



Report to Licensing Committee

Date: 26th July 2022

Title: Harmonisation of skin piercing registration requirements and model byelaws for skin piercing activities

Cabinet Member(s): Councillor Mark Winn

Author and/or contact officer: Ian Snudden

Ward(s) affected: all wards

Recommendations:

1. To recommend to Full Council:

- 1.1 That the Council resolve to adopt the provisions of Sections 14 to 17 inclusive of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) in relation to Acupuncture, Tattooing, Ear-Piercing and Electrolysis to apply to the Buckinghamshire Council area.
- 1.2 That following the implementation period for the resolution to adopt the provisions of Sections 14 to 17 inclusive of the Local Government (Miscellaneous) Provisions Act 1982 (as amended) the Council resolve to adopt the model byelaws relating to acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis which appear at Appendix 1

Reason for decision: These recommendations will harmonise the registration of persons who undertake skin piercing and premises where skin piercing activities take place in order to provide a consistent level of protection to those who use these services across all legacy areas.

1. Executive summary

- 1.1 Currently there are different registration regimes and byelaws across the legacy areas. This report seeks Member's approval for the adoption of model byelaws for the safe practice of acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis across the whole district.

2. Content of report

Resolution to adopt the provisions of Sections 14 to 17 Local Government (Miscellaneous Provisions Act 1982 (as amended) ("the Act").

- 2.1. Currently Aylesbury, Chiltern and Wycombe legacy areas have adopted the provisions of sections 14 and 15 of the Local Government (Miscellaneous Provisions) Act 1982 which requires registration of businesses and persons who perform skin piercing namely tattooing, ear piercing, electrolysis and acupuncture.
- 2.2. Once adopted, registration is mandatory in that the local authority must issue a registration if the application has been properly made and can only be refused where a person has previously been convicted of an offence under Section 16(1) or (2) of the Act and the convicting magistrate cancelled the previous registration. A registration can only be cancelled by a magistrate upon conviction of an offence, and this is in lieu of a fine. Such offences are the carrying on of a skin piercing business without being registered, contravening byelaws and failing to display the byelaws and registration.
- 2.3 In some circumstances, where there has been undue delay in processing and issuing a licence by the local authority, the applicant may commence their business without that licence (tacit authorisation). However, the Provision of Services Regulations 2009 allows different arrangements to be put in place when justified by an Overriding Reason of Public Interest. Therefore, tacit authorisation would not be applicable for skin piercing activities because of the public health risk.
- 2.4 As part of a consolidation exercise it is recommended that the provisions of sections 14 to 17 inclusive of the Act are adopted across the Buckinghamshire area. It is understood that some legacy areas may also have adopted sections 16 and 17 of the Act. Notwithstanding, this report is based on a recommendation for all sections to be adopted for the full Council area all together for ease, consolidation and consistency. It is not considered that a re-adoption would affect the applicability of either previous or future matters.

Adoption of model byelaws



- 2.5 The Buckinghamshire area currently has existing byelaws from legacy council areas which deal with the hygiene practices and procedures in relation to some or all of the practices of acupuncture, electrolysis, ear piercing, tattooing, cosmetic piercing (piercing of the body including the ear) and semi-permanent skin-colouring including micro pigmentation, semi-permanent make-up and temporary tattooing. These are not however consistent across the whole of the Council area.
- 2.6 A draft byelaw based on the consolidated set of model byelaws which has been produced by the Department of Health appears at Appendix 1 and covers the practices of acupuncture, electrolysis, ear piercing, tattooing, cosmetic piercing (piercing of the body including the ear) and semi-permanent skin-colouring including micro pigmentation, semi-permanent make-up and temporary tattooing.
- 2.7 It is recommended that all existing byelaws from the legacy council areas in relation to semi-permanent skin-colouring and cosmetic piercing, acupuncture, ear-piercing, electrolysis and tattooing or related are revoked and replaced by the consolidated set of model byelaws for the Buckinghamshire Council area.

3. Other options considered

- 3.1 Where relevant sections of the Act have been adopted, it is a legal requirement for operators to register with the local authority within which the business operates. Each legacy area currently has byelaws to ensure the safe and hygienic practice of skin piercing. However, these don't all provide for current trends towards cosmetic body piercing and the application of semi-permanent skin colouring. By adopting sections 14 to 17 across the whole Council area all aspects of skin piercing will be covered by the requirement for registration and any adopted consolidated Byelaws will then allow the checks by officers to ensure safe practice. If sections 14-17 of the Act and then the consolidated byelaws are not adopted, then there may be some members of the public who would not be adequately protected from unregistered businesses.
- 3.2 By extending the range of activities that come within the registering regime, greater protection from the transmission of blood borne virus infections can be provided and improved enforcement provisions adopted.

4. Legal and financial implications

- 4.1 The Local Government (Miscellaneous Provisions) Act 1982 sets out the power to adopt byelaws under the Act whilst Section 236 of the Local Government Act 1972 sets out the process for the confirmation of the byelaws to be adopted.

4.2 The Act also sets out the process for implementation of the registration requirements in sections 14-17 of the Act. As this requires a lead in time the Byelaws should only be adopted once the adoption of sections 14-17 has been completed.

4.3 As part of the adoption and confirmation processes for Byelaws, the local authority is required to publish public notices as a one off exercise in local newspapers.

4.4 Whilst the adoption and implementation processes for both the requirement to register business and Byelaws will incur a cost to the local authority, this will be met from within existing budgets.

5. Corporate implications

5.1 The adoption of full registration requirements and new byelaws covering all aspects of skin piercing fits well with Buckinghamshire Council's Corporate Plan, particularly in relation to improving health and wellbeing and reducing the gap in health outcomes. By extending the range of skin piercing activities covered by a registration scheme, residents will be better protected from the transmission of blood-borne viruses potentially associated with skin piercing.

6. Local councillors, community boards consultation & views

6.1 The recommendations in this report are not specific to any one area in Buckinghamshire and so no specific local councillor or community board engagement has been carried out.

7. Consultation and communication

7.1 If adopted, as well as the statutory requirements such policy changes will be publicised on the authority's web pages and existing businesses notified. Existing skin piercing businesses have already been notified of the potential change in policy as part of communication relating to the harmonisation of the registration fees.

8. Next steps and review

8.1 If approved by Full Council on 21st September 2022, the statutory implementation process after adoption of the registration requirements will be completed, new registration requirements policies will be created/extended pending formal implementation and related byelaws for cosmetic piercing, semi-permanent skin-colouring, acupuncture, ear-piercing, electrolysis and tattooing will be drawn up in line with the consolidated model byelaws (appendix 1). An application to the Secretary of State will be made for confirmation of such byelaws covering the

Buckinghamshire Council area and that once confirmed, related existing legacy byelaws will be revoked.

9. Background papers

9.1 None

10. Your questions and views (for key decisions)

10.1 If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the democratic services team. This can be done by telephone 01494 732057 or email ian.snudden@buckinghamshire.gov.uk

