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**Meeting:**                    **General Purposes Committee**                    **Agenda Item:3**

Portfolio area            Environmental Health and Licensing

**Date:**                    **9<sup>th</sup> September 2010**

**ADOPTION OF BYELAWS FOR ACUPUNCTURE, TATTOOING, SEMI-PERMANENT SKIN COLOURING, COSMETIC PIERCING AND ELECTROLYSIS**

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**1.        PURPOSE**

- 1.1.    To advise Members of the additional powers available to provide for hygiene controls on cosmetic piercing and semi-permanent skin colouring and to recommend adoption by the Council of the updated Department of Health model byelaws for acupuncture, tattooing, electrolysis, cosmetic piercing and semi- permanent skin colouring.

**2.        RECOMMENDATIONS**

That Council be recommended to adopt by resolution the updated byelaws and authorise–

- 2.1    the affixing of the common seal to the attached byelaws and
- 2.2    that the Head of Environmental Health and Licensing be authorised to carry out the necessary procedure and apply to the Secretary of State for confirmation of the new byelaws.

**3.        BACKGROUND**

Simple Glossary

*Acupuncture* means the practice of inserting needles into the body to reduce pain or induce anaesthesia.

*Electrolysis* means the destruction of living tissue, such as hair roots, by an electric current.

*Tattooing* means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa.

*Cosmetic Piercing* means puncturing or penetrating the skin of a client with presterilized single-use needles and the insertion of presterilized jewellery or other adornment into the opening.

*Micro pigmentation* means the insertion of pigment into the dermal layer of the skin (this includes semi-permanent / permanent make-up, such as lip and eye liner, body art and tattoos);

*Treatment* means any operation in effecting acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis;

- 3.1.1 The Local Government Act 2003 amended the Local Government (Miscellaneous Provisions ) Act 1982 and introduced new requirements for cosmetic piercing and semi permanent skin-colouring businesses. This Council has already adopted the Local Government (Miscellaneous Provisions) Act 1982 in relation to acupuncture, tattooing, ear piercing and electrolysis and a registration system and byelaws for these are in place.
- 3.1.2 Cosmetic piercing and semi- permanent skin colouring carry a potential risk of blood borne virus transmission if infection control procedures are not observed (e.g. the use of sterile equipment for each client). These include HIV/AIDS and hepatitis. However, the activities of cosmetic piercing (except ear piercing) and skin colouring (e.g. micro pigmentation, semi-permanent make-up and temporary tattooing) fall outside the scope of the current Stevenage Borough Council byelaws.
- 3.1.3 It is proposed to bring cosmetic piercing and skin colouring activities within the regulatory scope by the adoption of a consolidated and updated set of byelaws covering acupuncture, electrolysis, cosmetic piercing, tattooing and semi-permeable skin colouring.

## **3.2 Legislative Background**

- 3.2.1 Part VIII of the Local Government (Miscellaneous Provisions) Act 1982 originally provided for the regulation of only tattooing, acupuncture and ear piercing and electrolysis. It was subsequently amended by the Local Government Act 2003 to substitute the more comprehensive term 'cosmetic body piercing' for 'ear piercing' to accommodate the growing practice of piercing other parts of the human body, and also to regulate the relatively new practice of 'semi-permanent skin colouring' which was growing in popularity.
- 3.2.2 In 2006, the Department of Health issued a revised model byelaw for the 1982 Act which consolidated all five areas of regulation into a single byelaw, considerably simplifying the adoption process. This is the model byelaw proposed for adoption and set out in Appendix 1.

## **3.3 Adoption Procedure**

- 3.3.1 As the Council has already resolved that section 15 of the 1982 Act applies to the district we are covered by transition provisions. Persons and premises already registered for activities covered by section 15 are unaffected. We are automatically enabled to seek the approval of the Secretary of State to apply the registration and byelaws regime to cosmetic piercing and semi permanent skin colouring activities.

In order for this to proceed the Council has to make a formal resolution to adopt the byelaws set out in Appendix 1.

