

Report to Environment and Licensing Committee

Subject: Update of byelaws relating to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis

Date: 8th March 2022

Author: Food, Health and Housing Manager

Purpose:

To obtain member approval to commence consultation with all local businesses likely to be affected by the adoption of consolidated model byelaws relating to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis (“the byelaws”) and, subject to consideration of consultation responses, to seek approval from members to refer the byelaws to full council for the byelaws to be made under seal and referred to the Secretary of State for the Department of Health for the byelaws to be confirmed.

Recommendation(s)

That members:

Approve the draft byelaws at Appendix A to go out to consultation in the manner set out in the report.

Authorise the Head of Environmental Services in consultation with the Chairman of Environment and Licensing Committee to assess responses from the consultation to determine whether the byelaws need to be referred back to the Environment and Licensing Committee prior to adoption.

Authorise the Head of Environmental Services in consultation with the Chairman of the Environment and Licensing Committee to make any minor amendments to

the byelaws following consultation and prior to referral to full Council for making.

Subject to the results of the consultation, recommend the byelaws at Appendix A with any minor amendments necessary, be referred to Council and to be made under seal.

Background

- 1.1 Many authorities such as Gedling adopted the earlier provisions contained in the Local Government (Miscellaneous Provisions) Act 1982 allowing the registration of skin piercers, performing acupuncture, tattooing, ear piercing and electrolysis and had made byelaws to better control hygiene and cleanliness at such businesses. The other authorities in Nottinghamshire have taken up or are looking to adopt the extended provisions which will provide a more consistent and up to date approach to skin piercing in the county. Before this extension of the regulation to body piercing the only control for body piercing businesses resided and quite general provisions of the Health and Safety at Work etc Act 1974, Section 3 (protection of members of the public in a work premises).
- 1.2 To reflect changes in the way the piercing and tattooing industry has altered, with the introduction of new techniques and treatments, the Department of Health has produced a consolidated model byelaw combining acupuncture, ear piercing, electrolysis and tattooing with semi-permanent makeup tattooing and cosmetic piercing. The new byelaw model followed earlier changes brought about by the Local Government Act 2003. (Section 120 and Schedule 6), which allowed local authorities to adopt provisions requiring those carrying on skin piercing and micro-pigmentation, semi-permanent makeup and temporary tattooing to register themselves and their premises. Once a registration is received an inspection is carried out to check practices and procedures to ensure minimum safety standards are achieved. The byelaws set out the standard for the business to comply with.
- 1.3 The Department of Health has produced a single consolidated byelaw that authorities can adopt combining acupuncture, ear piercing, electrolysis and tattooing with semi-permanent tattooing and cosmetic piercing. It is now considered timely to adopt the wider hygiene controls afforded by the Local Government Act and the single consolidating byelaw.
- 1.4 The Department of Health has produced guidance on the byelaw application process, which officers will be able to follow when making a byelaw submission to the Secretary of State. Notice of the intention of this

Authority to approve a byelaw must be advertised in a local paper and on the website. A copy of the model byelaw is reproduced as Appendix A

- 1.5 Gedling explored adopting and consolidating the byelaws back in 2009. It was brought before the Council and this Committee and was approved to commence the process of making the consolidated byelaws. However the proposal was not ever implemented. Now the Council receives an increasing amount of enquiries from operators wanting to offer semi-permanent makeup treatments, without modified byelaws in place the Council are not in a position to enforce registration and minimum safety standards. Therefore due to business demand and our role in protecting consumers' health and safety this has prompted the need for current byelaws to be reviewed to ensure they remain current and fit for purpose.

- 1.6 In March 2018 a full consultation with all businesses and persons who may have an interest in the adoption of the byelaws in Gedling Borough was undertaken. Only two incomplete responses were received.

As there has been a delay in progressing with the adoption of the byelaws a new revised consultation will be undertaken in March 2022 where letters will be sent out to all current registered businesses offering acupuncture, tattooing, ear piercing and electrolysis along with any other businesses or persons who may offer these and any semi-permanent skin-colouring or cosmetic piercing services. A copy of the proposed draft byelaw will be enclosed and an explanation of the implications. Where required, officers will be able to discuss any matters arising with the proprietors. The information will also be put on the Council's website and the local newspaper. Although adopting the byelaw will add to the initial workload of officers, this can be accommodated in the work programme for the coming year.

- 1.7 There are health benefits for bringing these businesses under the same regulatory framework that currently exists for acupuncture, tattooing, ear piercing and electrolysis, including the contributing to the general protection of the health of customers, reducing specific blood borne viruses such as Hepatitis B and C and specifying cleanliness standards for premises and fittings.

Proposal

- 2.1 It is proposed that members approve the draft byelaws at Appendix A to go out to an 8 week consultation in the manner described in the report.

- 2.2 It is proposed that the consultation responses are considered by the Head of Environmental Services in consultation with the Chairman of Environment and Licensing Committee. Should any significant changes be made to the byelaws as a result of the consultation response, or should there be any significant objection to the introduction of the byelaws, these will be reported to Committee for consideration prior to the byelaws being referred to Council.
- 2.3 It is proposed that if the consultation responses do not need further consideration by the Committee as outlined above, that members approve the draft byelaws at Appendix A to be referred to full council for the byelaws to be made under seal and referred to the Secretary of State for the Department of Health for confirmation. A notice of the determination would be advertised in a local paper and on the Council's website.

Alternative Options

- 3.1 The Council could continue to operate under its current byelaws and not consult or make new byelaws. However, it is considered in light of the new techniques developing in the industry that some regulation of those techniques is necessary to ensure good hygiene standards and public safety. Regulation of the industry is only through byelaws and the byelaws need to be up to date and fit for purpose.

Financial Implications

- 4.1 There are minimal financial implications from this report. The Council will have to hold a consultation to adopt the byelaws, and those subject to the scheme will be required to pay a registration fee to cover the cost of regulating the standards required for relevant businesses. This will all be delivered within existing resources
- 4.2 Once the consultation is complete, the Council will undertake an exercise to establish costs and activity levels in order to produce an appropriate fee. If the scheme takes off the council may require to fund additional resource from the fee income.

5 Legal Implications

- 5.1 Adopting the byelaws would enable officers to take enforcement action for failure to comply.

6 Equalities Implications

6.1 There is no diversity or equality implications contained within this report.

7 Carbon Reduction/Environmental Sustainability Implications

7.1 Encourage online applications through the Councils website, reduction in paper usage

8 Appendices

8.1 Appendix A – Model Byelaw

9 Background Papers

9.1 None

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer

