

Auckland Council Health and Hygiene Bylaw 2013

2018 Review Findings Report



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1 Summary of Key Findings

Auckland Council uses the Health Act 1956 and a bylaw to perform its public health duties

- The Health Act 1956 requires council to improve, promote, and protect public health.
- Auckland Council's Health and Hygiene Bylaw 2013 (Bylaw) establishes a **framework** that:
 - defines four **service types**: services that pierce the skin, risk breaking the skin, risk burning the skin, and other specified services
 - identifies which service types require a licence (all except other specified services)
 - identifies which service types must comply with minimum standards (all services)
 - enables minimum standards to be adopted in a separate code of practice (Code)
 - identifies exemptions (e.g. health practitioners).

Services that contact the body continue to pose health risks

- Complaints, ACC data and health expert interviews show services that contact the body continue to pose health risks (e.g. beauty and health treatments, tattooing).
- Health risks include the transfer of viral and bacterial infections, and injury to the body.
- Council received 320 complaints in 2014-2017. ACC had 36,622 injury claims in 2012-2017.
- New services are emerging at a fast pace (e.g. eyeball tattoo and laser treatments).
- The number of operators and employees in the health and hygiene sector has increased.

The Bylaw and its implementation has been effective in minimising most health risks

- There is evidence of reduced ACC injury claims and better compliance with best practice standards for some services. However, claims for manicure / pedicure have increased.
- Inspections of licensed premises show 95 per cent of operators comply with the Code. However, stakeholders are concerned about unlicensed operators who do not follow the Code.

Stakeholders consider a bylaw is an appropriate way to minimise public health risks

- There is a strong consensus among stakeholders that a bylaw is necessary.
- A bylaw is currently Auckland Council's only regulatory method for proactively minimising health risks.

Stakeholders support the current Bylaw framework, but it could be improved

- Stakeholders support the current Bylaw framework. Possible improvements include:
 - service type definitions to include eyeball tattoo, vaginal laser treatment, massage, water play parks, and "splash pads"
 - exemptions to better recognise tā moko
 - requiring the display of health licences
 - updating the Code (e.g. for dermal filler injections, scarification, body modification).

Findings support current licensing and minimum standards requirements for service types

- Findings indicate that the current Bylaw requirement for specific service types (e.g. services that pierce the skin, risk breaking the skin, risk burning the skin, or other services) to be licensed and / or comply with minimum standards is appropriate.

2 Introduction

2.1 Purpose of the report

This report presents findings from the review of the Auckland Council Health and Hygiene Bylaw 2013, Te Ture ā-Rohe Whakamaru Hauora 2013 (Bylaw).

Auckland Council (council) has a statutory responsibility under the Local Government Act 2002 to review the Bylaw by 27 June 2018.

2.2 Key questions

The review asked the following key questions to meet council's statutory review requirements under section 160(1) of the Local Government Act 2002:

- Are the issues the Bylaw sets out to address still evident?
- Has there been any change in the nature and scale of the problem the Bylaw was intended to address?
- Is a Bylaw still the most appropriate way to protect public health?
- Has implementation of the Bylaw been effective and efficient?
- Is the Bylaw the most appropriate form of Bylaw?
- Does the Bylaw have any implications under the New Zealand Bill of Rights Act 1990?

2.3 Methodology

Research and engagement to answer the key questions included:

- **Key stakeholder face to face interviews** with health experts, council staff, Māori health providers, tā moko artists, and non-governmental organisations (full list in Appendix 1).
- **Interactive workshops with Environmental Health Unit officers and industry organisations** asked key questions in small groups and then as a whole group.
- **Engagement with advisory panels** at business meetings or by written feedback (full list in Appendix 1).
- **Cluster workshops with local boards** using a post-it note 'walking engagement' exercise that provided interested local members an opportunity to give feedback.
- **Pasifika Tatau Talanoa (Pacific tattooing workshop)** co-hosted by the Pacific Peoples Advisory Panel, Ōtara-Papatoetoe Local Board, and Māngere-Ōtāhuhu Local Board. Staff gave a presentation and facilitated discussion on tatau.
- **Māori Engagement** developed in collaboration with Te Waka Angamua and Communication and Engagement. Written feedback was sought from 32 mana whenua and mataawaka marae committees responsible for administering tā moko practice. Interviews with tā moko artists and Māori health organisations were also held.
- **Research** on health risks, and domestic and international approaches.
- **Analysis of council databases** on complaints, licensed operators, and inspections data.

- **Analysis of external data** from ACC, Ministry for Business, Innovation and Employment (WorkSafe), and the Health and Disability Commissioner.

2.4 Context

2.4.1 Original purpose and outcome in 2013

The problem in 2013 was defined as:

- inconsistent protection from health and hygiene risks for persons using or administering services that pierce the skin, risk breaking the skin, risk burning the skin, or involve risks of infection.

The outcome sought in 2013 to address the problem was defined as:

- providing guidance and regulation as necessary to protect Aucklanders from health and hygiene risks for persons using or administering services that pierce the skin, risk breaking the skin, risk burning the skin, or involve risks of infection.

2.4.2 Regulatory approach

The Bylaw was made on 27 June 2013 using powers under the Local Government Act 2002 (section 145) and Health Act 1956 (section 64).

The Bylaw seeks “to promote and protect public health” by providing a framework that:

- defines four **service types**: commercial services (services) that pierce the skin, risk breaking or burning the skin, or other specified services (public swimming pools and colonic hydrotherapy)
- identifies which service types require a licence (all except other specified services)
- identifies which service types must comply with minimum standards (all services)
- enables minimum standards to be adopted in a separate Health and Hygiene Code of Practice 2013 (Code)
- identifies exemptions based on the qualifications of the operators or the cultural context in which the service is performed¹.

The Bylaw framework uses service types to create broad categories which can cover new services as they emerge. This is supported by the Code which provides detailed minimum standards for specific services and can be amended by the Regulatory Committee directly.

A copy of the Bylaw is included in Attachment B.

Figure 1 below shows what the Bylaw framework contains. Table 1 shows what effect the Bylaw framework has on a range of services.

¹ Currently three exemptions: (1) Health practitioners (doctors, nurses, medical laboratory technicians, chiropractors, dieticians, optometrists, physiotherapists, podiatrists, psychologists, medical radiation technologists) regulated under the Health Practitioners Competence Assurance Act 2003; (2) ear piercing by a pharmacy licensed by the Ministry of Health; and (3) traditional and non-commercial tā moko undertaken on or under the authority of a marae under tikanga-Māori.

Figure 1 Health and Hygiene Bylaw 2013 Framework

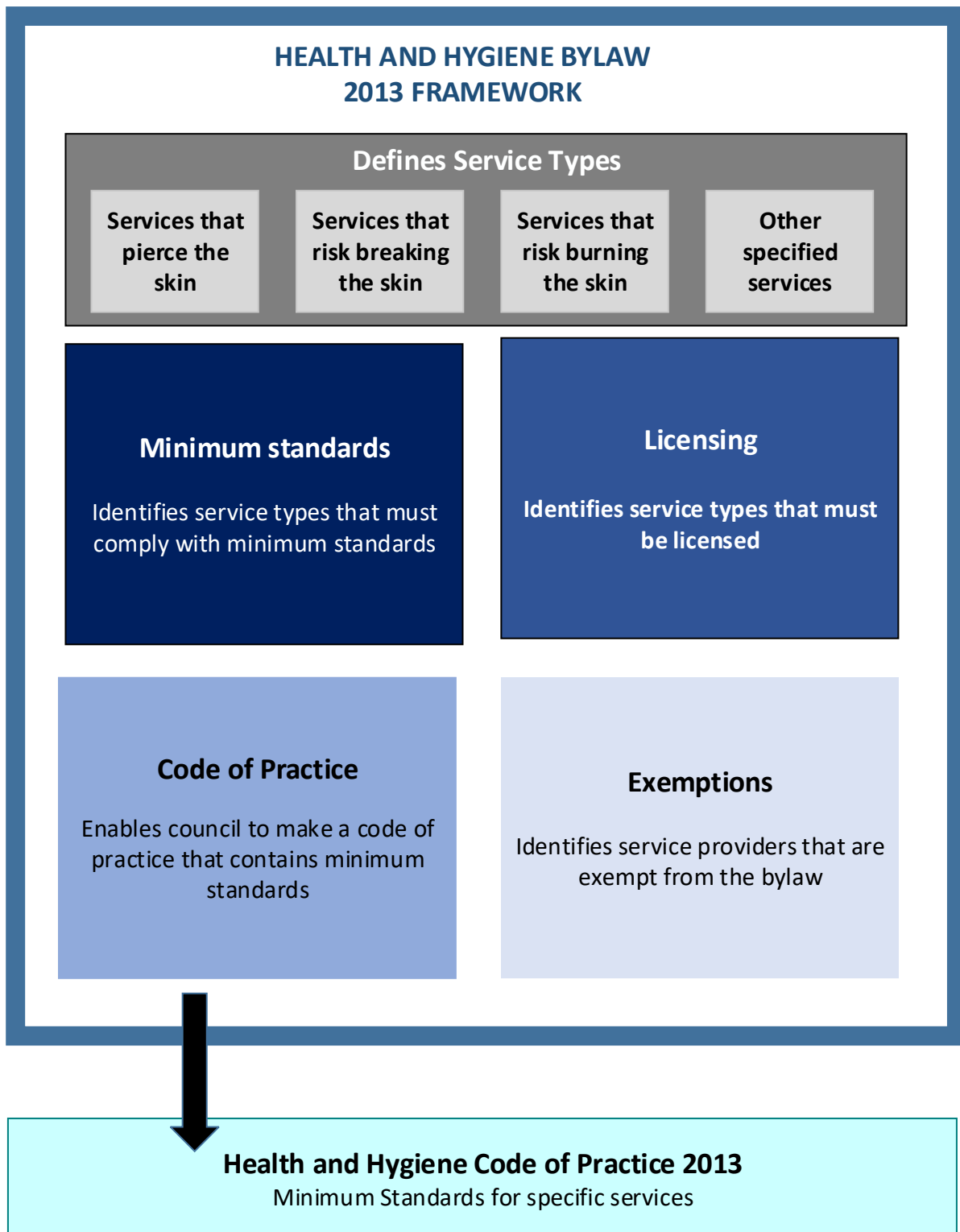


Table 1 Effect of the Bylaw framework by service

Service types Identifies service types regulated by Bylaw	Licensing Identifies which service types must be licensed	Minimum Standards identifies which service types must comply with minimum standards under a Code	Exemptions Exempts some operators from licensing and minimum standards
Services which pierce the skin including: Tattooing Traditional tattooing Body piercing Acupuncture Electrolysis Red vein treatment Derma rolling	✓	✓	<ul style="list-style-type: none"> • <i>health practitioners</i> • <i>registered acupuncturists</i> • <i>ear piercing at pharmacy</i> • <i>traditional tā moko</i>
Services which risk breaking the skin including: Hair removal Manicure and Pedicure Exfoliation	✓	✓	<ul style="list-style-type: none"> • <i>health practitioners</i>
Services which risk burning the skin including: Sun-beds Pulsed light Laser treatment	✓	✓	<ul style="list-style-type: none"> • <i>health practitioners</i>
Other specified services: Colonic hydrotherapy Swimming pools	x	✓	<ul style="list-style-type: none"> • <i>health practitioners</i>

The Code contains minimum standards for:

- permanent and temporary premises where services take place
- each service type in general (e.g. services that pierce the skin)
- specific services covered in the Bylaw (e.g. body piercing, hair removal)
- operator conduct, hygiene standards, training and qualifications.

The Code also contains recommended best practice and guidelines which are not enforceable (i.e. are for information only) for services both covered and not covered by the Bylaw (e.g. massage).

2.4.3 Regulatory and strategic framework

Figure 1 shows how the Bylaw forms part of a wider regulatory and strategic framework. A summary of the legislation, strategic directions, priorities/targets and outcomes that forms part of the regulatory and strategic framework is provided in Tables 1 and 2.

Table 4 summarises the long-term plan targets for health licensing (2.3.1) to achieve the Auckland Plan outcomes.

Figure 2 Regulatory and strategic framework

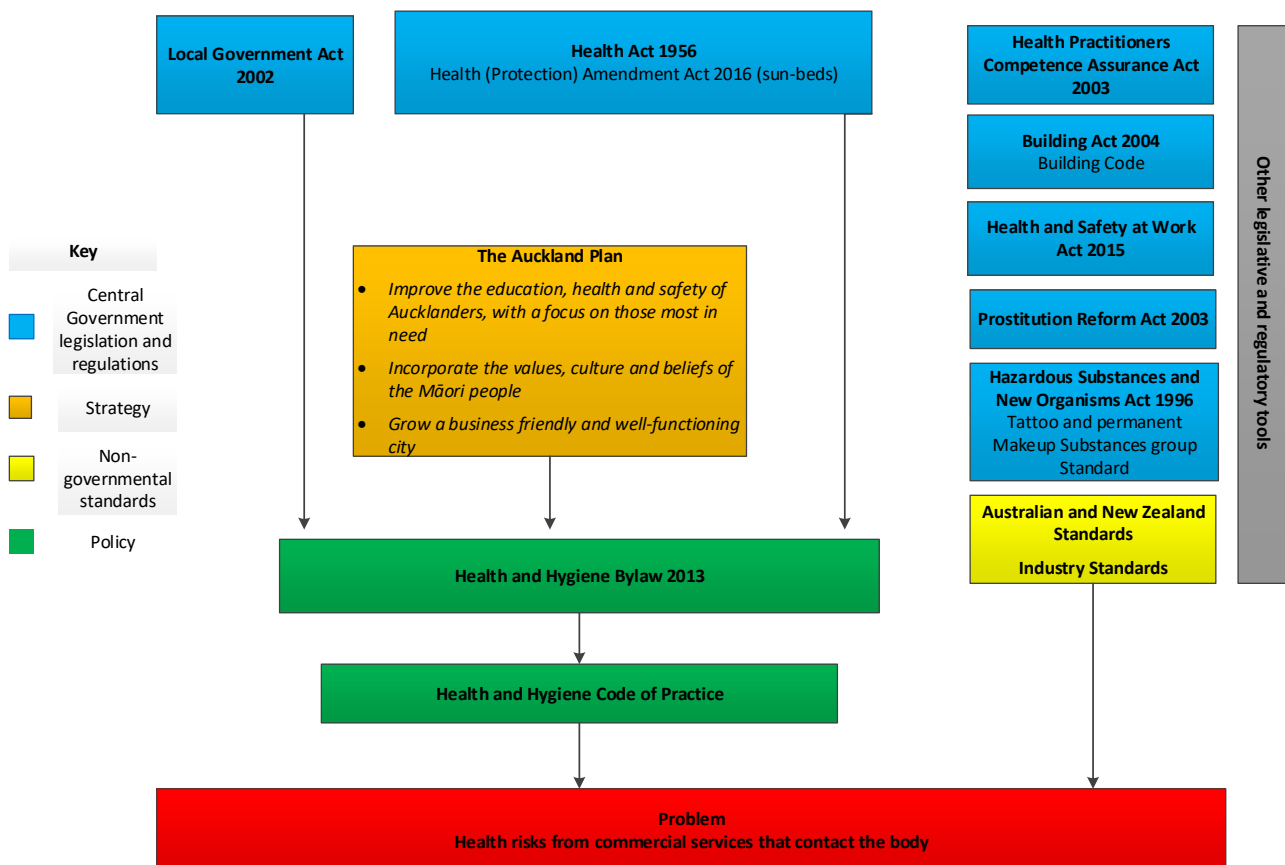


Table 2 Legislation and regulations authorising or informing the Bylaw and/or Code

Legislation	Relationship to Bylaw
Local Government Act 2002	<p>Empowers local authorities to make bylaws for protecting, promoting, and maintaining public health and safety.</p> <p>Provides local authorities with enforcement powers, including prosecution.</p>
Health Act 1956	<p>Allocates local authorities the duty to “improve, promote, and protect public health within its district”.</p> <p>Empowers and directs local authorities to make bylaws for the protection of public health.</p> <p>Empowers local authorities to prosecute persons causing a health nuisance.</p>
Building Act 2004 and Building Code	<p>Informs Health and Hygiene Code of Practice minimum standards for commercial service premises.</p>
Health and Safety at Work Act 2015	<p>Protects workers and other persons against harm to their health, safety and welfare by eliminating or minimising risks arising from work.</p> <p>Enforced by WorkSafe.</p>
Health Practitioners Competence Assurance Act 2003	<p>Regulates health practitioners who are exempt from complying with the Bylaw.</p>
Prostitution Reform Act 2003	<p>Promotes the welfare and occupational health and safety of sex workers.</p> <p>Informs recommended best practice for commercial sexual services in the Health and Hygiene Code of Practice.</p>
Hazardous Substances and New Organisms Act 1996	<p>Regulates hazardous substances that may be used by services.</p>
Australian and New Zealand Standards	<p>Provides voluntary technical standards for health practice that may be incorporated into regulations.</p>

Table 3 Auckland Plan outcomes

Strategic Direction	Priority	Outcome
Strategic Direction 1: create a strong, inclusive and equitable society that ensures opportunity for all Aucklanders.	Priority 2: improve the education, health and safety of Aucklanders, with a focus on those most in need.	Outcome: a fair, safe and healthy Auckland.
Strategic Direction 2: enable Māori aspirations through recognition of Te Tiriti o Waitangi / The Treaty of Waitangi and customary rights.	Target: incorporate the values, culture, and beliefs of the Māori people in all Auckland-related policies by 2020.	Outcome: a Māori identity that is Auckland's point of difference in the world.
Strategic Direction 6: develop an economy that delivers opportunity and prosperity for all Aucklanders and New Zealand.	Priority 1: grow a business-friendly and well-functioning city.	Outcome: an Auckland of prosperity and opportunity.

Table 4 Auckland Council Long-Term Plan 2015-2025 targets

Level or service statement	Performance measure	Actual 2013/14	Annual Plan Target 2014/15	Long-term plan Targets			
				2015/16	2016/17	2017/18	2018/19-2024/25 (p.a.)
Protect public health through licensing and compliance of food, health, and hygiene premises to legislative requirements.	Percentage of customers satisfied with the food and hygiene licensing service (91 per cent customer (operator) satisfaction in the six months from July 2017).	73%	New measure	70%	70%	70%	75%

3 Global Findings

3.1 Key Findings

Services that contact the body continue to pose health risks

- Complaints, ACC data and health expert interviews show services that contact the body continue to pose health risks (e.g. beauty and health treatments, tattooing).
- Health risks include the transfer of viral and bacterial infections, and injury to the body.
- Council received 320 complaints in 2014-2017. ACC had 36,622 injury claims in 2012-2017.
- New services are emerging at a fast pace (e.g. eyeball tattoo and laser treatments).
- The number of operators and employees in the health and hygiene sector has increased.

The Bylaw and its implementation has been effective in minimising most health risks

- There is evidence of reduced ACC injury claims and better compliance with best practice standards for some services. However, claims for manicure / pedicure have increased.
- Inspections of licensed premises show 95 per cent of operators comply with the Code. However, stakeholders are concerned about unlicensed operators who do not follow the Code.

Stakeholders consider a bylaw is an appropriate way to minimise public health risks

- There is a strong consensus among stakeholders that a bylaw is necessary.
- A bylaw is currently Auckland Council's only regulatory method for proactively minimising health risks.

Stakeholders support the current Bylaw framework, but it could be improved

- Stakeholders support the current Bylaw framework. Possible improvements include:
 - service type definitions to include eyeball tattoo, vaginal laser treatment, massage, water play parks, and "splash pads"
 - exemptions to better recognise tā moko
 - requiring the display of health licences
 - updating the Code (e.g. for dermal filler injections, scarification, body modification).

3.2 Are the issues the Bylaw sets out to address still evident?

3.2.1 Services continue to pose health risks

Services pose a range of health risks as they pierce or otherwise contact the skin and other tissues. Common health risks include:

- blood borne infection (e.g. hepatitis B and C)
- bacterial infections (e.g. staphylococcus)
- fungal infections (e.g. tinea, candida)
- gastrointestinal infection (e.g. campylobacter, E.coli)
- allergic reactions and chemical poisoning (e.g. piercing metals, tattoo ink)

- burning and damage to skin and eyes (e.g. laser, intense pulsed light)
- cancers (e.g. melanoma from sun-bed use)
- injury to the body (e.g. damage to eyesight, tissue or organ damage).

Such health risks can be heightened where:

- premises are not kept clean and hygienic
- equipment is not properly sterilised between customers
- contaminated materials are not disposed of appropriately
- operators do not have sufficient training to use equipment properly
- medical grade equipment and materials are accessible online
- customers have an impaired immune system, potentially because of long-term illnesses such as diabetes (Walsh, 2012).

Stakeholders consider services continue to pose risks to the community, particularly where appropriate sterilisation and hygiene practices are not observed.

Auckland Regional Public Health Service identified that in many circumstances it can be difficult to link resulting infections to an operator.

3.2.2 Complaints and ACC data provides evidence of continued health problems

Complaints data received from Auckland Council, WorkSafe and the Health and Disability Commissioner, and injury data from ACC provide evidence that services continue to cause health problems:

Most complaints to Auckland Council
Manicure/Pedicure

Most ACC claims
Massage

- Auckland Council recorded 320 complaints from 2014-2017 (best estimate). The majority were about manicure and pedicure operators (estimated 80) and include fungal infections, poor hygiene and sterilisation of tools, facilities, and premises.
- ACC recorded 36,622 injury claims for related services in the Auckland region from 2012-2017² (see Table 5 for a breakdown). **35,370 injuries were caused by massage, which is currently not regulated by the Bylaw.**
- The Ministry of Business, Innovation and Employment received 16 complaints about health and hygiene services from 2014-2017. Most complaints were about manicure and pedicure operators and included the use of banned chemical substances.
- The Health and Disability Commissioner received 42 complaints about “appearance medicine clinics”. Thirty of these complaints related to the treatment performed.

² The search used key search terms for specific types of service.

There are limitations to the complaints and injury data available:

- members of the public may not complain about lower level injuries or infections
- there are many organisations responsible for public health protection and treatment
- ACC claims cannot be made for infections, only injury (unless they occur in the workplace)
- ACC data does not identify whether the injury was caused by a commercial or non-commercial service.

