

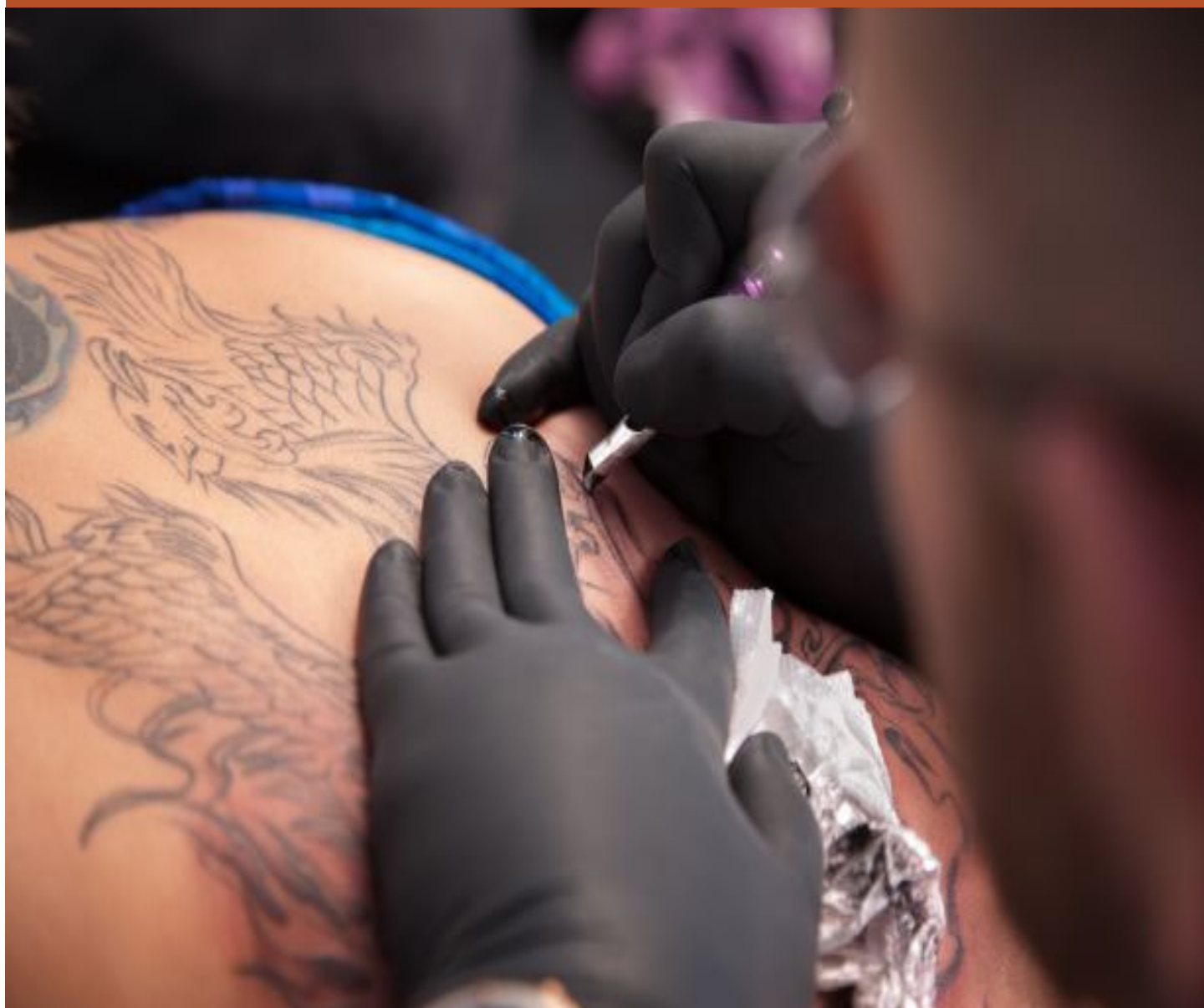


Merri-bek
City Council

Public Health & Wellbeing Act Management Policy

Environmental Health

March 2023



Purpose

The purpose of this *Public Health and Wellbeing Act Management Policy* is to protect the health and wellbeing of the community by minimising adverse health outcomes associated with prescribed public health businesses within Merri-bek City Council. The policy outlines the management system that will be implemented by the Environmental Health Unit (EHU) to achieve the goals of this policy.

The EHU has developed this policy to ensure that the administration and enforcement of public health and wellbeing laws are applied in a fair and consistent manner and support a risk-based approach to the management of public health businesses in the municipality.

This policy provides a framework to guide the development of processes, procedures, resources, and enforcement guidelines that will ensure that public health businesses in Merri-bek City Council operate in a manner that is safe for clients.

