

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING AND APPEALS COMMITTEE

19 March 2014

Report of the Director of Central Services

Part 1- Public

Matters for Recommendation to Council

1 ADOPTION OF BYELAWS TO REGULATE ACUPUNCTURE, TATTOOING, SEMI-PERMANENT SKIN COLOURING, COSMETIC PIERCING AND ELECTROLYSIS

1.1 Purpose of report

1.1.1 The purpose of this report is to recommend that the Council passes a resolution to adopt a new single consolidated set of byelaws, produced by the Department of Health, to regulate acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis.

1.1.2 The byelaws would require persons conducting any of the above activities to register themselves and their premises, and in carrying out the activities observe criteria relating to hygiene of premises, practitioners and equipment.

1.2 Background

1.2.1 The Council resolved to adopt the provision of the Local Government (Miscellaneous Provisions) Act 1982 in respect of skin piercing in 1985 and three separate sets of byelaws were adopted under section 236 of the Local Government Act 1972 to control the hygiene of premises, practitioners and equipment for persons undertaking the following within the Borough:

- acupuncture
- tattooing and
- ear piercing and electrolysis

1.2.2 Public demand for body piercing has increased significantly over the past 20 years. Industry practices have also changed and practitioners have adopted new cosmetic techniques, for example semi-permanent skin colouring. These activities cannot be regulated under the existing byelaws.

1.2.3 In response to these changes, section 120 and schedule 6 of the Local Government Act 2003 amended section 15 of the Local Government (Miscellaneous Provisions) Act 1982. The new legislation updated the law to allow for these new practices. The Council did not adopt the new byelaw at the time, instead opting to await for the production of model byelaws. It is these that are now available and that it is proposed the Council adopts.

1.2.4 There are advantages to both customer business and the Council from the adoption of these byelaws. Implementation of the byelaws reduces the risk to the public of contracting blood borne viruses such as HIV and Hepatitis B and C. In addition, a single set of byelaws will benefit business as the process of registration will be simplified, particularly for those conducting more than one type of cosmetic skin piercing activity.

1.3 Legal Implication

1.3.1 The Department of Health has provided model byelaws and guidance on applications to the Secretary of State for Health for confirmation of the byelaws. The guidance includes a model Council resolution which has been adapted for this report and a model newspaper notice which officers also intend to use. The Council will have to publish its intention to adopt the new legislation in the local press before it applies to the Secretary of State to confirm the byelaws.

1.4 Financial and Value for Money Considerations

1.4.1 Councils are allowed to charge a one off fee for registration which is currently £285. There will shortly be a review on the current charging policies.

1.5 Risk Assessment

1.5.1 The only way the Council can effectively control skin piercing is by adopting the byelaws. If the model byelaws are not adopted the Council will not be able to regulate hygiene practices and reduce the risk of infection in premises and by operatives offering body piercing and semi-permanent skin colouring procedures.

1.6 Equality Impact Assessment

1.6.1 See 'Screening for equality impacts' table at end of report

1.7 Recommendations

1.7.1 In recommending that the Council passes the resolution, committee shall ensure that regulation of acupuncture and cosmetic skin piercing in the Borough is consistent and up to date. There shall be an increased level of public health protection and business shall benefit from the simplification of legal requirements.

- 1.7.2 It is recommended that (a) committee pass resolutions to adopt model byelaws for the regulation of skin piercing activities in accordance with section 15 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 120 of the Local Government Act 2003 and to authorise the Director of Central Services to apply to the Secretary of State for confirmation and (b) the relevant registration requirements come into effect from the date on which the byelaws referred to above are confirmed by the Secretary of State and the current byelaws revoked.

Background papers:

contact: Cliff Cochrane

Model byelaws

Adrian Stanfield

Director of Central Services

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	N/A	
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.