Table 5 Auckland ACC claims by service³

Service type	2012	2013	2014	2015	2016
Tattoo	67	63	50	61	55
Pierce/piercing	104	109	101	104	108
Massage	5717	8380	6048	7177	8048
Manicure	9	4	4	7	4
Pedicure	11	13	21	13	21
Acupuncture	<=3	<=3	<=3	<=3	<=3
Dermal filler	0	0	0	0	0
Electrolysis	0	<=3	0	0	0
Hair removal	7	8	9	8	8
Waxing	<=3	6	<=3	<=3	6
Exfoliation	<=3	<=3	<=3	<=3	<=3
Swimming pool	4	8	5	7	7
Colon hydrotherapy	0	0	0	0	0

3.2.3 There is evidence the Bylaw has had a positive impact on public health

Evidence the Bylaw has positively impacted public health includes:

- trend analysis of ACC data that indicates the number of injuries caused by certain services covered in the Bylaw (for example tattoo and piercing injuries) have either decreased or not increased as greatly in Auckland relative to New Zealand. Exceptions to this trend relate to the number of claims for swimming pool and pedicure services in Auckland which have increased relative to the whole of New Zealand (Table 6)
- trend analysis of ACC data that indicates the number of injuries caused by certain services not covered in the Bylaw in Auckland have increased (for example massage claims increased by 41 per cent from 2012-2016)
- Consumers' Institute data (2015) and District Health Board research (2016) indicates that compliance with sun-bed standards is better in Auckland compared with other areas. All

³ ACC claim data provided by ACC for Auckland and New Zealand on 17th and 21st December 2017.

operators in Auckland complied with at least nine of the operating areas checked, compared with 68 per cent in the rest of the country. The studies attribute this to the bylaw requirement for providers to be licensed and inspected against minimum standards (District Health Board Public Health Units, 2016).

Table 6 Percentage change in number of ACC injury claims

Service type	New Zealand 2012-2016		Auckland 2012-2016	
	injuries	% change	injuries	% change
Tattoo	676	20% increase	296	18% decrease
Pierce/piercing	1,422	12% increase	526	4% increase
Massage	69,120	61% increase	35,370	41% increase
Manicure	49	36% decrease	28	55% decrease
Pedicure	140	70% increase	79	90% increase
Acupuncture	1-3	No change	1-3	No change
Dermal filler	0	No change	0	No change
Electrolysis	1-3	No change	1-3	No change
Hair removal	152	41% increase	61	40% increase
Exfoliation	23	100% increase	5-15	No change
Swimming pool	93	8% increase	31	75% increase
Sunbed	3-9	No change	1-6	No change
Laser	78	7% increase	42	No change
Colon hydrotherapy	0	No change	0	No change

3.3 Has there been any change in the nature and scale of the problems?

3.3.1 New services are emerging at a fast pace and some are not properly regulated by the Bylaw

Stakeholders identified new and emerging trends in services that are either not covered in the Bylaw or the type of harm (injury) was not anticipated when the Bylaw was made. There are also no specific minimum standards for these services. They are not referred to in the Bylaw and were not considered when it was drafted in 2013 (see Table 7 for details).

Table 7 Current regulation of new services

Commercial service	Bylaw service type	Regulated
Eyeball or scleral tattoo	<ul style="list-style-type: none"> • yes • pierces the skin • “skin piercing” definition includes piercing any part of the human body 	<ul style="list-style-type: none"> • licensed and subject to general minimum standards • no specific minimum standards

Platelet-rich plasma injections ('vampire facials' and vaginal rejuvenation)	<ul style="list-style-type: none"> • yes • pierces the skin 	<ul style="list-style-type: none"> • licensed and subject to general minimum standards • no specific minimum standards
Vaginal rejuvenation (laser)	<ul style="list-style-type: none"> • no • not covered by "risks burning the skin" activity as vaginal area is a membrane, not skin 	<ul style="list-style-type: none"> • no
Ultrasound and cooling pressure panels to remove fat cells	<ul style="list-style-type: none"> • no • does not risk piercing, breaking or burning the skin 	<ul style="list-style-type: none"> • no
Derma-blading of the face (shaving face with scalpel to exfoliate and remove hair)	<ul style="list-style-type: none"> • yes • risks breaking the skin 	<ul style="list-style-type: none"> • licensed and subject to general minimum standards • no specific minimum standards
Permanent or implant acupuncture	<ul style="list-style-type: none"> • yes • pierces the skin 	<ul style="list-style-type: none"> • licensed and subject to general minimum standards • no specific minimum standards
Waterplay parks and splash pads	<ul style="list-style-type: none"> • no • does not pierce, risk breaking or burning the skin 	<ul style="list-style-type: none"> • no

3.3.2 Health and hygiene services are growing in popularity

Anecdotally, the number and type of services in New Zealand appears to have grown. Members of the public appear to be using such services more frequently, particularly as prices decrease, and new services can be easily promoted via social media.

Stakeholders identified growth in the following existing services:

- cosmetic use of lasers and intense pulsed light
- scarification
- importation of dermal filler
- permanent make-up.

Tattoo continues to be popular in New Zealand across all demographics and stakeholders report that more people are seeking out traditional tattoo, particularly within Māori and Pacific communities.

3.3.3 Operator and employee numbers in the health and hygiene sector are increasing

The Environmental Health Unit records 828 operators currently licensed under the Bylaw.⁴

Research shows a growing number of operators and employees in the health and hygiene sector. This could increase compliance issues as new operators and employees may be less experienced and may not be aware of regulatory requirements.

Statistics New Zealand data shows the number of hairdressing and beauty service premises operating in Auckland increased by 19 per cent from 2013-2017⁵ (Table 7).

Statistics New Zealand also records a 17 per cent increase in employees in hairdressing and beauty services in Auckland (Table 8).

Table 8 Number of hairdressing and beauty service operators in Auckland 2013-2017

Year	2013	2014	2015	2016	2017
Premises	1437	1512	1539	1605	1710

Table 9 Number of employees working in hairdressing and beauty services in Auckland 2013-2017

Year	2013	2014	2015	2016	2017
Employees	3500	3550	3700	3900	4100

Over the past 10 years the number of recent migrants and people on temporary work visas in the beauty industry has increased. From June 2007 to October 2017, 961 people entered New Zealand on visas to work in the beauty industry (Statistics New Zealand, 2017).

The Union Network of Migrant Workers has expressed concern that such workers are being exploited by employers. A University of Auckland academic, Dr Christina Stringer, considers it likely that labour exploitation in the beauty industry, especially nail bars, is widespread in New Zealand (Shadwell, 2017). Poor labour practices and language barriers may contribute to problems with Bylaw compliance.

Stakeholders also identified an increase in home-based operators.

3.3.4 More people are suffering from impaired immune systems and treatments are becoming less effective

People with impaired immune systems are more likely to contract infections from services and will be more seriously impacted. This effectively increases the frequency and severity of potential harms. Illnesses such as diabetes, viral hepatitis, AIDs and leukaemia can impair immunity.

⁴ Excludes services only subject to minimum standards (swimming pools and colonic hydrotherapy operators).

⁵ While hairdressing services are not regulated by the bylaw, the data is indicative of an overall increase in operators. Statistics New Zealand includes tattoo operators in a separate "other personal services" category.

The number of people with an impaired immune system in New Zealand has increased:

- The number of people diagnosed and suspected of having diabetes in the Auckland region has increased from 66,714 in 2010 to 92,570 in 2016 (39 per cent increase) (Ministry of Health, 2017a).
- 3,500 people are suspected of having HIV in New Zealand and 244 people were diagnosed with HIV in 2016 (the highest rate since records began) (New Zealand AIDS Foundation, 2016).
- More than 150,000 people are estimated to have hepatitis B and C in New Zealand (The Hepatitis Foundation of New Zealand, 2016) (Ministry of Health, 2017b).

Anti-microbial resistant bacteria, viruses and fungi are a growing problem in New Zealand and the world. For example, resistant staphylococcus aureus, which is a common health risk for health and hygiene services. Anti-microbial resistance is worsened by the overuse of antibiotics. New Zealand communities have increased their consumption of antimicrobials by as much as 49 per cent between 2006 and 2014 (Ministry of Health & Ministry for Primary Industries, 2017). Infections from unhygienic services will often require antimicrobial treatment that could have been avoided.

3.4 Has implementation been effective and efficient?

3.4.1 Multiple organisations are responsible for public health protection

Auckland Council has a duty to improve, promote, and protect public health under the Health Act 1956 (section 23). This duty has been advanced through the adoption of the Bylaw. Auckland Council has delegated responsibility for ensuring commercial service operators comply with the Bylaw to the Environmental Health Unit in the Licensing and Regulatory Compliance department (GB/2013/66).

Outside council, other governmental organisations are responsible for protecting the public and employees from health risks associated with services:

- **WorkSafe** (Ministry of Business, Innovation and Employment): responsible for administering the Health and Safety at Work Act 2015 and hazardous substance use in the workplace under the Hazardous Substances and New Organisms Act 1996. WorkSafe have brought prosecutions against operators for using banned hazardous substances.
- **Auckland Regional Public Health Service**: required to investigate individual cases and outbreaks of notifiable diseases in the community (Health Act 1956). These include diseases that are recognised health risks of services, including: hepatitis B and C, legionellosis and HIV.

There needs to be greater coordination among organisations given the overlap in statutory duties. There is a risk that the public will not make complaints about services if they are unsure what organisation is responsible.

3.4.2 Environmental health officers have enforcement powers under the Local Government Act and Health Act

Environmental Health officers may take enforcement action against operators on two distinct grounds:

- The operator does not have a licence, is in breach of their licence conditions, or is in breach of the minimum standards under the code (Local Government Act 2002 and Health Act 1956).

- The operator is permitting or causing a nuisance that is injurious to health (Health Act 1956). Under the Local Government Act 2002 (sections 162-188), officers can exercise a broad range of powers, including: powers of entry, seizure of property and requiring information. Officers can obtain a court order to stop a breach of a Bylaw (injunction), and/or prosecute operators for breaching a Bylaw. If convicted, a person will be liable for a maximum fine of \$20,000. Officers cannot issue infringement fines for breach of the Bylaw.

Under the Health Act 1956 the council is empowered and directed to respond to any nuisance or condition likely to be “injurious to health” or a health risk.

Under the Health Act 1956, officers may:

- stop an activity that is causing a health nuisance on any premises (section 34)
- issue an order requiring cleaning of the premises if necessary to prevent danger to health (section 41)
- require repairs or close premises where a commercial service is carried out in a dwelling house (section 42)
- prosecute a person if they allow or cause a health nuisance or breach a Bylaw. If convicted, a person can be fined \$500, and \$50 per day for a continuing nuisance (sections 33 and 66)
- issue an infringement notice or a fine of up to \$10,000 where an operator provides sunbed services to a person under 18 (sections 114-116B).

Given the larger maximum penalty, officers are more likely to prosecute an operator for breach of a Bylaw under the Local Government Act 2002. However, Environmental Health officers will act under the Health Act 1956 if a service is not regulated under the Bylaw.

3.4.3 Certain operators must be licensed

The Bylaw requires operators to have a health protection licence if they carry out services that pierce the skin, or risk breaking or burning the skin. Licensing and Regulatory Compliance may make controls and impose fees for licensing (GB/2010/54).

Licensing fees are charged based on the number of services provided and their health risks.

Table 10 Licensing fees

License type	Description	Fee
Single basic service	single service with a risk of breaking or burning skin	\$254
Multiple basic services	more than one service which is categorised as a risk of breaking or burning skin	\$317
Single high-risk service	single service which is categorised as piercing the skin	\$380
Multiple high-risk services	more than one service is categorised as piercing the skin	\$380

3.4.4 Licensed services are inspected annually and in response to complaints

Officers inspect to ensure compliance with the Code before issuing a licence. Licences are renewed every year and an inspection must be carried out before a renewal is approved.

Operators that provide swimming pool and colonic hydrotherapy services are not required to be licensed under the Bylaw and therefore are not proactively inspected.

Inspections will also be carried out if a complaint is made about an operator, whether they are required to be licensed or not.

Officers also investigate complaints made about premises not covered by the Bylaw under the Health Act 1956.

The Environmental Health Unit estimates the following revenue and expenditure for licensing commercial services (Table 11).

Table 11 Revenue versus expenditure

Revenue	Fees x number of operators	\$242,522
Expenditure	Administration + travel + inspection costs	\$297,475

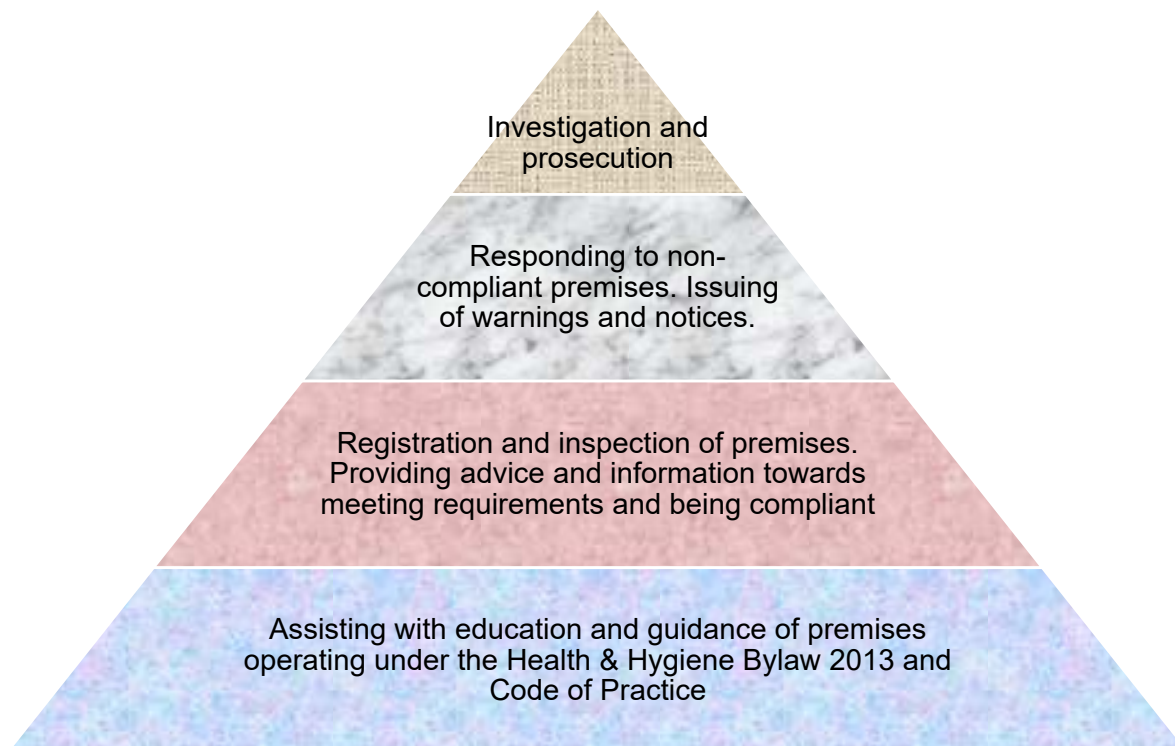
This amounts to approximately 81 per cent cost recovery for licensing.

Complaints and requests for service are not recoverable from licensing fees. These cost an estimated \$115,500 in 2017.

3.4.5 Environmental Health takes a graduated enforcement approach

The Environmental Health unit applies a VADE⁶ model to its compliance interventions under the Bylaw. This is based on members of the public voluntarily choosing to conform. While the ultimate enforcement tool under the Bylaw is prosecution, officers seldom use this option. It is a lengthy and expensive process and costs are not fully recovered from fines. Prosecution works best as a deterrent tool, as it sends a strong public message that people will be punished for non-compliance with the Bylaw.

Figure 3 The VADE Model of compliance interventions for Health and Hygiene Premises



Where an operator is unlicensed, officers will issue reminder letters giving the operator 14 days to apply for a licence.

If an operator fails to comply with minimum standards, officers will issue a notice to fix in the first instance. Depending on the health risk, the operator will be given one to seven days to fix the issue. Environmental Health officers find that operators normally comply after being issued with a notice.

If an operator fails to obtain a licence or remedy a compliance issue, officers would prosecute. To date no operators have been prosecuted under the Bylaw.

3.4.6 The Bylaw is effective at minimising health risks and there is a lack of other regulation

There is a strong consensus among stakeholders that the Bylaw is a necessary and reasonably effective method of minimising health risks arising from services.

“The Bylaw provides the only spotlight on those industries”

WorkSafe, Auckland Regional Public Health Service and industry organisations stressed the importance of the Bylaw in the absence of any national regulation of these services. Even where other organisations have overlapping responsibilities (such as WorkSafe), they do not have the resources to focus on these industries given the lower level of potential harm.

3.4.7 There is a high rate of compliance among licensed operators

Environmental Health officers report a high level of compliance with minimum standards by licensed operators.

During the period 1 July 2016 – 5 February 2018, officers carried out 766 inspections. Ninety-five per cent of operators complied with minimum standards at the time of inspection. Only 38 operators were non-compliant (five per cent fail rate).

3.4.8 There are many unlicensed operators

All stakeholders identified unlicensed operators, particularly those based in home occupations, as an ongoing compliance issue. Youth Advisory Panel members consider this a problem for tattoo and body piercing operators that provide services to young people. Tattoo artists were aware of tattooists travelling to Auckland to perform services without obtaining a licence.

Industry organisations identified problems with non-compliant operators setting up new business premises in different locations.

Desktop research using Google, Facebook, and two commonly used Chinese community discussion forums identified unlicensed premises. These included four tattoo and piercing operators, and eight beauty therapy operators.

3.4.9 Additional enforcement tools and approaches could improve compliance

3.4.9.1 Environmental Health officer views

Environmental health officers consider that operators should be required to display their health licence in a place where the public can observe. This would raise consumer awareness of the Bylaw and health risks posed by services and give confidence that the operator is complying with minimum standards. While this was required under some legacy bylaws, it was not included in the current Bylaw.

Officers do not consider operators need to be graded like food premises. They consider this would not improve compliance outcomes and the costs of developing a grading system for each service would be high and would consequently be passed on to operators.

Environmental officers would like to have the power to issue infringement fines, but specific statutory authorisation is required. Officers also consider that an online “social media blitz” would help identify operator compliance problems.

Officers consider that a better working relationship with WorkSafe would improve outcomes under the Bylaw.

3.4.9.2 Other stakeholder views

Local board members, the Auckland Regional Public Health Service, Rainbow Communities Advisory Panel and Ethnic Peoples Advisory Panel support the display of licences and/or qualifications. This would be a “consumer focused way of communicating the standard of the operator...” However, a dermatologist questioned whether displaying qualifications would assist the public as they are unable to judge the quality of the qualifications displayed.

Rainbow Communities Advisory Panel and local board members consider that a grading system should be applied to operators, like food premises. Rainbow Communities Advisory Panel members also reported that there is a problem with discrimination against rainbow peoples by service operators.

Industry organisations and tattoo artists are concerned that officers may not have the expertise to properly inspect certain services, particularly new treatments.

Health experts consider that officers should carry out random inspections without warning to ensure that operators are meeting minimum standards.

3.4.10 Non-regulatory measures could complement enforcement under the Bylaw

Advisory panel members and Māori stakeholders strongly support measures to raise public awareness of the Bylaw and the health risks associated with services. This could include council providing educational materials targeted at different communities. The Pacific Peoples Advisory Panel and Māori stakeholders consider information about the Bylaw and Code should be available in multiple languages.

3.5 Is the Bylaw the most appropriate form of Bylaw?

3.5.1 The current Bylaw is a framework Bylaw supported by a code of practice

Bylaw form relates to its:

- structure
- content (including use of controls such as codes of practice)
- drafting.

The Bylaw currently takes a framework bylaw form. The framework enables the regulation of services which are categorised by service type (piercing the skin, risks breaking or burning the skin, or other specified services). It also enables a separate code of practice control, which holds the detailed rules and procedures which operators must follow to avoid breaching the Bylaw.

Alternative forms of bylaw in this context might include:

- a comprehensive bylaw which includes detailed rules and procedures for each commercial service and no separate code of practice
- a bylaw including a definitive list of services
- a bylaw that uses different categories of services, such as risk-based categories.

When considering whether the Bylaw is in the most appropriate form, decision-makers can also assess whether changes should be made to specific clauses within an existing Bylaw.

3.5.2 There are few comparable Bylaws in New Zealand and they cover fewer services

Staff reviewed bylaws administered by other domestic territorial authorities (Table 12). This identified 15 bylaws (including one proposed bylaw) that regulate all or a selection of services covered by the Auckland Council bylaw. Five of the bylaws only regulate swimming pools.

Auckland Council's Bylaw covers a broader range of services than the other territorial authority bylaws. Most include minimum standards within the Bylaw, except for Timaru and Waimate District Councils which use a code of practice.

Presumably, other territorial authorities rely on their powers under the Health Act 1956 to respond to complaints about these types of services.

