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DEALING WITH AUTHORITIES - CONSUMER AFFAIRS VICTORIA

**USEFUL THINGS
TO KNOW ABOUT:
SEX WORK PREMISES
IDENTIFICATION
POWERS OF INSPECTION
COMPLAINTS
AND CONDUCT**

Victoria Police, **Consumer Affairs Victoria (CAV)** and other regulatory authorities such as the Department of Health and Human Services and WorkSafe Victoria can inspect brothels and escort agencies and ask questions. These searches can be random or follow a report of an alleged breach.

This fact sheet specifically relates to your rights and obligations if someone from CAV wants to inspect a brothel where you work.

CONSUMER AFFAIRS VICTORIA

CAV is the regulator of the licensed sex work industry in Victoria. One of CAV's functions is to monitor compliance with, and prosecute breaches of, the *Sex Work Act 1994* (Vic) (**SWA**)¹. CAV also houses the Business Licensing Authority (**BLA**) Registrar, which maintains a public register of brothel and escort agency license holders and approved brothel managers².

IDENTIFICATION

There are a number of situations (outlined below) in which a CAV inspector (Inspector) can enter a brothel or escort agency. In all situations, they are required to produce their ID badge³. It is an offence if they do not show you their ID.

Inspector's ID must contain a photo of the Inspector⁴ and is likely to include their logo, which may look like this:



ANSWERING QUESTIONS

If you work in a brothel or escort agency, you may be required to answer questions asked by an Inspector. Inspectors can require sex work licensees to answer questions about their business, or produce documents about that business⁶. They may also compel third parties who hold information about a sex work licensee to answer questions or produce documents about that business⁷.

If an Inspector believes on reasonable grounds that a premises is an unlicensed brothel, the inspector may request any person who is entering or leaving those premises to⁸:

- a. provide their name and address; and
- b. answer any questions put by the Inspector in relation to the use of the premises; and
- c. provide a written statement to the Inspector in relation to any questions put by the inspector under paragraph 'b'.

There are penalties if you do not comply with these requirements, or provide false or misleading information to an Inspector⁹.

SEARCH & INSPECTION POWERS

Inspectors can enter and search a brothel or an escort agency unannounced to ensure that it is in compliance with the SWA and the *Sex Work Regulations 2016* (Vic) (the Regulations). Inspectors can do this in three ways: with consent; with a search warrant; or without consent or warrant.

ENTRY WITH CONSENT

Inspectors may enter and search any premises with the consent of the occupier¹⁰. The ‘occupier’ would generally be the person who has responsibility for the premises (i.e. the owner, or the tenant). If a Inspector enters in this way, they must identify themselves, and tell the occupier¹¹:

- » the purpose of the search;
- » that the occupier may refuse to give consent to the entry and search or to the seizure of anything found during the search;
- » that the occupier may refuse to consent to the taking of any sample of goods or any document found on the premises during the search; and
- » that anything seized or taken during the search with the consent of the occupier may be used in evidence in proceedings.

They may obtain consent to enter by asking the occupier to sign an acknowledgement of consent in the proper form¹².

If Inspectors enter in this way, they may seize any items they reasonably believe are connected to a contravention of the SWA or the Regulations. If they seize any items, they must obtain the occupier’s consent to do so by way of a signed acknowledgement in the correct form.

If any acknowledgements are signed, then the inspector must give the occupier a copy of this¹³.

ENTRY WITH SEARCH WARRANT

Inspectors may enter any premises, licensed or unlicensed (including a vehicle in a public place), if they obtain a search warrant from a Court¹⁴. On presenting a warrant, an Inspector¹⁵:

- a. must announce that they are authorised by the warrant to enter the premises; and
- b. if they have been unable to obtain unforced entry, must give;
 - » any person at the premises an opportunity to allow entry to the premises;
 - » or any person on or in the vehicle an opportunity to allow entry to the vehicle.

An Inspector doesn't need to comply with the above if they believe on reasonable grounds that immediate entry to the premises or the vehicle is required to ensure the safety of any person, or that a delay would defeat the purpose of the warrant.

When executing a warrant, an Inspector must identify themselves and give the occupier of the premises a copy of the warrant. If the occupier is not there, the inspector must give the warrant to a person at the premises (if any)¹⁶.

