

WIRRAL COUNCIL

LICENSING HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

13TH November 2013

SUBJECT:	PROPOSED ADOPTION OF BYELAWS MADE BY WIRRAL BOROUGH COUNCIL WITH RESPECT TO ACUPUNCTURE ,TATTOOING, SEMI-PERMANENT SKIN-COLOURING,COSMETIC PIERCING AND ELECTROLYSIS .
WARD/S AFFECTED:	ALL
REPORT OF:	STRATEGIC DIRECTOR REGENERATION & ENVIRONMENT - KEVIN ADDERLEY
RESPONSIBLE PORTFOLIO HOLDER:	BRIAN KENNY
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

The Department of Health has produced a consolidated model byelaw to embrace acupuncture , tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis. This report invites members to recommend to Council that a resolution be passed to affix the Common Seal of the Council to a Consolidated Byelaw “ the Wirral Byelaw “ which conforms with the Model Byelaw produced by the Department of Health. The Consolidated Wirral Byelaw would replace three sets of existing byelaws and would provide better controls over the practices of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis. The report also advises members of the required statutory procedure that would need to be carried out and suggests that a consultation exercise be carried out in respect of the proposed new byelaw with interested parties to run concurrently with the Statutory advertisement period.

2.0 BACKGROUND AND KEY ISSUES

2.1 The Local Government (Miscellaneous Provisions) Act 1982, permits Local Authorities if they so wish to regulate the practices of ear piercing, electrolysis, tattooing and acupuncture by requiring registration of Operators and premises and observance of

byelaws which relate to the cleanliness and hygiene of premises, practitioners and equipment. Inspections can also be made under the Health & Safety at Work etc. Act 1974. The Council introduced byelaws in 1985 in relation to ear piercing, electrolysis, tattooing and acupuncture and currently operates a registration scheme in respect of those operators and premises involved in these activities.

- 2.2 In recent years there has been increasing concern that activities such as body piercing and semi-permanent skin colouring, which were exempt from the 1982 legislation, could cause risk of transmission of blood borne virus infections such as hepatitis. Section 120 and Schedule 6 of the Local Government Act 2003 amends the 1982 Act to give Local Authorities additional powers relating to persons carrying on the business of “cosmetic piercing” and “semi-permanent skin-colouring”. The new provisions will require businesses to register themselves and their premises and to observe byelaws relating to the cleanliness and hygiene of premises, practitioners and equipment in order to increase health protection and reduce the risk of transmission of blood-borne virus infections.
- 2.3 The Department of Health has produced a consolidated Model Byelaw to embrace acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis. Adoption of the proposed new Wirral Byelaw, which conforms with the Model Byelaw would supersede the existing Byelaws in relation to acupuncture, tattooing, ear piercing and electrolysis, copies of which are attached to this report at Appendix A, B, and C.

3.0 MODEL BYELAWS

- 3.1 The draft Wirral Byelaw which conforms with the Model Byelaw published by the Department of Health in relation to acupuncture, tattooing, semi – permanent skin colouring, cosmetic piercing and electrolysis is attached to this report at Appendix D.
- 3.2 Members should be aware that under the proposed new Wirral Byelaw, cosmetic piercing would include ear-piercing and any piercing of the skin and that “semi-permanent skin colouring” is an umbrella term for micro pigmentation, semi permanent make-up and temporary tattooing.

4.0 STATUTORY PROCEDURE

- 4.1 The procedure for introducing byelaws is contained in Section 236 of the Local Government Act 1972. The byelaw if approved would be made under the Common Seal of the Council, authorised by a Council resolution. Notice of intention to apply to the Secretary of State for confirmation of the byelaw must then be published in one or more local newspapers circulating in the area to which the byelaw will apply. A copy of the sealed byelaw must also be available on deposit for inspection by the public at the authority's offices during the same period. Any representations made during this period would be referred back to this Committee for consideration. Following this, if Members were still minded to adopt the byelaw, application is then made to the Secretary of State for Health to confirm the byelaw and fix the date on which the byelaw is to take effect. The byelaw does not come into effect until Confirmation is received from the Secretary of State.