Underpinned by a risk-based approach, this policy supports the effective management of council's legislative responsibilities under the provisions of the *Public Health and Wellbeing Act 2008* and is consistent with the broad objectives of the Council Plan 2021-2025 and Public Health and Wellbeing Plan 2017-2021.

Introduction

Merri-bek City Council plays an important role in enhancing the safety and security of our community. Ensuring the provision of safe public health practices undertaken by prescribed businesses is critical to the welfare of our communities. The EHU within Merri-bek City Council is responsible for managing the Council's statutory obligations under the *Public Health and Wellbeing Act 1984* (the Act) and relevant healthcare guidelines supporting public health businesses.

Under the Act, public health and wellbeing premises owners are legally responsible for ensuring that the activities conducted on site, services provided, and procedures undertaken on clients are done in a safe and hygienic manner. Local councils are responsible for the regulation of a range of public health businesses in Victoria as prescribed by the Act and are the registration authorities of these premises located within their municipalities. Local councils are responsible for administering the Act, including ensuring that premises comply with the Act and the Health Care guidelines.

Under the Act, the following types of businesses are prescribed as requiring registration by Councils:

- beauty therapy
- applying cosmetics that does not involve skin penetration or tattooing
- colonic irrigation
- hairdressing
- skin penetration procedures
- tattooing
- prescribed accommodation including rooming houses, hostel, hotels/motels, holiday camps, residential accommodation and student dormitories.
- Category 1 aquatic facilities

The health industry is constantly evolving and innovating in response to public trends and needs. Merri-bek City Council is agile and responsive to the changing needs of its community and ensures that risks to public health are managed appropriately. This policy supports the council's statutory obligations under the Act and provides the framework for identifying potential and actual health risk and responding and directing resources as required.

This policy states how Merri-bek City Council applies a risk-based approach to facilitate compliance under the Act through activities such as education, advice, monitoring compliance and undertaking enforcement action when necessary.

This policy is critical in addressing new and emerging public health risks to the community, businesses, and council.

To achieve the delivery of safe public health outcomes Council's EHU:

- Works in partnership with our business and community through the provision of expert advice and support.
- Utilises a risk management framework for assessing and managing public health risks and communicating the risk and decisions taken to mitigate them.

This policy outlines a structured framework and identifies tools to assist the EHU in incorporating public health risks as well as other relevant factors into public health decision making and applies across Merri-bek City Council.

Context

Alignment

This Policy is aligned with the *Merri-bek City Council, Council Plan 2021-2025* with respect to the Strategic Objective – Responsible Council. This will be achieved by providing transparent and effective governance of Council's operations.

This Policy is also aligned with the *Merri-bek City Council, Municipal Public Health and Wellbeing Plan 2017-2021* (Focus Area: Healthy Communities). This will be assessed against Outcome 2: Council will ensure effective governance of public health practices across Merri-bek and in accordance with the *Public Health and Wellbeing Act 2008*.

The Environmental Health Enforcement Policy (D17/386876) needs to be read in conjunction with this Public Health and Wellbeing Management Policy to achieve a full understanding of the management of public health safety within Merri-bek City Council.

Organisational Context

The EHU aims to be an influential and effective regulatory unit that exercises its statutory authority fairly and credibly. The EHU works collaboratively with a range of internal Units to deliver a public health and wellbeing service including Economic Development, Urban Planning and Building Services.

OBJECTIVES

The main objectives of this policy are:

- to protect the health of the community by minimising the health risk associated with the public health and wellbeing practices in the municipality
- to enhance compliance of public health and wellbeing businesses with the Act through prevention-based activities such as education and effective stakeholder management
- to support businesses to reduce unsafe public health practises and non-compliance with the Act by encouraging a safety culture
- to monitor and assess trends in compliance and performance of public health businesses to inform strategic priorities
- to demonstrate transparency and accountability to the community, businesses and council officers when applying enforcement options for public health business' non-compliance with the Act
- to ensure resources are directed toward non-compliance and public health businesses that pose the higher risk to the community
- to provide a framework to ensure the consistency and transparency of council's authorised officers' decision making and actions in public health safety monitoring and compliance activities
- to provide a robust risk management model

POLICY DETAILS

Principles

In line with Merri-bek City Council's legislative responsibilities and strategies, this policy is guided by the following principles:

Principle 1: Transparency

The methods used to ensure public health safety compliance, monitoring and enforcement activities are open to enquiry from public health businesses and community members.

Principle 2: Consistency

Enforcement of legislation and assessment of compliance regarding public health safety risk will be conducted in a fair and consistent manner.

Principle 3: Collaboration

Council will assist public health business proprietors to understand their legislative responsibilities under the Act to provide public health that is safe and suitable, and will seek opportunities to educate all relevant stakeholders, including public health business staff and the community about public health safety.

