



Inspectors ID must contain a photo of the Inspector and is likely to include their logo, which may look like this:
offence if they do not show you their ID.
situations, they are required to produce their ID badge. It is an
Inspector (Inspector) can enter a brothel or escort agency. In all
There are a number of situations (outlined below) in which a CAV

IDENTIFICATION

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

CONSUMER AFFAIRS VICTORIA

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.

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 business. They may also
compel third parties who hold information about a sex work
licensee to answer questions or produce documents about that
business.
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 to:
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 Inspector.

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

ACKNOWLEDGEMENTS:

Thank you to individual sex workers, to Vixen
Collective and to the team at RhED, all of whom
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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

Funded by
a grant from

Victoria Law
Foundation

## 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 occupier. 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 occupier:

- » 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 form.

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 this.

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### 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 Court. On presenting a warrant, an Inspector:

- 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).

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 enforces; 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.

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### 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 5:00pm. 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 can:

- » 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 form, 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 website or call **03 9613 6222** (**1800 806 314** for regional callers).

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## CONTACTS

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

### VIXEN COLLECTIVE

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### 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)

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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



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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.

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# 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.

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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'.

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## 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

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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.

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### 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

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A DHHS Officer must produce their identity card for inspection at your request at any time. 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 premises.



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

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

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

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 present.  
A DHHS Officer cannot stop a DHHS Officer from interviewing you.  
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 health. If you are working during an inspection, the owner/operator cannot stop a DHHS Officer from interviewing you.



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A DHHS Officer can enter a premises at any time if they have:  
» written consent of the occupier, for example the landlord or brothel licensee;  
» a search warrant issued by a Magistrate; or  
» reasonable grounds to believe there is an immediate risk to public health.  
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 with.

**RIGHTS OF ENTRY**

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 year. They may also inspect escort agencies.

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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**

## 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 appropriately;
- » 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 penetration);
- » brothel/escort agency proprietors have evidence that sex workers have attended required medical check-ups, but that any information about check-ups is kept private;
- » there is access to clean showers, baths and towels.
- » For more information about health and safety requirements, please see Division 10 of the Act – “Brothels and Escort Agencies”.

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## YOUR RIGHTS

If anything is seized during an inspection by a DHHS Officer a receipt must be provided to either the person who owned the item, or to the person in charge of the premises.

It is also the responsibility of the DHHS Officer to take all reasonable steps to return the item within 3 months' time (unless court proceedings are underway). It is your responsibility to make sure the DHHS Officer has your up-to-date contact details so that this can occur.

It is an offence to interfere with a DHHS inspection. Answering questions does not make you legally responsible for any of the breaches you have spoken about.

## COMPLAINTS

If you do not believe you have been treated appropriately by a DHHS Officer, including if you were denied respect, dignity or privacy, you are entitled to lodge a complaint. If you wish to lodge a complaint, consider the following steps:

- a. discuss with DHHS staff member or case worker;
- b. discuss with senior manager at local DHHS office;
- c. submit an online complaint to DHHS via its website.

If you are still unsatisfied, you may consider lodging a complaint in writing to:

- » The Secretary of DHHS; or
- » the Victorian Ombudsman.

You may wish to seek legal advice prior to lodging a complaint such as this, about whether there is a strong argument for a complaint, or if you need someone to help word the complaint as clearly as possible.

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## What can a DHHS inspector look at/take?

After they have been granted entry to your premises, a DHHS Officer may:

- » inspect, examine, or make enquiries, at the premises;
- » examine or inspect any thing (including a document) at the premises;
- » bring any equipment or materials to the premises that may be required;
- » seize any thing (including a document) at the premises if they believe on reasonable grounds that:
  - it is required to decide whether the Act or its regulations have been breached;
  - the seized thing may be used as evidence; or
  - the seizure is required to minimise a risk to the health;
- » seal a premises or thing;
- » take a sample of, or from, any thing, at the premises;
- » analyse, measure or test any thing at the premises;
- » take any photographs or make any audio or visual recordings at the premises;
- » make copies of, or take extracts from, any document kept at the premises;
- » use or test any equipment at the premises; and
- » do any other thing that is reasonably necessary for the purpose of the authorised officer performing or exercising his or her functions or power under the Act.

