

General Licensing Committee Report



Report of Head of Health and Housing

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To: General Licensing Committee

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To: General Licensing Committee

DATE: 14 January 2013

AGENDA ITEM

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Adoption of the model skin piercing byelaws

Recommendation(s)

(a) That committee pass resolutions to adopt model byelaws for the regulation of skin piercing activities in accordance with section 15 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 120 of the Local Government Act 2003 and to authorise the Head of Legal Services to apply to the Secretary of State for confirmation.

(b) That the relevant registration requirements come into effect from the date on which the byelaws referred to above are confirmed by the Secretary of State and the current byelaws revoked.

Purpose of Report

1. The purpose of this report is to recommend that both councils pass a resolution to adopt a new single consolidated set of byelaws, produced by the Department of Health, to regulate acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis.

2. The bylaws would require persons conducting any of the above activities to register themselves and their premises, and in carrying out the activities observe criteria relating to hygiene of premises, practitioners and equipment.

Strategic Objectives

3. The implementation of the new bylaws will enable the councils to legally enforce hygiene standards within cosmetic piercing and skin colouring establishments. This will contribute to **strategic objective 1 at both councils – excellent delivery of key services.**

Background

4. Both councils resolved to adopt the provision of the Local Government (Miscellaneous Provisions) Act 1982 in respect of skin piercing in 1983 and three separate sets of bylaws were adopted under section 236 of the Local Government Act 1972 to control the hygiene of premises, practitioners and equipment for persons undertaking the following within the district:
 - acupuncture,
 - tattooing and
 - ear piercing and electrolysis
5. Public demand for body piercing has increased significantly over the past 20 years. Industry practices have also changed and practitioners have adopted new cosmetic techniques, for example semi-permanent skin-colouring. These activities cannot be regulated under the existing bylaws.
6. In response to these changes, section 120 and schedule 6 of the Local Government Act 2003 amended section 15 of the Local Government (Miscellaneous Provisions) Act 1982. The new legislation updated the law to allow for these new practices. Neither council adopted the new bylaws at the time, instead opting to await for the production of model bylaws. It is these that are now available and that it is proposed the councils adopt.
7. There are advantages to both customer businesses and councils from the adoption of these bylaws. Implementation of the bylaws reduces the risk to the public of contracting blood borne viruses such as HIV and Hepatitis B and C. In addition, a single set of bylaws will benefit business as the process of registration will be simplified, particularly for those conducting more than one type of cosmetic skin piercing activity.

Financial Implications

8. The adoption of new bylaws offers an opportunity to review the current charging policies. Councils are allowed to charge a one off fee for registration. The current charges are as follows:

Skin piercing activity		South Oxfordshire	Vale of White Horse
Acupuncture	premises including one operator	£138	£160
Acupuncture	additional operator at a registered premises	£ 39	£105
Electrolysis	premises including one operator	£138	£160
Electrolysis	additional operator at a registered premises	£ 39	£105
Tattooing	premises including one operator	£138	£190
Tattooing	additional operator at a registered premises	£ 39	£135

9. There are currently 165 premises registered under the existing byelaws at South, and 89 at the Vale.

10. Officers have considered a rationale for charging and conclude that the following principles should apply

- The charging should be simplified, there is no obvious rationale for charging different rates for different skin piercing activities.
- The charges should be harmonised across the councils to simplify the process of charging and collection.
- That the charges should at least cover the councils' administrative costs.
- That charges should be broadly similar to those charged by neighbouring authorities so as not to deter future businesses from considering the districts

11. Officers have carried out an estimate of the costs of registering a premises as £83.50, and an additional operative as £47.50

12. Officers have examined the charging regime for neighbour councils

	West Berkshire	Oxford City	Cherwell	West Oxfordshire
Registration per premises	£249	£105	£138	£150.30
Registration of additional operative	£125	n/a	£78	£118.05

13. On the basis of the above it is proposed that the fees are harmonised at the rates currently set in the Vale set for 2013/14 to £160 for premises with one operator and £105 for each additional operator. This will be reviewed each year as part of the annual review of fees and charges.

14. In accordance with the council's constitution, officers will agree the level of fees and charges in consultation with the Cabinet member and chairman of Scrutiny Committee. Amending the fees will require adjustments to the budgets. It is proposed that this will be picked up as part of the budget process since the amounts involved are minor.
15. The current budgets are £1190 at Vale and £220 at SODC, reflecting approx 7 new premises at Vale and 1 at SODC.
16. Officers propose to set budgets, as part of the budget process, that better reflect activity at £475 per council to reflect 1 new premises and 3 new operatives. Officers believe this better reflects activity in this market
17. A statutory public notice advising that the new byelaws have been adopted must be published in a local newspaper. There will be a cost associated with this in the region of £250 per council which will be met from existing budgets.

Legal Implications

18. The Department of Health has provided model byelaws and guidance on applications to the Secretary of State for Health for confirmation of the byelaws. The guidance includes a model council resolution which has been adapted for this report and a model newspaper notice which officers also intend to use. Both councils will have to publish its intention to adopt the new legislation in the local press before it applies to the Secretary of State to confirm the byelaws.

Risks

19. The only way the councils can effectively control skin piercing is by adopting the byelaws. If the model byelaws are not adopted the councils will not be able to regulate hygiene practices and reduce the risk of infection in premises and by operatives offering body piercing and semi-permanent skin colouring procedures.

Other Implications

20. None

Conclusion

21. In recommending that councils pass the resolutions, committee shall ensure that regulation of acupuncture and cosmetic skin piercing in the districts is consistent and up to date. There shall be an increased level of public health protection and business shall benefit from the simplification of legal requirements.

Background Papers

20. Appendix 1 – Model Byelaws