

Byelaws for Acupuncture, Tattooing, Semi-permanent Skin Colouring, Cosmetic Piercing and Electrolysis

Licensing Committee

Date:

Author:	Licensing Manager
Wards:	All
Locality Affected:	All
Parishes Affected:	All

1. Purpose and Reasons

- 1.1 Acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis premises and practitioners are registered by Swindon Borough Council under Part VIII of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 The Council has power to make byelaws relating to these activities to secure:
- (a) the cleanliness of registered premises and fittings in such premises;
 - (b) the cleanliness of persons so registered and persons assisting persons so registered in the business in respect of which they are registered; and
 - (c) the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with a business in respect of which a person is registered to carry on the business of tattooing, semi-permanent skin colouring, cosmetic piercing or electrolysis.
- The Council has made byelaws relating to acupuncture and tattooing activities (attached as Appendix A and B, respectively) but no byelaws have been made relating to the other skin piercing activities.
- 1.3 By making byelaws for semi-permanent skin colouring, cosmetic piercing and electrolysis, the Council will have more control over persons carrying on those businesses and the premises from which the businesses are run.
- 1.4 The Department of Health's model consolidated byelaws covering all skin piercing activities are attached to the report as Appendix C, for consideration. These consolidated byelaws ensure consistency across all types of skin piercing premises. The Council may revoke its existing byelaws on the coming in to force of new byelaws.

2. Recommendations

It is recommended that the Committee approve the byelaws in Appendix C, thereby revoking the existing byelaws in Appendix A and B, and recommend to Council that:

1. The Council's common seal is affixed to the byelaws in Appendix C; and

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2. The Director of Law & Democratic Services is authorised to carry out the necessary procedure to apply to the Secretary of State for confirmation of the byelaws.

3. Detail

- 3.1 On the 1st day of April 1985 byelaws made by Thamesdown Borough Council came into operation. The byelaws relate to sections 14 to 17 of Part VIII of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") dealing with the registration of persons practising acupuncture and persons carrying on the business of tattooing. The byelaws make it an offence to carry on these practices or businesses unless the person carrying on the business (or the practitioner in the case of acupuncture) and the premises are registered with the Council. A copy of the original byelaws is attached as Appendix A and B.
- 3.3 These byelaws secure:
- (a) the cleanliness of registered premises and fittings in such premises;
 - (b) the cleanliness of persons so registered and persons assisting persons so registered in the business in respect of which they are registered; and
 - (c) the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with the practice of acupuncture and the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with a business in respect of which a person is registered to carry on the business of tattooing.
- 3.4 No such byelaws were made to control semi-permanent skin colouring, ear-piercing or electrolysis activities.
- 3.2 On 01 April 2014, section 15 of the 1982 Act was amended by section 120 of the Local Government Act 2003 by replacing ear piercing with cosmetic piercing and inserting semi-permanent skin colouring in the list of activities that require registration. The latter refers to the insertion of semi-permanent colouring into a person's skin and includes micro pigmentation, semi-permanent make-up and temporary tattooing.
- 3.3 The Council's power to make byelaws under section 15(7) of the 1982 Act was thus extended to cosmetic piercing and semi-permanent skin colouring activities, but this power has not been utilised to date.
- 3.4 In September 2006, the Department of Health published a new consolidated set of model byelaws relating to acupuncture, tattooing, semi-permanent skin

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colouring, cosmetic piercing and electrolysis, and they include specific provisions that reflect current infection control advice and industry practice. The model byelaws are attached to the report as Appendix C. The procedure for making byelaws is set out in Appendix E.

- 3.1 By making byelaws relating to cosmetic piercing, semi-permanent skin colouring and electrolysis, the Council will have more control over persons carrying on those businesses and the premises from which the businesses are run thereby increasing health protection and reducing the risk of transmission of blood borne virus (BBV) infections such as HIV, hepatitis B and hepatitis C, and other infections.
- 3.2 In the absence of a new consolidated byelaws, the Council's enforcement powers would remain limited to acupuncture and tattooing activities.

4. Alternative Options

- 4.1 The Committee may resolve to not approve the model byelaws.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 There is a financial implication associated with the making of byelaws (particularly as a result of the requirement to advertise the Council's intention to make byelaws in a newspaper) and there is also a cost implication in providing resources to enforce byelaws. However, section 14(6) of the Local Government (Miscellaneous Provisions) Act 1982 allows the Council to determine and charge reasonable fees for acupuncture registrations and similar fees can be charged for tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis registrations under section 15(6) of the Act.

Legal and Human Rights Implications

- 5.2 The Secretary of State only has power to confirm byelaws if the procedure laid down in section 236 of the Local Government Act 1972 is properly carried out. There is no power to allow deviation from this procedure. The procedure must therefore be followed. There are no other legal implications. The making of these byelaws will bring protection to the users of these services. It is not considered that there will be a breach of any human rights.

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All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 The enforcement of the byelaws will be undertaken using existing staffing resources.
- 5.4 There are no other implications associated with this report.

Diversity Impact Assessment

- 5.5 No diversity impact assessment has been undertaken.

Risk Management

- 5.6 The absence of byelaws limits the Council's powers to control premises where skin piercing activities take place and the practitioners.
- 5.7 The additional controls imposed by the byelaws will reduce the risk of transmission of blood borne virus (BBV) infections such as HIV, hepatitis B and hepatitis C, and other infections, thereby increasing health protection for the users of such premises in the Borough of Swindon.

6. Consultees

- 6.1 The Board Director Finance, Revenues, Benefits and Property (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

7. Background Papers

- 7.1 [Part VIII of the Local Government \(Miscellaneous Provisions\) Act 1982](#)
- 7.2 [Local Government Act 2003](#)
- 7.3 [Department of Health's Guidance on Section 120 and Schedule 6 of the Local Government Act 2003 \(Regulation of Cosmetic Piercing and Skin-Colouring Businesses\)](#)

8. Appendices

- Appendix A Existing Council made byelaws made under section 14(7) of the Local Government (Miscellaneous Provisions) Act 1982 relating to acupuncture activities
- Appendix B Existing Council made byelaws made under section 15(7) of the Local Government (Miscellaneous Provisions) Act 1982 relating to tattooing activities.

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Appendix C Department of Health's model consolidated byelaws

Appendix D Procedure for making byelaws