Table 12 Regulation of services by other territorial authorities

Local authority	Bylaw name	Bylaw form	Services
Auckland Council	Health and Hygiene Bylaw 2013	<ul style="list-style-type: none"> enables licensing, minimum standards and exemptions contains operator rules and procedures in separate document 	<ul style="list-style-type: none"> tattoo body piercing beauty therapy services manicure/pedicure laser hair removal pulsed light sun-beds colon hydrotherapy public swimming pools
Dunedin City Council	Beauty Therapists, Tattooists and Skin Piercers Bylaw 2016	<ul style="list-style-type: none"> enables licensing paragraphs structured by hygiene procedure contains operator rules and procedures within bylaw document 	<ul style="list-style-type: none"> tattoo body piercing hair removal manicure/pedicure exfoliation
Invercargill City Council	Proposed Tattoo and Skin Piercing Bylaw		<ul style="list-style-type: none"> tattoo beauty therapy manicure/pedicure
Manawatu District Council	Manawatu District Council Public Facilities (Swimming Pools & Library) Bylaw 2014	<ul style="list-style-type: none"> regulates users of public facilities contains rules they must follow within the bylaw document 	<ul style="list-style-type: none"> swimming pools
Masterton District Council	Masterton and South Wairarapa District Council's Beauty Therapists, Solarium Operators, Nail Technicians, Tattooists and Skin Piercers Bylaw 2012	<ul style="list-style-type: none"> consolidated bylaw part 15 regulates these services contains operator rules and procedures within bylaw document 	<ul style="list-style-type: none"> beauty therapy sun beds manicure/pedicure tattoo body piercing

Local authority	Bylaw name	Bylaw form	Services
Napier District Council	Tattooists and Skin Piercers Bylaw 2014	<ul style="list-style-type: none"> enables licensing contains operator rules and procedures within bylaw Includes application forms 	<ul style="list-style-type: none"> tattoo body piercing acupuncture red vein treatment hair removal manicure/pedicure
New Plymouth District Council	Beauty Therapy, Tattooing and Skin Piercing Bylaw 2010	<ul style="list-style-type: none"> enables licensing contains operator rules and procedures within bylaw 	<ul style="list-style-type: none"> tattoo body piercing beauty therapy massage
Ruapehu District Council	Public Health and Safety Bylaw 2013 (Chapter 17)	<ul style="list-style-type: none"> consolidated bylaw part 17 regulates body piercing 	<ul style="list-style-type: none"> body piercing tattoo acupuncture manicure/pedicure hair removal hair restoration
South Taranaki District Council	Tattooists, Beauticians and Body Piercers Bylaw 2013	<ul style="list-style-type: none"> contains operator rules and procedures 	<ul style="list-style-type: none"> tattoo body piercing beauty treatments massage manicure/pedicure sun beds saunas and spas red vein treatment hair removal
South Taranaki District Council	Public Swimming Pools Bylaw 1992	<ul style="list-style-type: none"> provides for safety at pool facilities requires permission to teach at a pool 	<ul style="list-style-type: none"> swimming pools
South Waikato District Council	Cultural and Recreational Facilities Bylaw	<ul style="list-style-type: none"> regulates customers at public facilities 	<ul style="list-style-type: none"> swimming pools
South Wairarapa District Council	Beauty Therapists, Solarium Operators, Nail Technicians, Tattooists and Skin Piercers Bylaw 2012	<ul style="list-style-type: none"> consolidated bylaw part 15 regulates these services contains operator rules and procedures within bylaw document 	<ul style="list-style-type: none"> beauty therapy sun beds manicure/pedicure tattoo body piercing

Local authority	Bylaw name	Bylaw form	Services
Timaru District Council	Health protection - Pools, Beauty Facilities, Skin Piercing and Tattooing	<ul style="list-style-type: none"> consolidated bylaw chapter 23 regulates services enables licensing enables two codes of practice, one for pools and one for beauty facilities and piercing 	<ul style="list-style-type: none"> swimming pools beauty treatments tattoo body piercing manicure/pedicure hair removal
Waimate District Council	Health Protection - Pools, Beauty Facilities, Skin Piercing and Tattooing	<ul style="list-style-type: none"> consolidated bylaw - chapter 20 regulates these services enables licensing enables two codes of practice, one for swimming pools and one for beauty facilities 	<ul style="list-style-type: none"> swimming pools tattoo body piercing hair removal manicure/pedicure beauty treatments
Waitomo District Council	Public Health and Safety Bylaw 2009 - chapter 8 body piercing	<ul style="list-style-type: none"> enables licensing contains rules for piercing 	<ul style="list-style-type: none"> body piercing tattoo
Wellington City Council	Local Public Health Bylaw 2008 - public pools	<ul style="list-style-type: none"> requires compliance with pool water quality standard NZS5826 	<ul style="list-style-type: none"> swimming pools

3.5.3 International jurisdictions have similar regulations to the Bylaw

Staff research identified other international jurisdictions with regulatory regimes for services.⁷ New South Wales, Victoria, London and Toronto were selected as helpful examples as they cover large urban centres with diverse populations and have comparable legal systems.

Staff found that these jurisdictions take a similar regulatory approach to Auckland Council. They regulate similar services and require operators to be registered or licensed with the relevant local authority and comply with minimum standards. The main difference is that aside from Toronto, regulation is required by statute instead of under a local authority bylaw. Powers and duties are then delegated under the statute to relevant local authorities. In Victoria and New South Wales, minimum standards are contained in state regulations, while Toronto and London borough councils provide standards in a bylaw.

⁷ See “Regulation of services in international jurisdictions” summary document for further details.

Table 13 International regulation of services

country / state / province	Legislation / regulation	regulators	activities	enforcement
<p>Australia New South Wales</p>	<p>Public Health Act 2010 Public Health Regulation 2012</p>	<p>State government Local authorities</p>	<ul style="list-style-type: none"> • swimming pools • “skin penetration procedures” • acupuncture • tattooing • ear piercing • hair removal (not laser) • colonic lavage • microdermabrasion 	<ul style="list-style-type: none"> • operators must register with local authority • operators are subject to standards under regulations • failure to comply with standards attracts “penalty units” - 100 penalty units or AUS\$11,000 • eyeball tattoo may only be carried out by a medical practitioner - AUS \$11,000 or imprisonment for 6 months
<p>Australia Victoria</p>	<p>Public Health and Wellbeing Act 2008 Public Health and Wellbeing Regulations 2009 Victoria Summary Offences Act 1966)</p>	<p>State government Local authorities</p>	<ul style="list-style-type: none"> • manicure • pedicure • facial treatment • hair removal • colonic irrigation • hairdressing • skin penetration • tattooing • businesses that pose a risk to public health 	<ul style="list-style-type: none"> • operators must register with local authority • operators subject to standards under regulations. • certain services prohibited on persons under 18: tattoo, scarification, tongue splitting, branding, intimate piercing • failure to comply attracts “penalty units” - e.g. failure to comply with sterilisation standard is 20 penalty units or AUS\$2,200

country / state / province	Legislation / regulation	regulators	activities	enforcement
United Kingdom London	London Local Authorities Act 1991	Local authorities	<ul style="list-style-type: none"> • cosmetic body piercing • permanent tattooing • semi-permanent skin colouring (micropigmentation, semi-permanent make-up and temporary tattoo) • electrolysis • acupuncture • massage • manicure/pedicure • chiropody • saunas • intense pulsed light 	<ul style="list-style-type: none"> • must register with local authority • local authority has optional powers to make bylaws • may refuse or revoke a licence on certain grounds • offence if operate in breach of bylaw - fine up to £2500 e.g. Islington Borough Council <ul style="list-style-type: none"> • prohibits branding • cannot tattoo or pierce people under age of 18 (other than ear or nose)
Canada Toronto	Municipal Code 545, Licensing By-Law	Local authority	<ul style="list-style-type: none"> • hairstyling and barbering • tattooing • micropigmentation • ear and body piercing • electrolysis • manicures and pedicures • aesthetics (e.g. waxing, facials, tanning, laser hair removal) 	<ul style="list-style-type: none"> • must obtain licence and comply with standards • officers may close a service or entire establishment if there are "crucial infractions" that present an immediate health hazard • offence and fine on conviction of up to Can \$25,000 for individual or Can \$50,000 for corporate

3.5.4 Stakeholders support a Bylaw framework with detailed code of practice

Stakeholders, including Environmental Health officers and industry organisations, support the current Bylaw framework and its accompanying code of practice.

Stakeholders identified the ability to amend the code of practice by Regulatory Committee resolution (GB/2010/54) as its main advantage. This enables changes to be made more quickly and could help minimum standards keep pace with changes in services. One stakeholder commented that the title “code of practice” makes the document and minimum standards appear more important to operators than if they were incorporated in a bylaw.

3.5.5 Code of practice needs to be updated more regularly

Industry organisations and officers are concerned the code has not been updated since it was made in 2013. Some stakeholders considered that a regular review should be required, potentially every three to five years. Other stakeholders, including Auckland Regional Public Health Service, consider the code should be a “living document” that is reviewed when officers identify problems.

3.5.6 Current activity definitions do not include all services

The Auckland Regional Public Health Service consider the reference to “piercing the skin” and “risk breaking the skin” limits the Bylaw to services that affect the skin. This excludes services such as eyeball tattooing and vaginal rejuvenation that affect mucosal membranes. They consider that the Bylaw should refer to both skin and membrane in defining the types of services it regulates.

Industry organisations also suggested these categories discount other harms aside from that of infection or burning, like injury.

3.5.7 Māori views on Bylaw form

Some Māori stakeholders consider that the current Bylaw form reflects a Pākehā or western view of health. Broader Māori conceptions of wellbeing that incorporate mind, body and spirit could be incorporated, particularly for skin piercing and other services which interfere with a person’s tapu.

Māori stakeholders consider the tā moko exemption should be amended to better reflect actual practice (see tā moko section below).

3.6 Are there any implications under the New Zealand Bill of Rights Act 1990?

Under the Local Government Act 2002, a bylaw review must consider whether a bylaw has any implications under the New Zealand Bill of Rights Act 1990. Legally a bylaw may not be inconsistent with the Act.

This requires consideration of:

- whether the Bylaw limits any of the rights or freedoms contained in the Act
- if so, whether this limitation is “demonstrably justifiable in a free and democratic society”.

3.6.1 Does the Bylaw limit rights under the Act?

The existing Bylaw could potentially limit freedom of expression under the New Zealand Bill of Rights Act 1990 (section 14). “Expression” can be any activity that attempts to convey meaning.

Nearly all human activity can be classified as expression since “most human activity combines expressive and physical elements” (*Irwin Toy Ltd v Attorney-General* [1989] Quebec 1 SCR 927). Services such as tattoo, body piercing, scarification and other body modification may convey meaning.

While the Bylaw requires operators to be licensed and comply with minimum standards, it does not limit the public’s access to these services. The Bylaw only controls the methods used to carry out these services to meet health protection goals.

3.6.2 Would any limitations be justifiable under the Act?

While staff consider the existing Bylaw could potentially limit freedom of expression, this limitation is considered justifiable.

For a limitation to be “demonstrably justifiable in a free and democratic society” it must serve a sufficiently important purpose to justify the limitation. *Hansen v R* [2007] 3 NZLR 1 (SC) provides that the limitation must:

- be rationally connected to its purpose
- not limit the right or freedom more than necessary to achieve the purpose
- be proportionate to the importance of the objective.

The purpose of the Bylaw is to promote and protect public health. There is evidence that serious harm can be caused if services covered by the Bylaw are not performed competently or hygienically. The limitations on services directly relate to the Bylaw’s health protection objectives.

3.7 Statutory review findings

The Local Government Act 2002 requires that the Bylaw be reviewed within five years of being made (section 158). The review must comply with statutory requirements under sections 160(1) of the Act.

In summary, the research and engagement contained in this report on the Bylaw found:

- A bylaw that regulates services which contact the body remains the most appropriate way to protect public health. This is because a bylaw is currently the only regulatory method that ensures these risks are proactively minimised.
- The Bylaw is not the most appropriate form of bylaw because improvements could be made that would make the regulation of existing, new and emerging services better.
- The current Bylaw does not give rise to any unjustified implications under the New Zealand Bill of Rights Act 1990. Any potential limitations on freedom of expression are justified due to the level of health risks from people using these services.

4 Services with Health or Hygiene Risks

This section provides more detailed information for services either currently or potentially regulated by the Bylaw. It describes the health risks posed by services and identifies levels of risk using a risk assessment matrix. This is followed by a summary of research and stakeholder feedback on individual services.

4.1 Types of Harm

The types of harm from services that involve contact with the body can be grouped into three types: risk of infection, risk of disease, and risk of injury.

4.1.1 Risk of infection

Services that pierce the skin or risk breaking the skin pose a risk of transferring infection including viral, bacterial, and fungal infections. Fungal infections may also be transferred by skin to skin contact or by contact between contaminated tools, towels, and water with skin.

People with weakened immunity from diabetes, HIV infection, cancer treatment or organ transplant are particularly vulnerable to infections (Walsh, 2012). People taking antibiotics are also more vulnerable to fungal infections (Johnson, 2017).

4.1.1.1 Viral infection

Needles or other sharp instruments used to penetrate the skin will be contaminated by blood. These can carry blood-borne viruses including human papilloma, HIV and hepatitis B and C. If tools are then reused and not sterilised properly these viruses can be transferred to other people (Rieder & Tosti, 2016). When contracted, blood-borne viruses are permanent and difficult to treat. The most harmful will require lifelong management, often leading to chronic illness and sometimes loss of life.

4.1.1.2 Bacterial infection

A risk of bacterial infection arises when bacteria can infiltrate the body such as when a service:

- pierces the skin
- touches broken skin (Department of Health, 2017).
- reuses water which can be swallowed.

Products, water or tools can become contaminated with bacteria, which commonly live on the body. If they are reused or not cleaned properly these bacteria can be transferred to other people.

If caught early bacterial skin infections can usually be treated with oral antibiotics. However, bacterial infections are more serious when:

- they are not treated or spread rapidly
- are ingested, such as salmonella which causes vomiting and diarrhoea

- are resistant to antibiotics such as certain types of *staphylococcus aureus*, which can be fatal.

4.1.1.3 Fungal infection

Fungi are part of the natural world, sometimes living naturally on the body. They can be transferred by skin to skin contact, or by contact with contaminated tools or water and the skin.

Certain types, such as tinea or candida are harmful when they take over an area of the body and the immune system is unable to fight them. Fungal infections are common and unpleasant, but if treated quickly with topical or oral antifungal medication they are not considered serious.

4.1.2 Risk of cancer

Certain services use tools or products that increase the risk of developing cancer, such as:

- ultra-violet light used in sun-beds
- chemical exposure during manicure and pedicure treatments
- carcinogenic metals contained in certain tattoo inks.

Cancers and their symptoms may not become apparent for some time and the cause may not be obvious. Treatments include surgery, radiotherapy and chemotherapy which are onerous to patients and costly to the public health system.

The risk of cancer is minimised by preventing or limiting exposure to these products.

4.1.3 Risk of injury

A risk of injury arises from services which apply pressure to or penetrate the body. This includes by using hands, water, heat, laser light or sharp instruments such as knives and needles. These risks can be minimised by ensuring those providing services are competent and the equipment or tools they use is correct and of suitable quality.

4.1.3.1 Burns

Certain services pose a risk of burning the skin when tools or products are used incorrectly. The harm could be minor discomfort or superficial burning such as burns from overheated wax. The side effects of certain laser treatments or laser treatments done incorrectly cause more serious secondary burns. It can take two or three weeks to recover from the symptoms of secondary burns which include redness, swelling and blistering.

4.1.3.2 Organ or nerve damage

If done incorrectly certain services can cause unintended, long-lasting or permanent damage to the body's organs or nerves. For example:

- puncturing of a lung or other organ
- removal of tissue
- damage to the eye, causing blindness
- causing loss of feeling or movement.

Such damage is likely to be long-lasting, requiring treatment by medical professionals and significant time off work. Many are irreversible and in extreme cases fatal.

4.2 Levels of risk

The risk matrix in Table 11 and Figure 3 provides a high-level risk assessment for each service based on:

- the consequences of the most serious but realistic harm that could be caused by the service (negligible to catastrophic)
- the likelihood of this harm occurring if it were not regulated (rare to almost certain).

The framework for this high-level risk matrix uses the United Kingdom National Health Service model for hospital injuries (National Health Service, 2008).

The evaluation of each service in the matrix relies on information gathered for this report, including ACC injury data, complaints data and published research.

This information has limitations. If council sought to move to a purely risk-based approach to regulation, a more robust risk assessment would be required. This would include supporting scientific analysis, such as a risk-ranking process that includes estimates of the incidence and burden of illnesses caused by services in New Zealand. Risk-ranking or comparative risk assessment is the process of comparing risks and ordering or grading them. This methodology was used to develop the risk assessment for food businesses under the Food Act 2014 (Ministry for Primary Industries, 2017).

Table 14 Meaning of terms used in the commercial service risk matrix

Likelihood		Consequences	
Rare	<ul style="list-style-type: none"> this will probably never happen 	Catastrophic	<ul style="list-style-type: none"> incident leading to death multiple permanent injuries irreversible health effects for example: cancer, hepatitis B and C, HIV.
Unlikely	<ul style="list-style-type: none"> do not expect it to happen, but it is possible it may do 		Major
Possible	<ul style="list-style-type: none"> might happen occasionally 	Moderate	
Likely	<ul style="list-style-type: none"> will probably happen, but it is not a persisting issue/circumstances 		Minor
Almost Certain	<ul style="list-style-type: none"> will undoubtedly happen, possibly frequently. 	Negligible	

Figure 4 Risk Matrix

		Likelihood				
		1	2	3	4	5
		Rare	Unlikely	Possible	Likely	Almost Certain
Consequence	5 Catastrophic		<ul style="list-style-type: none"> • Dermal filler • Acupuncture • Beauty treatments that pierce the skin 	<ul style="list-style-type: none"> • Body Piercing • Other body modification • Scarification • Tattoo 	<ul style="list-style-type: none"> • Sun-beds 	
	4 Major			<ul style="list-style-type: none"> • Pulsed light/Laser 	<ul style="list-style-type: none"> • Eyeball tattoo 	
	3 Moderate	<ul style="list-style-type: none"> • Sleep pods 	<ul style="list-style-type: none"> • Exfoliation • Swimming pools • Colon hydrotherapy 	<ul style="list-style-type: none"> • Waxing • Manicure • Pedicure 		
	2 Minor			<ul style="list-style-type: none"> • Massage 		
	1 Negligible		<ul style="list-style-type: none"> • Threading 	<ul style="list-style-type: none"> • Ultrasound fat reduction 		

Legend

- Low Risk
- Moderate Risk
- High Risk
- Very High Risk

4.3 Body piercing

4.3.1 Key findings

- Body piercing is a very high risk commercial service.
- Health risks include transfer of blood-borne infections.
- Body piercing is currently licensed and subject to minimum standards.
- Compliance by licensed operators with minimum standards is good.
- Body piercing is not regulated at a national level and there are no industry regulations or best practice standards.
- The number of piercing injuries has increased by 12 per cent in New Zealand since 2012. Piercing injuries in Auckland have increased at a lower rate of four per cent.
- Stakeholders expressed some concern about youth being pierced by unlicensed operators.
- Stakeholders consider body piercing services should be licensed and subject to minimum standards.

Conclusion: body piercing is a very high risk commercial service. The current regulatory response (including licensing and minimum standards) is effective at minimising this risk.

4.3.2 Explanation

Body piercing is the practice of creating an opening through a part of the human body to allow for adornment with jewels, metals or cultural pieces either for temporary or permanent use (Liley, 2017) (dermnet). Piercing is often carried out for aesthetic, cultural, cosmetic and other purposes. The practice may be carried out using a variety of implements including piercing needles, piercing guns and dermal punches. Māori and Pacific peoples may use bone or other traditional materials for cultural piercing (Ministry of Health, 1998).

Body piercing has become a mainstream trend and is common among adolescents (Breuner & Levine, 2017). Ear stretching, or the deliberate expansion of a healed piercing, has also become increasingly popular.

Young adults and women have the highest rates of body piercing (Desai, 2016).

4.3.3 Health risks

The highest risk from piercing is the transmission of bloodborne infections (including, Hepatitis B and C, and HIV) between piercer and/or customers.

Other health risks from body piercing include:

- allergic contact dermatitis
- endocarditis or inflammation of the heart from tongue piercing
- scarring
- surgical risks in piercing removal.

4.3.4 Current council approach

The Bylaw currently regulates body piercing as a commercial service that pierces the skin. Body piercing is defined in the Bylaw as “a practice of piercing the skin for decorative purposes, inserting

jewellery or implants to alter the appearance of the skin.” Operators must be licensed and comply with minimum standards contained in the code.

The Bylaw exempts commercial ear piercing undertaken in a pharmacy licensed by the Ministry of Health.⁸ This is because pharmacists adequately ensure public health and hygiene through existing industry-based regulation.

4.3.5 Other approaches

Body piercing is not currently regulated by central government. The Ministry of Health has produced non-statutory Guidelines for the Safe Piercing of Skin (1998). However, these have not been updated.

The Health Act 1956 enables enforcement action to be taken by Environmental Health officers where there is a nuisance.

There are no industry regulations or best practice standards.

Ten other local authorities have bylaws that regulate body piercing.⁹

4.3.6 Operators

Currently there are 41 licensed operators that specifically provide body piercing.

4.3.7 Complaints

Auckland Council recorded an estimated eight body piercing complaints from 2014-2017. One complaint involved an unlicensed operator providing body piercing without proper facilities.

ACC records the following claims for piercing injuries for 2012-2016:¹⁰

Table 15 ACC claims for body piercing injuries 2012-2016

New Zealand					Auckland				
2012	2013	2014	2015	2016	2012	2013	2014	2015	2016
273	294	274	275	306	104	109	101	104	108

These results do not distinguish between commercial and non-commercial piercing as the ACC claim form does not require claimants to identify whether the injury was caused by a commercial activity. ACC staff located 56 injuries (2012-2016) when the search terms “commercial or service location” were used.

8 Exemption introduced by the Health and Hygiene (Amendment No 1) Bylaw 2014, GB/2014/120.

9 Masterton District Council, South Wairarapa District Council, Napier City Council, New Plymouth District Council, Ruapehu District Council, South Taranaki District Council, Waitomo District Council, Dunedin City Council, Tasman District Council, Waimate District Council, Timaru District Council, proposed bylaw for Invercargill District Council.

10 Note: these results do not distinguish between commercial and non-commercial piercing as the ACC claims form does not require claimants to identify whether the injury was caused by a commercial activity. Where “commercial or service location” search terms were used the number of body piercing injuries was 56 2012

Desktop research using Google, Facebook, and two commonly used Chinese community discussion forums identified one complaint about a body piercing service that caused swelling and headaches.

4.3.8 Stakeholder feedback

4.3.8.1 Problems

The Auckland Regional Public Health Service identified blood borne viruses and infections arising from piercing the skin as a key public health concern.

Industry organisations consider that body piercing should have much higher standards of hygiene, including the use of masks, autoclaves and sterilisation of surfaces.

