

***Public Health (Infection Control for
Personal Appearance Services) Act 2003***

**Report on Local Government activities 2014 -
15**

December 2015

Report on local government activities 2014 – 15

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www.health.qld.gov.au/eholocalgov/secure_area/icpasact2003/default.asp

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Summary

Local governments and the Department of Health are accountable to the community for ensuring that businesses providing personal appearance services in Queensland have acceptable infection control standards and practices in place and are therefore meeting their obligations under the *Public Health (Infection Control for Personal Appearance Services) Act 2003*, *Public Health (Infection Control for Personal Appearance Services) Regulations 2003* and the *Infection Control Guidelines for Personal Appearance Services 2012*.

Local government are responsible for administering and enforcing the *Public Health (Infection Control for Personal Appearance Services) Act 2003*, *Public Health (Infection Control for Personal Appearance Services) Regulations 2003* and the *Infection Control Guidelines for Personal Appearance Services 2012*. The Executive Director of the Communicable Diseases Branch within the Department of Health is the custodian of the legislation on behalf of Queensland Health.

Whilst several issues were identified as adversely impacting on local governments' ability to actively administer and enforce compliance with the Act, Regulations and the Infection Control Guidelines the feedback from local government revealed the overall state of the personal appearance service industry was sound. Issues raised include concerns with a lack of understanding of infection control procedures and practices in non-higher risk personal appearance service businesses, overlap of local government and state government licensing regimes and inflexibility of the legislation when dealing with temporary premises.

Most issues or breaches of the legislation, which were identified in the audit, were easily dealt with without the need for prosecution. Backyard operators are an ongoing issue identified by the industry groups but were not an issue raised via the report submissions.

The reporting template used for this report was in a trial format and some adjustment to improve its ability to capture accurate and relevant data prior to distributing for the 2015/16 reporting period will be made.

Introduction

The *Public Health (Infection Control for Personal Appearance Services) Act 2003* is the primary piece of Queensland legislation that deals with body art and personal appearance services.

The objective of the *Public Health (Infection Control for Personal Appearance Services) Act 2003* (the Act) and *Public Health (Infection Control for Personal Appearance Services) Regulation 2003* is to minimise the risk of infection that may result from the provision of hairdressing, beauty therapy and skin penetration services (collectively referred to as “personal appearance services”).

The Act has established a framework that:

- requires businesses and individuals providing personal appearance services to take all reasonable precautions and care to minimise infection risks
- requires proprietors of businesses providing higher risk personal appearance services to hold a licence
- requires individuals providing higher risk personal appearance services to hold an infection control qualification
- provides for compliance with the Act to be monitored and enforced.

The Department of Health (DoH), in association with local governments, are accountable to the community for ensuring that acceptable infection control standards are being achieved by body art and personal appearance services businesses.

One way of demonstrating that standards are being met is by monitoring compliance with the Act, the Regulation and the Infection Control Guidelines.

To achieve this, the Department of Health, through the Health Protection Branch established the Regulatory Oversight Committee (ROC), which provides broad oversight of and program/strategic level approval for regulatory initiatives, frameworks and processes in pursuit of the achievement of compliance with Queensland’s public health legislation. The ROC initiated a program of compliance oversight designed to ensure that there is a coordinated and integrated system to monitor the compliance activities associated with public health legislation. The *Public Health (Infection Control for Personal Appearance Services) Act 2003* is but one piece of legislation which sits under the ROC compliance banner. The ROC has established compliance committees to ensure a coordinated and integrated system for the efficient implementation of the compliance activities associated with public health legislation, and to demonstrate optimal and transparent administration by the Department as the regulator.

Compliance committees design, oversee the implementation of, and report on the administration of public health legislation. As there are specific accountabilities associated with the administration of legislation, all activities of the compliance committees are to be planned and reported on via the ROC. Compliance committees

report to the ROC through the relevant Responsible Executive as detailed in the Compliance Committee Terms of Reference. The Executive Director, Communicable Diseases Branch is the responsible executive for the *Public Health (Infection Control for Personal Appearance Services) Act 2003*.