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## TALKING TO POLICE

A Victoria Police officer can ask you to give your name and address if they have a reasonable belief that you have committed an offence or are about to commit an offence.

You are not required to answer questions asked of you, other than your name and address. If you don't want to say anything to the police make that clear and don't change your mind. Don't selectively answer any of the questions asked. Once you have stated your name and address, you can then use words such as "I do not want to say anything further at this stage" or "no comment".

There are times the police can ask for your name and address even if they don't suspect you have committed a crime. For example:

- > if you are driving a car and a police officer signals for you to stop, you must stop and show them your licence or permit; or
- > if you are on a tram, train, bus or on public transport property (i.e. a railway station), police can ask for your name and address. Protective Service Officers (PSOs) can also ask for your name and address if they suspect you have committed or are about to commit an offence (e.g. if you appear underage and are drinking alcohol at or near a train station).

You do not have to answer any further questions.



If a Victoria Police officer is in uniform they are only required to let you know their name, rank and station. They are not required to show you their ID. Failure by a Victoria Police officer to provide the above information can result in a fine for the officer.

- > let you know they are a police officer
  - > show you their ID (see example of badge below), and
  - > state their name, rank and police station (you can also request this information in writing).
- A Victoria Police officer in plain clothes who wants to arrest, search or make you move on must:

## POLICE ID

A Victoria Police officer is generally required to obtain a warrant to enter and search private property. The police officer may enter your property without a warrant if you agree to them entering or the officer holds a reasonable belief that someone will commit or has committed a serious offence.

## POLICE ENTRY TO PREMISES

If you are a sex worker there may be times where you will encounter the police. Contact between sex workers and police has not always been positive. Therefore, it is important for workers to know their rights when interacting with police. When dealing with the police exercise your rights, but stay calm. Respond calmly and politely – anything you say may be used in evidence against you. There's no such thing as 'talking off the record'. As a general rule you should not say or write anything about any alleged offence without having first spoken to a lawyer.

PUBLISHED JUNE 2019

# DEALING WITH VIC POLICE

USEFUL THINGS TO KNOW ABOUT:  
POLICE IDENTIFICATION  
POWERS OF ENTRY  
ARREST AND SEARCH  
COMPLAINTS  
ABOUT CONDUCT



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

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## POLICE SEARCHES OF YOU

The police do not have an automatic right to search you, but can if:

- > you agree (This is called “search by consent”. If you agree, the police officer should get your agreement in writing. If this does not happen, you can lodge a complaint);
- > they have a warrant;
- > they have arrested you;
- > you are in a public space that has been declared a ‘designated area’ (see below for what this means); or
- > they are otherwise allowed by the law, for example, if you are in a public place and they reasonably suspect you have drugs, a weapon, or something that could be used for graffiti.

Before a search begins the police are required to give you a reason for the search. For example, under the *Control of Weapons Act 1990* (Vic), before a police officer conducts a search without a warrant, they must:

- > give you their name, rank and place of duty (and if you ask, they must give this information to you in writing);
- > show you their ID (unless they are in uniform); and
- > let you know that they are going to search you (or your vehicle) for a weapon (as the case may be).

If they are going to search you for another reason (i.e. for drugs under the *Drugs, Poisons and Controlled Substances Act 1981* (Vic)), they must let you know the reason they are searching you and under what power.

**If you are legally required to submit to a search you should try and keep calm as you can be charged with ‘hindering’ police if you try and stop it.**

The three types of searches – pat down, strip and full searches

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### PAT-DOWN SEARCH

Generally allowed in the above circumstances. When performing such a search, a Victoria Police officer can:

- > Use their hands to feel over the outside of your clothes.
- > Perform such a search in a public place or private property.
- > Require you to empty your pockets or remove your jacket/coat.
- > Require you to show them an item that they believe to be a weapon.
- > Use a metal detector to look for something they suspect is a weapon.

