

# Title of report: Byelaws in relation to skins procedures

**Meeting: Council**

**Meeting date: Friday 9 December 2022**

**Report by: Cabinet Member Housing, regulatory services and community**

## **Classification**

Open

## **Decision type**

This is not an executive decision

## **Wards affected**

All wards

## **Purpose**

To introduce and approve new byelaws under Sections 14(7) and 15(7) of the Local Government (Miscellaneous Provisions) Act 1982 in relation to the cleanliness of premises and sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis registered under sections 14(2) or 15(2) or both and fittings in such premises and of persons registered under sections 14(1) or 15(1) or both of the Act.

To revoke the existing byelaws made by Hereford City Council under the Hereford City Act 1985

## **Recommendation(s)**

**That:**

- a) **The new byelaws contained in appendix 1 to be adopted under Section 14(7) and 15(7) of the Local Government (Miscellaneous Provisions) Act 1982, subject to approval of the Secretary of State.**
- b) **The existing byelaws made under the Hereford City Act 1985 are revoked.**

## **Alternative options**

1. To reject the new byelaws and keep the existing byelaws, this is not recommended because those premises licensed outside the city would still not have to comply with the byelaws.
2. To revoke the existing byelaw only, this is not recommend as all premises within Herefordshire would have no byelaws to ensure a clean and a sterile environment.

## **Key considerations**

3. The Local Government Act 2003 amended the Local Government (Miscellaneous Provisions) Act 1982 enables Herefordshire Council to protect public health in relation to the practice of tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis.
4. Previous Byelaws have been adopted by Hereford City Council but this only covered the city centre.
5. It is important for this industry sector to be effectively regulated due to the risks associated with the type of skin piercing treatments being offered. There is the potential risk of transmission of blood borne viruses (BBV), for example Hepatitis B and C, as well as other potentially serious skin infections, potential physical damage and bleeding if the treatment is not undertaken correctly.
6. The Department of Health has produced a single consolidated byelaw that authorities can adopt combining acupuncture, ear piercing, electrolysis and tattooing with semi-permanent tattooing and cosmetic piercing. It is now considered timely to adopt the wider hygiene controls afforded by the Local Government Act and the single consolidating byelaw.
7. The Department of Health has produced guidance on the byelaw application process, which officers are able to follow when making a byelaw submission to the Secretary of State. Once approved by Council the common seal of Herefordshire Council must be placed upon the Byelaws. Notice of the intention of this Authority to seek approval from the Secretary of State in relation to the byelaw must be advertised in a local paper and on the website for 28 days and any comments received considered.
8. A copy of the model byelaws is reproduced as Appendix A.
9. The proposed Byelaws are based on the latest Department of Health model byelaws covering tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis.
10. Section 14(7) and Section 15(7) of the Act allows the local authority to make byelaws in relation to these practices.
11. There is no requirement to renew a registration once granted and no requirement to surrender.
12. Herefordshire Council currently has 337 people/premises registered.
13. Of these, only 22 are within Hereford City and have to comply with the byelaws.
14. This means over 95% of the premises or people on the register do not have to comply with any byelaws, although the Hereford City Byelaws are issued with the licence on an advisory basis.
15. The model byelaws have been adopted by a number of other local authorities across the country.

16. The new byelaws will be advised to those registered with us.

### **Community impact**

17. The byelaws proposed will help support the Herefordshire Health and Wellbeing Strategy by helping the strategic direction for the council, by contributing to the overarching framework to support partners to improve health and wellbeing.
18. These should have a direct effect on the lives of both current and future users involved in skins procedures.

### **Environmental Impact**

19. Whilst this is a decision on back office functions and will have minimal environmental impacts, consideration has been made to minimise waste and resource use in line with the Council's Environmental Policy.
20. The introduction of the byelaws will help support the Environmental Policy by ensuring compliance with all relevant legislation.

### **Equality duty**

21. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
22. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

### **Resource implications**

23. There are no resource implications concerning this decision.

### **Legal implications**

24. The process as set out in paragraph 7 above must be followed to ensure that the Byelaw is legally created.
25. The byelaw implemented by Hereford City Council can be revoked using the mechanism in Section 236B of the Local Government Act 1972. The Hereford and Worcester (Structural, Boundary and Electoral Changes) Order 1996, Para 12 provides that the effects of the structural change (the formation of Herefordshire Council in 1998) is to transfer functions to the

new Herefordshire Council (Hereford City Council is now a parish council with limited powers)- as such Herefordshire Council can apply to revoke this byelaw, however it will need to be confirmed by the Secretary of State who may revoke any byelaw which appears to them to have become “spent, obsolete or unnecessary”.

## Risk management

26. The proposed byelaws will ensure a consistent approach across the county in relation to skin procedures. The outcome being that the health risk to the public will be reduced, as the byelaws will reduce the risk of transmission of blood borne viruses (BBV), for example Hepatitis B and C, as well as other potentially serious skin infections.
27. Any relevant risks will be managed at a service level.

## Consultees

28. There has been a public consultation between 17<sup>th</sup> October to 13<sup>th</sup> November 2022 in relation to the byelaws, undertaken through the council’s website and also by emailing those registered with us, who had provided email addresses.
29. One response was received which asked for a separate set of byelaws in relation to ear piercing. If the council were to do this, 5 separate set of byelaws would be required, which would cause confusion.
30. This is a statutory function under the act and following approval by Council requires consultation and sign off by the Secretary of State.

## Appendices

Appendix 1 – Proposed model bylaws

## Background papers

None identified

## Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published		
Governance	Matthew Evans	Date 07/10/2022
Finance	Alternative Reviewer	Date 04/10/2022
Legal	Lorna Lucas	Date 07/10/2022
Communications	Luenne Featherstone	Date 05/10/2022
Equality Duty	Carol Trachonitis	Date 07/10/2022
Procurement	Mark cage	Date 07/10/2022
Risk	Kevin Lloyd	Date 03/10/2022
Approved by	Ross Cook	Date 07/11/2022