This report will assist in ensuring and demonstrating to the community that acceptable infection control standards for businesses providing personal appearance services in Queensland are being achieved. The program of local government reporting will assist the Department to monitor compliance with the Act, the Regulation and the Infection Control Guidelines across the State.

As a partner in accountability for the Act, Queensland Health will provide local governments with an annual report on the state-wide administration and enforcement of the Act.

Background

Since the introduction of the Act, the Regulations and the Infection Control Guidelines in 2003 there has been no reporting requirement for Personal Appearance Services under the legislation.

To monitor compliance with the Act across the State, information is required from each local government. Monitoring compliance with the Act across the State will not only allow Queensland Health to determine whether compliance with the Act is being achieved but will also assist in determining whether the objective of the Act is being met.

It is intended that local government information exchanges will complement and supplement current data intelligence gathering systems and provide data to assist in the uniform state-wide administration and enforcement practices of the Act.

Changing demographics of the personal appearance service industry is driven by many factors, not the least of which are access, desire, permission and ability to identify. Access to ubiquitous global information, familiarity with celebrity lifestyles when combined with global reach of consumer information provides instant access to new trends. It does not matter who you are or where you live the internet provides you a connection and a solution that makes you unique.

Increased freedom and choice allows urbanites even more opportunities to construct their own identities outside of the traditions of their specific demographic. The ability to experiment and identify with a wider variety of brands and products is fuelling increased brand personalisation.

The personal appearance service business has shown significant expansion over the last few years based on Australia-wide reports (trendwatching.com November 2014 [Post-demographic consumerism](#)) as increased numbers of people, particularly in their late teens and early twenties are accessing body art and personal appearance services providers for designs which cover larger areas of their bodies.

Also it is expected the tattoo removal procedures and the tattoo removal businesses will boom over the next few years as this section of the industry expands to meet demands for tattoos to be removed, remodelled or new tattoos to replace old tattoos.

Survey Design and Methodologies

A Local Government Advisory Group (LGAG) was established in November 2012 for the *Public Health (Infection Control for Personal Appearance Services) Act 2003*.

Its purpose is to provide a forum between local government and Queensland Health for a collaborative approach to capture and address issues and challenges associated with the implementation, monitoring and enforcement issues of the *Public Health (Infection Control for Personal Appearance Services) Act 2003*, the *Public Health (Infection Control for Personal Appearance Services) Regulation 2003* and Infection Control Guidelines.

Its role, function and responsibilities include identifying and discussing the efficacy/effectiveness of the legislation, including barriers, issues and challenges arising from the implementation of the Act and the delivery of environmental health outcomes.

The group supports local government in discharging their responsibilities under the Act by:

- identifying trends and developments using evidence-based intelligence and data analysis
- the provision of expert advice and assistance
- the provision of guidelines and standard administration tools and
- providing the opportunity for guided skills development and mentorship.

The LGAG was consulted and used as a reference group to garner support for local government reporting and to design a reporting template.

Data sought in the reporting template included:

- The number of higher risk personal appearance service licences issued
- Number of inspections for higher and non-higher risk businesses
- Number of complaints received and number justified
- Number of Penalty Infringement Notices issued including the relevant sections of the Act
- Number of prosecutions
- Number of licence cancellations
- Types of issues at high and non-higher risk premises requiring corrective action

- Any other information/Issues relevant to the administration and enforcement of the Act.

In November 2014 a letter from the Chief Health Officer was emailed to all Chief Executive Officers of all Queensland local governments. The letter invited them to complete the reporting template for their respective areas to enable a state-wide snapshot of the administration and enforcement of the legislation. The information gathered will be used by the Department of Health to:

- provide an initial benchmark of the number of licenced higher risk personal appearance service businesses in Queensland and the local government monitoring and enforcement activities under the Act across Queensland
- identify and address common areas of non-compliance with the legislation
- refine the development of future reports on the administration and enforcement of the Act and the status of infection control practice in personal appearance service businesses within Queensland and
- respond to requests and enquiries from the Minister of Health and Ambulance Services, Director-General of the Department of Health and the Chief Health Officer in respect to personal appearance services.