- 3.3.2 The adopted byelaws would then be made under the common seal of the Council, following which a notice of the Council's intentions to apply for their confirmation by the Secretary of State for Health must be given in one or more newspapers circulating in the area to which the byelaws are to apply.
- 3.3.3 For at least one month after the date of the publication of the newspapers, a copy of the byelaws must be held on deposit at the offices of the Council for inspection by the public at all reasonable hours, and the Council must provide any person who applies with a copy of any part of the byelaws.
- 3.3.4 After the month for deposit has expired the application to the Secretary of State for Health would be undertaken by sending two sealed copies of the byelaws, together with copies of the newspaper notice advertising the byelaw.
- 3.3.5. On receipt of the sealed byelaws, provided that no objections have been received, they will normally be stamped as confirmed by the Secretary of State and returned to the Council as soon as possible. Where an objection has been received following the advertisement of the byelaws, the Council will be provided with copies of the objections for its officers to comment upon, which in turn will be considered by the Secretary of State. Should the Secretary of State still be unclear as to the proper resolution of these objections then a Public Inquiry may be ordered to be held into the objections to the adoption of the byelaws, and confirmation or refusal of confirmation dependent upon the decision of the Chair of the Inquiry.

#### **3.4. Requirements on business**

- 3.4.1 The byelaws will apply to any premises and business proprietor involved in the practice of acupuncture, the business of tattooing, semi-permanent skin-colouring, cosmetic body piercing or electrolysis unless the activity is being undertaken by or under the supervision of a person who is registered as a medical practitioner.
- 3.4.2 From the date the byelaws come into force in the area, cosmetic and semi permanent skin colouring businesses will have to register with the Council in addition to those businesses which already have to register (ear piercing, acupuncture, electrolysis and tattooing) and follow the byelaws which are concerned with the cleanliness and hygiene of practitioners, premises and equipment to protect customers against the risk of infection.
- 3.4.3. It will be an offence to carry on such a business without being registered, to carry on such a business in premises that are not registered for the purpose or to break byelaws.
- 3.4.4 The fees for registration for businesses carrying out skin piercing activities are currently as follows:

Premises Registration:	£145
Persons Registration:	£65
- 3.4.5 Registration is a 'one-off' event and the fees will not be required annually.

- 3.4.6. Currently, there are 60 premises registered with the Authority as carrying out the narrower range of activities set out in the existing byelaws. Of these there are 32 businesses registered as carrying out ear piercing. New registrations are being received from around 5 businesses annually. It is unlikely that there will be a significant overall change in the numbers of businesses carrying out these activities in Stevenage.
- 3.4.7. A letter has been sent to all the businesses currently on our skin piercing register explaining the proposal and including a copy of the draft byelaw.

#### **4. REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS**

Referring to section 3 (background information), the Committee is invited to consider whether to:

- 4.1 Recommend to Council that a resolution is passed allowing the Authority to implement the new requirements for cosmetic piercing and semi-permanent skin colouring in order to reduce the risk of customers contracting serious infections from these procedures.
- 4.2 Or to take no further action to extend the scope of the skin piercing byelaws, making hygiene standards more difficult to enforce.

#### **5. IMPLICATIONS**

##### **5.1. Financial Implications**

There are no financial implications arising from this report. All expenditure can be met from existing resources.

##### **5.2. Legal Implications**

- 5.2.1 The registration requirements are already in place but the Council can only enforce the other regulatory aspects of this legislation if the byelaws are adopted.
- 5.2.2 The Local Government and Public Involvement in Health Act 2007 established a completely new regime for the making and enforcement of byelaws, however these provisions have not yet been brought into force and after discussions with the Department of Health, following the procedure set out is considered to be appropriate. If and when this legislation is introduced, a review of all byelaws may be required.

##### **5.3. Risk Implications**

The Council could be criticised for not adopting powers that are available to it, particularly if these businesses caused concern in the future.

#### **BACKGROUND DOCUMENTS**

- Local Government (Miscellaneous Provisions) Act 1982

- Local Government Act 2003 Section 120 and Schedule 6
- Department of Health guidance on the Regulation of Cosmetic Piercing and Skin Colouring Businesses.

## **APPENDICES**

- Appendix 1 Draft model byelaws- acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis.