

# Forest Heath District Council

(This report is not a key decision. This report has been subject to appropriate notice of publication under the Council's Access to Information Rules)

## Report of the Cabinet Member for Environment and Waste

**CABINET**

**28 OCTOBER 2014**

**CAB14/171**

### **REGULATION OF COSMETIC PIERCING AND SKIN COLOURING BUSINESSES**

(Decision Plan Reference: OCT14/08)

#### **1. Summary and reasons for recommendation(s)**

- 1.1 This report details proposed regulatory changes for registering all businesses and persons undertaking cosmetic piercing and skin-colouring within the Forest Heath District Council Area.
- 1.2 Adopting the proposed regulatory changes will ensure that Forest Heath District Council and St Edmundsbury Borough Council share the same approach for the Regulation of the Cosmetic Industry and can facilitate consistency of enforcement.
- 1.3 These measures are intended to increase health protection and reduce the risk of transmission of blood-borne virus infections.

#### **2. Recommendations**

- 2.1 It is **RECOMMENDED** to full Council, that the new byelaws, as found at Appendices 1 and 2, for the control of cosmetic piercing and skin colouring, are endorsed.

#### **Contacts**

**Portfolio holder**  
Name Councillor Nigel Roman  
Title Cabinet Member for  
Environment and Waste  
Telephone 01638 712679  
E-mail [nigel.roman@forest-heath.gov.uk](mailto:nigel.roman@forest-heath.gov.uk)

#### **Lead officer**

Tom Wright  
Business Regulation and  
Licensing manager  
01638 719255  
[tom.wright@westsuffolk.gov.uk](mailto:tom.wright@westsuffolk.gov.uk)

### **3. Strategic priorities**

3.1 The recommendation meets the following, as contained within the West Suffolk Strategic Plan:

- (a) Strategic priority: Increased opportunities for economic growth
- (b) Strategic priority: Resilient families and communities that are healthy and active

### **4. Key issues**

4.1 Currently in England (outside London) and in Wales, Local Authorities may choose to adopt the sections of the Local Government (Miscellaneous Provisions) Act 1982 that require businesses performing ear piercing, electrolysis, tattooing and acupuncture to:

- a) register themselves and their premises; and
- b) observe byelaws relating to the cleanliness and hygiene of premises, practitioners and equipment.

4.2 Forest Heath District Council (the council) currently has premises within the area undertaking body piercing, and other related activities. The provisions of the current byelaws do not extend to these activities.

4.3 The council adopted the provisions in 1986 for tattooing, ear piercing, electrolysis and acupuncture. Under the Local Government Act 2003, Section 120 and Schedule 6, the 1986 Byelaws can be up-dated to cover:

- a) Cosmetic Piercing, encompassing ear piercing and cosmetic body piercing; and
- b) Semi – permanent skin colouring, encompassing micro-pigmentation, semi-permanent make-up, and temporary tattooing.

4.4 The new provisions would extend the powers to require businesses carrying out body piercing, micro-pigmentation and semi-permanent make-up to register themselves and their premises and also require them to confirm to certain hygiene standards as prescribed within the byelaws.

4.5 The regulation of skin piercing activities is intended to increase health protection and reduce the risk of blood borne viruses (BBV) infections such as HIV, hepatitis B, and hepatitis C. The Department of Health (DOH) has produced model byelaws that Local Authorities may wish to adopt in their area to promote consistent enforcement. These are included in Appendices 1 and 2 attached.

4.6 Adoption of the updated byelaws would ensure a consistent approach for this industry across the West Suffolk area.

4.7 Body piercing practices in recent years have expanded, with an increased popularity within the wider community. Techniques involving cosmetic body

piercing in areas other than the ears are now performed routinely within the district.

- 4.8 These activities are generally carried out at a range of premises within the district. Effective infection control procedures are crucial for the prevention of BBV infections. The measures within the byelaws are intended to increase health protection and reduce the risk of the transmission infections within the community.

## **5. Other options considered**

- 5.1 The council can continue to use the existing provisions under the Local Government (Miscellaneous Provisions) Act 1982, as adopted in 1986. However the demand for cosmetic piercing, and semi-permanent skin-colouring is such that the current byelaws do not reflect current practice or enable effective control through registration of those premises offering these services thus potentially compromising health protection.

## **6. Community impact**

- 6.1 Many of the businesses that undertake cosmetic procedures have registered with the council under the existing arrangements. It is not anticipated that these changes will pose additional burdens on those businesses already registered. Arrangements are detailed within the Local Government Act 2003 to facilitate the change in byelaws for business already registered with the council.

The new provisions will promote wider community confidence in the businesses operating as these businesses will require registration with the Council .

- 6.2 **Diversity and equality impact** – no findings.

- 6.3 **Sustainability impact** - no findings.

