

TRAFFORD COUNCIL

Report to: Council
Date: 13th March 2013
Report for: Decision
Report of: Executive Member for Highways and Environment

Report Title

Adoption of new byelaws to regulate the practice of acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis.

Summary

This report recommends the adoption of new byelaws relating to the practice of acupuncture and the business of tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis. The byelaws specify standards of cleanliness of premises, fittings and operators, together with the appropriate cleaning arrangements for instruments, materials and equipment, so as to protect customers from the risk of disease. They update and extend byelaws previously made by the Council in 1987.

Recommendations

1. That the Council passes a resolution that Sections 14 – 17 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Local Government Act 2003 to include the regulation of cosmetic piercing and semi-permanent skin-colouring businesses, will apply to the Borough from 13th May 2013.
2. That the Council passes a resolution:-
 - (a) to adopt the new byelaws covering acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis;
 - (b) to authorise the affixing of the common seal to the new byelaws and;
 - (c) to authorise the Chief Executive to carry out the necessary procedures in affixing the seal, publicising the Council's intention to apply for confirmation of the byelaws by the Secretary of State for Health, and subsequently to apply for confirmation of the new byelaws.
3. That, subject to the Secretary of State for Health confirming the new byelaws, the Council will revoke the existing byelaws relating to acupuncture, tattooing, ear piercing and electrolysis which are dated 27th July 1987 and which were confirmed by the Secretary of State for Social Services on 13th January 1988.
4. That the fees to be charged for registration under the new byelaws are set to be in line with the fees currently charged under the existing byelaws.

Contact person for access to background papers and further information:

Name: Nigel Smith
Extension: 4530

Background Papers:

None

Implications:

Relationship to Policy Framework/Corporate Priorities	The decision does not form part of the Council's Policy Framework. The decision supports the Corporate Priority 'Improving the Health and Wellbeing of Residents.'
Financial	There are no financial cost implications. Any minor administrative costs will be contained with existing budgets. Fee levels are unchanged from those already approved by the Council.
Legal Implications:	This report relates to the provisions in the Local Government Act 2003 which have amended the provisions contained within the Local Government (Miscellaneous Provisions) Act 1982, giving local authorities specific powers to regulate the activities of cosmetic piercing and semi-permanent skin-colouring. Further detail is included in the body of the report.
Equality/Diversity Implications	No. The proposed changes will apply equally to all sections of the community.
Sustainability Implications	None
Staffing/E-Government/Asset Management Implications	None
Risk Management Implications	None
Health and Safety Implications	These byelaws allow the Council to enforce standards of hygiene in premises where acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis activities are carried out. The purpose of these inspections is to provide increased health protection and to reduce the risk of blood borne virus infections such as HIV and Hepatitis.

1.0 Background

- 1.1. The Council has previously adopted the provisions of sections 14 and 15 of the Local Government (Miscellaneous Provisions) Act 1982 requiring those carrying on the practice of acupuncture or the business of tattooing, ear piercing or electrolysis to be registered. On 30th June 1987 the Council passed byelaws with respect to (a) acupuncture, (b) tattooing, and (c) ear piercing and electrolysis. The Common Seal was affixed to the byelaws on 27th July 1987, and the byelaws were confirmed by the then Secretary of State for Social Services on 13th January 1988, and came into operation on 1st March 1988.

- 1.2. These byelaws allow the Council to enforce standards of hygiene in premises where these activities are carried out. The purpose of these inspections is to provide increased health protection and to reduce the risk of blood borne virus infections such as HIV and Hepatitis.
- 1.3. Those carrying on the practice of cosmetic (body) piercing, other than of the ears, or semi-permanent skin-colouring, such as micro-pigmentation, semi-permanent make up or temporary tattooing, were not included within these provisions and have therefore been outside the Local Authority's regulatory control, other than by way of application of the Health and Safety at Work etc. Act 1974.

