators offering cosmetic piercing and semi-permanent skin colouring treatments to register with the local authority. Operators would continue to be regulated under Health and Safety legislation but premises would not be subject to programmed visits unless complaints/concerns were received.

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