- 6.4 **Other impact** – no findings.

## **7. Consultation**

- 7.1 No direct consultation has been carried out with businesses regarding the changes to the current registration process. However under the transitional arrangements persons and premises already registered with the council are unaffected by the changes.

If the council decide to progress these changes a specific consultation and approach must be followed namely:

- a) A full council resolution on adopting the byelaws must be passed
  - I. Authorising the affixing of the common seal to the byelaws and
  - II. Authorising an appropriate officer to carry out the necessary procedure and apply to the Secretary of State for confirmation.
  
- b) At least one clear calendar month before applying to the Secretary of State for confirmation:

- I. Notice of the Council’s intention to apply for confirmation must be given in one or more local newspapers circulating in the area. (An example is included at Appendix 3).
- II. A copy of the draft byelaws have being subject to the common seal must be available at the council offices and be open to public inspection without charge at all reasonable times during that month.

7.2 The byelaws may be submitted for confirmation any time after the month has elapsed. The council currently have 105 registered premises which will receive written communications about the proposals.

7.3 If any objections are received a written statement about the objections must be accompanied with the application for the Secretary of State confirmation.

**8. Financial and resource implications**

8.1 There is an initial cost for adopting new byelaws, as a statutory consultation following legal processes is required.

8.2 Section 15(6) of the Local Government (Miscellaneous Provisions) Act 1982 enables local authorities to charge reasonable registration fees for registration of persons carrying on businesses of cosmetic piercing or semi-permanent skin-colouring. The fee might cover initial inspection(s) associated with registration, advising the business about registration and associated administration. The council currently charge an initial registration fee of £175 for each premises. The on-going costs for implementing the proposed byelaws would not be different to the current arrangements (subject to annual review).

8.3 Costs to local authorities of implementing these new provisions are estimated to be relatively small and will be offset by several factors. As mentioned above, local authorities can charge reasonable registration fees. We will already be inspecting many of these businesses, as the premises may be registered for other skin piercing activities, such as ear piercing, tattooing or electrolysis. In addition, some of the businesses will be inspected, on a risk basis under health and safety at work legislation. No additional resources are available from Central Government.

**9. Risk/opportunity assessment**

<b>Risk area</b>	<b>Inherent level of risk (before controls)</b>	<b>Controls</b>	<b>Residual risk (after controls)</b>
	High/Medium/Low		High/Medium/Low
Failure to adopt the byelaws leading to increased potential for uncontrolled transmission of blood borne infections via cosmetic piercing and skin colouring	High	Through adoption of the new byelaws, the Council will be able to positively regulate in the reduction of potential blood borne virus infections in the cosmetic industry.	Low

## **10. Legal and policy implications**

10.1 The Legislation and Department of Health publication on this matter provides clear guidance on the full procedure, in part referred to in section 7 above.

## **11. Ward(s) affected**

11.1 All Wards

## **12. Background papers**

12.1 Local Government Act 2003

12.2 Department of Health Publication: Local Government Act 2003 – Regulation of Cosmetic Piercing and Skin – Colouring Businesses Guidance on Section 120 and Schedule 6

[http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/@dh/@en/documents/digitalasset/dh\\_4074312.pdf](http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4074312.pdf)

12.3 Forest Heath current Byelaws

## **13. Documents attached**

Appendix 1 – Draft Model Byelaws for Cosmetic Piercing

Appendix 2 – Draft Model Byelaws for Semi-permanent skin-colouring

Appendix 3 – Model Notice of the Council Resolution

## **Appendix 1 – Draft Model Byelaws Cosmetic Piercing**

Byelaws for the purposes of securing the cleanliness of premises registered under section 15 of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in those premises and of registered persons and persons assisting them and the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the business of cosmetic piercing made by ..... in pursuance of Section 15(7) of the Act.

### 1. Interpretation:

a. In these byelaws, unless the context otherwise requires –

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

“Client” means any person undergoing treatment;

“Operator” means any person giving treatment;

“Premises” means any premises registered under Part VIII of the Act;

“Proprietor” means any person registered under Part VIII of the Act;

“Treatment” means any operation in effecting cosmetic piercing;

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

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

2. For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that –

a. All internal walls, doors, windows, partitions, floors and floor coverings, and ceilings are kept clean and in such good repair as to enable them to be cleaned effectively;

b. All waste materials, and other litters, arising from the treatment should be handled and disposed of as clinical waste in accordance with relevant legislation and guidance as advised by the local authority;

c. All needles used in treatment are single-use and disposable, as far as is practicable; and are stored and disposed of as clinical waste in accordance with the relevant legislation and guidance as advised by the local authority;

d. All furniture and fittings in the premises are kept clean and in such good repair as to enable them to be cleaned effectively;

e. All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 3b below are placed immediately prior

to treatment, have a smooth impervious surface which is disinfected immediately after use and at the end of each working day;

f. Where tables and couches are used, they are 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", "No Eating or Drinking" is prominently displayed there.

