

Council	
Meeting Date	9 January 2019
Report Title	Adoption of the Consolidated Model Byelaws for Cosmetic Piercing, Semi-permanent Skin Colouring, Acupuncture, Tattooing, Electrolysis and Ear Piercing
Cabinet Member	Cllr David Simmons, Cabinet Member for Environment and Rural Affairs
SMT Lead	Nick Vickers, Chief Financial Officer
Head of Service	Tracey Beattie, Environmental Health Manager
Lead Officer	Annmarie Goodwin, Food & Safety Team Leader
Key Decision	No
Classification	Open
Recommendations	1. To adopt the Department of Health consolidated Model Byelaws for acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis, contained in Appendix I

1. Purpose of Report and Executive Summary

- 1.1 The reason businesses are required to register with the Council when they offer tattooing, skin piercing and other beauty treatments is to prevent the spread of infectious disease and protect public health. The model byelaws contain recognised and accepted standards for achieving this protection and the Council adopted the original Department of Health Model Byelaws on 1 February 1987 and further byelaws on 1 April 2005.
- 1.2 Since then the Department of Health have revised and consolidated the two previous individual Byelaws within one Byelaw to simplify the standards required for a wide range of beauty treatments such as: cosmetic piercing and semi permanent skin colouring, acupuncture, tattooing, electrolysis and ear piercing (referred to as special treatments).
- 1.3 Frequently the registered practitioners and premises undertake more than one type of treatment and so by consolidating the Byelaws we can improve operational efficiency and simplify the standards for local businesses.
- 1.4 In summary this proposal seeks to bring the Council Byelaws for special treatments up to date to reflect the current model Byelaws composed by the Department of Health (Appendix I).

2. Background

- 2.1 The Local Government Act 2003 amended the Local Government Miscellaneous Provisions Act 1982 to include cosmetic (body) piercing and semi permanent skin colouring, extending the range of skin piercing activities the Council can regulate to protect public health. Previous Byelaws have been adopted by the Council to include these two activities within the Council's remit.
- 2.2 It is important for this industry sector to be effectively regulated due to the risks associated with the type of skin piercing treatments being offered. There is the potential risk of transmission of blood borne viruses (BBV), for example HIV, Hepatitis B and C, as well as other potentially serious skin infections, potential physical damage and bleeding if the treatment is not undertaken correctly.
- 2.3 This is a dynamic industry sector and the range of skin piercing activities offered is constantly evolving. These latest byelaws consolidate two previous sets of Byelaws and also take into consideration the technological developments within the sector.
- 2.4 The consolidated Byelaws have been adopted by Maidstone Borough Council and are in the process of being adopted by Tunbridge Wells Borough Council. The adoption of these Byelaws by the Council would enable best practice and help bring consistency in public health standards expected across the Mid Kent Environmental Health Partnership.

3. Proposal

- 3.1 To adopt the latest model Byelaws from the Department of Health for the reasons given above. The expected outcomes include clarity to local businesses and consistency across the Partnership. This proposal does not result in any additional costs, officer resource, procurement issues, IT etc. .

4 Alternative Options

- 4.1 Do Nothing – the Council would continue to have a special treatments regime where there are two different sets of Byelaws in place which reduces clarity for local businesses and results in inconsistency in public health expectations and enforcement across the Partnership and other local authorities. This is not recommended.

5 Consultation Undertaken or Proposed

- 5.1 The proposal reflects best professional practice based on Department of Health model byelaws. No consultation is proposed, however the Byelaws will be advertised in the local press as part of the process of adoption and by the Council required by the Department of Health.

6 Implications

Issue	Implications
Corporate Plan	<p>A Borough To Be Proud Of – the adoption of one consolidated byelaw to replace the two current older byelaws ensures that local business' comply with nationally set standards.</p> <p>A Community to be proud of – the byelaws offer better protection to the public health.</p>
Financial, Resource and Property	None. Officer time is already spent undertaking visits to establishments who have applied for registration. Adopting the byelaws would give a consolidated and consistent hygiene criteria for businesses to meet
Legal, Statutory and Procurement	<p>The relevant statutory requirement is outlined under paragraph 2.1 in this report.</p> <p>The existing registration requirement and byelaws for tattooing, semi-permanent skin colouring, electrolysis, cosmetic piercing and acupuncture have proved to be effective controls at protecting public health. If these latest model byelaws are not adopted the Council will continue to have two separate sets of dated byelaws which are confusing to local businesses and inconsistent with other authorities within the Mid Kent Partnership.</p>
Crime and Disorder	The existing byelaws have proved to be effective controls in protecting public health; however, they are somewhat piecemeal and dated. Adoption of the latest model Byelaws ensures we are following the latest standards expected by the Department of Health and as such will be protecting the public as far as possible who have these treatments undertaken.
Environment and Sustainability	None
Health and Wellbeing	Adopting the latest Department of Health model Byelaws will ensure we are able to enforce the latest standards which in turn will help to protect public health.
Risk Management and Health and Safety	The adoption of the latest model byelaws will assist in protecting the health and safety of all people associated with non-medical skin piercing. The proposed byelaws reflect the model byelaws provided by the Department of Health.
Equality and Diversity	<p>Adoption of the preferred option will ensure that all businesses offering any type of non-medical skin piercing will have to comply with the latest model byelaws.</p> <p>No detrimental impact on the protected characteristics of</p>

	individuals has been identified.
Privacy and Data Protection	None

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Model Byelaws for acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis: Department of Health

8 Background Papers

8.1 None.

BYELAWS

Acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis

Byelaws for the purposes of securing the cleanliness of premises registered under sections 14(2) or 15(2) or both of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and of persons registered under sections 14(1) or 15(1) or both of the Act and persons assisting them and of securing the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis, or any two or more of such practice and businesses made by Swale Wells Borough Council in pursuance of sections 14(7) or 15(7) or both of the Act.