Where a warrant is issued, it allows the Inspector to seize things beyond what is listed in the warrant, so long as they believe, on reasonable grounds, that the thing:

- a. is either of a kind which:
 - » could have been included in a search warrant; or
 - » will afford evidence about the contravention of any law that CAV enforces¹⁷; and
- b. the Inspector believes, on reasonable grounds, that it is necessary to seize that thing in order to prevent its concealment, loss or destruction or its use in the contravention of any law that CAV enforces.

ENTRY WITHOUT CONSENT OR WARRANT

Inspectors may enter a licensed sex industry workplace without consent or a warrant. They can do so at any time during operating hours or between the hours of 9:00am and 5:00pm¹⁸. If entering this way, the Inspectors must not enter or search the premises until they have produced their identification card for inspection. During such a search, Inspectors can¹⁹:

- » seize anything that the Inspector believes on reasonable grounds to be connected with a contravention of the SWA or the Regulations;
- » inspect and make copies of, or take extracts from, any document kept on the premises.

Inspectors may bring a member of the police force or another Inspector with them to help them.

COMPLAINTS

If you are unhappy with the conduct of a Inspector, you can make an initial complaint to CAV through its online feedback form²⁰, by post or by phone on **1800 55 81 81**.

If you have complained to CAV and you are not satisfied with how CAV has responded, you have the right to lodge a complaint with the Victorian Ombudsman. The Victorian Ombudsman is an independent office that investigates complaints about Victorian government departments and councils.

If your complaint is substantiated, the Ombudsman may recommend that the government authority take some action to remedy the problem. However, they cannot force the government department to act. For more information, visit the Victorian Ombudsman website²¹ or call **03 9613 6222** (**1800 806 314** for regional callers).

CONTACTS

If you have further questions about your rights, please contact the following organisations:

VIXEN COLLECTIVE

Vixen Collective promote the cultural, legal, human, occupational and civil rights of all sex workers. You can phone them on Vixen Collective's peer support line 0414 275 959 or email vixencollectivemelbourne@gmail.com.

RHED

Resourcing health & Education in the sex industry (RhED) provides site based and outreach services in collaboration with relevant programs and agencies. You can contact RhED by email sexworker@sexworker.org.au, via their website sexworker.org.au or call them on 1800 458 752.

ST KILDA LEGAL SERVICE (SKLS)

SKLS receives referrals for legal assistance from sex worker organisations. It provides free legal assistance to residents in the cities of Port Phillip, Stonnington and Bayside, and runs specialist programs including a Community Outreach Program, Family violence Program, and LGBTIQ Legal Service. You can contact them via email info@skls.org.au or phone on (03) 8598 6635.

REFERENCES

1. *Sex Work Act 1994 (Vic)* s 26.
2. *Ibid* s 25, see also Consumer Affairs Victoria, Public register of licensed sex work service providers (22 September 2018), accessed online on 23 April 2019 at consumer.vic.gov.au/licensing-and-registration/sex-work-service-providers/public-register.
3. *Sex Work Act 1994 (Vic)*, s61B
4. *Australian Consumer Law and Fair Trading Act (Vic) 2012* s143(2).
5. Consumer Affairs Victoria, accessed online on 23 April 2019 at consumer.vic.gov.au.
6. *Sex Work Act 1994 (Vic)* s 61D.
7. *Ibid* s61E.
8. *Ibid* s 61DA.
9. *Ibid* ss 61DA(3)-(6).
10. *Sex Work Act 1994 (Vic)* s61J(1)(a).
11. *Ibid* s 61J(2)(b).
12. *Ibid* s 61J(3).
13. *Ibid* ss 61J(3)-(5).
14. *Ibid* s 61L.
15. *Ibid* s 61M.
16. *Ibid* s 61N.
17. These acts are called the “Consumer Acts”, see *Australian Consumer Law & Fair Trading Act (No. 21 of 2012) (Vic)* sch 1 for a comprehensive list.
18. *Ibid* at s 61K.
19. *Ibid* s 61K.
20. Consumer Affairs Victoria, accessed online on 23 April 2019 at consumer.vic.gov.au/contact-us/provide-feedback-about-consumer-affairs-victoria.
21. Victorian Ombudsman website, accessed online on 23 April 2019 at ombudsman.vic.gov.au/.



The information in this booklet is of a general nature. **For detailed and up-to-date advice contact a lawyer.**

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