Tattooists and Youth Advisory Panel members identified that while many adolescents have piercings done at pharmacies, there is an ongoing problem with adolescents being pierced by unlicensed and untrained people. Panel members consider that adolescents often lacked knowledge of the hygiene requirements for piercing operators and premises, and “many will put cost before the health and hygiene safety.” They consider that public education about potential health risks from piercings should be prioritised.

During the Rainbow Advisory Panel meeting, a public attendee raised the need to regulate commercial sex workers who pierce skin for sexual gratification purposes.

4.3.8.2 Emerging trends and problems

Local board members are concerned about body piercing occurring at markets.

4.3.8.3 Regulation of body piercing

Health experts consulted (including a dermatologist and Auckland Regional Public Health Service), Environmental Health officers, and other stakeholders consider that body piercing should be regulated by a bylaw and should be licensed and subject to minimum standards.

4.4 Scarification and body modification

4.4.1 Key findings

- Scarification and body modification are very high-risk services.
- Health risks include blood borne viral and bacterial infection and permanent injury.
- Currently licensed and subject to the general minimum standards for services that pierce the skin.
- There are no minimum standards to minimise the risk of injury these services pose.
- Not regulated at a national level and there are no industry regulations or best practice standards.
- Stakeholders considered these services should be licensed and subject to minimum standards.

Conclusion: Scarification and body modification are very high-risk services. These services are regulated by the Bylaw and the Code contains general minimum standards for piercing the skin but there are no specific minimum standards for the practice. The current minimum standards do not effectively minimise all risks, particularly unintended permanent injury.

4.4.2 Explanation

Scarification involves scratching, etching, burning / branding, or superficially cutting designs, pictures, or words into the skin. This is carried out by cutting repeatedly with a scalpel, using a cauterizing tool, or by branding to encourage scarring. Where a larger area of scar tissue is desired, a removal technique is used to peel large strips of skin from the body. Scarification is gaining in popularity both internationally and domestically (see stakeholder findings below).

Body modification (or body alteration) is the deliberate altering of the human anatomy. Body modification practices include tongue splitting, ear pointing, and the removal of cartilage, nipples, ears and navels. These practices are carried out by cutting with a scalpel or similar implement.

Implants are a type of body modification and involve placing materials, such as silicone, under the skin for decorative purposes. For example, implants may resemble horns or create patterns under the skin.

Tongue bifurcation or splitting/forking involves cutting the tongue centrally from its tip to as far back as the underside base, forking the end.

4.4.3 Health risks

Scarification risks the transmission of bloodborne infections between practitioner and/or customers.

Scarification is permanent. It cannot be removed with a laser like tattoos and is more susceptible to infection than a tattoo. Other health risks of scarification and body modifications include causing unintended injury where tools cut too deep, burn too hot or for too long. Other body modifications may require corrective surgery to remedy the damage or may be irreversible.

Tongue splitting carries risks of severe bleeding, pain, infection and nerve damage. The tongue's location and vascularity present significant potential risks for viral and bacterial infection, including

endocarditis or inflammation of the heart. In the UK there have been reports of practitioners illegally injecting anaesthetics during tongue splitting operations.

4.4.4 Current council approach

Operators that provide scarification and other modification services are required to be licensed as they are a “service that pierce the skin”. There are no specific minimum standards for the scarification and other body modifications in the Code, only general minimum standards for piercing the skin and premises.

4.4.5 Other approaches

Scarification and body modification are not specifically prohibited under any legislation. There are also no applicable central government regulations.

Scarification will not normally amount to an assault under section 193 of the Crimes Act 1961 provided consent is given (*Barker v R* [2010] 1 NZLR 235 (CA)). More significant body modification practices, such as tongue splitting or nipple removal, may be an offence under the Act.¹¹ It is uncertain whether legal consent can be given to this level of harm. A practitioner is currently being prosecuted in the United Kingdom for a tongue-splitting procedure and removing an ear and a nipple (Gardner, 2017).

The Health Act 1956 enables enforcement action to be taken by Environmental Health officers where there is a nuisance.

Scarification and other body modifications are prohibited in several US states. The Australian state of Victoria prohibits tongue splitting, branding and beading on persons under 18 years of age.

There are no industry regulations or best practice standards.

Ten other local authorities have bylaws that regulate body piercing, the definition of which could include scarification and body modification.¹²

4.4.6 Operators

From internet searches one Auckland operator offers scarification and other forms of body modification. Current Environmental Health licence data does not independently identify these services.

Stakeholders are aware of overseas practitioners visiting New Zealand to provide these services.

4.4.7 Complaints

Auckland Council recorded no specific scarification or body modification complaints between February 2014 and September 2017.

11 Wounding with intent (section 188) and injuring with intent (section 189), with maximum penalties of 14 and 10 years' imprisonment.

12 Masterton District Council, South Wairarapa District Council, Napier City Council, New Plymouth District Council, Ruapehu District Council, South Taranaki District Council, Waitomo District Council, Dunedin City Council, Tasman District Council, Waimate District Council, Timaru District Council, proposed bylaw for Invercargill District Council.

4.4.8 Stakeholder feedback

4.4.8.1 Problems

The Auckland Regional Public Health Service identified blood borne viruses and infections arising from piercing the skin as a key public health concern.

Industry organisations consider body piercing (including scarification and body modification) should have much higher standards of hygiene, including the use of masks, autoclaves and sterilisation of surfaces.

4.4.8.2 Emerging trends and problems

Tattoo artists identified scarification and body modification as growing trends. These are popular practices overseas and in Wellington, and demand is likely to increase in Auckland.

4.4.8.3 Regulation of scarification and other body modifications

The health experts consulted (including a dermatologist and Auckland Regional Public Health Service), Environmental Health officers and other stakeholders considered that body piercing (including scarification and body modification) should be regulated by a bylaw and should be licensed and subject to minimum standards.

4.5 Tattoo

4.5.1 Key findings

- Tattoo is a very high-risk commercial service.
- Health risks include blood-borne viral and bacterial infections, allergic reactions and long-term ink toxicity.
- One in five New Zealanders and one in three New Zealanders under 30 years of age have a tattoo.
- Key problems include unlicensed operators tattooing young people, and the use of poor quality and toxic inks.
- Tattoo is currently licensed and subject to minimum standard.
- Health experts are concerned about the emerging eyeball tattoo trend, which may result in blindness. They consider that eyeball tattoo should be prohibited unless performed by a health practitioner for medical reasons.

Conclusion: Tattoo is a very high-risk commercial service. The current regulatory response (including licensing and minimum standards) is effective at minimising the risk from conventional tattoo. However, the Bylaw does not effectively minimise the permanent health risks associated with eyeball tattoo.

4.5.2 Explanation

Tattoo is the injection of colorants and other ingredients to mark the skin with a design.

Permanent make-up (or cosmetic tattooing) is a specialised form of tattooing which involves the injection of colorants and other ingredients to enhance the face (Environmental Risk Management Authority, 2011). Microblading is a form of permanent make-up that camouflages missing eyebrow hair using cosmetic tattoo pigments.

Tattoos have become a mainstream trend and are commonly obtained by adolescents and young adults (Breuner & Levine, 2017). A 2009 UMR Research poll of 750 people found:

- one in five New Zealanders have a tattoo
- one in three New Zealanders under 30 years have a tattoo
- 22 per cent of those tattooed are women and 17 per cent are men
- almost 50 per cent of Māori and Pasifika participants had tattoos.

Eyeball or sclera tattooing is an emerging trend, where diluted tattoo ink is injected into membrane on the white of the eye.

4.5.3 Health risks

Health risks from tattoo arise for both the customer and tattooist. These include blood borne infections, allergic reactions and toxicity from tattoo ink. A person was infected with HIV after receiving a tattoo in Auckland, however, this occurred in 1992 (New Zealand Herald, 2018).

Tattoo inks may derive their colour from toxic substances, including: cadmium sulphide, mercury sulphide, arsenic and lead carbonate. Inks may cause allergic reactions and may be carcinogenic and toxic to reproductive systems. The colorants used in tattoos are often the same as those used

for industrial purposes like paints, printing inks, coatings, plastics coloration, car lacquers. There are also issues with the purity of imported inks. (Papameletiou, Zenie, Schwela, & Baumler, 2003).

Eyeball or sclera tattoo can cause retinal detachment, perforation and eye infections that may lead to blindness. The tattoo ink may cause a severe reaction in the eye, because it acts like a foreign body, and allergic reactions can occur due to the metal content (Duarte, Cheja, Pachon, Ramirez, & Arellanes, 2017). The coloration of the white of the eye is irreversible.

4.5.4 Current council approach

The Bylaw currently regulates tattooing as a commercial service that pierces the skin. Tattooing is defined in the Bylaw as “a practice of making indelible marks in human skin or tissue by inserting pigments or dyes into punctures made in the skin or tissues. Tattooing includes the process known as pigment implantation and permanent makeup.”

Traditional tools tattooing is defined in the Bylaw as “a practice of making indelible marks in human skin or tissue by inserting pigments or dyes into punctures made in the skin or tissue using tools that are culturally traditional in structure and used in procedures such as tā moko, tatau, uhi or any other traditional tattooing practice that has recognised cultural significance”.

Eyeball tattoo is regulated by the Bylaw under the general provisions for services that pierce the skin. “Pierce the skin” is defined to include the piercing of any body part. However, there is no evidence that this type of tattoo was considered during the making of the Bylaw and therefore its unique risks, including permanent blindness were not addressed. There are no minimum standards that cover injecting ink into the eye.

Operators must be licensed and comply with minimum standards contained in the Code. However, there are no specific minimum standards for eyeball tattoo, only general standards for premises and piercing the skin.

4.5.5 Other approaches

Tattooists and permanent make-up operators are not required to comply with any national regulations. The Ministry of Health has produced non-statutory Guidelines for the Safe Piercing of Skin (1998). However, these have not been updated.

In the Hazardous Substances and New Organisms Act 2011, the ink used in tattoo and permanent make-up practices is regulated by the Environmental Protection Authority under the Tattoo and Permanent Makeup Substances Group Standard 2011. The standard includes labelling, packaging, storage and safety sheet requirements. The Environmental Protection Authority also has Guidelines for Tattoo and Permanent Makeup Substances that lists the substances that should not be included in tattoo ink. However, compliance with the guidelines is not mandatory.

The Health Act 1956 enables enforcement action to be taken by Environmental Health officers where there is a nuisance.

The New Zealand Association of Registered Beauty Therapists has produced Health and Hygiene Guidelines for Beauty Therapy Clinics, Spas and Training Establishments (2016). These guidelines contain rules to protect the health and safety of therapists and clients. There are specific rules for permanent make-up tattooing, including sterilisation, and ink storage and quality requirements. The guidelines only apply to registered beauty therapists.

Ten other local authorities have bylaws that regulate tattoo.¹³

4.5.5.1 Eyeball tattoo

In New South Wales eyeball tattooing may only be carried out by a medical practitioner. If a non-medical practitioner performs the tattoo, on conviction they will be liable to a maximum penalty of \$11,000 and/or 6 months imprisonment (Public Health Act 2010, section 39A).

The Ontario provincial government banned eyeball tattoo in 2017 unless performed by a health practitioner. Breach of this requirement is an offence with a penalty of up to \$5,000 per day (Health Promotion and Protection Act, 1990).

4.5.6 Operators

Currently there are 115 licensed operators that provide tattoo services. Environmental Health records one licensed operator that uses traditional tattoo tools.

These records do not reflect the actual number of tattooists operating. For example, European Union research found that the number of "non-professional tattooists" might represent up to 10 times the number of "registered/professionals" ones (Papameletiou, Zenie, Schwela, & Baumler, 2003).

4.5.7 Complaints

Auckland Council recorded an estimated 24 complaints about tattooing from 2014-2017. Four complaints were about unlicensed tattooists¹⁴ and one about carrying out a tattoo on an underage customer.¹⁵

ACC records the following claims for tattooing injuries 2012-2016.

Table 16 ACC claims for tattooing injuries 2012-2016

New Zealand					Auckland				
2012	2013	2014	2015	2016	2012	2013	2014	2015	2016
128	136	114	145	153	67	63	50	61	55

These results do not distinguish between commercial and non-commercial tattooing as the ACC claim form does not require claimants to identify whether the injury was caused by a commercial activity. ACC staff located 53 injuries (2012-2016) when the search terms "commercial or service location" were used.

A complaint was made to WorkSafe by a customer about semi-permanent eye line tattoo, where ink entered the eye. This required referral to an eye specialist and antibiotic treatment.

¹³ Masterton District Council, South Wairarapa District Council, Napier City Council, New Plymouth District Council, Ruapehu District Council, South Taranaki District Council, Waitomo District Council, Dunedin City Council, Tasman District Council, Waimate District Council, Timaru District Council, proposed bylaw for Invercargill District Council.

¹⁴ Tattooist using barber shop premises (17 November 2015), unregistered tattooist operating from garage (4 July 2016), offering free tattoos on street (5 August 2016), no license 5 August 2016).

¹⁵ Tattoo of underage customer (November 2017). Environmental health officers are currently considering taking prosecution action.

Desktop research using Google, Facebook, and two commonly used Chinese community discussion forums identified a complaint about the use of old needles at a tattoo premises. Two unlicensed commercial operators were also identified.

4.5.8 Stakeholder feedback

4.5.8.1 Problems

The Auckland Regional Public Health Service identified blood borne viruses and infections arising from piercing the skin as a key public health concern. Tā moko artists reported problems with tattooists not wearing or changing gloves frequently enough.

The use of poor quality and toxic inks for both tattoo and permanent make-up was identified as a key problem by Auckland Regional Public Health Service, industry organisations and tattooists. These inks are not currently regulated and easily available online.

The Youth Advisory Panel, local board members and tattooists consider self-taught and unlicensed tattoo operators a significant problem. According to a Youth Advisory Panel member, self-taught tattooing is becoming popular amongst youths aged 16-22 years due to its lower cost. Youth are also likely to favour low-cost operators ahead of more expensive operators with better hygiene practices. The Auckland Regional Public Health Service also consider youth tattoo by unlicensed operators a challenging problem, as it is difficult to trace the tattooists concerned.

Local board members and industry organisations specifically identified tattooing at markets as a potential problem.

Tā moko artists and Youth Advisory Panel members reported the sale of cheap tattoo equipment online as a problem leading to a growth in unlicensed tattooists. A Māori health organisation identified problems with “cowboy” operators who use cheap inks from Trade Me. These inks are rejected by the body and people need to be re-tattooed, which can be more painful.

4.5.8.2 Emerging trends and problems

Eyeball tattoo

The Environmental Health officers, industry organisations, Auckland Regional Health Service and tattooists identified eyeball tattoo as a concerning trend. Auckland Regional Public Health Service suggested that when you look at the Bylaw it needs to have a category “where health is at risk”. This is because certain services should only be performed by registered health practitioners trained at the procedure.

Auckland Regional Public Health Service is concerned that eyeball tattoo might not be covered by the Bylaw as it technically involves piercing a membrane, not skin. However, tattoo is defined in the Bylaw as including making marks on tissue, which includes the eye. The Code does not contain specific minimum standards for eyeball tattoo.

The Royal Australian and New Zealand College of Ophthalmologists has called for a ban on eyeball tattooing, unless carried out by a health practitioner for medical reasons. This is due to its high-risk nature, especially the risk of permanent eyesight loss. The College considers the practice should be distinguished from other tattooing as it pierces a membrane rather than skin and involves the sensitive eye area.

While only two people have been treated for problems with eyeball tattoos in Auckland, the practice is growing in popularity overseas despite the risks involved (The Canadian Press, 2017).

Permanent make-up

Stakeholders (Environmental Health Unit, industry organisation, Auckland Regional Public Health Service, local boards) identified cosmetic tattooing or permanent make-up as another emerging trend. Cosmetic tattooing of eyebrows, eyeliner and lips is becoming more common for kapa haka group members.

Regulation of tattooing

The health experts consulted (including a dermatologist and Auckland Regional Public Health Service), Environmental Health officers, and other stakeholders consider that tattoo should be regulated by a Bylaw and should be licensed and subject to minimum standards.

Tattooists consider that regulation is important as there are many tattooists and no industry organisation to provide guidance. However, the current licensing fees (\$375) are a barrier to greater Bylaw compliance.

The Royal Australian and New Zealand College of Ophthalmologists considers eyeball tattooing a high-risk procedure that should only be performed by a doctor when medically required.

4.6 Tā Moko

4.6.1 Key findings

- The Bylaw exempts “traditional and non-commercial tā moko undertaken by artists on, or under the authority of, a marae in the Auckland region under tikanga-maori”.
- Council has a duty under the Treaty of Waitangi to proactively protect tā moko as a taonga.
- Health risks for tā moko are the same as for tattoo. Except when traditional tools are used, then different cleaning procedures are required.
- Tā moko artists are not required to comply with any national regulations.
- Most Māori stakeholders consider that the exemption helps promote tā moko but the wording can be improved: remove the reference to non-commercial and include reference to Te Tiriti O Waitangi.
- Some stakeholders consider that tā moko artists should comply with minimum standards.

Conclusion: Tā moko has the same very high level of risk as other tattoo. However, marae committees and other Māori stakeholders consider the exemption is working well and there is no evidence of increased health problems. The exemption enables tā moko practice in accordance with the council’s obligations under the Treaty of Waitangi.

4.6.2 Explanation

“Tā moko is a traditional practice that has been passed down for numerous generations. Its designs weave stories, genealogy and history through a culturally unique blend of communication and art.”

Tā moko is part of the artistic and cultural traditions that are founded in and reflect mātauranga Māori and are collectively considered taonga works. The Crown has a duty to proactively protect the rights and interests of Māori, including taonga under the Te Tiriti o Waitangi Principles. Decisions that the council makes should recognise and respect the crown’s obligation to proactively protect tā moko (Local Government Act 2002, section 4).

In modern practice, electric tattooing machines and disposable materials are more commonly used for tā moko. One of the tā moko artists interviewed practises with all disposable gear, aside from the tattoo gun. However, the use of traditional tools crafted from materials such as bone is becoming more popular.

Tā moko designs are chosen for the individual and are normally based on whakapapa.¹⁶ Tā moko artists generally observe karakia (prayers) and seek to protect the physical, emotional and spiritual wellbeing of the individual (Ngahuia Te Awekotuku, 2007, p. 125).

¹⁶ Narrative of genealogical links and connection to people and places.

4.6.3 Health risks

Tā moko poses the same health risks as non-traditional tattoo where modern tools are used (see above).

Traditional tools cannot be sterilised as they are often made of materials, such as bone, that would be damaged by an autoclave.¹⁷ Therefore, careful cleaning and disinfection is required to minimise the risk of transferring blood borne infection.

4.6.4 Current council approach

The Bylaw exempts “traditional and non-commercial tā moko undertaken by artists on, or under the authority of, a marae in the Auckland region under tikanga-maori”. Tā moko artists who practice within the terms of the exemption, need not be licensed or comply with the minimum standards for tattooing or traditional tools tattooing in the Code. This recognises the Crown’s obligation to proactively protect taonga, such as tā moko, under the Treaty of Waitangi.

4.6.5 Other approaches

Tā moko artists (like other tattoo artists) are not required to comply with any national regulations. The Ministry of Health has produced non-statutory Guidelines for the Safe Piercing of Skin (1998) and Customary Tattooing Guidelines for Operators (2010), which focuses on traditional Pacific tattoo.

The Health Act 1956 enables enforcement action to be taken by Environmental Health officers where there is a nuisance.

Ten other local authorities have bylaws that regulate tattoo.¹⁸ Two bylaws exempt Māori and Pacific Island tattooing where the practice complies with a code of practice.¹⁹

4.6.6 Operators

Staff identified six tā moko artists using internet searches. It is unclear whether these artists are authorised by marae committees.

4.6.7 Complaints

No specific complaints were made to the council about tā moko from 2014-2017.

ACC does not distinguish between tattoo and tā moko claims (see tattoo injury figures above).

4.6.8 Stakeholder feedback

4.6.8.1 Marae committees

Te Waka Angamua advised that staff should focus on marae committees when carrying out mana whenua and mataawaka engagement on the Bylaw. Marae committees have day-to-day

¹⁷ Autoclaves are used to sterilize equipment and supplies by subjecting them to high-pressure steam.

¹⁸ Masterton District Council, South Wairarapa District Council, Napier City Council, New Plymouth District Council, Ruapehu District Council, South Taranaki District Council, Waitomo District Council, Dunedin City Council, Tasman District Council, Waimate District Council, Timaru District Council, proposed bylaw for Invercargill District Council.

¹⁹ Waimate District Council and Timaru District Council.

responsibility over activities on marae and are therefore more likely to have knowledge of tā moko practice occurring there.

Staff contacted 32 marae committees and received written and verbal feedback from 11. Sixty-four per cent of the marae committees that responded had not authorised tā moko practice.

Marae committees strongly support the exemption under the Bylaw for tā moko carried out on or under the authority of a marae.

The following types of procedures are followed by marae committees that authorise tā moko on marae:

- Tā moko practitioners have genealogical ties to the marae or individuals receiving tā moko. Practitioners have “proven backgrounds and practice the lores of tapu and noa.”
- “[The] Marae works with the parties to ensure all health regulations and cultural practices are strictly followed.”
- “Only once have I authorised a tā moko session, but it was only because I knew the tā moko artists and knew his standards of Health & Safety were legitimate.”
- “Practitioners hold relevant qualifications. The concepts of Tapu that apply to a whare nui provide separation from contaminants. Tā moko on marae is a whanau inclusive process with high levels of engagement prior to, during and post the event which ensures transparency.”
- “We ensure any tā moko artist is well informed and have accepted full responsibility plus registered for any artwork they have completed. All cultural rituals are followed including karakia, whanau hui, marae hui and the appropriate disposal of any health and hygiene rubbish. Appropriate cultural practices for health and hygiene are followed, guided by artists and marae policy.”

4.6.8.2 Importance of tā moko

Māori stakeholders agree that it is important for tā moko practice to be supported and not discouraged by the Bylaw. The Māori Liaison Advisor at the Auckland Regional Public Health Service consider the tā moko exemption an important recognition of te tino rangatiratanga or self-determination (Treaty of Waitangi, Article 2).