Interpretation

1.—(1) In these byelaws, unless the context otherwise requires—

“The Act” means the Local Government (Miscellaneous Provisions) Act 1982;

“client” means any person undergoing treatment;

“hygienic piercing instrument” means an instrument such that any part of the instrument that touches a client is made for use in respect of a single client, is sterile, disposable and is fitted with piercing jewellery supplied in packaging that indicates the part of the body for which it is intended, and that is designed to pierce either—

- (a) the lobe or upper flat cartilage of the ear, or
- (b) either side of the nose in the mid-crease area above the nostril;

“operator” means any person giving treatment, including a proprietor;

“premises” means any premises registered under sections 14(2) or 15(2) of the Act;

“proprietor” means any person registered under sections 14(1) or 15(1) of the Act;

“treatment” means any operation in effecting acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis;

“the treatment area” means any part of premises where treatment is given to clients.

(2) The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2.—(1) For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that—

- (a) any internal wall, door, window, partition, floor, floor covering or ceiling is kept clean and in such good repair as to enable it to be cleaned effectively;
- (b) any waste material, or other litter arising from treatment is handled and disposed of in accordance with relevant legislation and guidance as advised by the local authority;
- (c) any needle used in treatment is single-use and disposable, as far as is practicable, or otherwise is sterilized for each treatment, is suitably stored after treatment and is disposed of in accordance with relevant legislation and guidance as advised by the local authority;
- (d) any furniture or fitting in premises is kept clean and in such good repair as to enable it to be cleaned effectively;
- (e) any table, couch or seat used by a client in the treatment area which may become contaminated with blood or other body fluids, and any surface on which a needle, instrument or equipment is placed immediately prior to treatment has a smooth impervious surface which is disinfected—
 - (i) immediately after use; and
 - (ii) at the end of each working day.

- (f) any table, couch, or other item of furniture used in treatment is covered by a disposable paper sheet which is changed for each client;
- (g) no eating, drinking, or smoking is permitted in the treatment area and a notice or notices reading “No Smoking”, and “No Eating or Drinking” is prominently displayed there.

(2)(a) Subject to sub-paragraph (b), where premises are registered under section 14(2) (acupuncture) or 15(2) (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the 1982 Act, a proprietor shall ensure that treatment is given in a treatment area used solely for giving treatment;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

(3)(a) Subject to sub-paragraph (b), where premises are registered under section 15(2) (tattooing, semi-permanent skin-colouring and cosmetic piercing) of the 1982 Act, a proprietor shall ensure that the floor of the treatment area is provided with a smooth impervious surface;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

3.—(1) For the purpose of securing the cleansing and so far as is appropriate, the sterilization of needles, instruments, jewellery, materials and equipment used in connection with treatment—

(a) an operator shall ensure that—

(i) any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in treatment—

(aa) is clean and in good repair and, so far as is appropriate, is sterile;

(bb) has not previously been used in connection with another client unless it consists of a material which can be and has been adequately cleansed and, so far as is appropriate, sterilized.

(ii) any needle, metal instrument, or other instrument or equipment used in treatment or for handling such needle, instrument or equipment and any part of a hygienic piercing instrument that touches a client is sterile;

(iii) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;

(iv) any dye used for tattooing or semi-permanent skin-colouring is sterile and inert;

(v) any container used to hold dye for tattooing or semi-permanent skin-colouring is either disposed of at the end of each treatment or is cleaned and sterilized before re-use.

(b) a proprietor shall provide—

(i) adequate facilities and equipment for—

(aa) cleansing; and

(bb) sterilization, unless only pre-sterilized items are used.

(ii) sufficient and safe gas points and electrical socket outlets;

(iii) an adequate and constant supply of clean hot and cold water on the premises;

(iv) clean and suitable storage which enables contamination of the articles, needles, instruments and equipment mentioned in paragraphs 3(1)(a)(i), (ii), (iii), (iv) and (v) to be avoided as far as possible.

4.—(1) For the purpose of securing the cleanliness of operators, a proprietor—

(a) shall ensure that an operator—

(i) keeps his hands and nails clean and his nails short;

(ii) keeps any open lesion on an exposed part of the body effectively covered by an impermeable dressing;

(iii) wears disposable examination gloves that have not previously been used with another client, unless giving acupuncture otherwise than in the circumstances described in paragraph 4(3);

- (iv) wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with another client;
- (v) does not smoke or consume food or drink in the treatment area; and

(b) shall provide—

- (i) suitable and sufficient washing facilities appropriately located for the sole use of operators, including an adequate and constant supply of clean hot and cold water, soap or detergent; and
- (ii) suitable and sufficient sanitary accommodation for operators.

(2) Where an operator carries out treatment using only a hygienic piercing instrument and a proprietor provides either a hand hygienic gel or liquid cleaner, the washing facilities that the proprietor provides need not be for the sole use of the operator.

(3) Where an operator gives acupuncture a proprietor shall ensure that the operator wears disposable examination gloves that have not previously been used with another client if—

- (a) the client is bleeding or has an open lesion on an exposed part of his body; or
- (b) the client is known to be infected with a blood-borne virus; or
- (c) the operator has an open lesion on his hand; or
- (d) the operator is handling items that may be contaminated with blood or other body fluids.

5. A person registered in accordance with sections 14 (acupuncture) or 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act who visits people at their request to give them treatment should observe the requirements relating to an operator in paragraphs 3(1)(a) and 4(1)(a).

6. The byelaws relating to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis that were confirmed by Swale Borough Council are revoked.