3. For the purpose of securing the cleansing and so far as is appropriate, the sterilization of instruments, materials and equipment used in connection with the treatment –

a. An operator shall ensure that, before use in connection with treatment, any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in the treatment –

i. is clean and in good repair, and, so far as is appropriate, sterile;

ii. has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned and, so far as is appropriate, sterilized.

b. An operator shall ensure that any needle, metal instrument, or other item of equipment, used in treatment or for handling instruments and needles used in the treatment is in a sterile condition and kept sterile until it is used;

c. A proprietor shall provide –

i. adequate facilities and equipment for the purpose of sterilization (unless pre-sterilized items are used) and of cleansing, as required in pursuance of these byelaws;

ii. sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;

iii. an adequate constant supply of clean hot and cold water readily available at all times on the premises;

iv. adequate storage for all items mentioned in byelaw 3 a and b above, so that those items are properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.

4. For the purpose of securing the cleanliness of operators –

a. A proprietor shall ensure that –

i. any operator keeps his hands and nails clean and his nails short;

ii. any operator wears disposable surgical gloves that have not previously been used with any other client;

- iii. any operator of the premises 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 any other client;
- iv. any operator keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;
- v. any operator does not smoke or consume food or drink in the treatment area.

b. A proprietor shall provide;

- i. suitable and sufficient washing facilities for the sole use of operators, including hot and cold water and sanitising soap or detergent;
- ii. suitable and sufficient sanitary accommodation for operators.

**COUNCIL'S SIGNATURE**

**COUNCIL'S SEAL**

The foregoing byelaws are hereby confirmed by the Secretary of State for Health  
on \_\_\_\_\_ and shall come into operation on \_\_\_\_\_

Member of the Senior Civil Service

Department of Health

**NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS**

A. Proprietors must take all reasonable steps to ensure compliance with these byelaws by persons working on the premises. Section 16(9) of the Act provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act.

B. Section 16(2) of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who contravenes any of these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. If a person registered under Part VIII of the Act is found guilty of contravening these byelaws the Court may instead of or in addition to imposing a fine, order the suspension or cancellation of his registration and of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence for the person charged under sub-sections (1), (2), (8) or (10) of Section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

C. Nothing in these byelaws extends to the practice of cosmetic piercing by or under the supervision of a person who is registered as a medical practitioner or to premises on which the practice of cosmetic piercing is carried on by or under the supervision of such a person.



## **Appendix 2 – Draft Model Byelaws Semi-permanent skin-colouring**

Byelaws for the purposes of securing the cleanliness of premises registered under section 15 of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and registered persons and persons assisting them and the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the business of semi-permanent skin-colouring, made by ..... in pursuance of section 15(7) of the Act.

### 1. Interpretation:

a. In these byelaws, unless the context otherwise requires –

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

“Client” means any person undergoing treatment;

“Operator” means any person giving treatment;

“Premises” means any premises registered under Part VIII of the Act;

“Proprietor” means any person registered under Part VIII of the Act;

“Treatment” means any operation in effecting semi-permanent skin-colouring;

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

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

2. For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that –

a. All internal walls, doors, windows, partitions, floors and floor coverings, and ceilings are kept clean and in such good repair as to enable them to be cleaned effectively;

b. The treatment area is used solely for giving treatment;

c. The floor of the treatment area is provided with a smooth impervious surface;

d. All waste materials, and other litters, arising from the treatment should be handled and disposed of as clinical waste in accordance with relevant legislation and guidance as advised by the local authority;

e. All needles used in treatment are single-use and disposable, as far as is practicable; and are stored and disposed of as clinical waste in accordance with the relevant legislation and guidance as advised by the local authority;

f. All furniture and fittings in the premises are kept clean and in such good repair as to enable them to be cleaned effectively;

g. All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 3b below are placed immediately prior to