The data collected will be collated into a state-wide report, which will be provided annually to each local government.

Results

There are 77 local governments in Queensland. The local government response rate to the data request was 84.4% (65/77) (Figure 1). Queensland's current estimated population (Queensland Government Statisticians Office figures) is estimated at 4,722,447 persons (Figure 2). The local government responses received represent 87.1% of the current estimated Queensland population.

The reports submitted by local government and used to compile this inaugural report will be used as baseline data for subsequent iterations of the annual reporting process.

The reporting parameters were broken down into five categories: licences issued, inspections (higher risk and non-higher risk premises), complaints, enforcement actions and additional comments. As this is the inaugural report the data present in this report will be used as baseline data for future compliance reports.

Figure 1 Local Governments submitting ICPAS compliance reports for 2014/15 period

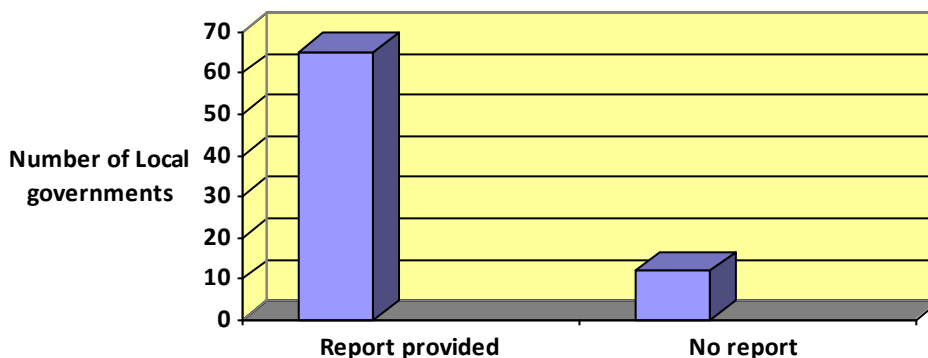
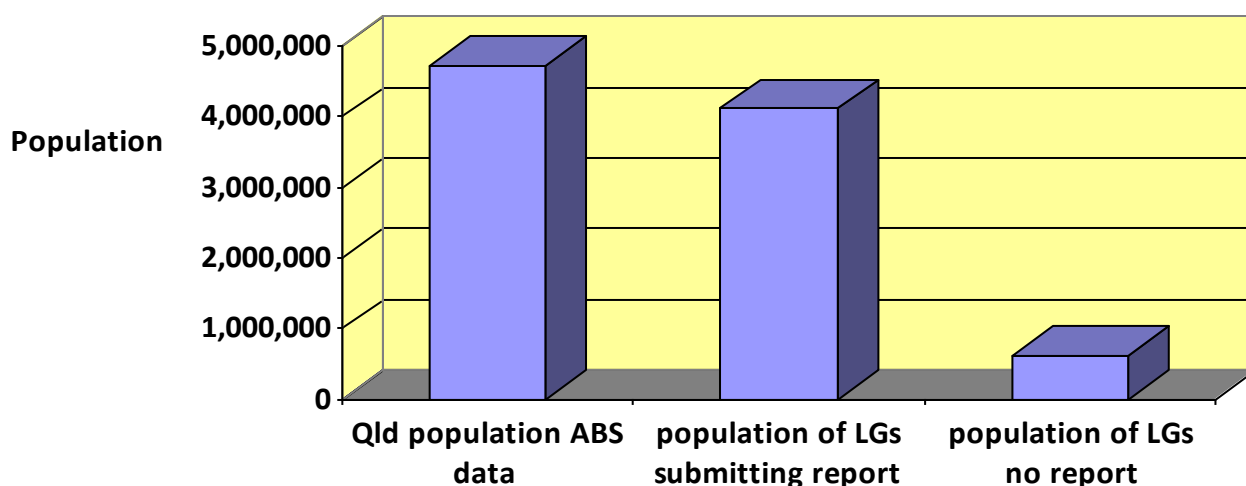


