

Council



Forest Heath
District Council

Title of Report:	Regulation of Cosmetic Piercing and Skin–Colouring Businesses	
Report No:	COU/FH/15/009 [to be completed by Democratic Services]	
Decisions plan reference:	OCT14/08	
Report to and date/s:	Licensing Committee	08 September 2014
	Cabinet	28 October 2014
	Council	27 February 2015
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Lead officer:	Tom Wright Business Regulation and Licensing Manager Tel: 01638 719223 Email: tom.wright@westsuffolk.gov.uk	
Purpose of report:	<p>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.</p> <p>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.</p> <p>These measures are intended to increase health protection and reduce the risk of transmission of blood-borne virus infections.</p>	

Recommendation:	RECOMMENDED: that the proposed byelaws, as found at Appendices 1 and 2, for the control of cosmetic piercing and skin colouring, be approved.		
Key Decision: <i>(Check the appropriate box and delete all those that do not apply.)</i>	<i>Is this a Key Decision and, if so, under which definition?</i> Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/>		
<i>The key decision made as a result of this report will be published within 48 hours and cannot be actioned until seven working days have elapsed. This item is included on the Decisions Plan.</i>			
Consultation:	• See part 4.0		
Alternative option(s):	• See part 2.0		
Implications:			
<i>Are there any financial implications? If yes, please give details</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • See part 5.0		
<i>Are there any staffing implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •		
<i>Are there any ICT implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •		
<i>Are there any legal and/or policy implications? If yes, please give details</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • See body of report		
<i>Are there any equality implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •		
Risk/opportunity assessment: <i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>			
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
	Low/Medium/ High*		Low/Medium/ High*
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
Ward(s) affected:		All Wards	
Background papers: <i>(all background papers are to be published on the website and a link included)</i>	<ul style="list-style-type: none"> Local Government Act 2003 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 Forest Heath current Byelaws 		

**Documents
attached:**

Appendix 1 – Proposed Model Byelaws for Cosmetic Piercing
Appendix 2 – Proposed Model Byelaws for Semi-permanent skin-colouring
Appendix 3 – Model Notice of the Council Resolution

1. Key issues and reasons for recommendation(s)

- 1.1 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.
- 1.2 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.
- 1.3 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.
- 1.4 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.
- 1.5 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.
- 1.6 Adoption of the updated byelaws would ensure a consistent approach for this industry across the West Suffolk area.
- 1.7 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.
- 1.8 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.

2.0 Other options considered

2.1 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.

3.0 Community impact

3.1 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.

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

4.0 Consultation

4.1 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.

4.2 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 councils 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.

4.3 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.

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

5.0 Financial and resource implications

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

- 5.2 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).

- 5.3 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.

6.0 Legal and policy implications

- 6.1 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.