- treatment, have a smooth impervious surface which is disinfected immediately after use and at the end of each working day;
- h. Where tables and couches are used, they are covered by a disposable paper sheet which is changed for each client;
  - i. No eating, drinking or smoking is permitted in the treatment area and a notice or notices reading "No Smoking", "No Eating or Drinking" are prominently displayed there.
3. For the purpose of securing the cleansing and so far as is appropriate, the sterilization of instruments, materials and equipment used in connection with the treatment –
- a. An operator shall ensure that, before use in connection with treatment, any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such articles used in the treatment –
    - i. is clean and in good repair, and so far as is appropriate, is sterile;
    - ii. has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned and, so far as is appropriate, sterilized.
  - b. An operator shall ensure that –
    - i. any needle, metal instrument, or other item or equipment, used in treatment or for handling instruments and needles used in treatment, is in a sterile condition and kept sterile until it is used;
    - ii. all dyes used for semi-permanent skin-colouring are sterile and inert;
    - iii. the containers used to hold the dyes for each customer are either disposed of at the end of each session of treatment, or are cleaned and sterilized before re-use;
  - c. A proprietor shall provide –
    - i. adequate facilities and equipment for the purpose of sterilization (unless pre-sterilised items are used) and of cleansing, as required in pursuance of these byelaws;
    - ii. sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;
    - iii. an adequate constant supply of clean hot and cold water readily available at all times on the premises;
    - iv. adequate storage for items mentioned in byelaw 3 a and b above, so that those items are properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.
4. For the purpose of securing the cleanliness of operators –
- a. A proprietor shall ensure that –
    - i. any operator keeps his hands and nails clean and his nails short;

- ii. any operator wears disposable surgical gloves that have not previously been used with any other client;
- iii. any operator of the premises 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 any other client;
- iv. any operator keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;
- v. any operator does not smoke or consume food or drink in the treatment area.

b. A proprietor shall provide -

- i. suitable and sufficient washing facilities for the sole use of operators, including hot and cold water, sanitising soap or detergent;
- ii. suitable and sufficient sanitary accommodation for operators.

**COUNCIL’S SIGNATURE**

**COUNCIL’S SEAL**

The foregoing byelaws are hereby confirmed by the Secretary of State for Health  
on \_\_\_\_\_ and shall come into operation on \_\_\_\_\_

Member of the Senior Civil Service  
Department of Health

**NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS**

A. Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on the premises. Section 16(9) of the Act provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act.

B. Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who contravenes any of these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. If a person registered under part viii of the Act is found guilty of contravening these byelaws the Court may instead of or in addition to imposing the fine, order the suspension or cancellation of his registration and of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence for the person charged under sub-sections (1), (2), (8) or (10) of Section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

C. Nothing in these byelaws extends to the practice of semi-permanent skin-colouring by or under the supervision of a person who is registered as a medical practitioner or to premises on which the practice of semi-permanent skin-colouring is carried on by or under the supervision of such a person.

## Appendix 3 – Model Notice of Council Resolution

1. The ..... Council resolved on [date] that the following provisions of the Local Government (Miscellaneous Provisions) Act 1982 shall apply to the area of this council:

Section 15 – Tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis

Section 16 – Provisions supplementary to sections 14 and 15

Section 17 – Power to enter premises (acupuncture etc.)

2. The date [s]\* on which these provisions will come into force will be: (see note 3 below).
3. The general effect of this resolution is, subject to the exceptions detailed below, that a person who carries on the business of [tattooing]; [semi-permanent skin-colouring]; [cosmetic piercing]; or [electrolysis] must be registered with this Council, and they can only carry on their business in premises which have also been registered. The certificate of registration must be prominently displayed at the place where the business is carried on. The council is empowered to charge fees for registration. Applications for registration must be accompanied by the following information [to be specified by the local authority – see section 15(4) of the 1982 Act], in particular, details of the premises concerned and particulars of any conviction of the applicant under section 16 of the 1982 Act. A person who contravenes section 15 will be guilty of an offence, and liable, on conviction, to a fine not exceeding £1000, or suspension or cancellation of registration or both. An authorised officer of the Council may apply to a Justice of the Peace for a warrant to enter premises on suspicion that an offence under Section 16 is being committed there.
4. The Council [may apply in due course/will be applying in the near future]\* for confirmation of byelaws under this Act with regard to the cleanliness of premises, fittings, persons, instruments, materials and equipment connected with the businesses of [tattooing], [semi-permanent skin colouring], [cosmetic piercing], [electrolysis]\* in the area of the Council.
5. Exceptions:

i These provisions of the Act do not extend to the carrying on of the business of [tattooing], [semi-permanent skin-colouring], [cosmetic piercing] or [electrolysis]\* by or under the supervision of a registered medical practitioner (i.e. means a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practise under that Act).

ii A person who is registered under the provision of the Act specified in paragraph 1 above will not be committing an offence by engaging in the activity otherwise than at registered premises merely because he sometimes visits people at their request to provide his services.

**NOTES – not to form part of the model notice**

1. Passages marked [ ]\* to be modified by the Council according to the scope of Council's resolution.
2. The local authority should publish this notice in two consecutive weeks in a local newspaper circulating in their area.
3. The Council should specify the date or dates in paragraph 2. These can be the same for all sections listed in paragraph 1, or different, but
  - a. One month must pass between the day the resolution was passed and the first date of coming into force; and
  - b. First publication of the notice must not be later than 28 days before the coming into force of the provisions.