Principle 4: Risk-based management

Public health safety risk will be managed using the principles set out in ISO 31000:2018: Risk Management – Principles and Guidelines.

Principle 5: Risk-based assessment

Enforcement priorities will be based on the level of risk posed by a public health business and the consequences to the consumer from any failure to address public health safety hazards at the business.

Principle 6: Evidence-based decision making

Decisions relating to enforcement action will be based on assessments of risks.

Principle 7: Communication

Council will provide timely, clear, and targeted communications to all relevant stakeholders.

This Policy also aligns with the principles outlined in the *Public Health and Wellbeing Act 2008*, being:

Evidence based decision making

Decisions as to the most effective use of resources and most effective and efficient public health interventions should be based on evidence available in the circumstances that is relevant and reliable.

Precautionary principle

If a public health risk poses a serious threat, lack of full scientific certainty should not be used as a reason for postponing measures to prevent or control the public health risk.

Primacy of prevention

The prevention of illness, disease, injury, disability, or premature death is preferable to remedial measures.

Accountability

As far as practicable, decision making should be transparent, systematic, and appropriate, with members of the public able to understand public health issues.

Proportionality

Decisions and actions taken should be proportionate to the public health risk sought to be prevented, minimised, or controlled and should not be taken in an arbitrary manner.

Collaboration

Public health and wellbeing can be enhanced through collaboration at government, industry, business, community, and individual levels.

Public health premises registration

Prescribed public health premises (as outlined above) within the municipality must be registered with Merri-bek City Council under the Act to ensure public health services provided by the public health business is safe for consumers. This does not apply to public health businesses that fall under the licencing responsibilities of other authorities such as AHPRA or the State Department of Health.

Classification of public health premises by the Merri-bek City Council is determined by the highest level of risk associated with the activities at the public health premises.

Monitoring public health premises

Merri-bek City Council fulfills its duty as the registration authority under Part 6 of the Act. In addition, Merri-bek City Council takes a risk-based approach to public health safety management with a range of tools including, but not limited to, undertaking inspections and non-compliance investigations, the outcome of which influences the monitoring regime of the public health premises. Council officers focus their efforts on identifying and addressing the risks associated with public health processes in addition to the application of regulatory requirements.

The classification of a public health premises and compliance with the Act, Regulations and the Guidelines will determine the frequency of assessments or inspections undertaken by council. The aim of an inspection is to ensure council resources protect public health and are directed at public health businesses that pose a potentially greater risk to the community. Merri-bek City Council, at the discretion of the Unit Manager Environmental Health, may recover costs associated with additional inspections in line with councils' environmental health fees procedure (D20/509583).

Clear and documented communication of the monitoring outcomes are provided to public health business to support its understanding of the results, providing evidence on which the outcome is based, and the strengths and the gaps of the public health processes assessed. In addition to providing transparency and accountability to the public health business, this process also allows council officers to build a public health business' profile and document the ongoing compliance and monitoring of the business and promote consistency amongst authorised officers assessing public health premises.

Public health business proprietors receive a written report of the council officer's assessment and outcome within 5 business days.

Managing non-compliance

Merri-bek City Council uses a graduated and proportionate, risk-based approach to public health safety that recognises that in some instances enforcement action is necessary when unsafe public health practices pose a direct and immediate risk to public health.

The highest level of public health safety non-compliance influences the overall compliance outcome. Rectifications made by the business at the time of an inspection, to reduce the risk to public health, do not impact the compliance outcome.

In instances of non-compliance council officers will identify and assess the risk associated with that non-compliance.

An escalation of enforcement measures may be applied to ensure that severe and punitive enforcement tools are used where the risks associated with non-compliance are the greatest, and that less severe tools are used where the risks associated with non-compliance are relatively low.

Council officers will consider several factors when making a determination about the most appropriate response to obtain compliance including: the risk of harm, compliance history of the public health premises, intent of the proprietor, cooperation of the staff, and the willingness of the business to rectify the issues raised by the council officer. For all inspections, contemporaneous notes are recorded to provide reference for the council officer to support the direction and form evidence of the most appropriate response.

Merri-bek City Council considers enforcement tools should be used that are commensurate with the risk a public health businesses' activity. Tools such as a closure order, penalty infringement notice, revocation of registration or prosecution will be considered in circumstances of major or critical non-

compliance that pose a serious or immediate threat to public health. Council officers will also use their discretion to consider other factors which have contributed to the non-compliance and subsequent actions by the public health business.

Continued non-compliance is likely to result in escalation of enforcement action by council. Further guidance in relation to enforcement options is available through the Environmental Health Enforcement Policy and Environmental Health Enforcement Procedure (refer associated documents).

