



## Report to Council

**Date:** 21<sup>st</sup> September 2022

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

**Cabinet Member(s):** Councillor Mark Winn, Cabinet Member for Homelessness and Regulatory Services.

Councillor Heather Wallace, Chairman of Licensing Committee

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### **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 and that the resolution comes into effect on 1<sup>st</sup> December 2022.
- 1.2 That following the resolution to adopt the provisions of Sections 14 to 17 inclusive of the Local Government (Miscellaneous) Provisions Act 1982 (as amended) and subject to required provisional approval by the Secretary of State 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.
- 1.3 That the Council authorises the affixing of the common seal to the model byelaws and authorises the Appropriate Officer to carry out the necessary procedures and apply to the Secretary of State for confirmation.

**Reason for decision:** These recommendations will harmonise the registration of persons who undertake skin piercing activities and premises where skin piercing activities take place and create a consolidated set of byelaws 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 Council to pass a resolution for the adoption of sections 14 to 17 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) and to pass a resolution for the adoption of model byelaws for the safe practice 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 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 1982 Act”).**

- 2.1. Currently there is a disparity between the legacy areas in relation to the adoption of 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 On 26<sup>th</sup> July 2022, the Licensing Committee considered a report relating to the adoption of these provisions and Members agreed to a resolution to adopt the relevant provisions of the 1982 Act with a recommendation that it now be adopted by the Council. The Licensing Committee report of 26<sup>th</sup> July 2022 sets out in more detail the considerations and a link to the report is provided in the key document section of this report.
- 2.3 As part of a consolidation exercise it is recommended that the provisions of sections 14 to 17 inclusive of the 1982 Act are adopted across the Buckinghamshire area. It is understood that some legacy areas may also have adopted sections 16 and 17 of the 1982 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**

- 2.4 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.

- 2.5 On 26<sup>th</sup> July 2022, the Licensing Committee considered a report relating to the adoption of a consolidated set of model byelaws and Members agreed to a resolution to adopt the relevant provisions of the Act with a recommendation that it be adopted by the Council. The Licensing Committee report of 26<sup>th</sup> July 2022 sets out in more detail the considerations and links to the report and to the consolidated set of model byelaws which has been produced by the Department of Health are provided in the key document section of this report.
- 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. This will occur as part of the making of the byelaws as recommended – please see Appendix 1
- 2.8 In order to make the byelaws the statutory process for making the byelaws under the Local Government Act 1972 (the 1972 Act) must be followed. This process includes provisional approval by the Government, sealing the byelaws, and public notice and inspection requirements followed by confirmation of the byelaws by the Secretary of State.
- 2.9 We expect there to be sufficient time for the statutory procedure to be completed by 1 December 2022 to coincide with the registration requirements. However, there can be delays in the process and if objections are received from the public, the confirmation of the byelaws and the date they come into force may be after 1 December 2022. In this event the existing byelaws continue to apply until the new byelaws come into effect and revoke the existing byelaws. This will mean that the current level of protection will continue until the new model byelaws are in force.

### 3. Other options considered

- 3.1 Where relevant sections of the 1982 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 to 17 of the 1982 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 (as amended) sets out the process for implementation of the registration requirements in sections 14 to 17 and also sets out the power to adopt byelaws under the Act. Section 236 of the Local Government Act 1972 sets out the process for the confirmation of the byelaws to be adopted.

- 4.2 The 1982 Act requires a lead in time for the process of the adoption of sections 14 to 17. It is recommended that the resolution to adopt sections 14 to 17 of the 1982 Act comes into force on 1<sup>st</sup> December 2022. This will enable sufficient lead in time for the publication of public notices in local newspapers over two consecutive weeks.

- 4.3 Further details relating to the 1972 Act procedure are as detailed above. Legal advice is that details of all byelaws made are to be included in Schedule 1 of the model byelaws (Appendix 1).

- 4.4 As the model byelaw would apply to all specified activities with a view to protecting anyone who requires skin piercing, there are no known equality or diversity issues.

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

#### 5.0 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, 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 the statutory process for the related byelaws for cosmetic piercing, semi-permanent skin-colouring, acupuncture, ear-piercing, electrolysis and tattooing will also be implemented as detailed within this report and below.

8.2 At least one calendar month before applying to the Secretary of State for confirmation notice of the Council's intention to apply for confirmation must be given in one or more local newspapers circulating in the area to which the byelaws will apply.

8.3 A copy of the byelaws must then be open to the public for inspection at the Council offices, without charge, at all reasonable times during that month.

8.3 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. Key documents:

Appendix 1 Consolidated model byelaws

Report to Licensing Committee of 26<sup>th</sup> July 2022 (Item 4)

[Agenda for Licensing Committee on Tuesday, 26th July, 2022, 6.30 pm - Modern Council \(moderngov.co.uk\)](#)