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DEALING WITH AUTHORITIES - THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

USEFUL THINGS
TO KNOW ABOUT:
RIGHTS OF ENTRY
IDENTIFICATION
INSPECTIONS
YOUR RIGHTS
AND COMPLAINTS

As a sex worker operating in a brothel or an escort agency, you have the right to expect your work environment to be safe for your health.

Many government departments have the power to inspect workplaces to ensure they are operating safely. This information sheet looks only at the inspection powers of the Victorian Department of Health and Human Services (DHHS) and sets out its rights and responsibilities when inspecting brothels and escort agencies.

DHHS is required under the *Public Health and Wellbeing Act 2008* (Vic) (the Act) to inspect all licensed brothels at least once a year¹. They may also inspect escort agencies.

RIGHTS OF ENTRY

A DHHS Officer can enter a premises at any time if they have:

- » written consent of the occupier, for example the landlord or brothel licensee²;
- » a search warrant issued by a Magistrate³; or
- » reasonable grounds to believe there is an immediate risk to public health⁴.

A DHHS Officer can, however, without consent or a warrant, enter a premises during a reasonable hour (9:00am to 5:00pm), or during hours of operation to inspect that all health and safety regulations and being complied with⁵.

Inspections may be done for the purpose of investigating whether there is a risk to public health or to manage or control a risk to public health⁶. If you are working during an inspection, the owner/operator cannot stop a DHHS Officer from interviewing you⁷.

If you are being interviewed by a DHHS Officer while at work, the proprietor (i.e. person in charge) of the brothel must not be present⁸.

IDENTIFICATION

A DHHS Officer must produce their identity card for inspection before entering or begin an inspection⁹.

An identity card must:

- » have a photo of the Officer;
- » be signed by the Officer; and
- » be signed by the Secretary of the Department of Health¹⁰.

Their identity card is likely to have their logo on it, which at date of publication looked like this:



Health
and Human
Services

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A DHHS Officer must produce their identity card for inspection at your request at any time¹². If the DHHS Officer is unable to produce their identity card, they must immediately cease any action or inspection and can be asked to leave the premises¹³.

INSPECTIONS

When inspecting a brothel, DHHS Officers will be checking to make sure that there is no risk to the health and/or safety of workers or clients. Things they might be checking include whether:

- » there is a free supply of condoms and water based lubricants readily accessible by sex workers and clients and that condoms are stored appropriately¹⁴;
- » the brothel/escort agency proprietor is taking all reasonable steps to ensure that condoms are being used when required (i.e. in all encounters between a sex worker and a client that involves vaginal, oral or anal penetration¹⁵);
- » brothel/escort agency proprietors have evidence that sex workers have attended required medical check-ups, but that any information about check-ups is kept private¹⁶;
- » there is access to clean showers, baths and towels¹⁷.
- » For more information about health and safety requirements, please see Division 10 of the Act – “Brothels and Escort Agencies”.

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. *Public Health and Wellbeing Act 2008* (Vic) s165
2. *Ibid* s 169(3)(a).
3. *Ibid* s 169(3)(b).
4. *Ibid* s 169(2)(a).
5. *Ibid* s 169(1)(e).
6. *Ibid*.
7. *Ibid* s 168(1).
8. *Ibid* s 165(2)
9. *Ibid* s 166(1).
10. *Ibid* s30(4).
11. Department of Health and Human Services website, accessed online on 23 April 2019 at dhhs.vic.gov.au.
12. *Public Health and Wellbeing Act 2008* (Vic) s166(3).
13. *Ibid* s 166(4).
14. *Ibid* s 158
15. *Ibid* s 159
16. *Ibid* s 161
17. *Ibid* ss 163 & 164
18. *Ibid* s 175.
19. *Ibid* s 177
20. *Ibid* s 167
21. *Ibid* s 227
22. *Ibid* s 185(1).
23. *Ibid* s 185(2).
24. Victorian Ombudsman, *Make a Complaint* (2018) accessed online on 23 April 2019 at ombudsman.vic.gov.au/Complaints/Make-a-Complaint.



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

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