The police officer conducting the search must:

- > be the same sex as you where it is reasonably possible;
- > make a written record of the search; and
- > give you a receipt if they seize anything – including drugs.

### STRIP SEARCH

A strip search is only allowed if Victoria Police have “reasonable grounds” to search for items that would not be found with a pat down search.

A strip search allows for the police officer to remove all your clothing and must be conducted in a private place, such as a police station.

When conducting a strip search, police should not:

- > Make you stand or be in any unnecessary positions (such as spreading the cheeks of your buttocks).
- > Touch your body “improperly”. This means they cannot examine “body cavities” and they cannot take body samples without your consent or a warrant.

### FULL AND INTERNAL SEARCHES

A full/internal body search means you are having a “forensic procedure” done which requires samples of cells to be taken from your body. This will could be used as evidence in a court hearing. Police can request body samples if they need to “confirm or disprove your involvement in a serious offence”.

This type of search involves a search of inside your body and can only be conducted if you agree (and are 18 years or over). They must be conducted by a same sex doctor. If you refuse, Victoria Police can apply for a Court Order.

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## ARRESTS

In general, you cannot be arrested just for being a sex worker. There are very specific circumstances in which you can be arrested for sex work-related offences. This applies to street based workers as well as workers in a brothel or private workers not complying with the law.

If you are working as a street based sex worker the police may arrest and charge you with an offence if they catch you ‘in the act’ of soliciting (offering sexual services), accosting (approaching or speaking to someone) or loitering (standing, waiting or walking slowly with no obvious purpose) illegally in a public place to be able to arrest you. A client may also be charged with an offence under section 12 of the *Sex Work Act 1994* (Vic) for soliciting or inviting you to offer them sex work in a public place.

Police also have the power to arrest and charge people they find entering or leaving an unlicensed brothel. If you are arrested the police officer must inform you that you are under arrest and communicate to you the reason why they are arresting you as soon as possible. Once you have been arrested you are not free to leave. However, the police can only hold you in custody for a ‘reasonable time’ without charging you. While in custody you have the right to make two phone calls, one to a friend or relative and one to a lawyer in a private space away from the police.

If you do not understand English very well, you are entitled to a qualified interpreter to attend the police station or to assist you over the telephone.

## DESIGNATED AREAS

The Victoria Police can make a public area a ‘designated area’ if it:

- > has had two or more events of violence/disorder in the last year
- > is a regular trouble spot, such as King Street, Melbourne; or
- > has had events or demonstrations that have been violent.

If a place has become a ‘designated area’, police can search you for weapons without a warrant in that area. It should be made public knowledge if a place has been declared a ‘designated area’ (and should not last for more than 12 hours, unless it is related to a specific event). Notice of a ‘designated area’ must be published in the Government Gazette and a newspaper. Notice must include a map of the area and an address of a Government Internet website where the map can be viewed.

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## COMPLAINTS

You may wish to consult a lawyer before making a complaint against police. In particular, it is important to be aware that there may be risks associated with making a police complaint. While there may be a public interest value in making a complaint about poor police conduct, the complaints process may take a long time, and our experience is that often, the process is not impartial in that the same police station that you are complaining against is the one that investigates the complaint. There may also be further risk if you have been charged, or may be charged, with criminal offences at the time of making the complaint.

If you have any difficulty in making a complaint about Victoria Police, or need advice, you may wish to contact your local community legal centre or the Police Accountability Project (PAP). More information on PAP and the police complaints process is available here [policeaccountability.org.au/police-complaints/](http://policeaccountability.org.au/police-complaints/).

You can make a complaint about Victoria Police through the Police Conduct Unit within Victoria Police. This unit has an online complaint form you can fill out on the Victoria Police website under: [police.vic.gov.au](http://police.vic.gov.au) and follow the ‘compliments and complaints’ link.