4.6.8.3 Regulation of tā moko

There are differing opinions about whether tā moko should be regulated.

Marae committees that authorise tā moko consider that they have appropriate mechanisms in place to protect health.

One tā moko artist considers that the exemption is appropriate subject to amendments to its wording. However, another tā moko artist considers that the exemption is important to “leave space for the art form” but that tā moko artists should still comply with minimum standards. They commented that marae committees are not hygiene experts who can oversee tā moko artists, unlike the other exempt operators who are overseen by an expert body. Ultimately, the tā moko artist is responsible for their own hygiene practices.

However, the artist identified the the annual licensing fee (currently \$375) as a potential barrier to tā moko practice.

A Māori health organisation considers that the promotion of tā moko is important but questioned why tā moko artists should be exempt from minimum standards. The representatives also identified

problems with the reference to “non-commercial” in the exemption as tā moko artists do receive money and other koha. It could also be a barrier for tā moko artists practising at marae, which should be encouraged. There are wider benefits for both Māori and non-Māori in engaging with the spiritual aspects of tā moko in a marae setting.

Auckland Regional Public Health Service medical and health protection officers are concerned that tā moko on a marae raises the same health risks as other tattoo, particularly where traditional tools are used. It is more difficult for doctors to investigate complaints if services are exempt. They stressed the need for marae or individual tā moko artists to go through some formal authorisation process. The medical officers consider that the Bylaw should explain the rationale and context behind the tā moko exemption, potentially in a guidance note.

4.6.8.4 Tikanga-Māori and the Bylaw

A tā moko artist and a Māori academic consider that the Bylaw and Code miss the importance of cultural safety during tā moko. The process of tā moko starts before the physical tattoo takes place and involves korero or discussion with elders, parents and extended family. This ensures that the correct whakapapa or genealogy is incorporated into the tā moko design.

The biological safety aspects are a small part of the tā moko process. Piercing the skin is tapu as you are interfering with a person’s DNA and their whakapapa. Traditionally, materials used in tā moko are returned to the person tattooed or buried in the ground. However, one artist disposes of tā moko materials in a special furnace.

A Māori academic commented that the focus on disposable products throughout the Bylaw could lead to unnecessary waste. As kaitiaki it is important to encourage waste minimisation, and sterilisation of re-usable items or the use of bio products.

Tikanga or customary practice for tā moko is also relevant to other services that pierce the skin, such as body piercing and manicure/pedicure.

Stakeholders have several recommendations to improve the Bylaw, including:

- the Treaty of Waitangi and relationship with mana whenua should be referenced in the Bylaw
- broader Māori concepts of well-being should be incorporated
- there should be a te reo version of the Bylaw and Code.

4.6.8.5 Exemption wording

Stakeholders consider the exemption wording could be amended to better support tā moko practice:

- The exemption uses “us and them” language that gives the impression that council is “letting off” tā moko artists rather than positively encouraging the practice.
- Use of the word “non-commercial” in the exemption means it is unclear whether koha can be accepted. Tā moko artists often receive money or goods such as seafood and need to receive money to keep practising.
- The word “traditional” is unnecessary as tā moko requires that traditional practices be followed.
- “Under the authority of a marae” is not the best wording as marae committees are not set up to ensure tā moko artists comply with protocol outside of the marae.
- School and other community marae should be excluded.

Despite the exemption allowing practitioners to work “under the authority of a marae”, a tā moko artist was required to have a licence at a Waitangi Day Waka festival as it was not “on a marae”.

A tā moko artist and Māori health organisation representative questioned whether marae would be liable for health and hygiene problems resulting from authorised tā moko practice.

4.6.8.6 Non-regulatory recommendations

Stakeholders suggest the following complementary non-regulatory measures be taken:

- hygiene education campaigns for customers and tattooists
- a user guide sitting alongside the Bylaw that uses pictures, videos and plain English and/or street language
- a tā moko guide containing health standards and expectations for marae. This could be prepared by Māori alone or co-designed with health experts and the council.

4.7 Traditional Pacific Tattoo

4.7.1 Key findings

- Traditional Pacific tattoo is an important cultural practice that symbolises a person’s connection to their Pacific homeland.
- Traditional Pacific tattoo is a very high-risk service.
- Health risks include blood-borne infections and there have been recorded cases of life-threatening bacterial infection.
- Traditional Pacific tattooists are required to be licensed and comply with minimum standards.
- The practice is increasing in popularity among young people, particularly in the Samoan community.
- Stakeholders consider the Bylaw needs to acknowledge the cultural significance of traditional Pacific tattoo including by amending the definition of “commercial” to reduce confusion and reflect traditional Pacific tattoo gifting practices.
- A traditional Pacific tattoo artist (tufuga) and other stakeholders consider the practice should be licensed and comply with minimum standards.

Conclusion: Traditional Pacific tattoo is a very high-risk service. The current regulatory response (including licensing and minimum standards) is effective at minimising the risk from traditional Pacific tattoo.

4.7.2 Explanation

Traditional Pacific tattoo is known as tatau (Tahiti and Samoa), tatatau (Cook Islands) and kakau (Hawaii). Tatau is a rite of passage for Samoan males, especially the pe’a tattoo – dense tattooing which completely covers the lower body from waist to knee. Malu is the equivalent tattoo for women and covers the leg from the upper thigh to behind the knee.

Tatau is particularly important for Samoan communities in Auckland, where tatau symbolises a person’s connection to Samoa. The patterns and designs used in tatau record histories and genealogies on the skin.

Some tufuga use electric tattooing machines, but many prefer to use traditional tools ('au ta) such as combs of varying sizes that puncture the skin, leaving the pigment just under its surface. The traditional tools are often made of turtle shell, boar plastic or metal.

The Pacific Peoples Advisory Panel and tā moko artists reported that Pacific tattooists sometimes travel to Auckland to perform traditional tattoo.

4.7.3 Health risks

Life-threatening bacterial infections (cellulitis, necrotising fasciitis or flesh-eating disease) resulting from traditional Pacific tattoo have been recorded in New Zealand, including five more recent cases (D'Souza, 2011):

- 2000-2006 – review of hospital charts of patients with necrotizing fasciitis found one case (out of 247 cases) caused by traditional Samoan tattooing.
- 2003 – two cases of necrotizing fasciitis and cellulitis, one resulting in death, following traditional tattooing.
- 2010 – two cases, one with necrotizing fasciitis and cellulitis and the other with severe septic shock and multi-organ failure from necrotizing fasciitis.
- 2010 – eight other cases of less serious cellulitis, five probably caused by the same tattooist.

People have become infected due to inadequate sterilisation and cleaning procedures. This may result from tattooists working in garages and homes, with limited access to running water and sterilisation equipment. The risk may be heightened by cultural barriers to seeking hospital treatment and the heavy pigmentation can make diagnosis of infection difficult.

4.7.4 Stakeholders

Pacific Peoples Advisory Panel members and Local Board members observed an increase in New Zealand born Pacific people having traditional Pacific tattoos over the last few years, particularly in the Samoan community. Tattoo artists or tufuga are often flown in from the Pacific Islands to tattoo community members. Members commented that both visiting and New Zealand based tufuga find the Bylaw confusing and difficult to understand.

The Pacific panel also questioned whether tufuga would be practising non-commercially.

Auckland Regional Public Health Service reported health risks (see above) and specific cases where Pacific tattoo practices have resulted in life-threatening infections. Environmental Health officers also identified problems with traditional Pacific tattoo, particularly as practitioners are often unlicensed.

Tattooists observed that regulating traditional Pacific tattoo artists can be challenging given their high status within Pacific communities. This status also means that younger Pacific people may find it difficult to question tufuga hygiene practices.

Pacific Peoples Advisory Panel members questioned whether traditional Pacific tattoo could be exempted from the Bylaw, like tā moko.

Local board members consider that traditional Pacific tattooing should meet minimum standards, but licensing should not hinder Pacific people practising their traditional customs.

4.7.5 Pasifika Tatau Talanoa

The Pacific Peoples Advisory Panel, Ōtara-Papatoetoe Local Board and Māngere-Ōtāhuhu Local Board co-hosted a Pasifika Tatau Talanoa in Manukau on 15 February 2018. See Appendix 2 for full summary of feedback.

Attendees included Matai (Samoan chiefs), a prominent tufuga ta tatau (master tattooist) and members of the Samoan community.

4.7.5.1 Is the Bylaw working?

Some individuals consider there is “over regulation of Samoans” and that it should be the duty of all Samoans to “take responsibility [for] keeping our culture alive”.

Participants expressed mixed views about whether the Bylaw was working well currently. Some participants consider that “there is no evidence that the Bylaw is working” or do not know whether the Bylaw is working. Other participants consider the Bylaw is working well and is important to keep people safe.

Participants highlighted the importance of tufuga to the success of the Bylaw. Tufuga are best placed to lead and promote best practice amongst their peers and the wider community.

4.7.5.2 What changes should be made to the Bylaw?

Participants consider the Bylaw review process needs “to acknowledge tatau and its cultural significance to the Samoan people”. The Bylaw should only seek to “minimise the risk of harm rather than regulate and merely categorise tatau...” Participants felt that the Bylaw needs to “find a balance with traditions”.

The Bylaw could be improved by using terms more consistently. For example, the word “operator” does not appropriately define or describe the role of the tufuga. Participants raised concerns about the categorisation of tatau and the need to “differentiate between commercial and traditional” tattoo.

Licensing of tufuga

The discussion also focussed on registration and whether tufuga should be licensed. Some felt that the licensing “should be assessed by an officer with cultural knowledge and [using] traditional criteria”. Participants noted that “each family have their own particular approaches” to the tatau process.

Concerns were raised about “cowboy” tattoo artists that operate outside usual Samoan tatau protocol and do not comply with the Code of practice.

The tufuga stated that he is committed to leading best practice. He was “the first tufuga to use a needle for the tatau” and his standard has always been the “use of one needle on one person”. The whole practice of tatau has changed and many tufuga have “now moved to the use of needles”. The tufuga considers that traditional Pacific tattoo artists should be licensed and comply with minimum standards.

Participants noted that there is tapu around the practice of tatau which means that good practice is followed. This tapu is only lifted when the tufuga decides it is appropriate.

The tufuga and other participants consider that aftercare is very important. This normally involves the tufuga writing out a set of instructions once a person has completed their tatau. Participants also reported that “aftercare is the biggest variable in the practice of tatau”.

Exemptions

Most participants acknowledge that Māori are tangata whenua, but some consider that the same “exemption applied to tā moko should be extended to Samoa tatau”.

Māori can tattoo at a marae whereas tatau would be practiced in a fale (traditional building). “Every person’s home is regarded as fale” and when tatau is carried out in a fale, customs and protocols are followed like at a marae.

Some participants felt that if tatau were made exempt from the Bylaw, then it should only be granted to the “Su’a and Tulouena” Samoan families who carry out the tatau.

Definitions

Participants consider that the term “commercial service” creates confusion about whether tatau is regulated under the Bylaw. Community members and tufuga do not consider tatau to be a commercial service even though money is given in return. Tatau is distinct from commercial services because of the cultural and spiritual significance of the practice.

4.7.5.3 Non-regulatory recommendations

Participants strongly feel that it is the role of “Auckland Council to be a platform for conveying guidelines and messages” to the public. Tufuga can also play an important role in raising awareness.

Participants suggest Auckland Council take the following actions:

- carry out further engagement and increase awareness and education around the guidelines
- target youth through schools and exhibitions
- provide support for community led initiatives that profile tatau to a local, national and international audiences, while promoting best practice
- provide education on the significance and place of tatau at established festivals or new events. This could be a way of helping the tradition stay strong for future generations.

4.8 Acupuncture

4.8.1 Key findings

- Acupuncture is a moderate risk commercial service.
- Health risks including blood-borne viral and bacterial infections and injury to organs.
- Under the Bylaw, acupuncturists must be licensed and comply with minimum standards unless registered with Acupuncture NZ or the New Zealand Acupuncture Standards Authority.
- Industry organisations identified problems with unqualified people practising acupuncture.
- Permanent acupuncture is an emerging trend.
- Stakeholders consider unregistered acupuncturists should be licensed and subject to minimum standards.

Conclusion: Acupuncture is a moderate risk commercial service. The current regulatory response (including licensing and minimum standards) is effective at minimising this risk.

4.8.2 Explanation

Acupuncture is a traditional Chinese medicine that has been practiced for more than 2500 years. It involves the insertion of thin needles into the body at certain acupuncture points for health improvement and pain relief purposes. Most acupuncturists use disposable sterile acupuncture needles and guide tubes.

Acupuncturists sometimes practice electro-acupuncture where a small electric current is passed between pairs of acupuncture needles. Low level laser may be used to stimulate acupuncture points without the use of needles (laser acupuncture).

Permanent or implant acupuncture involves the permanent insertion of a needle into the skin for therapeutic purposes. It is unknown how prevalent this practice is internationally (Galbraith & Richardson, 2005).

Acupuncturists will sometimes use moxibustion and cupping in conjunction with acupuncture. Moxibustion is a form of heat therapy in which dried plant materials called "moxa" are burned on or very near the surface of the skin (World Health Organisation, 1999). Cupping involves the application of suction to the skin using a cup. The vacuum can be created either by the heating and cooling of the air in the cup, or via a mechanical pump. It is believed by some to help treat pain, deep scar tissues in the muscles and connective tissue, muscle knots, and swelling.

Acupuncturists may also perform bloodletting which involves piercing the skin with a special needle. This is used to improve blood flow and to treat inflammation.

4.8.3 Health risks

The greatest danger from acupuncture is the transmission of infections between acupuncturist and/or customers. There are also recorded incidents of injury to the lungs (collapsed lung) resulting from inaccurately placed acupuncture needles. Electro-acupuncture could pose a risk of electric shock.

Permanent or implant acupuncture poses a small risk of needles migrating to other parts of the body and inflamed tissue (Galbraith & Richardson, 2005).

Moxibustion has a risk of accidental burning²⁰ and cupping can result in bruising, burns, pain, and skin infection (United States Department of Health and Human Services, 2016).

4.8.4 Current council approach

The Bylaw currently regulates acupuncture as a commercial service that pierces the skin. Acupuncture is defined in the Bylaw as “a practice involving the insertion of filiform (very narrow) needles through the skin and tissues for the intended purpose of alleviating ailments or injuries.” Operators must be licensed and comply with minimum standards contained in the Code.

Moxibustion and cupping would arguably be covered by the Bylaw as they are services that risk burning the skin. This means operators should be licensed and comply with minimum standards. The Code does not include specific minimum standards for moxibustion and cupping but provides recommended best practice for the treatments under acupuncture.

There is an exemption for “acupuncture undertaken by members of the New Zealand Register of Acupuncturists or members of the New Zealand Acupuncture Standards Authority.” The New Zealand Register of Acupuncturists is now known as Acupuncture NZ. This exemption does not include moxibustion and cupping.

4.8.5 Other approaches

Acupuncture, moxibustion and cupping are not currently regulated by central government.

The Health Act 1956 enables enforcement action to be taken by Environmental Health officers where there is a nuisance.

Members of Acupuncture NZ and the New Zealand Acupuncture Standards Authority are recognised by ACC as treatment providers. In 2011 acupuncturists applied to the Ministry of Health to include traditional Chinese medicine (including acupuncture) as a regulated profession under the Health Practitioners Competence Assurance Act 2003. However, this has not progressed to date.

Acupuncture NZ members must comply with its “Clinical Procedures and Safe Clinical Practice” (updated February 2016). This includes standards for acupuncture (including electric and laser), cupping, moxibustion and bloodletting. Acupuncture NZ randomly visits clinics to ensure compliance.

Seven other local authorities have bylaws that regulate acupuncture, two of which exempt registered acupuncturists.²¹

4.8.6 Complaints

Auckland Council recorded an estimated eight complaints about acupuncture operators from 2014-2017 .

ACC records the following acupuncture injury claims for 2012-2016.

²⁰ Moxibustion is a form of heat therapy in which dried plant materials called "moxa" are burned on or very near the surface of the skin. This is often used in conjunction with acupuncture.

²¹ Napier City Council (exempts registered acupuncturists), New Plymouth District Council (exempts registered acupuncturists), Ruapehu District Council, South Taranaki District Council, Waitomo District Council, Waimate District Council, proposed bylaw for Invercargill District Council, Timaru District Council.

Table 17 ACC claims for acupuncture injuries 2012-2016

New Zealand					Auckland				
2012	2013	2014	2015	2016	2012	2013	2014	2015	2016
<=3	5	<=3	<=3	<=3	<=3	<=3	<=3	<=3	<=3

Social media searches identified one complaint about burns and infection suffered after moxibustion treatment.

4.8.7 Operators

Currently there are 21 licensed operators that provide acupuncture. There are also five licensed operators that practice cupping and moxibustion.

4.8.8 Stakeholder feedback

4.8.8.1 Problems

Health experts did not report any problems with acupuncture.

Industry organisations are concerned about unqualified people practising acupuncture, including massage therapists, physiotherapists, osteopaths, chiropractors and dentists. Industry organisations identified a Health and Disability Commission complaint about an unqualified person who punctured a person’s lung with an acupuncture needle.

4.8.8.2 Emerging trends and problems

Environmental Health officers and industry organisations identified permanent acupuncture (also known as cat gut acupuncture or thread embedding) as an emerging trend. This practice is not recommended by Acupuncture NZ and the New Zealand Acupuncture Standards Authority.

4.8.8.3 Regulation of acupuncture

Environmental Health officers would prefer that all people practising be registered by Acupuncture NZ and the New Zealand Acupuncture Standards Authority.

Industry organisations consider the requirement for unregistered acupuncturists to have a license and comply with minimum standards is appropriate. The exemption for registered acupuncturists is positive.

4.9 Beauty treatments that pierce the skin

4.9.1 Key findings

- Most beauty treatments that pierce the skin are a high risk commercial service.
- Health risks include the transmission of blood-borne viral and bacterial infection.
- Dermal filler injections can cause blindness if injected into a blood vessel that feeds the eye and there is one reported case of blindness in New Zealand.
- Operators that provide beauty treatments that pierce the skin must be licensed and comply with minimum standards.
- Emerging trends include platelet-rich plasma injections.
- Health experts, Environmental Health officers and industry organisations consider that these beauty treatments should be licensed and subject to minimum standards.

Conclusion: Beauty treatments that pierce the skin are a high-risk commercial service. The current regulatory response (including licensing and minimum standards) is effective at minimising the risk from existing beauty treatments. However, the Bylaw does not effectively regulate dermal filler. The Bylaw does not expressly regulate mesotherapy, platelet-rich plasma injections or dermal filler injections.

4.9.2 Explanation

- **Derma rolling**, or micro needling penetrates the skin using fine needles. The trauma to the skin stimulates collagen and promotes scar healing.
- **Electrolysis** is used for permanent hair removal. This involves the insertion of a small fine needle into the hair follicle, followed by a small electrical current that damages and eventually destroys the hair follicle.
- **Extraction** involves removing acne, white heads and black heads by hand or with tools (blade and extractor). This may be carried out during a facial.
- **Red vein treatment** involves the application of electrical heat or high-frequency electromagnetic currents with an electrolysis needle to improve the appearance of red veins or capillaries. While some beauty therapists still perform this treatment for red veins, it has been superseded by intense pulsed light therapy (Gray & Oakley, 1997).

The Bylaw does not specifically regulate the following beauty treatments that pierce the skin:

- **Dermal filler injections** involve the injection of fillers (such as collagen and hyaluronic acid) into the skin. This is used to fill in acne scars and facial lines or to enhance the face. In New Zealand, dermal fillers are classified as medical devices, and anyone can inject them. In comparison, Botox is a prescription medicine and can only be injected by or under the supervision of a trained medical professional.
- **Mesotherapy** involves injections of pharmaceuticals, plant extracts, or vitamins into the skin and fat cells. Mesotherapy is used for facial rejuvenation, body contouring and fat reduction. It has also been used to treat chronic pain, hair loss, bone and joint disorders and psoriasis (Lee, Daniels, & Roth, 2016).
- **Platelet-rich plasma injections** involve taking blood from a patient's arm and spinning it in a centrifuge to isolate platelet-rich blood plasma. The plasma is injected into the face or other areas of the body, such as the vagina. This is medically used to promote wound healing but can be used cosmetically in 'vampire facials' to reduce wrinkles, improve skin texture, tone and firmness (Ranaweera, 2013).

4.9.3 Health risks

The greatest danger from beauty treatments that pierce the skin is the transmission of blood-borne infections. Sterile technique is essential for platelet-rich plasma injections because it uses blood products.

While extremely rare, dermal filler may cause permanent blindness if it is injected into a blood vessel that feeds the eye. Once filler enters the vein, it may starve the eye of blood and oxygen supply and cause irreversible retinal cell death within 90 minutes. It is unknown whether the only potential treatment (hyaluronidase injection) works to prevent blindness. An Auckland woman became blind in one eye after a dermal filler injection (Lever, 2017).

Other health risks associated with these beauty treatments include:

- Inflammation
- scarring
- pigmentation
- reactivation of herpes
- electrical burning and electrical shock
- allergic reaction.

(Lee, Daniels, & Roth, 2016) (Ngan, 2005a) (Ngan, 2003)

4.9.4 Current council approach

The Bylaw currently regulates most of these beauty treatments as a commercial service that pierces the skin. There is no evidence that mesotherapy, platelet-rich plasma injection or dermal filler injections were considered during the making of the Bylaw. There are no minimum standards for these injections, or the collection and treatment of blood products.

Operators must be licensed and comply with minimum standards contained in the Code.

The Bylaw exempts health practitioners such as appearance medicine physicians and nurses who may provide these beauty treatments.

4.9.5 Other approaches

These beauty treatments are not currently regulated by central government. The Ministry of Health is currently considering making regulations under the Medicines Act 1981 to restrict the purchase of equipment such as dermal filler and platelet-rich plasma centrifuges.

The Health Act 1956 enables enforcement action to be taken by Environmental Health officers where there is a nuisance.

The New Zealand Association of Registered Beauty Therapists has produced Health and Hygiene Guidelines for Beauty Therapy Clinics, Spas and Training Establishments (2016). These were last revised in March 2017. The association currently has 475 full members and 240 student members. Full members must be qualified and provide proof of their qualifications, but they are not required to follow the guidelines.