Figure 2 Queensland Population represented by ICPAS report



Summary of local government responses

Licenses issued

From the reports submitted by local governments (65/77), thirty-two local governments have licenced businesses, thirty-three do not have any licenced businesses while no report was received from 12 local governments. A total of four hundred and sixteen higher risk personal appearance service businesses were licenced during the 2014/15 financial year (Figure 3). Of the local governments which have issued licences under the Act, seventeen local governments had less than five licenced higher risk personal appearance service business while two local governments had a combined total of one hundred and seventy-seven licenced businesses (Figure 4).

Figure 3 Local Governments with higher risk personal appearance service business licences

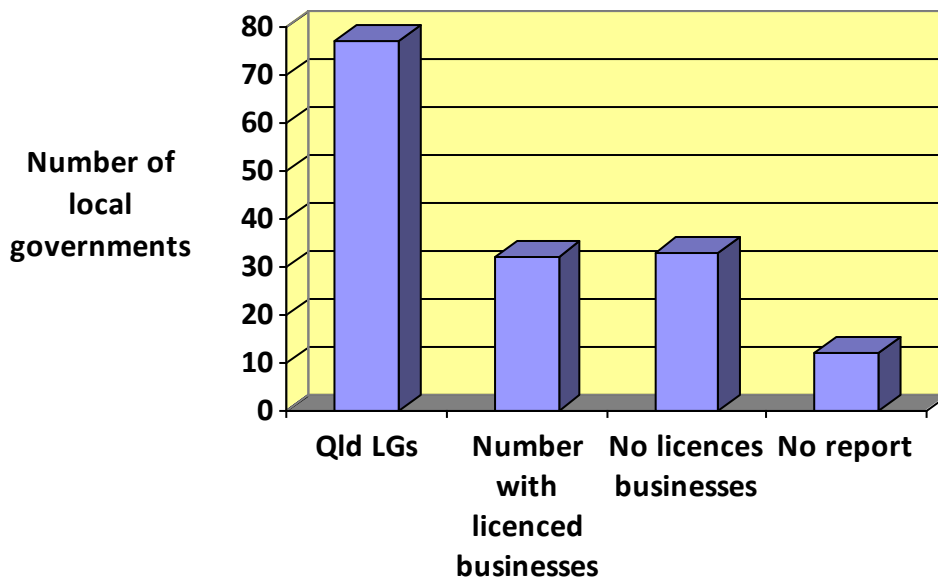
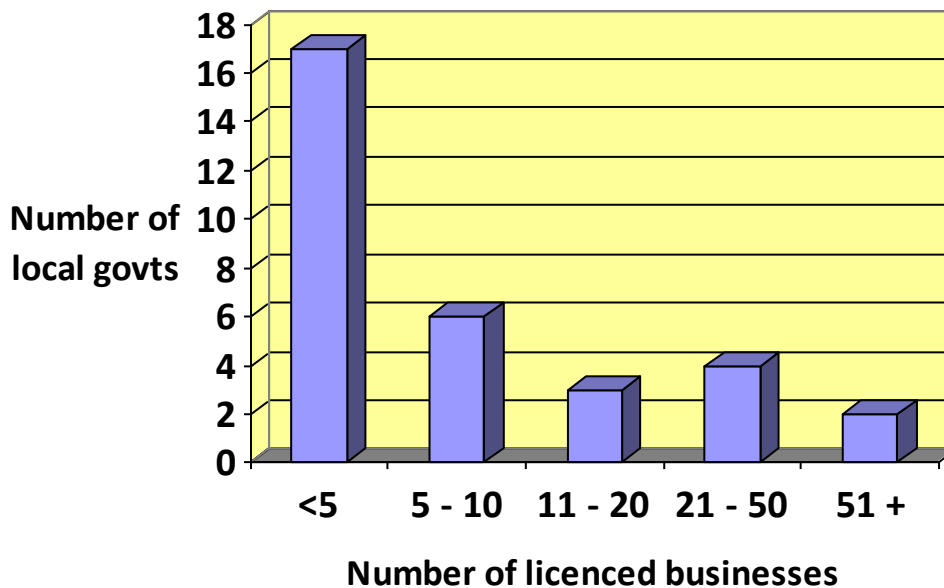


