

CHESHIRE EAST COUNCIL

Licensing Committee

Date of Meeting: 12th September 2011
Report of: Head of Safer & Stronger Communities
Subject/Title: Re-adoption of sections 14 – 17 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended)

1.0 Report Summary

- 1.1 The report provides details of a proposal to re-adopt the provisions of sections 14 - 17 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), which relate to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis within the Borough of Cheshire East.

2.0 Recommendations

- 2.1 The Licensing Committee is requested to recommend the following resolution to Council:
- 2.1.1 That sections 14 to 17 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) ('the 1982 Act') shall be adopted and shall apply to the Borough of Cheshire East with effect from 1st December 2011; and that section 15 of the 1982 Act shall apply within the Borough of Cheshire East to all of the descriptions of persons within sub-section 15(1), i.e. persons carrying on the business of tattooing, of semi-permanent skin-colouring, of cosmetic piercing, or of electrolysis.
- 2.1.2 That the Borough Solicitor, or officer acting on her behalf, be authorised to publish notice of the above resolution in accordance with statutory requirements.

3.0 Reasons for Recommendations

- 3.1 Re-adoption of the legislation is proposed in order to consolidate the three previous resolutions of the predecessor district authorities into one resolution and to ensure certainty in any enforcement action taken under the legislation.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications, including Carbon Reduction/Health

- 6.1 The adoption of the legislation is necessary to ensure that the Council has a consistent approach to the enforcement of the legislative provisions.

7.0 Financial Implications 2011/12 and beyond (Authorised by the Borough Treasurer)

- 7.1 There will be a cost implication relating to the publication of notice of the adoption. It is suggested that these costs, which are estimated to be in the region of £2,500, would be met from existing budget provision within the Environmental Services Section.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Part VIII of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') (as amended by the Local Government Act 2003) makes provision for the regulation of acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis. Further details in relation to the provisions of sections 14 – 17 are contained within paragraph 10.0 of the report.
- 8.2 Section 13 of the 1982 Act provides that a local authority may resolve that the provisions of Part VIII of the Act are to apply to its area and, if it does so resolve, the provisions specified in the resolution shall come into force in the area of the local authority on the day specified in the resolution (which must not be before the expiration of the period of one month beginning on the day on which the resolution is passed).
- 8.3 Section 13 of the 1982 Act also states that notice of a resolution to adopt the legislation must be published in a local newspaper circulating in the area in two consecutive weeks. The first publication may not be later than 28 days before the date specified in the resolution for the coming into force of the provisions specified.
- 8.4 By virtue of paragraph 17 within Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) the function of adopting the legislation is a non-executive function.

9.0 Risk Management

- 9.1 It is suggested that re-adoption of the legislation, in accordance with section 13 of the 1982 Act, will ensure certainty in any enforcement action.

10.0 Background and Options

- 10.1 Part VIII of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Local Government Act 2003) contains provisions in relation to the regulation of acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis.
- 10.2 Section 14 of the 1982 Act deals with acupuncture and provides that persons carrying on the practice of acupuncture must be registered with the local authority. Section 15 of the 1982 Act deals with tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis and states that a person who carries on a business involving these activities must be registered with the local authority. Both sections 14 and 15 allow

local authorities to make byelaws for the purposes of securing (a) the cleanliness of the registered premises and any fittings in such a premises; (b) the cleanliness of the registered person and any persons assisting them; and (c) the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment. It is an offence to contravene the requirement to register (in accordance with sections 14 and 15). It is also an offence to contravene any byelaw made under section 14 or section 15. The offence provisions are contained within section 16 of the 1982 Act; section 17 contains provisions in relation to powers of entry.

- 10.3 Each of the three predecessor district Councils made resolutions to adopt sections 14 – 17 of the 1982 Act. Crewe and Nantwich Borough Council made a resolution on 29th June 1983; Macclesfield Borough Council on 2nd December 1982; and Congleton Borough Council on 3rd February 1983. Subsequently Congleton Borough Council made byelaws (which came into effect on 1st January 1987) under section 15 in relation to ear-piercing and electrolysis. Crewe and Nantwich Borough Council made byelaws (which came into force on 1st October 2007) under both sections 14 and 15 in relation to tattooing, semi-permanent skin colouring, cosmetic piercing or electrolysis.
- 10.4 It is suggested that it would be beneficial to consolidate the adoption resolutions for the purpose of consistency and to ensure certainty in any enforcement action taken under the legislation. It is proposed that following the adoption of the legislation draft byelaws for the whole of the Borough of Cheshire East will be formulated and a further report submitted for consideration in due course.
- 10.5 The alternative would be not to make the recommendations to Council with paragraph 2.0 above, however this would mean that the benefits referred to in paragraph 10.4 could not be achieved.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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