Risk Based Management

Illness that is the outcome of poor practices from public health businesses can result in economic and social costs to the Merri-bek community, as well as potential reputational damage. Effectively managing the risks associated with these businesses can help to reduce these impacts.

Merri-bek City Council maintains a risk profile and register of public health businesses operating within the municipality. This risk profile includes details on:

- The risk classification of registered businesses.
- Scale of activities undertaken (number of employees, annual turnover, number of operating days).
- Potential consumer base (open or limited).

Assigning a risk classification to public health activities allows Council to focus resources and inspection schedules based on the potential level of risk to the community. The Management of Environmental Health Inspections Procedure (D22/386638) incorporates an inspection risk prioritisation schedule. This procedure and schedule acknowledge that the aim is to achieve annual inspections of all public health premises as currently required under the *Public Health and Wellbeing Act 2008*. This is also replicated in the Environmental Health Service Unit Plan.

It is important to ensure that physical structures and equipment within public health businesses are maintained to an appropriate standard to allow business owners to conduct their activities safely. While important, structural and equipment standards are not the only criteria in assessing the risk to the public. The EHU will obtain a detailed knowledge of practices undertaken in public health businesses and work with businesses to identify and manage additional potential public health safety risks arising from processes implemented across the business. This may involve multiple site visits and discussions with business owners and a proportional response to assessed public health safety risk.

In applying a risk-based approach to managing public health safety a range of procedural practices will be implemented as outlined in the Associated Documents.

Support to Businesses and Communities

To ensure business owners and the wider community are aware of best practice in public health practices, the EHU will assist in providing education and disseminating public health safety messages. This will occur:

- When engaging public health business owners during business inspections.

- By providing advice and support to internal units of Council when responding to current or potential public health businesses (for example providing information at planning permit stage, providing information to the Economic Development Unit).
- By actively seeking opportunities to provide education.
- Through publishing, via its community networks, an online newsletter for public health businesses

Public health Safety Considerations

Relative Potential Public Health Illness in the Community

Diseases possible to be contracted from attending a public health and wellbeing premises practicing poor infection control include hepatitis, HIV, staphylococcal infection, fungal infections, and warts/herpes viruses. This is particularly high risk in treatments involving skin penetration procedures and is a risk to both the operator and the client.

It is impossible to verify the rate of illness in the community because of attending a registered public health business as data is not routinely reported on these cases and some conditions may not require mandatory reporting.

Anecdotal evidence suggests a low level of illness in the community resulting from diseases generally attributable to public health and wellbeing premises.

Trade and Economics

Council invests significantly in the development of a range of businesses throughout the municipality. This encourages the development of employment opportunities and flow on economic prosperity within the municipality. This investment is realised through the provision of information, networking opportunities, business mentoring and investment facilitation. Many of these opportunities are delivered by a few units across Council.

In providing support to public health businesses, Council also ensures that appropriate public health safety material and education is provided to business owners. It is critical that the focus on public health safety is given priority over:

- Desire for increased business development at the expense of community safety.
- Pressure to support businesses that are financially unviable (and therefore at higher risk of cutting corners).
- Lack of appropriate culturally relevant materials on public health safety.

ROLES AND RESPONSIBILITIES

Party/parties	Roles and responsibilities	Timelines
Environmental Health Unit	Implement this policy and follow any procedures arising from this policy	Ongoing

MONITORING, EVALUATION AND REVIEW

Implementation of this policy and the associated documents will ensure that the EHU collects and analyses relevant public health safety risk data which will in turn inform a proportionate response to these assessed risks. A part of the collection and analysis of data will include monitoring notified cases of illness in the community to improve beneficial outcomes for the community.

In evaluating the outcomes of this policy Council expects to observe:

- The identification and follow up to critical and major public health safety risks as the mechanism used to target poor performing businesses.
- Improvements in the level of skills and knowledge of business owners and public health handling staff leading to better management of public health safety.
- Reductions in the level of repeat non-compliance with public health safety management practices.
- Reductions in the level of relative public health borne illness within Merri-bek City Council.

This policy and its implementation must be reviewed at least every 3 years to ensure effectiveness, continued application, and relevance, or because of amendments to legislation.

ASSOCIATED DOCUMENTS

- Environmental Health Enforcement Policy (D17/386876)
- Environmental Health Management of Inspections Procedure (D17/223683)
- Public Health and Wellbeing Inspections Procedure (D17/185146)
- Public Health and Wellbeing Premises Inspection Risk Rating Procedure (D22/531659)
- Environmental Health Enforcement Procedure (D17/240342)
- Environmental Health Infringement Procedure (D17/349989)
- Environmental Health Fees and Charges Procedure (D17/52976)