Figure 4 Governments with higher risk personal appearance service business licences by number



Inspections to monitor compliance

Routine inspections were conducted on 88% of the licensed higher risk personal appearance service businesses. One hundred and twenty inspections were also conducted on non-higher risk personal appearance service businesses. The non-higher risk personal appearance service businesses such as beauty therapy salons, nail salons and hairdressing establishments are not licensed by local government.

Some of these inspections were undertaken as part of a program to assess the level of compliance within the beauty industry (nail salons) with the Act and the infection control guidelines.

Complaints

Ninety-three complaints were received and dealt with by eighteen local councils during this reporting period. Forty-eight of the councils who submitted a report did not receive any complaints pertaining to the operation of personal appearance service businesses within their local government area. The majority of the complaints were for unlicensed home based or backyard operators.

Enforcement actions

The majority of identified breaches of the legislation were resolved without the need to initiate enforcement actions available under the Act. However there were three licences cancelled and one prosecution undertaken.

One local government developed an audit tool to assist Environmental Health Officers (EHO's) in undertaking audits of higher risk personal appearance service premises. The tool was provided to other local governments to assist in the audit process.

Issues identified by local government which are impacting on the administration and enforcement of legislation.

Several issues were raised in the reports submitted by local government which have been adversely impacting on their ability to administer and enforce the legislation. These include:

- Inflexibility of the legislation to deal with higher risk personal appearance services (ie tattooing) operating at temporary premises;
- Uncertainty surrounding the enforcement of the infection control guidelines. It is a requirement and a licence condition that a copy of the infection control guidelines (ICG) be kept on site, but not a condition that the ICG are complied with;
- No routine inspections/surveillance of non-higher risk personal appearance services businesses are undertaken as not required by Act;
- Inspections for non-higher risk premises are higher than usual due to a joint Logan City Council, Redland City Council and Metro South Public Health Unit project to investigate risks of infection transmission in nail technician businesses;
- There is an overlap between local government licensing, state government licensing and the legislation that applies to operators and businesses in the personal appearance service industry. E.g. *Tattoo Parlours Act 2013*, *Public Health (Infection Control for Personal Appearance Services) Act 2003*, *Radiation Safety Act 1999*, and the *Health (Drugs and Poisons) Regulation 1996*;

- Illegal operators can be difficult to detect as they are transient. Council licence year runs from 1 September to 31 August. Non-higher risk only inspected on a complaints basis.

Discussion

How are the issues raised to be addressed?

The issues raised by local government will be considered by the LGAG at subsequent committee meetings.

Licensing

The licensing regime which underpins the administration of the Act by local government relies on the interpretation of the definitions under the Act, which in turn determine if a procedure is a higher risk personal appearance service, a non-higher risk service or a service that is regulated under another piece of legislation. As new practices and procedures are being developed and implemented in the body art and personal appearance service industry, the current Act and regulations struggle to keep pace with these new practices and procedures. During the 2014/15 year an appendix was added to the booklets ‘What business needs to know’ and ‘A guide for local governments’ to assist in the categorisation of the procedures. The appendix will require continual review to assist both local governments and business in the administration and compliance with the legislation.

Enforcement actions

The reported enforcement actions undertaken by local government may need further analysis to ascertain if the Act provided an appropriate mechanism to resolve breaches identified. Issues identified from the complaints data indicate the definition of ‘Personal Appearance Services’ may impede enforcement practices because of the stipulation that the service is part of a business transaction.

