

You may cooperate with the officer and allow immediate entry to the property, but can insist on being given two clear days' notice unless the officer has a warrant. This does not apply where the premises is being inspected by police for being an unlicensed brothel.



might look like this:

If it is a member of the Department of Environment, Land, Water and Planning that is carrying out the investigation, their logo should then include the relevant council logo.

It is important that you know the relevant council you are working in. For example, if you are working in St Kilda, you are covered by the City of Phillip. Any Authorised Officer's ID

- » a photo of the Authorised Officer;
- » the signature of the Authorised Officer; and
- » the signature of a member of the relevant Council.

Authorised Officers must carry an identity card that has:

if requested"

a warrant or notice, should be made available

Formal identification, such as proof of authorisation,

"it is good practice for the officer to provide a business card. If a premises or land is being inspected by an Authorised Officer,

## IDENTIFICATION



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

A full copy of this information sheet, including reference and source material, is available at [skls.org.au](http://skls.org.au)

### ACKNOWLEDGEMENTS:

Thank you to individual sex workers, to Vixen Collective and to the team at RhED, all of whom helped put this booklet together



Funded by a grant from

**Victoria Law Foundation**

For the purpose of this information sheet, any reference to "Authorised Officer" means someone that can inspect a premises from, or on behalf of, a council.

- » council planners;
  - » building surveyors;
  - » compliance auditors; or
  - » plumbing inspectors.
- Examples of a person who might be allowed to inspect a property on behalf of council include, but are not limited to:

## COUNCIL PEOPLE

**It is important to mention that council laws change from council to council. Because of this, we can only provide general information.**

Councils are responsible for monitoring compliance with various laws and by-laws, including those relating to planning schemes and building/planning permits (i.e. does a building have permission to be used as a brothel). You may encounter them when your workplace is having issues relating to its building, the way the building is being used, and/or permits.

PUBLISHED JUNE 2019

# DEALING WITH AUTHORITIES - LOCAL COUNCILS

**USEFUL THINGS TO KNOW ABOUT: COUNCIL PEOPLE IDENTIFICATION RIGHTS OF ENTRY INSPECTIONS AND QUESTIONING**

## RIGHTS OF ENTRY

Authorised Officers can enter a property at any reasonable time (for example, during work hours) to carry out actions under the *Planning and Environment Act 1987* (Vic) (i.e. to make sure permit conditions are being complied with). Before entering, the Authorised Officer must do one of the following:

- » get consent of the occupier (this can be done on the day and preferably should be documented in writing);
- » give the occupier two days' notice; or
- » get a warrant.

Police officers may accompany Authorised Officers to assist them in entering your workplace.

### Any warrant or notice should be carefully inspected.

It is an offence to obstruct an Authorised Officer (or a member of the police assisting an Authorised Officer) and a person who does so could be subject to a penalty of up to 60 penalty units.

If a premises is under investigation for being an unlicensed sex work premises, it will be investigated by Victoria Police not by an Authorised Officer from any council. This can be done by police either with or without a search warrant.

For more information on interactions with Police, please see the information sheet, 'Dealing with Authorities – Police'.

P3

## INSPECTIONS

Most council-related investigations are commenced because of a complaint from a member of the public. There are a large number of reasons why councils may commence investigations. The following might be reasons a council officer would want to inspect a brothel/escort agency. **Please remember that this is not a complete list and there may be other reasons:**

- » No building or planning permit – There are changes being made to the building without proper permission. This may include demolition or extension, or even signage in certain cases.
- » Non-compliance with building or planning permit conditions – This relates to when a building itself (i.e. its physical appearance), or the way it is being used, doesn't comply with a council permit. Specific examples include:
  - a. The building: window screenings that are not installed as required; or
  - b. How the building is being used: operating outside pre-approved hours (i.e. a building might have a planning permit to be used as a brothel on the condition that it only operates from the hours of 12pm-12am. Anything outside these hours would be inconsistent with the planning permit).
- » Nuisance – this is when a council has received a complaint from neighbours that something in the area is "offensive" to health and could be causing injury or discomfort. Often this relates to noise (people/music/traffic/animals), but can also relate to smells, smoke or even rubbish being left around. Councils are required to investigate complaints relating to nuisances.
- » Illegal use – if a premises is being used to provide sex services for money, but doesn't have a permit to be used as a "brothel", this would be considered an illegal use of land. Most illegal uses are investigated by councils. However, there are special provisions under the *Sex Work Act 1994* (Vic) (the

P4

SWA) that give Victoria Police the power and responsibility to investigate illegal uses relating to brothels instead of an Authorised Officer. Where you are an individual sex worker providing in-call services without a licence as a small owner-operator (and so legally operating as an exempt sex work service provider under the SWA) you must still obtain a planning permit from the local council to use your premises in this way, as well as your landlord's consent (if relevant).

There may be other reasons why you interact with council or officers working for a council under other local laws.

Someone from Council can –

- » take photographs or measurements;
- » make sketches or recordings; and/or
- » take and remove samples. Samples may include building materials or even business cards.

The *Planning and Environment Act 1987* (Vic) allows an authorised officer to 'do all things necessary' to promote the orderly use of land. However, these actions must always be done lawfully and Authorised Officers must follow procedural guidelines.

## QUESTIONING

Authorised Officers may ask you questions like:

- » Who owns the land?
- » Who operates the business?
- » What work is carried out on the premises?

You are required to give your name and address to an Authorised Officer if they ask. Any other information you give Authorised Officers must be given voluntarily.

P5

### LOOKING FOR MORE SPECIFIC INFORMATION?

You can find and contact your local council and their contact information on [knowyourcouncil.vic.gov.au/councils](http://knowyourcouncil.vic.gov.au/councils). If you want to make a complaint about the conduct of an Authorised Officer, please see the relevant council website for more information.

## 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](mailto: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](mailto:sexworker@sexworker.org.au), via their website [sexworker.org.au](http://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](mailto:info@skls.org.au) or phone on (03) 8598 6635.

P6