Nine other local authorities have bylaws that regulate beauty treatments that pierce the skin.²²

4.9.6 Complaints

Auckland Council recorded no complaints specifically relating to beauty treatments that pierce the skin.

ACC records the following electrolysis injuries in 2012-2016:

Table 18 ACC claims for electrolysis injuries 2012-2016

New Zealand					Auckland				
2012	2013	2014	2015	2016	2012	2013	2014	2015	2016
0	<=3	0	<=3	<=3	0	<=3	0	0	0

4.9.7 Operators

Currently there are 229 licensed operators that provide beauty treatments that may pierce the skin. These operators perform the following types of services:

Table 19 Numbers of operators providing beauty services that pierce the skin in Auckland

Service type	Number of Operators
Dermal filler/dermal stamping	104
Electrolysis	136
Extractions	99
Red vein treatment	60

4.9.8 Stakeholder feedback

4.9.8.1 Problems

Health experts did not identify specific problems with these beauty treatments outside of general blood-borne infection risk.

Industry organisations identified problems with the use of dermal filler, including the risk of blindness resulting from injecting dermal filler, particularly where performed by non-health practitioners. An appearance medicine physician is also concerned about the availability of cheap, unregulated dermal fillers online that may contain harmful substances.

4.9.8.2 Emerging trends and problems

Environmental health officers and industry organisations identified platelet-rich plasma injection or 'vampire facials' as an emerging trend, particularly injections into the vaginal area.

²² Napier City Council, New Plymouth District Council, Ruapehu District Council, South Taranaki District Council, Masterton District Council, South Wairarapa District Council, Waitomo District Council, Waimate District Council, Timaru District Council and proposed bylaw for Invercargill District Council.

4.9.8.3 Regulation of beauty treatments that pierce the skin

The health experts consulted (including an appearance medicine physician and Auckland Regional Public Health Service), Environmental Health officers and industry organisations consider most beauty treatments that pierce the skin should be regulated by a Bylaw and should be licensed and subject to minimum standards.

One officer mentioned that extractions of blackheads are increasing.

Some Environmental health officers consider electrolysis should not be regulated by the Bylaw as it is low risk.

Industry organisations consider that all operators should have New Zealand Qualifications Authority accredited qualifications or similar.

4.10 Hair removal

4.10.1 Key findings

- Waxing is a high-risk service, while threading is low-risk service.
- Primarily it poses a risk of bacterial and fungal infection if implements or products are reused.
- Operators who provide hair removal services must be licensed and comply with minimum standards.
- Most stakeholders consider the status quo minimum standards and licensing appropriate.
- Barbershops providing hair removal services by waxing is a new trend.
- Auckland Council received three complaints about hair removal, between 2013 and 2017. Two of the three complaints were for nail bars offering hair removal services

Conclusion: Hair removal by waxing is a high-risk service for which the current regulatory response is effective at minimising the risks. Hair removal by threading is low-risk, and those risks are easily mitigated without regulatory intervention.

4.10.2 Explanation

Under the current Bylaw, hair removal means the removal of hair by:

- waxing – pulling the hair from the skin using soft wax, hot wax or glucose
- threading – lifting the hair out from the follicle by entwined thread
- tweezing – grasping hairs and pulling them out of the skin including epilation, a mechanical means of tweezing.

These are methods of epilation, which means the entire hair shaft is removed from below the skin's surface.

Since the late 20th century extensive hair removal has become more common in western culture. Bikini waxing especially has become more popular after the introduction of the bikini in France in 1946 (Dendle, Mulvey, Pylis, Grayson, & Johnson, 2007).

Temporary hair reduction and permanent hair removal techniques including electrolysis, laser assisted, and pulsed light are addressed separately.

4.10.3 Health risk

Micro-organisms can accumulate on body hair and the skin's surface especially on or near areas of the body where moisture is present. These micro-organisms are transferred with removed hair to wax, moisturiser or other tools. If wax or other tools are reused micro-organisms may be transferred from client to client. Contact between these and damage to the skin can lead to infections (Department of Health, 2017).

Other side effects from waxing include:

- pain
- folliculitis (inflamed hair follicle)
- scarring
- hyperpigmentation
- pseudofolliculitis (ingrown hair)
- contact allergic dermatitis due to rosin (sticky plant by-product used in wax) (Ngan, Waxing, 2005b).

Compared to waxing the risks are less for threading because:

- it is applied to smaller areas
- it is applied to areas of the body which are less prone to moisture and accumulating bacteria
- threads cannot be reused.

4.10.4 Current council approach

In Auckland these services are required to be licensed and are subject to minimum standards under the Bylaw.

4.10.5 Other approaches

Hair removal is not currently regulated by central government.

The Health Act 1956 enables enforcement action to be taken by Environmental Health officers where there is a nuisance.

Ten local authorities have bylaws (or proposed bylaws) that regulate hair removal services.²³

The New Zealand Association of Registered Beauty Therapists details best practice for their members in their Health and Hygiene Guidelines 2016.

4.10.6 Operators

Currently there are 580 licensed operators providing hair removal.

4.10.7 Complaints

Auckland Council recorded an estimated eight complaints relating to hair removal services from 2014-2017.

ACC records the following claims for hair removal injuries 2012-2016.²⁴

²³ Waimate, Timaru, South Taranaki, Ruapehu, New Plymouth, Masterton and South Wairarapa District Councils and, Dunedin, and Napier City Councils. Invercargill City Council is proposing such a bylaw.

Table 20 ACC claims for hair removal injuries 2012-2016

New Zealand					Auckland				
2012	2013	2014	2015	2016	2012	2013	2014	2015	2016
18	19	21	18	25	7	8	9	8	8

4.10.8 Stakeholder feedback

Key stakeholders did not raise any new problems with hair removal. When asked if any changes should be made to the way it is regulated, stakeholders thought the risks were managed well through the current requirements to be licensed and subject to minimum standards.

An Environmental Health officer mentioned that an increasing number of barber shops are providing hair removal services for men.

Another pointed out that threading is low-risk and the Code contains no substantive minimum standards to check on inspection. The officer would support it being removed from the Bylaw.

²⁴ These results do not distinguish between commercial and non-commercial piercing as the ACC claim form does not require claimants to identify whether the injury was caused by a commercial activity. ACC staff located 0 injuries (2012-2016) when the search terms “commercial or service location” were used.

4.11 Manicure and Pedicure

4.11.1 Key findings

- Manicure and pedicure are high-risk services.
- Health risks primarily include bacterial and fungal infections.
- Operators that provide manicure and pedicure services must be licensed and comply with minimum standards.
- The number of complaints to Auckland Council and ACC claims about pedicure have increased.
- Environmental health officers, podiatrists, and industry organisations have raised concerns about infections caused by non-compliance with the minimum standards.
- The skin is frequently broken during manicure and pedicure services because of the type of tools that are used.
- Feet are more prone to infections than hands and other parts of the body.
- Fish pedicures are a new trend overseas.

Conclusion: The number of manicure and pedicure operators has increased and the number of infections resulting has also increased. The Bylaw has not minimised the risk of harm. Incidents of non-compliance are common, and the risks could be further minimised by changes to the Code.

4.11.2 Explanation

Under the current Bylaw manicure means beautification or enhancement of the hands and fingernails, including shaping and polishing. Pedicure means beautification or enhancement of the feet and toenails by shaping and polishing toenails and exfoliating skin or tissue from the feet.

Manicure and pedicure is part of the suite of services traditionally offered by beauty therapy operators. Within the last 10 years 'nail bars' specialising in manicure and pedicure services have been increasing in number in Auckland. Global and national nail bar companies with numerous outlets are popular and provide services at a cheaper rate.

A new trend internationally, fish pedicures also known as a 'fish spa' involve patrons dipping their feet in a tub of water filled with small fish called garra rufa. These fish eat away dead skin found on people's feet, leaving newer skin exposed. (United States Centers for Disease Control and Prevention, 2012).

4.11.3 Health Risks

4.11.3.1 Infection

Inadequately sterilised instruments, such as clippers, blades, abrasive files, electric drills and footbaths may harbour and support the growth of bacteria. The process of cleaning, filing, and trimming nail cuticles, can easily lead to breaking the skin and allowing micro-organisms to infiltrate the body (Rieder & Tosti, 2016).

The use of callus shavers, often called credo blades pose a higher risk of breaking the skin. The New Zealand Association for Registered Beauty Professionals in their guidelines limit their use to registered Podiatrists (The New Zealand Association of Registered Beauty Therapists, 2017).

Fish pedicures are popular in the United Kingdom and Asia but have been banned in many US states (Stuff, 2011). There have been no published reports on illnesses resulting from fish

pedicures there, however nail salon foot baths have caused outbreaks of mycobacterial infections. Problems specific to fish pedicures include the inability to disinfect fish and tubs between customers. (United States Centers for Disease Control and Prevention, 2012).

4.11.3.2 Exposure to light or chemicals

Materials, such as nail polish and nail enhancers, contain certain chemicals such as formaldehyde. These chemicals can trigger contact dermatitis if accidentally applied directly to skin.

Manicure/pedicures often involve exposure to ultraviolet light to 'cure' the polish. The use of this UV light was scrutinised by dermatologists in the United States after two women presented with skin cancer on their hands despite no family history. However, these enquiries showed the risk of this occurring is extremely low with patrons having to be exposed to this UV light for numerous hours frequently before their risk of cancer is increased (Rieder & Tosti, 2016).

Patrons and more significantly nail technicians are exposed to carcinogenic substances such as solvents that are contained in products used for manicure/pedicure. Overexposure to these chemicals may also result in other health problems such as:

- headaches and dizziness
- irritation of the skin eyes and throat
- depression
- rashes
- muscle spasms.

The risk of overexposure to chemicals in the air can be combated using proper ventilation systems (Walsh, 2012).

4.11.4 Current council approach

In Auckland manicure and pedicure services are required to be licensed and are subject to minimum standards under the Auckland Council Health and Hygiene Bylaw 2013.

4.11.5 Other approaches

Manicure and pedicure is not currently regulated by central government.

The Health Act 1956 enables enforcement action to be taken by Environmental Health officers where there is a nuisance.

Ten local authorities have bylaws (or proposed bylaws) that regulate manicure/pedicure services.²⁵

The New Zealand Association of Registered Beauty Therapists details best practice for their members in their Health and Hygiene Guidelines 2016.

4.11.6 Operators

Currently there are 486 licensed operators that provide manicure/pedicure services.

²⁵ Waimate, Timaru, South Taranaki, Ruapehu, New Plymouth, Masterton and South Wairarapa District Councils and, Dunedin, and Napier City Councils. Invercargill City Council is proposing such a bylaw.

4.11.7 Complaints

Auckland Council recorded an estimated 80 complaints specifically relating to nail bars from 2014-2017. These include:

- reusing tools without cleaning them properly (by sterilising them) or not cleaning them at all
- tools being used directly on the hands and feet
- unclean basins used for spa pedicures
- catching an infection from having a manicure or pedicure
- general hygiene issues
- chemical smells.

ACC records the following claims for manicure/pedicure injuries in 2012-2016:²⁶

Table 21 ACC claims for manicure/pedicure injuries 2012-2016

	New Zealand					Auckland				
	2012	2013	2014	2015	2016	2012	2013	2014	2015	2016
Manicure	14	7	6	13	9	9	4	4	7	4
Pedicure	20	21	33	32	34	11	13	21	13	21

The number of claims for manicure injuries has decreased, but the number of pedicure injuries has increased. Note ACC claims do not include infections caused by manicure/pedicure where there is no physical injury.

Worksafe recorded seven referrals from Auckland Council staff for banned substances found at nail salons.

Desktop research using Google, Facebook, and two commonly used Chinese community discussion forums revealed 17 complaints about treatments covered by the Bylaw. Eight of these were about nail bars.

This research also revealed unlicensed operators offering manicure/pedicure services from home, at night market stalls, or through door-to-door service.

4.11.8 Stakeholder feedback

4.11.8.1 Environmental Health Officers

Environmental health officers said they often receive complaints about fungal infections from manicure/pedicure services. They also receive complaints about overexposure to chemicals.

They identified one new practice, fish pedicures in manicure/pedicure services which pose health and hygiene risks.

²⁶ These results do not distinguish between commercial and non-commercial piercing as the ACC claim form does not require claimants to identify whether the injury was caused by a commercial activity. ACC staff located 44 injuries in Auckland (2012-2016) when the search terms “commercial or service location” were used.

4.11.8.2 Local board members

Local board members did not raise any concerns about manicure or pedicure services within a specific area of Auckland. However, one member reported catching a fungal infection at a nail bar. Another local board member considered nail bar regulation to be very important given their popularity and rumours they are “relaxed” about hygiene.

4.11.8.3 Podiatrists

Podiatry New Zealand conducted a survey of their Auckland based membership about manicure/pedicure services. Of the 28 who responded 21 were positive they had seen conditions that were caused or aggravated by attending nail bars or beauticians. These conditions included:

- fungal nail infections
- fungal skin infections
- skin wounds from the use of blades
- ill treatment of corns
- ingrown toenails.

Of the podiatrists working in Auckland prior to 2013, most thought the number of patients with these conditions was about the same now.

All respondents consider training in infection control, sterilisation and scope (not treating those with diabetes or high-risk feet) for those undertaking pedicures should be compulsory. They also think it may be necessary to discuss processes that could be put in place in nail bars and beauty salons to minimise infection and contamination.

An Auckland based podiatrist confirmed the risk of cross contamination and infection during manicure/pedicure procedures. They thought it was appropriate that manicure/pedicure services are licensed and subject to minimum standards. However, they were aware the effectiveness of this depends on what the minimum standards require and council’s ability to enforce them.

The podiatrist also raised some specific concerns about nail bars in Auckland including:

- plastic foot spa units harbour bacteria and are often not disinfected between clients
- implements are not being sterilised properly
- single use implements are being reused
- credo blades (remove thick dead skin from the feet) are being used by people who are not trained properly and may cut the skin which has a high-risk of infection.

The podiatrist was not aware of fish pedicures being available in New Zealand but confirmed they would have similar risks of infection to general pedicure.

4.11.8.4 New Zealand Association of Registered Beauty Professionals

The New Zealand Association of Registered Beauty Professionals also expressed their concern about nail technicians working on clients with fungal nail infections and poor hygiene practices.

They were not aware of any operators providing fish pedicures in New Zealand at this stage.

4.12 Exfoliation

4.12.1 Key findings

- Micro-dermabrasion is a moderate risk service.
- Primarily it poses the risk of transferring bacterial and fungal infection.
- Chemical peels also have a low risk of burning the skin depending on what chemicals are used.
- Operators that provide exfoliation services must be licensed and comply with minimum standards.
- There have been very few complaints or injuries recorded.
- Some Environmental Health officers suggest removing microdermabrasion from regulation.
- Most stakeholders consider the status quo of licensing and minimum standards appropriate.
- Dermablading is a new trend.

Conclusion: Exfoliation is a moderate risk commercial service. Current regulatory responses are effective at minimising these risks. However, there are no minimum standards for dermablading or chemical peels in the Code.

4.12.2 Explanation

Under the current Bylaw exfoliation means a practice that intends to remove dead skin and can be performed using:

- microdermabrasion – a mechanical exfoliation that removes the uppermost layer of dead skin cells from the face chest or hands
- physical peels that have an abrasive action
- chemical peels using agents such as glycolic acid or enzymes.

4.12.3 Health risk

Exfoliation using micro-dermabrasion has a risk of infection if skin is broken and the equipment is not sterile. Training in the use of this equipment and proper sterilisation minimises this risk.

Chemical peels also pose a risk of infection, as well as the risk of burning depending on the depth of the peel from the chemical used. The most commonly used agents in the beauty industry are organic or plant based, including:

- enzymes – generally produce mild exfoliation
- lactic acid
- alpha hydroxy acid
- malic acid
- glycolic acid
- salicylic – used mostly to treat acne as it is the only acid to flush the follicle
- retinol-vitamin A - stronger peels.

These superficial chemical peels are generally well tolerated (Oakley, 1998).

Trichloroacetic acid is the most common chemical used for a medium-depth peel which can be used in different concentrations. This treatment is painful, and the treated areas become swollen, red and crusted for a week.

Phenol results in a deep peel but is rarely used because of its toxicity. Absorption of phenol results in potentially fatal heart rhythm and nerve damage (Oakley, 1998).

4.12.4 Current council approach

In Auckland these services are required to be licensed and are subject to minimum standards under the Bylaw.

The minimum standards for exfoliation detail hygiene practices related to its risk of breaking the skin and causing infection. However, there are no minimum standards to minimise the risk of burning associated with chemical peels.

4.12.5 Other approaches

Exfoliation is not currently regulated by central government.

The Health Act 1956 enables enforcement action to be taken by Environmental Health officers where there is a nuisance.

Ten local authorities have bylaws (or proposed bylaws) that regulate hair removal services.²⁷

The New Zealand Association of Registered Beauty Therapists details best practice for their members in their Health and Hygiene Guidelines 2016.

4.12.6 Operators

Currently there are 189 licensed operators that provide exfoliation.

4.12.7 Complaints

Apart from general complaints about unlicensed or dirty beauty therapy premises, Auckland Council received no complaints specifically about exfoliation services.

ACC records few claims for exfoliation injuries for 2012-2016:²⁸

Table 22 ACC claims for exfoliation injuries 2012-2016

New Zealand					Auckland				
2012	2013	2014	2015	2016	2012	2013	2014	2015	2016
<=3	5	5	4	6	<=3	<=3	<=3	<=3	<=3

4.12.8 Stakeholder feedback

Several Environmental Health officers suggested removing microdermabrasion from regulation because it is low risk and they do not receive complaints about it. They thought chemical peels should still be regulated.

²⁷ Waimate, Timaru, South Taranaki, Ruapehu, New Plymouth, Masterton and South Wairarapa District Councils and, Dunedin, and Napier City Councils. Invercargill City Council is proposing such a bylaw.

²⁸ These results do not distinguish between commercial and non-commercial piercing as the ACC claim form does not require claimants to identify whether the injury was caused by a commercial activity. ACC staff located 44 injuries in Auckland (2012-2016) when the search terms “commercial or service location” were used.

Environmental health officers also identified dermablading or dermaplaning the face as a new trend. This involves running a scalpel over the face to exfoliate and remove fine hairs. The scalpel should be sterile and used by a technician who has been adequately trained.

Local boards, dermatologists and industry organisations all thought exfoliation should remain subject to licensing and minimum standards.

4.13 Sunbeds

4.13.1 Key findings

- Sunbeds are a very high-risk service.
- Sunbeds can cause melanoma and other skin cancers.
- Young people, people with pale skin and freckles and people who use sunbeds frequently are at higher risk.
- Operators that provide sunbed services must be licensed and comply with minimum standards.
- Stakeholders support the requirement for sunbeds to be licensed and subject to minimum standards.
- Research has found compliance with the New Zealand standards is better in Auckland because of the Bylaw.
- Some stakeholders support banning sunbeds.

Conclusion: Sunbeds are a very high-risk service. Current Bylaw and central government regulations minimise the risk.

4.13.2 Explanation

Sunbeds (also known as tanning units or solarium) are an electrically-powered device designed to produce tanning of the human skin by the emission of ultra-violet radiation. Sunbeds typically contain two banks of lamps that someone lies or stands between for a set period.

4.13.3 Health risks

The World Health Organisation classifies sunbeds as carcinogenic to humans. They place them in the highest cancer risk category alongside tobacco, asbestos and arsenic (International Agency for Research on Cancer Monograph Working Group, 2009).

Sunbeds expose users to higher levels of dangerous UV radiation than the sun. They increase the risk of melanoma and other skin cancers.

Higher risk factors for individuals include:

- pale skin, lots of freckles and moles
- a previous history of skin cancer
- under age 30.

The more often someone uses a sunbed the higher the risk becomes. The risk also increases the younger a person is when they start using them (Ministry of Health, Sunbeds, 2018).

Other side effects of excessive doses of ultra-violet radiation include:

- premature ageing of the skin
- damage to the eyes
- immunosuppression
- photosensitivity / photosensitive disorders from simultaneous use of prescription medicines
- blistering and swelling
- increased susceptibility to the harmful effects of exposure to ultra-violet light from the sun (Cancer Society of New Zealand, 2012).

4.13.4 Current council approach

These services are required to be licensed and are subject to minimum standards under the Bylaw.

4.13.5 Other approaches

4.13.5.1 International

The World Health Organisation recommends governments control the use of sunbeds. Many countries do so by prohibiting their use on people under the age of 18, including in Germany, Austria, Belgium, France, Iceland, Ireland, Israel, Italy, Norway, Portugal and Spain.

Sunbeds are banned in Brazil and Australia (Bulletin of the World Health Organisation, 2017).

4.13.5.2 National

The Health (Protection) Amendment Act 2016 banned the provision of sunbed services to persons under 18. The Ministry of Health has consulted on other proposed regulations for sunbed premises and operators, but the results of this consultation are not yet available.

The current New Zealand Standard for commercial sunbeds (AS/NZ2635:2008) is voluntary.

4.13.5.3 Local government

According to the Consumers' Institute data (2015) and District Health Board research (2016) compliance with the New Zealand Standard is better in Auckland compared with other areas. All operators in Auckland complied with at least nine of the operating areas checked, compared with 68 per cent in the rest of the country. They attribute this to the Bylaw requirement for providers to be licensed and inspected against minimum standards (District Health Board Public Health Units, 2016).

4.13.6 Complaints

Auckland Council received no complaints specifically about sun-beds.

ACC records few claims for sunbed injuries for 2012-2016:²⁹

²⁹ These results do not distinguish between commercial and non-commercial piercing as the ACC claim form does not require claimants to identify whether the injury was caused by a commercial activity. ACC staff located 44 injuries in Auckland (2012-2016) when the search terms "commercial or service location" were used.

Table 23 ACC claims for sunbed injuries 2012-2016

New Zealand					Auckland				
2012	2013	2014	2015	2016	2012	2013	2014	2015	2016
0	<=3	<=3	0	<=3	0	<=3	0	0	<=3

The Consumers' Institute surveyed the industry including by sending mystery shoppers to sunbed providers. Their research showed poor compliance with the voluntary standard nationally (Castles, 2016).