The survey work completed during the past few years by joint local governments and public health units builds on the intelligence gathered from previous projects. Previous surveys have highlighted deficiencies in the skills and knowledge of infection control practices and procedures including hand washing, use of inappropriate equipment, staff training and a lack of educational resources for industry and Environmental Health Officers as issues for the industry.

During this reporting period two local governments conducted a joint proactive assessment and education program for non-higher risk personal appearance services, targeting nail technician businesses. The program’s aim was to evaluate the current infection control practices, the awareness of the Infection Control for Personal Appearance Services 2012 and provide educational material to support and improve practices. The program found some businesses had questionable hand washing practices; reuse of single use items, nail technician businesses unaware of the infection control guidelines, and foot spas cleaning procedures were inadequate. Infection control standards within the nail salon sector within the two local governments have increased due to this proactive approach. The recommendations of the program

will be considered by the working group and provide a valuable data source for the future compliance work.

Complaints

There are several authorities and sections within those authorities which deal with complaints from members of the public, health-care professionals and the operators of personal appearance service businesses. These authorities include the Office of the Health Ombudsman, the Office of Fair Trading, Queensland Police Service, local governments and the Department of Health Branches – the Communicable Diseases Branch and the Health Protection Branch.

Options being explored to facilitate enforcement actions on this front include joint inspections between officers of the Tattoo Probity and Enforcement Unit, Queensland Police Service and local government to address backyard operators.

Infection Control Qualification.

The Community Services & Health Industry Skills Council is responsible for oversight of training packages for the Community Services and Health Industry. The infection control competency required under the PH(ICPAS) legislation is HLTIN402C and this falls under the Health Sector training package. The training packages are in continual review. Increased oversight may need to be implemented to ensure the competency continues to be current, relevant and accessible to all operators.

The Infection Control Qualification which operators are required to hold prior to providing a higher risk personal appearance service has been updated. The current qualification is HLTIN402C – Maintain Infection Control Standards in Office Practice Settings. The competency includes the competency by its former titles ‘HLTIN2A— Maintain Infection Control Standards in Office Practice Settings’ and ‘HLTIN402B— Maintain Infection Control Standards in Office Practice Settings’.

Issues identified by local government which impact the administration and enforcement of legislation.

It is clear from the issues identified by local government that some impediments exist which hinder their ability to appropriately administer and enforce the provisions of the Act. Specific issues that will be progressed by the LGAG include:

- providing guidance on higher risk temporary premises such as tattoo shows or conventions, and subsequent compliance with the infection control guidelines as a condition of the licence, and
- clarifying the overlap of local government and state government licencing.

Reporting template

Whilst the reporting template was a useful tool for collecting the data for this initial report, some modification may be needed as some gaps in the data have been identified. These include:

- better extrapolation of issues under complaints

- understanding of fees set by councils
- visibility of local laws or resolutions made by local governments and
- identifying instances where alternate infection control practices have been adopted to minimise the infection risk.

Fees under the Act.

Local Governments have the ability through a local law or a resolution to charge a fee for providing a service or taking action under the Act. The fees can cover the cost of a licence but also can cover the costs of inspection to monitor compliance.

Abbreviations

ABS	Australian Bureau of Statistics
DoH	Department of Health
EHO	Environmental Health Officer
ICG	Infection Control Guidelines
LGAG	Local Government Advisory Group
MSPHU	Metro South Public Health Unit
PH(ICPAS)	Public Health (Infection Control for Personal Appearance Services)
ROC	Regulatory Oversight Committee

References

<http://trendwatching.com/trends/post-demographic-consumerism/> November 2014

TREND BRIEFING - POST-DEMOGRAPHIC CONSUMERISM

Estimated resident population by local government area (LGA), 2004 to 2014

Queensland Government Statisticians Office -

<http://www.qgso.qld.gov.au/subjects/demography/population-estimates/tables/erp-lga-qld/index.php>