5.0 RELEVANT RISKS

- 5.1 If the Wirral Byelaw is not adopted, Wirral Council Environmental Health Officers would not be able to legally enforce hygiene standards within cosmetic piercing and skin colouring establishments. This would significantly increase the risk of Blood Borne Viral infections spreading within Wirral.

6.0 OTHER OPTIONS CONSIDERED

- 6.1 None

7.0 CONSULTATION

- 7.1 It is a statutory requirement that copies of the sealed Byelaw must be available on deposit for inspection by the public without payment for at least one month before an application is made to the Secretary of State for their confirmation.
- 7.2 It is also a statutory requirement that a public notice must be placed in a local newspaper for at least one month before an application is made for the byelaw to be confirmed.
- 7.3 It is further recommended in addition to the above statutory requirements that a voluntary consultation be carried out with interested parties, such as those businesses and operators who are already registered under the current byelaws .

7.4 Any representations made in response to the statutory advertisement or to the voluntary consultation will be referred back to this Committee for consideration.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

8.1 None

9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

9.1 There are financial implications arising from officer time and resources spent while registering each premises. 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 covers initial inspection(s) associated with registration and associated administration. The current fee for ear piercing, tattooing, electrolysis and acupuncture is £60 per premises and £60 per operator, which are approved in the annual Environmental Health Fees committee report. Additional fees introduced as a result of the extension of the byelaw e.g. those to be applied to semi permanent skin colouring and cosmetic piercing, will require approval from Cabinet and will be subject to a future Cabinet report.

10.0 LEGAL IMPLICATIONS

10.1 The byelaw must be made, sealed and advertised in accordance with the statutory procedure in the Local Government Act 1972. Case law has set a precedent that the most appropriate legislation be used when undertaking enforcement action. The Local Government (Miscellaneous Provisions) Act 1982 contains specific requirements for the registering of individuals and businesses undertaking the above activities and this can not be enforced under any other existing legislation.

11.0 EQUALITIES IMPLICATIONS

11.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?
(b) No because there is no relevance to equality.

12.0 CARBON REDUCTION IMPLICATIONS

12.1 None

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 None

14.0 RECOMMENDATION/S

That Council be requested to approve that :-

14.1 The Common Seal be affixed to the Wirral Byelaw as set out at Appendix D to this report.

14.2 The Strategic Director of Transformation and Resources (or his nominee) be authorised to carry out the required statutory procedure for the advertisement of a Notice of Intention to apply to the Secretary of State for Health for confirmation of the Wirral Byelaw and a copy of the sealed Wirral Byelaw be made available on deposit for a period of at least one month prior to application for said confirmation.

14.3 The Strategic Director of Regeneration and Environment (or his nominee) be authorised to carry out further non statutory consultation with interested parties concurrently with the advertisement period.

14.4 Any subsequent representations received during the advertisement period, or from the non-statutory consultation, be referred back to a future meeting of the Licensing, Health and Safety and General Purposes Committee for further consideration.

14.5 Subject to due consideration being given to any representations received the Strategic Director of Transformation and Resources (or his Nominee) be authorised if appropriate to apply to the Secretary of State for Health for confirmation of the Wirral Byelaw (Appendix D to this report).

14.6 Subject to the adoption and subsequent confirmation of the Wirral Byelaw by the Secretary of State for Health, the existing Byelaws (Appendices A,B and C to this report) in relation to acupuncture, tattooing, ear piercing and electrolysis be revoked.

15.0 REASON/S FOR RECOMMENDATION/S

15.1 The adoption of the Wirral Byelaw will enable Environmental Health Officers to legally enforce hygiene standards within cosmetic piercing and skin colouring establishments.

This will greatly contribute to preventing the spread of Blood Borne Viral infections to the residents of Wirral and people visiting Wirral.

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APPENDICES

Appendix A – Existing byelaws relating to Acupuncture

Appendix B – Existing byelaws relating to Tattooing

Appendix C - Existing byelaws relating to Ear piercing and Electrolysis

Appendix D - Combined Model Byelaws Relating To Acupuncture, Tattooing, Semi-Permanent Skin-Colouring, Cosmetic Piercing And Electrolysis

REFERENCE MATERIAL

NONE

SUBJECT HISTORY (last 3 years)

Council Meeting	Date