4.13.7 Stakeholder feedback

When asked whether changes should be made to the list of services required to be licensed and subject to minimum standards many confirmed the status quo for sunbeds.

A local board member thought the council should prohibit sunbeds.

An Environmental Health officer considered improvements in the sunbed industry to be an example of how the Bylaw has been effective at protecting people's health.

Another officer commented that Australia is a lot stricter on services that risk burning, including intense pulsed light, lasers and sunbeds.

A dermatologist reiterated the threat to public health that sunbeds present and considers licensing to be beneficial compared to no regulation.

Auckland Regional Public Health Service was in favour of the Bylaw sunbed provisions. They would prefer signage was clear about the correlation between cancer and sunbeds specifically, rather than general information about ultra violet light.

The Cancer Society would prefer sunbeds to be banned completely at a national level such as Australia has done. However, in the absence of this they continue to support the Bylaw noting Auckland Council has the best level of protection for consumers nationally.

4.14 Pulsed light and laser treatment

4.14.1 Key findings

- Pulsed light and laser treatments are a high-risk service.
- Laser treatments when carried out incorrectly pose a risk of injury, including burning and organ damage. Carbon-dioxide laser treatments pose a risk of infection.
- Operators that provide pulsed light and laser services must be licensed and comply with minimum standards.
- Auckland Council received one complaint about laser and the number of ACC injury claims has stayed the same 2012-2017.
- Stakeholders are concerned about the risk of harm from powerful laser equipment being used by untrained people.
- Stakeholders want more clarity about what machines should be used by non-medical professionals and for what treatments.
- Laser treatment for vaginal tightening is not covered by the bylaw because the bylaw does not cover membranes.

Conclusion: Laser and pulsed light treatments are a high-risk service. The Bylaw effectively minimises the risk of harm for the services it covers. Harm could be further minimised if it covered 'tissue' which would include the vaginal area which is not technically skin. Harm could also be further minimised if more detail on the types of machines used, training required and procedures were contained in the Code.

4.14.2 Explanation

Under the Bylaw laser treatment means a practice involving the use of a laser device, which amplifies light and usually produces a very narrow beam of a single wavelength (one colour), intended to remove hair or for skin photo-rejuvenation.

Under the Bylaw pulsed light means a practice using a powerful flash of broad spectrum, non-coherent light intended to remove hair and/or for skin photo-rejuvenation and may include intense pulsed light and variable pulsed light.

Pulsed light and laser treatment works by damaging a hair follicle to retard hair growth, or by stimulating the production of collagen or elastin to reduce wrinkles or pigmentation. It is commonly used for facial wrinkles, scars, sun-damaged skin and tattoo removal (Ngan, 2004).

New uses for lasers are developing quickly such as 'FemiLift' or vaginal tightening for improved sex life or incontinence common after childbirth (Lever, 2017).

4.14.3 Health Risks

Effectively laser treatments work by burning the skin. The following effects may occur:

- temporary pain, redness, bruising, blistering and/or crusting
- infection, including reactivation of herpes simplex
- pigment changes (brown and white marks), which may be permanent
- scarring.

(Ngan, 2004)

A dermatologist advised that if melanoma and skin cancer lesions are unidentified and then treated to make them less visible, their diagnoses could be further delayed. Early diagnosis increases the chance of surviving skin cancer.

Safety precautions depend on which laser system is used and in what setting. They include:

- operator training
- eye protection for the patient and staff
- a warning notice outside the procedure room
- use of non-reflective instruments (such as mirrors, steel sheets)
- avoidance of flammable materials (Ngan, 2004).

4.14.4 Current council approach

In Auckland these services are required to be licensed and are subject to minimum standards under the Bylaw. However, vaginal laser treatments are not expressly covered because the vaginal area is not considered to be 'skin' but a membrane.

4.14.5 Other approaches

Intense pulsed light and laser are not currently regulated by central government. The Ministry of Health is currently considering making regulations under the Medicines Act 1981 to restrict the purchase of equipment such as lasers.

The Health Act 1956 enables enforcement action to be taken by Environmental Health officers where there is a nuisance.

Four local authorities have bylaws that regulate laser treatments.³⁰

The New Zealand Association of Registered Beauty Therapists details best practice for their members in their Health and Hygiene Guidelines 2016.

4.14.6 Complaints

Auckland Council received one complaint specifically about laser treatments from 2014-2017. The complaint was from a previous employee who was asked to perform laser treatments without training. She also said machinery was not cleaned between clients, calibrated regularly, and was being used with mirrors in the room.

ACC records few claims for laser injuries for 2012-2016³¹.

³⁰ Masterton District Council, South Wairarapa District Council, New Plymouth District Council and South Taranaki District Council.

³¹ These results do not distinguish between commercial and non-commercial piercing as the ACC claim form does not require claimants to identify whether the injury was caused by a commercial activity. ACC staff located 16 injuries in Auckland (2012-2016) when the search terms "commercial or service location" were used.

Table 24 ACC claims for laser injuries 2012-2016

New Zealand					Auckland				
2012	2013	2014	2015	2016	2012	2013	2014	2015	2016
15	11	19	17	16	7	8	13	7	7

4.14.7 Stakeholder feedback

4.14.7.1 Environmental health officers

Environmental health officers consider the rules around intense pulsed light and laser to be unclear. They are also concerned about the increasing number, type and strength of lasers on the market. They consider certain machines to be medical grade, and as such should be limited to use by medical professionals. Some are also concerned they do not have appropriate training to decide what should be used and how. Some thought these are better suited to medical professionals rather than health and beauty therapists.

They reported receiving many complaints about intense pulsed light and laser. They have noticed they are being used increasingly for tattoo removal in tattoo parlours, as another revenue stream. This is difficult because tattoo parlours have a lot of reflective surfaces.

4.14.7.2 Industry organisation representatives

Industry organisation representatives also raised concerns about lasers with increasing strength being available for purchase by untrained beauty therapists. These machines can then be used to conduct procedures which are usually done by medical professionals, such as internal treatments.

They also suggested certain laser treatments using carbon-dioxide or erbium should be subject to stricter hygiene requirements like services that pierce the skin.

Industry organisation representatives also reported that council officers do not have knowledge to inspect laser and intense pulsed light operations. They recommend using specialised consultants to check operators against these standards.

Industry organisation representatives Auckland Regional Health Service raised the issue of lasers being used near the eye. They and podiatrists also reported lasers being used by beauty therapists to treat fungal infections.

A dermatologist is concerned that no qualifications or training is required to perform laser treatments. If operators unknowingly treat unidentified melanoma and skin cancer lesions, their diagnosis will be delayed. He thinks a medical professional should assess skin lesions or spots before any pigmentation is removed.

4.15 Public Swimming Pools

4.15.1 Key findings

- Public swimming pools are a moderate-risk service.
- They pose a risk of bacterial and fungal infection which can cause illness when water is ingested.
- Operators that provide public swimming pool services must comply with minimum standards. They are not required to be licensed.
- Stakeholders consider the current response is effectively minimising the risk.
- The number of waterplay parks and splash pads at Auckland Council parks and recreation centres is increasing. They pose the same if not more risk of infection but are not covered by the Bylaw.

Conclusion: Public swimming pools are a moderate-risk service. The current regulatory response requiring compliance with minimum standards is effective at minimising the risk. Splash pads and waterplay parks, which pose the same risk of infection, are not regulated by the Bylaw.

4.15.2 Explanation

Under the current Bylaw public swimming pool means:

a water-retaining structure, wholly or partially of artificial construction and generally having a circulation and filtration system, designed for recreational, training or therapeutic use, and includes commercial, school, institutional, club, hospitality, community, and local authority pools. It does not include pools for domestic use only.

4.15.3 Health risk

Public swimming pools can pose a risk of bacterial and fungal skin infection if not treated properly. If water or water vapour is ingested they pose the risk of bacterial illnesses such as giardia, norovirus, crypto, legionella and salmonella. These illnesses cause diarrhoea and vomiting, and are more serious for children, pregnant women and people with reduced immunity.

4.15.4 Current council approach

In Auckland public swimming pools are subject to minimum standards, but not required to be licensed.

4.15.5 Other approaches

The New Zealand standard for pool water quality (NZS5826:2010) covers the operation and maintenance of pools to ensure pool water quality. The Code requires operators to comply with this standard. Without the Bylaw and Code, compliance with the standard would be voluntary.

The PoolSafe Quality Management Scheme is an industry led, voluntary management system of public pools to ensure they are safe. Fifteen of Auckland's pools, mainly Auckland Council facilities, are currently registered with PoolSafe.

Two local authorities in New Zealand regulate public pool operators:

- Waimate District Council requires pools to be licensed.
- Wellington City Council requires a certificate of registration, clean premises and compliance with the pool water quality standard.

Three local authorities regulate users of public pools:

- South Taranaki District Council prohibits entering a pool with an open wound and require council pools to be safe and hygienic.
- South Waikato District Council prohibits fouling public pools.
- Manawatu District Council prohibits users fouling or contaminating swimming pools or using them while having an infectious disease.

4.15.6 Operators

Currently there are an estimated 375 public swimming pools in Auckland including:

- 26 council owned
- 19 commercial pools
- 251 school pools
- 206 hospitality pools (estimated from internet searches, excluding spa pools).

4.15.7 Complaints

Auckland Council received one complaint about a commercial public swimming pools' shower area not being sanitary from 2014-2017. They also thought there had been a general decline in hygiene standards at this facility.

ACC records the following claims for swimming pools 2012-2016.

Table 25 ACC claims for laser injuries 2012-2016

New Zealand					Auckland				
2012	2013	2014	2015	2016	2012	2013	2014	2015	2016
13	27	14	12	14	4	8	5	7	7

However, ACC staff located no injuries in when the search terms “commercial or service location” were used. Note this excludes injuries caused by falls and slips.

4.15.8 Stakeholder feedback

A Business Manager for Active Recreation at Auckland Council reported recent instances of legionella at two council pools as the most serious problem.

They support public swimming pools being subject to minimum standards under the Bylaw, otherwise compliance with the New Zealand standard would not be mandatory. They consider the PoolSafe accreditation system to be effective, but membership is not mandatory and there are no certain consequences for failing a test.

They also consider public saunas to pose similar health risks, noting they are not currently regulated.

The Pacific Peoples Advisory Panel supports public swimming pools being regulated. A panel member noted a recent outbreak of scabies resulting from pool use in South Auckland.

The Auckland Regional Public Health Service also confirmed that without minimum standards, including testing and training there would be more outbreaks of gastritis. They also mentioned problems in the past with pools that are used to teach scuba diving.

Other stakeholders did not comment on pools specifically but did confirm they should remain subject to minimum standards.

4.15.8.1 Waterplay parks and splash pads

The number of waterplay parks and splash pads within Auckland Council playgrounds is increasing because of their educational and recreational benefits for children. These facilities pose a risk of infection as the water is exposed to bacteria in the same way as swimming pools.

An Auckland Council water feature specialist reported they can be higher risk than swimming pools because more dirt and debris from the surrounding area enters the water.

Auckland Council Community Facilities staff treat the water using filtration and chemicals, like swimming pools. However, they are not specifically required to by the New Zealand standard or the Bylaw. They recommend clarifying the Bylaw to include them because of the health risks waterplay parks and splash pads pose.

4.16 Colon Hydrotherapy

4.16.1 Key findings

- Colon hydrotherapy is a moderate risk service.
- It poses a risk of injury as well as gastro-intestinal infection.
- Operators that provide colon hydrotherapy services must comply with minimum standards. They are not required to be licensed.
- Auckland Council has received no complaints about colon-hydrotherapy and no injury claims have been made to ACC.
- Stakeholders see it as posing the same level of risk as other services which are required to be licensed.

Conclusion: Colon hydrotherapy is a moderate risk service. The current regulatory response requiring compliance with minimum standards is effective at minimising the risk.

4.16.2 Explanation

Under the current Bylaw colon hydrotherapy means a practice of introducing liquids into the rectum and colon via the anus and is intended to remove faeces and non-specific toxins from the colon and intestinal tract.

4.16.3 Health risk

The most serious adverse effect of colon hydrotherapy is the perforation of the wall of the colon. Perforation could be the results of puncture by the tip of the tube or excessive pressure causing a weak spot in the colon wall to rupture (Mishori, Otubu, & Jones, 2011).

If the devices for the procedure are not properly disinfected or sterilised, bacterial contamination can occur including transferal from client to client.

Other adverse effects of colon hydrotherapy include:

- cramping
- bloating
- vomiting

- electrolyte imbalance
- kidney failure
- diarrhea
- pancreatitis.

4.16.4 Current council approach

Under the Bylaw colon hydrotherapy is subject to minimum standards, but not required to be licensed.

4.16.5 Other approaches

Colon hydrotherapy is not currently regulated by central government or specifically by any other local authorities in New Zealand.

The Health Act 1956 enables enforcement action to be taken by Environmental Health officers where there is a nuisance.

Colon hydrotherapists currently operating in Auckland are likely to be registered as a member of the International Association for Colon Hydrotherapy (I-ACT), or the Australian Colon Health Association. These professional bodies require members to be suitably qualified and to use devices that are currently registered by the Food and Drug Administration in the United States. They also detail clear standards of practice and Code of ethics for their members.

4.16.6 Operators

Because they are not required to be licensed we do not know for certain how many colon hydrotherapy operators there are. Staff identified eight operators using internet searches.

4.16.7 Complaints

Auckland Council received no complaints about colon hydrotherapy from 2014-2017.

ACC received no injury claims for colon hydrotherapy in 2012-2016.

4.16.8 Stakeholder feedback

Health experts and Environmental Health officers question why colon hydrotherapy is subject to minimum standards but not required to be licensed. They consider it to be an invasive procedure that poses risks serious enough to justify licensing.

4.17 Massage

4.17.1 Key findings

- Massage has a low risk of infection and a moderate risk of injury.
- Higher risks of injury are posed when manipulation or mobilisation of joints is performed by people who are not properly trained to do so.
- Massage is not currently regulated by the Bylaw. Recommended minimum standards are included in the Code.
- 35,370 ACC claims were made for injuries caused by massage in Auckland (2012-2016).
- Environmental Health officers, Physiotherapy New Zealand, Massage New Zealand and the Auckland Regional Public Health Service were surprised by the number of ACC injury claims and still consider massage to be low-risk.
- Stakeholders support massage being subject to minimum standards of qualifications or training for massage, including manipulation and joint mobilisation.

Conclusion: Massage is a moderate risk commercial service because of the risk of injury it poses. More serious injuries can occur when therapists conduct manipulation or mobilisation and do not have the proper skills. The risks could be minimised by ensuring therapists are properly trained.

4.17.2 Explanation

Under the current Bylaw, massage means a practice of applying lotion, or soft wax, stones or pressure to another person's face or body. It can also be understood as the systematic manipulation of soft tissues for pain reduction or other therapeutic purposes (Ernst, 2003).

Since the early parts of the 20th century, massage has been widely accepted in Europe and elsewhere as an effective form of complementary or alternative therapy for a range of conditions (Cambron, Dexheimer, & Swenson, 2007).

Massage New Zealand use orthopedic dictionary and standard dictionary definitions to differentiate between massage, mobilization and manipulation:

- Massage - the rubbing and kneading of soft tissue to relieve tension or pain.
- Mobilisation - the application of passive movement to facilitate movement within active range of motion.
- Manipulation - the forceful passive movement of a joint beyond its active range of motion.

4.17.3 Health risk

Massage poses a low risk of transferring infection when contact with the skin is made and hands, tools or towels are reused and not cleaned properly.

Temporary post-massage soreness and malaise is a common, unavoidable but mild adverse effect of strong massage.

ACC reports claims for the following types of injuries from massage:

- soft tissue sprain and strain
- laceration, puncture
- fracture and dislocation
- burns and scald injuries.

More serious risks of injury include:

- pain system dysfunction
- severe nerve injury
- fractures
- brain artery damage
- stroke.

Serious injuries are rare and usually the result of mistakes made by unqualified massage therapists. However, massage therapy should be discouraged for people who are pregnant or have certain health conditions including bleeding disorders and some cancers.

4.17.4 Current council approach

In Auckland massage is not currently regulated by the Bylaw. However, the Code does detail recommended minimum standards.

The Health Act 1956 enables enforcement action to be taken by Environmental Health officers where there is a nuisance.

4.17.5 Other approaches

Massage is not currently regulated by central government.

Massage is included in New Plymouth and South Taranaki District Councils' definition of beauty treatments. It is subject to licensing and minimum standards there.

Massage New Zealand is a massage specific membership body in New Zealand for professional Massage Therapists. It is a self-regulated, voluntary membership association. Full members must be qualified, provide proof of their qualifications, and meet ongoing requirements to maintain their membership.

4.17.6 Operators

There is no comprehensive list of massage operators in Auckland.

Massage New Zealand report 125 members based in Auckland, however there are many more who are not members of this organisation.

4.17.7 Complaints

Auckland Council received two complaints about massage from 2014-2017.

For the period 2012-2016 ACC records 69,120 claims for massage in New Zealand and 35,370 claims in Auckland:³²

³²These results do not distinguish between commercial and non-commercial piercing as the ACC claim form does not require claimants to identify whether the injury was caused by a commercial activity. ACC staff located 7190 injuries in Auckland (2012-2016) when the search terms "commercial or service location" were used.

Table 26 ACC claims for massage injuries 2012-2016

New Zealand					Auckland				
2012	2013	2014	2015	2016	2012	2013	2014	2015	2016
10,656	13,762	12,748	14,805	17,149	5,717	8,380	6,048	7,177	8,048

4.17.8 Stakeholder feedback

Massage New Zealand were surprised by the ACC data. They consider the risk of breaking the skin and causing infection to be low. They also consider the risk of injury to be low when the therapist holds a Diploma of Massage Wellness and Relaxation level 5 or equivalent. They support massage being subject to minimum standards about qualifications and training. They would also consider referring any complaints they receive about non-members to Auckland Council for investigation.

Physiotherapy New Zealand also consider the risk of causing infection and injury to be low. Any serious injuries would be caused by manipulation or mobilisation, which involves moving joints. They consider this to be outside the definition of massage and a practice that should be limited to people who are qualified.

Environmental Health officers consider massage to be a lower risk service which does not need to be licensed. They also consider the main cause of harm – unqualified therapists – is unsuited to a licensing inspection. However, they would consider massage operators should have to comply with minimum standards in the Code.

A local board member thought massage should be licensed because of the risk of injury by unskilled massage therapists.

4.18 Other services raised by stakeholders

4.18.1 Key findings

- Stakeholders raised temporary accommodation sleep-pods, sex-on-site venues, and ultrasound fat reduction as services for consideration.
- Sleep-pods pose a low-risk of transfer of infections from bedding and poor ventilation. There are currently no sleep-pod style accommodation services provided in Auckland.
- Health risks associated with sex on-site venues are adequately minimised by regulation of swimming pools and spas in the Bylaw, officer investigation of complaints under the Health Act 1956, the work of the New Zealand Aids Foundation with venue operators, and business practices that rely on clean facilities to attract customers.
- Ultrasound fat reduction poses a low-risk of burning, pain and discomfort if used frequently.

Conclusion: Health risks associated with sleep-pods, sex on-site venues and ultrasound fat reduction services are low-risk. Any health risks can be appropriately minimised using existing powers under the Building Act 2004, Building Code, Bylaw regulation of spas and swimming pools, and the Health Act 1956.

4.18.2 Sleep-pods

There are currently no sleep-pod style temporary accommodation services provided in Auckland. If they do become available, the risks will be minimised through the Building Act 2004 and Building Code. The Health Act 1956 also enables enforcement action to be taken by Environmental Health officers where there is a nuisance.

Sleep-pods are capsule rooms or pods that may be completely enclosed. They are small and may only have room for an occupant to sleep. They are becoming more popular overseas at airports and as budget temporary accommodation, however, there are none in Auckland yet.

Sleep-pods pose a low-risk of transferring infection if bedding and surfaces contact the skin or bodily fluids and are not cleaned properly. They also require additional ventilation to prevent the spread of communicable diseases. They pose a higher risk of fire compared to usual hotels and commercial buildings because the capsules are:

- made of fiberglass-reinforced plastic which is flammable
- interlocked together so the fire can spread easily
- self-contained with electrical services (tv/power outlets)
- high density.

Auckland Regional Public Health Service consider sleep-pods pose more serious health risks if they are used for longer-term or permanent accommodation. They are particularly concerned about ventilation and the risk of transferring infection.

4.18.3 Sex on site venues

Health risks associated with sex on-site venues are adequately minimised through:

- the regulation of swimming pools and spas in the Bylaw

- officer investigation of complaints under the Health Act 1956
- work of the New Zealand Aids Foundation with venue operators
- business practices that rely on clean facilities to attract customers.

Sex on-site venues are a commercial venue for engaging in public sex. They are not brothels because money is not exchanged for sex, but a place primarily for men to have sex with other men. Venues often provide spas and swimming pools.

The New Zealand Aids Foundation identified eight venues in Auckland (Love your condom, 2015).

The service provided is the venue, so responsibility for minimising health risks from sex (by using condoms for instance) remains with the individual. The health risk associated with the venue is the transfer of infection when bodily fluids touch surfaces or equipment and they are not disinfected or cleaned properly.

Auckland Council received one complaint between 2014-2017 about unhygienic conditions at a sex on-site venue. On inspection officers found the premises to be clean and were confident there was a high standard of hygiene generally.

The New Zealand Aids Foundation provide free condoms and HIV tests for sex on-site venues. The Health Services Manager reported that owners of venues in Auckland are business minded and motivated to provide a healthy and clean environment for their customers. They encourage customers to use condoms and there is already a high standard of hygiene through regular disinfection of surfaces and equipment.

The New Zealand Aids Foundation consider the health risks from the venue to be low and impossible to completely minimise without making the service unlawful. They also consider that the people who use them understand the risks and how they should be minimised. If a venue was unclean they would not use it.