2.0 Introduction

- 2.1 The newer treatments (listed in paragraph 1.3) have become more popular but pose the same, or in some cases, greater risks than those subject to the existing byelaws.
- 2.2 The Government introduced provisions in the Local Government Act 2003 amending the provisions contained within the Local Government (Miscellaneous Provisions) Act 1982, giving local authorities specific powers to regulate the activities of cosmetic piercing and semi-permanent skin-colouring. The Department of Health has also issued model byelaws which encompass all previous activities as well as cosmetic piercings and semi-permanent skin-colouring. A copy of the new byelaws is attached as Appendix 1.
- 2.3 These byelaws will have the effect of revoking and replacing the Council's existing separate byelaws with respect to businesses carrying out tattooing, ear-piercing, acupuncture and electrolysis.
- 2.4 Article 4.02 (j) of the Council's constitution reserves the power to make byelaws to the full Council. Once approved by the Council, these bye-laws would require approval from, and confirmation by, the relevant Secretary of State.
- 2.5 At least one month before applying to the Secretary of State for confirmation, notice of the Council's intention to apply for confirmation will need to be given in one or more local newspapers. In addition, a copy of the byelaws should be deposited at Sale Waterside or Trafford Town Hall for inspection.

3.0 Registration and Fees

- 3.1 The provisions will require businesses to register the business proprietor and their premises, and to observe byelaws relating to the cleanliness and hygiene of premises, practitioners and equipment.
- 3.2 Section 15(6) of the 1982 Act allows local authorities to charge reasonable registration fees for the registration process. The fee is made up of an amount for registering the person carrying on the business and an amount for registering the premises where the activity takes place.
- 3.3 A fee of £160 is already agreed for the registration of premises and the proprietor/practitioner, together with a fee of £54 for each additional practitioner. The fee is increased annually in line with inflation, and the proposed fee for 2013-14 is £168 for the registration of premises and the proprietor/practitioner, and £57 for each additional practitioner. It is proposed that the same fee will apply to the new activities of cosmetic piercing and semi-permanent skin-colouring.

- 3.4 Businesses that are already registered under existing byelaws will not be required to re-register following the implementation of the proposed byelaws unless their activities change and they wish to now undertake cosmetic piercing or semi-permanent skin-colouring. These businesses will not, therefore, have to pay another registration fee but will have to comply with the new model byelaws. In the vast majority of instances standards are high enough to mean that no additional works will be needed.
- 3.5 Persons and premises that are currently registered for ear piercing, tattooing, acupuncture or electrolysis and now wish to carry out cosmetic piercings or semi-permanent make-up will be required to obtain a new registration and will be required to pay the full fee.
- 3.6 All relevant proprietors in the area will be notified of the proposed adoption of the byelaws and the need to register the relevant activities.

4.0 Recommendations

- 4.1 That the Council passes a resolution that Sections 14 – 17 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Local Government Act 2003 to include the regulation of cosmetic piercing and semi-permanent skin-colouring businesses, will apply to the Borough from 13th May 2013.
- 4.2 That the Council passes a resolution:-
- (a) to adopt the new byelaws covering acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis;
 - (b) to authorise the affixing of the common seal to the new byelaws and;
 - (c) to authorise the Chief Executive to carry out the necessary procedures in affixing the seal, publicising the Council's intention to apply for confirmation of the byelaws by the Secretary of State for Health, and subsequently to apply for confirmation of the new byelaws.
- 4.3 That, subject to the Secretary of State for Health confirming the new byelaws, the Council will revoke the existing byelaws relating to acupuncture, tattooing, ear piercing and electrolysis which are dated 27th July 1987 and which were confirmed by the Secretary of State for Social Services on 13th January 1988.
- 4.4 That the fees to be charged for registration under the new byelaws are set to be in line with the fees currently charged under the existing byelaws.

Other Options

The alternative is to not introduce the byelaws to include the activities of cosmetic piercing and semi-permanent skin-colouring. The recommendations are intended to promote public health, and this would mean that a sector of the population will not be protected as fully as it otherwise might be.

Consultation

Should the resolution be made the Council is required to give at least one clear calendar month's notice that it intends to apply for confirmation of the new byelaws, by placing a notice in one or more local newspapers circulating in the areas to be affected.

A copy of the byelaws will be deposited at Sale Waterside or Trafford Town Hall and be open to public inspection without charge at all reasonable times. A copy of the byelaws will be posted on the Council’s website.

Objections to the proposed published byelaws can be made to the Department of Health, and as part of their process of deciding if the proposed byelaws will be confirmed the Department of Health will consider any objections.

The Council’s Finance and Legal Officers have been consulted about these proposals.

Reasons for Recommendation

The authority will have additional powers to control currently unregulated activities (cosmetic piercings and semi-permanent skin-colouring). This will achieve greater protection of public health and promote a healthy population. The Department of Health model byelaws update specific provisions to reflect current infection control advice and industry practice.

Key Decision: No

Finance Officer Clearance PC
Legal Officer Clearance MJ



CORPORATE DIRECTOR’S SIGNATURE

To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.