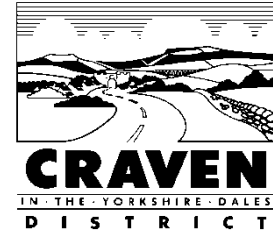


## Policy Committee – 22<sup>nd</sup> July 2014



### APPROVAL AND SUBSEQUENT ADOPTION OF ADDITIONAL MODEL BYELAWS FOR COSMETIC PIERCING and SEMI-PERMANENT SKIN COLOURING

Report of the Director of Services

Ward(s) affected: ALL

1. **Purpose of Report** – To

Seek approval for additional Byelaws associated with the businesses of undertaking cosmetic piercing and semi-permanent skin colouring within the District of Craven.

2. **Recommendations** –

Members are asked to;

- a) approve the draft model byelaws for cosmetic piercing and semi-permanent skin-colouring in the Craven District as set out in Appendices A and B of this report subject to 2(b) below
- b) pass a resolution:-
  - i. Authorising the affixing of the common seal to the byelaws, and
  - ii. Authorising the Environmental Health & Housing Manager to carry out the necessary procedure and apply to the Secretary of State for Health for confirmation of the byelaws.
- c) resolve that the Environmental Health and Housing Manager be authorised to take enforcement action in respect of breaches of Part VIII Local Government Act (Miscellaneous Provisions) Act 1982
- d) extend the fees already set in respect of registration of ear piercing to all cosmetic piercing and in respect of tattooing to all tattooing and semi-permanent skin colouring registration.

3. **Background**

- 3.1 Section 13(2) of the Local Government (Miscellaneous Provisions) Act 1982 gave local authorities the ability to adopt the provisions for the control of acupuncture, tattooing, ear piercing and electrolysis within its area. These provisions were adopted by the Council on [date].

- 3.2 The Council has byelaws with regard to cleanliness of premises, fittings, persons, instruments, materials and equipment connected with the businesses of acupuncture, tattooing, ear piercing and electrolysis.
- 3.3 The Council after suitable consultation and confirmation of the Secretary of State for Health adopted such byelaws for use within the District of Craven on the 1<sup>st</sup> December 1983.
- 3.4 The provisions of Section 120 and Schedule 6 of the Local Government Act 2003 amended Section 15 of the Local Government (Miscellaneous Provisions) Act 1982 to include the regulation of cosmetic piercing and skin colouring businesses. These provisions came into force on the 1<sup>st</sup> April 2004 at which time local authorities were able to decide whether to implement them locally.
- 3.5 These new provisions gave local authorities in England (outside London) and in Wales, specific powers relating to persons carrying businesses of cosmetic piercing (piercing of the body including the ear) and semi-permanent skin-colouring (including micropigmentation, semi-permanent make-up and temporary tattooing).

The Council is able to require such businesses:

- a) to register themselves and their premises; and
  - b) to observe byelaws relating to the cleanliness and hygiene of premises, practitioners and equipment.
- 3.6 As part of the Transitional Provisions contained within Schedule 6 of the 2003 Act mentioned above local authorities who already had resolved to adopt the 1982 Act in relation to tattooing, ear piercing and electrolysis could move to the introduction of additional byelaws to address the changes contained within the 2003 Act.
- 3.7 It should be noted that a person and premises already registered for ear piercing are counted as registered for cosmetic piercing until that person subsequently provides another form of cosmetic piercing, or those premises are subsequently used to provide another form of cosmetic piercing (i.e. cosmetic piercing of a part or parts of the body other than the ear), where a new registration would be required.
- 3.8 These new provisions were intended to increase health protection and reduce the risk of transmission of bloodborne virus (BBV) infections such as HIV, hepatitis B and hepatitis C and other infections. The Department of Health produced model byelaws that local authorities might wish to adopt in their area to facilitate consistency of enforcement.
- 3.9 The Council has up to now not found it necessary to adopt new byelaws to address the new provisions as there has been little or no demand to undertake such applications. However we are now receiving enquiries from existing and new businesses on such processes.

- 3.10 In order to address these enquiries it is now necessary to adopt new byelaws to address the potential risk to those who might wish to avail themselves of these processes.
- 3.11 The Department of Health have drafted model byelaws that the Council might wish to use to deal with the legislative changes. In Officers opinion these draft byelaws **(Appendix A and B)** are suitable for use within the District to ensure cleanliness and hygiene of premises, practitioners and equipment.
- 3.12 Should this Committee approve the draft byelaws it will be necessary for the Environmental Health & Housing Manager to carry out the necessary procedure and apply to the Secretary of State for confirmation of the byelaws. This procedure will include a period of advertising and an opportunity for interested parties to make a representation to the Secretary of State prior to confirmation of the byelaws. There will be a cost involved in advertising the intention to apply for confirmation of the byelaws in a local newspaper on at least two occasions.
- 3.13 The adoption of the new byelaws will not be the date of the resolution that Members have been asked to approve but rather the date of sealing. Until such time that this has been undertaken the Council has no power to carry out the rest of the statutory procedure.

#### 4. **Registration Fees**

- 4.1 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.
- 4.2 The Council has already set fees for the registration of persons carrying out the businesses of tattooing, ear piercing, electrolysis and acupuncture. It is now necessary to extend these fees to include to all cosmetic piercing and semi-permanent skin- colouring. Whilst there is a cost of implementing the new provisions it is thought at this time they are minimal.
- 4.3 It is therefore proposed to use the existing charges for ear piercing and tattooing and extend them to include cosmetic piercing and semi-permanent skin-colouring respectively and consider these them again when the Council reviews its fees and charges for the next financial year.
- 4.4 The Council has already set fees for registration of persons carrying out the aforementioned businesses and whilst there is a cost of implementing the new provisions it is thought at this time they are minimal. However they will be considered again when setting fees and charges for the next financial year.

#### 5. **Implications**

## 5.1 **Financial and Value for Money (vfm) Implications –**

There are no significant financial implications arising from this report.

## 5.2 **Legal Implications –** If we were not to approve and adopt the additional byelaws the Council might be open to legal challenge for not being able to undertake suitable enforcement of those businesses wishing to deliver the additional practices of cosmetic piercing and semi-permanent skin-colouring.

## 5.3 **Contribution to Council Priorities –** The proposal directly contributes to the 'Enterprising Craven' Council Priority.

## 5.4 **Risk Management –**

There are no strategic risk management issues arising from the report other than reputational risk to the Council should the byelaws not be approved.

## 5.5 **Equality Analysis –**

An Equality Impact analysis has been undertaken and there is no negative impact resulting from the Council approving and adopting the new byelaws

## 6. **Consultations with Others –**

Director of Services, Finance Manager (Deputy S151 Officer), Legal Services Manager, Procurement, Payments and Risk Manager

## 7 **Access to Information : Background Documents – Nil**

## 8 **Author of the Report –**

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Note : Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

## 9 **Appendices –**

Appendix A – Copy of Byelaw for the practice of Acupuncture or the business of Tattooing, Cosmetic Piercing, Electrolysis or Semi-Permanent Skin-Colouring