4.18.4 Ultrasound fat reduction

The risk of pain and discomfort associated with overuse of ultrasound fat reduction services is adequately minimised by enforcement action Environmental Health Officers could take under the Health Act 1956.

Ultrasound is not currently regulated by the Bylaw or central government.

There were no complaints about ultrasound fat reduction between 2013-2016.

This procedure involves machines which omit ultrasound (focal heat) to tighten the skin. The depth of treatment is 1.5mm-3mm. The treatment is effective but usually temporary. Side effects of ultrasound include pain, skin redness and irritation, increased body temperature, headache, mild aches and increased thirst.

Using internet searches, staff identified 22 operators in Auckland offering ultrasound fat reduction services.

A representative of the Society of Cosmetic Medicine considers ultrasound fat reduction to be sometimes painful, but safe.

References

- Auckland Council. (2012). *The Auckland Plan*. Auckland: Auckland Council.
- Breuner, C. C., & Levine, D. A. (2017). Adolescent and Young Adult Tattooing, Piercing. *American Academy of Pediatrics*, 140(4), 1-18. doi:10.1542/peds.2017-1962
- Bulletin of the World Health Organisation. (2017). *Restricting the use of sunbeds to prevent skin cancer*. doi:http://dx.doi.org/10.2471/BLT.17.021217
- Cambron, J. A., Dexheimer, J., & Swenson, R. (2007). Side-Effects of Massage Therapy: A Cross-Sectional Study of 100 Clients. *The Journal of Alternative and Complementary Medicine*, 13(8), 793-796.
- Cancer Society of New Zealand. (2012). *Sunbeds, solaria and sunlamps*. Cancer Society of New Zealand.
- Castles, B. (2016). *Sportlight on subeds*. Consumer survey.
- Dendle, C., Mulvey, S., Pylis, F., Grayson, M., & Johnson, P. (2007). Severe complications of a "Brazilian" bikini wax. *Clinical Infectious Disease*, 45(3), 29-31.
- Department of Health. (2017). *Advice for the beauty therapy industry*. Western Australia: Government of Western Australia.
- Desai, N. (2016). Body piercing in adolescents and young adults. Retrieved from <https://www.uptodate.com/contents/body-piercing-in-adolescents-and-young-adults>
- District Health Board Public Health Units. (2016). *Visits to commercial solaria by DHB Public Health Units between 1 February and 31 July 2016: summary of findings*. Ministry of Health. Retrieved from <http://www.emfservices.co.nz/resources/uv-and-sunbeds>
- D'Souza, M. M. (2011). Life-threatening cellulitis after traditional Samoan tattooing. *Australian and New Zealand Journal of Public Health*, 27-29.
- Duarte, G., Cheja, R., Pachon, D., Ramirez, C., & Arellanes, L. (2017). Case series: Two cases of eyeball tattoos with short-term complications. *American Journal of Ophthalmology Case Reports*, 5, 26-28.
- Environmental Risk Management Authority. (2011). *Proposed group standard For tattoo and permanent make-up substances*. Wellington: New Zealand Government.
- Ernst, E. (2003). The safety of massage therapy. *Rheumatology*, 42, 1101-1106. doi:doi:10.1093/rheumatology/keg306
- Galbraith, P. J., & Richardson, M. L. (2005). Permanently Retained Acupuncture Needles: Radiographic Findings and Case Report. *Radiology Case Reports*, 1(4), 120-123.
- Gardner, L. (2017, February 3). *'Dr Evil' tattoo artist accused of removing customer's ears, splitting client's tongue and slicing off someone's nipples*. Retrieved from Mirror News: <https://www.mirror.co.uk/news/uk-news/dr-evil-tattoo-artist-accused-9750398>

- Gray, M., & Oakley, A. (1997). *Facial red vein and vascular birthmark treatments*. Retrieved from DermNet New Zealand: <https://www.dermnetnz.org/topics/facial-red-vein-and-vascular-birthmark-treatments/>
- Hansen v R [2007] 3 NZLR 1 (SC).
- Independent Māori Statutory Board. (2014). *The Māori Plan for Tāmaki Makaurau*. Auckland: Independent Māori Statutory Board.
- International Agency for Research on Cancer Monograph Working Group. (2009). Special Report: Policy. A review of human carcinogens - Part D: radiation. *Lancet Oncology Online*, 10.
- Irwin Toy Ltd v Attorney-General [1989] Quebec 1 SCR 927.
- Johnson, J. (2017, June 17). *What you need to know about fungal infections*. Retrieved from Medical News Today: <https://www.medicalnewstoday.com/articles/317970.php>
- Laumann, A. E., & Derick, A. I. (2006). Tattoos and body piercings in the United States: A national data set. *Journal of the American Academy of Dermatology*, 55(3), 413-421.
- Lee, J., Daniels, M., & Roth, M. (2016). Mesotherapy, Microneedling, and Chemical Peels. *Clinical Plastic Surgery*, 43(3), 583-95. doi:10.1016/j.cps.2016.03.004
- Lever, D.-M. (2017, November 12). *Blinded by beauty: The risks of undergoing cosmetic surgery*. Retrieved from North&South: <https://www.noted.co.nz/health/health/blinded-by-beauty-the-risks-of-undergoing-cosmetic-surgery/>
- Liley, S. (2017, April). *Body piercing*. Retrieved from Dermnet New Zealand: <https://www.dermnetnz.org/topics/body-piercing/>
- Love your condom. (2015). *Saunas and cruise clubs*. Retrieved from Love your condom: <https://www.loveyourcondom.co.nz/great-sex-safe-sex/hooking-up/saunas-cruise-clubs>
- Ministry for Primary Industries. (2017, December 5). *Food risk ranking*. Retrieved from Ministry for Primary Industries: <http://www.mpi.govt.nz/food-safety/food-safety-and-suitability-research/food-risk-assessment/food-risk-ranking/>
- Ministry of Health. (1998). *Guidelines for the Safe Piercing of Skin*. Wellington: Ministry of Health.
- Ministry of Health. (2017a, May 26). *Virtual Diabetes Register (VDR)*. Retrieved from Ministry of Health: <https://www.health.govt.nz/our-work/diseases-and-conditions/diabetes/about-diabetes/virtual-diabetes-register-vdr>.
- Ministry of Health. (2017b, July 28). *Hepatitis C: Work in progress for improving hepatitis treatment services in New Zealand*. Retrieved from Ministry of Health: <http://www.health.govt.nz/our-work/diseases-and-conditions/hepatitis-c>
- Ministry of Health. (2018, January 15). *Sunbeds*. Retrieved from Ministry of Health NZ: <https://www.health.govt.nz/your-health/healthy-living/environmental-health/sunbeds>
- Ministry of Health, & Ministry for Primary Industries. (2017). *Antimicrobial Resistance: New Zealand's current situation and identified areas for action*. Wellington: Ministry of Health and Ministry for Primary Industries.

- Mishori, R., Otubu, A., & Jones, A. A. (2011). The dangers of colon cleansing. *The Journal of Family Practice*, 60(8).
- National Health Service. (2008). *A risk matrix for risk managers*. London: National Patient Safety Agency.
- New Zealand AIDS Foundation. (2016). *HIV in New Zealand*. Retrieved from New Zealand AIDS Foundation: <https://www.nzaf.org.nz/hiv-aids-stis/hiv-aids/hiv-in-new-zealand/>
- New Zealand Herald. (2018, February 20). *Kiwi woman Lyn Parent contracted HIV after getting tattoo*. Retrieved from New Zealand Herald: http://www.nzherald.co.nz/lifestyle/news/article.cfm?c_id=6&objectid=11998429
- Ngahua Te Awekotuku. (2007). *Mau Moko - The World of Māori Tattoo*. Waikato: Penguin Group NZ.
- Ngan, V. (2003). *Electrolysis*. Retrieved from DermNet New Zealand: <https://www.dermnetnz.org/topics/electrolysis/>
- Ngan, V. (2004). *Lasers in dermatology*. Retrieved from DermNet New Zealand: <https://www.dermnetnz.org/topics/lasers-in-dermatology/>
- Ngan, V. (2005a). *Mesotherapy*. Retrieved from DermNet New Zealand: <https://www.dermnetnz.org/topics/mesotherapy/>
- Ngan, V. (2005b). *Waxing*. Retrieved from DermNet New Zealand: <https://www.dermnetnz.org/topics/waxing/>
- Oakley, A. (1998). *Chemical Peels*. Retrieved from DermNet New Zealand: <https://www.dermnetnz.org/topics/chemical-peels/>
- Oxford English Living Dictionaries. (2018). *Definition of sunbed*. Retrieved from Oxford University Press: <https://en.oxforddictionaries.com/definition/sunbed>
- Papameletiou, D., Zenie, A., Schwela, D., & Baumler, W. (2003). Risks and Health Effects from Tattoos, Body Piercing and Related Practices. *Review of risks and health effects from tattooing/piercing practices*, 1-31.
- Ranaweera, A. (2013). *Platelet-rich plasma*. Retrieved from DermNet New Zealand: <https://www.dermnetnz.org/topics/platelet-rich-plasma-dermatological-applications/>
- Rieder, E. A., & Tosti, A. (2016). Cosmetically Induced Disorders of the Nail with Update on Contemporary Nail Manicures. *Journal of Clinical and Aesthetic Dermatology*, 9(4), 39-44.
- Shadwell, T. (2017, June 4). *Authorities accuse beauty salons of breaching employees' rights, as migrant workers complain of long hours and abuse*. Retrieved from Stuff: <https://www.stuff.co.nz/business/industries/93264790/Authorities-accuse-beauty-salons-of-breaching-employees-rights-as-migrant-workers-complain-of-long-hours-and-abuse>
- Statistics New Zealand. (2017). *Occupation and Region of Employment for Approved Work Visa*. Wellington.

- Stuff. (2011, May 1). *Warning over fish pedicures*. Retrieved from Stuff: <http://www.stuff.co.nz/life-style/well-good/4716708/Warning-over-fish-pedicures>
- The Canadian Press. (2017, September 30). *Doctors warn eyeball tattoos could lead to blindness, severe infections*. Retrieved from Haidagwaii Observer: <https://www.haidagwaiiobserver.com/trending-now/doctors-warn-eyeball-tattoos-could-lead-to-blindness-severe-infections/>
- The Hepatitis Foundation of New Zealand. (2016). *Chronic Hepatitis B*. Retrieved from The Hepatitis Foundation of New Zealand: <https://www.hepatitisfoundation.org.nz/hepatitis-b/>
- The New Zealand Association of Registered Beauty Therapists. (2017). *Health and Hygiene Guidelines for Beauty Therapy Clinics, Spas and Training Establishments*. Auckland: The New Zealand Association of Registered Beauty Therapists.
- Toronto City Council and Committees. (2017). *Toronto Municipal Code: Chapter 545 - Licensing*. Toronto: Toronto City Council and Committees.
- United States Centers for Disease Control and Prevention. (2012, May 17). *Fish Pedicures and Fish Spas*. Retrieved from Centers for Disease Control and Prevention: https://www.cdc.gov/healthywater/hygiene/body/fish_pedicures.html
- United States Department of Health and Human Services. (2016, August 19). *In the News: Cupping*. Retrieved from National Center for Complementary and Integrative Health: <https://nccih.nih.gov/news/cupping>.
- Walsh, S. A. (2012). Beyond the Polish: An Examination of Hazardous Conditions in Nail Salons and Potential Solutions for the Industry in New York City. *Journal of Law and Policy*, 21(1), 243-282.
- World Health Organisation. (1999). *Guidelines on Basic Training and Safety in Acupuncture*.

Legislation

- Building Act 2004
- Building Regulations 1992 (Building Code)
- Crimes Act 1961
- Hazardous Substances and New Organisms Act 1996
- Health Act 1956
- Health and Safety at Work Act 2015
- Health Practitioners Competence Assurance Act 2003
- Local Government Act 2002
- Medicines Act 1981
- Prostitution Reform Act 2003

Case law

Barker v R [2010] 1 NZLR 235 (CA).

Hansen v R [2007] 3 NZLR 1 (SC).

Irwin Toy Ltd v Attorney-General [1989] Quebec 1 SCR 927.

Appendix 1: Key stakeholders

External stakeholders	Engagement method	Date of engagement
Health experts		
Auckland Regional Public Health Service	Meeting	17 October 2017
New Zealand Dermatological Society Dr Paul Jarrett	Interview	12 October 2017
Podiatry New Zealand Caron Orelowitz	Interview	13 October 2017
Physiotherapy New Zealand	Interview	19 February 2018
Central government		
Ministry of Health	Discussion	2 October 2017
WorkSafe	Interview	3 November 2017
Non-governmental organisations		
Cancer Society NZ	Interview	23 November 2017
NZ Aids Foundation	Interview	27 November 2017
Marae committees		
Ngāti Otara Marae	Survey and telephone follow-up	3 October 2017
Omaha Marae	As above	3 October 2017
Mataatua Marae	As above	3 October 2017
Te Piringatahi o Te Maungaarongo Marae	As above	3 October 2017
Makaurau Marae	As above	3 October 2017
Te Mahurehure Marae	As above	3 October 2017

Piritahi Marae	As above	3 October 2017
Te Kia Ora Marae (Kakanui)	As above	3 October 2017
Whatapaka Marae	As above	3 October 2017
Hoani Waititi Marae	As above	3 October 2017
Ruapotaka Marae	As above	3 October 2017
Te Aroha Marae	As above	3 October 2017
Papatuanuku Kokiri Marae	As above	3 October 2017
Motairehe Marae	As above	3 October 2017
Te Puea Memorial Marae	As above	3 October 2017
Ngāti Kohua Marae	As above	3 October 2017
Ngā Hau e Whā o Pukekohe Marae	As above	3 October 2017
Te Herenga Waka o Orewa Marae	As above	3 October 2017
Te Tira Hou Marae	As above	3 October 2017
Umupuia Marae	As above	3 October 2017
Hoani Waititi Marae	As above	3 October 2017
Manurewa Marae	As above	3 October 2017
Reretewhioi Marae	As above	3 October 2017
Pūkaki Marae	As above	3 October 2017
Puatahi Marae	As above	3 October 2017
Ngāti Wai o Aotea Kawa Marae	As above	3 October 2017
Tāhuna Marae	As above	3 October 2017
Papakura Marae	As above	3 October 2017
Haranui Marae	As above	3 October 2017
Whiti Te Ra Marae o Rewiti	As above	3 October 2017
Orakei Marae	As above	3 October 2017

Ngā Whare Waatea Marae	As above	3 October 2017
Other Māori stakeholders		
Te Ha Oranga	Meeting	18 October 2017
Graham Tipene	Interview	12 October 2017
Erena Wikaire	Interview	12 October 2017
Amiria Reriti (Auckland Regional Public Health Service)	Interview	17 October 2017
Inia Taylor (Moko Ink)	Interview	30 October 2017
Community stakeholders		
Samoa community members (Pasifika Tatau Talanoa)	Workshop	15 February 2018
Industry organisations / operators		
New Zealand Acupuncture Standards Authority	Workshop	26 October 2017
Acupuncture New Zealand	Workshop	26 October 2017
NZ Laser Training	Workshop	26 October 2017
NZ Society of Cosmetic Medicine	Workshop	26 October 2017
NZ Prostitute's Collective	Workshop	26 October 2017
Pharmacy Guild of New Zealand	Workshop	26 October 2017
Hair and Beauty Training Organisation	Workshop	26 October 2017
New Zealand Association of Registered Beauty Therapists	Survey	9 November 2017
Massage New Zealand	Interview	19 February 2018
Colon Care	Interview	28 February 2018

Internal stakeholders		
Pacific Peoples Advisory Panel	Workshop	25 October 2017
Rainbow Communities Advisory Panel	Workshop	10 October 2017
Youth Advisory Panel	Survey	20 September 2017
Ethnic Peoples Advisory Panel	Survey	20 September 2017
Environmental Health Unit	Workshop	19 October 2017
Environmental Health Unit officer	Interview	20 September 2017
Local Board cluster workshops (South Auckland)	Workshop	16 October 2017
Local Board cluster workshops (North, Central and West Auckland)	Workshop	16 October 2017
Parks, Sports and Recreation (West Wave Henderson)	Interview	30 October 2017

Appendix 2: Pasifika Tatau Talanoa

March 2018

Pasifika Tatau Talanoa

Community feedback summary



Purpose

The Pacific Peoples Advisory Panel, Ōtara-Papatoetoe Local Board and Māngere-Ōtāhuhu Local Board co-hosted a Pasifika Tatau Talanoa in Manukau on 15 February 2018.

The objectives of the talanoa were to:

- provide a forum for stakeholder discussion about tatau
- raise awareness of the Health and Hygiene Bylaw 2013
- contribute knowledge of tatau practice to the bylaw review
- consider the best ways of protecting the health of Pacific people that receive tatau.

Attendees included Matai (Samoan chiefs), a prominent tufuga ta tatau (master tattooist) and members of the Samoan community. Councillors, Local Board members, Pacific Peoples Advisory Panel members and staff also attended.

The significance of tatau

Group members want council staff and decision-makers to understand the special significance and sacredness of tatau to Samoan culture when considering bylaws and regulation.

The group noted that tatau is a “tradition that has been practiced for centuries” and has “not as much disease” as other tattooing process. One community member discussed the role of tatau in Samoan and Polynesian culture. While some cultures record their history on stone or on scrolls, Samoan (and other Pacific peoples) record their histories and genealogies on their skin.

Is the bylaw working?

Some individuals consider there is “over regulation of Samoans” and that it should be the duty of all Samoans to “take responsibility [for] keeping our culture alive”.

A tufuga supports the existing bylaw and minimum standards contained in the Health and Hygiene Code of Practice.

Some participants consider that “there is no evidence that the bylaw is working” or “did not know” whether the bylaw is working. Other participants consider the bylaw is working well and is important to keep people safe. Some participants reported that “tufuga are licensed” and in most cases are “practicing the safe way”.

Participants highlighted the importance of tufuga to the success of the bylaw. They believe that “the tufuga” would be in the best position “to understand the bylaw”. Participants noted that tufuga are best placed to lead and promote best practice amongst their peers and the wider community.

What changes should be made to the bylaw?

Participants consider the bylaw review process needs “to acknowledge tatau and its cultural significance to the Samoan people”. The bylaw should only seek to “minimise the risk of harm rather than regulate and merely categorise tatau...”

Participants felt that the bylaw was “good” at providing a guideline for best practice, but that it needs to “find a balance with traditions”.

The bylaw could be improved by using terms more consistently. For example, the word “operator” does not appropriately define or describe the role of the tufuga ta tatau. Participants raised concerns about the categorisation of tatau and the need to “differentiate between commercial and traditional” tattoo.

Participants consider that while the code of practice “looks good”, information needs to be made available regarding health and safety practices and enforcement procedures.

Licensing of tufuga

The discussion also focussed on registration and whether “tufuga should be licensed”.

A tufuga considers that all tufugas should be licensed and comply with minimum standards.

Concerns were raised about “cowboy” tattoo artists that operate outside usual Samoan tatau protocol and do not comply with the code of practice.

One community member commented that “as Samoans, we sometimes don’t like to be told what to do” but it was “important to remember there are also many rules in Fa’a Samoa”. These rules are important to make sure people do not get infections. Participants believe that a good balance can be achieved between “maintaining culture and safety”.

Some felt that the licensing “should be assessed by an officer with cultural knowledge and [using] traditional criteria”. Participants noted that “each family have their own particular approaches” to the tatau process.

“Commercial services” and tatau

Participants consider that the term “commercial service” creates confusion about whether tatau is regulated under the Bylaw. Community members and tufuga do not consider tatau to be a commercial service even though money is given in return. Tatau is distinct from commercial services because of the cultural and spiritual significance of the practice.

Best practice

A tufuga stated that he is committed to leading best practice. He was “the first tufuga to use a needle for the tatau” and his standard has always been the “use of one needle on one person”. He regards the guidelines and bylaw as useful in guiding best practice. During his time working in the United Kingdom his practices were much safer than local processes.

As “the whole practice of tatau has changed” and many tufuga have “now moved to the use of needles”, participants consider that “the bylaw will be useful” regarding the “sterilization of the metal tools used”. Some participants consider “it is better, neater, finer and less painful”.

The tufuga and other community members highlighted the importance “of knowing your tufuga well” and how they work to avoid health risks. The tufuga would assess the person getting the tatau from both a cultural and health capacity perspective.

Participants noted that there is “tapu” around the practice of tatau which means that good practice is followed. This tapu is only lifted when the tufuga decides it is appropriate.

The tufuga and other participants consider that “aftercare” is very important. This normally involves the tufuga writing out a set of instructions once a person has completed their tatau. Participants also reported that “aftercare is the biggest variable in the practice of tatau”.

Exemptions

Most participants acknowledge that “Māori are tangata whenua” but consider that the “tatau should be the same as Māori” and the same “exemption applied to ta moko should be extended to Samoa tatau”.

“Māori are able to tattoo under a Marae” whereas tatau would be practiced in a fale (traditional building). “Every person’s home is regarded as fale” and when tatau is carried out in a fale “customs and protocols” are followed like at a marae.

“The place where the tufuga practices the tatau is called a Apisā”. The tufuga along with other participants believe that the appropriate place to carry out tatau would be at the “Fale or Maota Samoa” in Auckland.

Some participants felt that if exemptions were to apply to tatau, then it should only be granted to the “Su’a and Tulouena” Samoan families who carry out the tatau.

Raising awareness

Participants strongly feel that it is the role of “Auckland Council to be a platform for conveying guidelines and messages” to the public. However, tufuga can play an important role in raising awareness.

Participants suggest Auckland Council take the following actions:

- carry out further engagement and increase awareness and education around the guidelines
- target youth through schools and exhibitions
- provide support for community led initiatives that profile tatau to a local, national and international audiences, while promoting best practice
- provide education on the significance and place of tatau at established festivals or new events. This could be a way help the tradition stay strong for future generations.

Importance of the talanoa

Participants felt that the “discussion is important to have with the Samoan people” and appreciated local board members, panel members and council staff organising the workshop.

The tufuga was happy to have been a part of the talanoa which “he has been waiting for for years”.

Find out more: phone **09 301 0101**
or visit aucklandcouncil.govt.nz/