You can also complain to the Independent Broad-Based Anti-Corruption Commission (IBAC) which is not part of Victoria Police. This complaint can be anonymous complaint. There is an online complaint form on the IBAC website at [ibac.vic.gov.au](http://ibac.vic.gov.au)

### CONTACTS

**Vixen Collective** peer support line 0414 275 959  
or email [vixencollectivemelbourne@gmail.com](mailto:vixencollectivemelbourne@gmail.com)

**Resourcing health & Education in the sex industry (RhED)** visit [sexworker.org.au](http://sexworker.org.au), call 1800 458 752  
or email [sexworker@sexworker.org.au](mailto:sexworker@sexworker.org.au)

**St Kilda Legal Service (SKLS)** call (03) 8598 6635  
or email [info@skls.org.au](mailto:info@skls.org.au)

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Passports are the property of their issuing governments. A person cannot take your passport away from you and keep it from you unless they are permitted to do so by law. If your passport has been taken away from you, you should seek legal advice immediately.

Employers are required to be satisfied a person has the government's permission to work in Australia. An employer may lawfully request you provide evidence of your right to work, such as proof of citizenship / residency or visa.

**RIGHT TO WORK IN AUSTRALIA AND IDENTIFICATION**

You have the right to get your personal property back after you no longer work at a particular workplace. If you stop working at the workplace, you should try to arrange with your boss to get your property back. If management refuses to allow you to get your property you should seek legal advice to discuss your options. A person who refuses to return your personal property may have committed an offence, such as theft.

Sometimes you might leave your personal property behind after leaving a workplace. Unless you have donated or gifted the items to management, they remain your property.

**LEAVING PROPERTY BEHIND IN A WORKPLACE**

Management does not have the right to conduct a search of your body without your consent and it is very unlikely it would be lawful or reasonable for management to ask you to consent to a body search. If they ask, you should seek legal advice before agreeing.



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**

Examples of when it may be reasonable to interfere with your personal property without your consent include:

- « where there is a reasonable belief your personal property may cause a risk to your health and safety or the health and safety of others; or
- « there is a medical emergency, such as the need to retrieve and administer an EpiPen to save your life.

Management can only search or interfere with your personal property at the workplace if:

- « you have provided consent (such as in an employment contract);
- « management has given a lawful and reasonable direction in a policy (like to conduct security checks at entry and exit points of the premises); or
- « you have not provided consent but it is reasonably necessary.

**YOUR PERSONAL PROPERTY**

**YOUR PERSONAL PROPERTY, SURVEILLANCE DEVICES AND FINES/BONDS**

There are other rights you have when working which restrict what management at a workplace can do, including in relation to how management treat your property, and the use of surveillance devices. This fact sheet is for Victorian workers who provide sex services in sex-on-premises venues (brothels) or through escort agencies.

There are limited circumstances in which management at a workplace can interfere with or search personal property you bring into the workplace. This includes what you may have in your handbag or backpack.

PUBLISHED JUNE 2019

**RIGHTS AT WORK**

**USEFUL THINGS TO KNOW ABOUT: PERSONAL PROPERTY, SURVEILLANCE, YOUR HEALTH AND SAFETY AND SEXUAL HARASSMENT**

## AUDIO AND VISUAL SURVEILLANCE DEVICES

Many workplaces have installed surveillance devices. When used appropriately, surveillance devices can contribute to a safer and more secure workplace for workers.

Victorian law regulates the installation and use of microphones, cameras and tracking devices.

A person cannot use a device to listen to and / or record a private conversation to which the person is not a party. A private conversation is one that the parties intend to keep between themselves which cannot be overheard by anyone else. An example of this includes discussions between a sex worker and a client about the services they wish to experience.

A person cannot use a device to observe and / or record a private activity to which the person is not a party. A private activity means an activity which the individuals want to keep to themselves. Activities occurring outside a building or where someone else could observe them are not 'private'. Examples of private activities includes using a toilet, areas where workers are getting changed or providing sex services to a client at a brothel.

## FINES AND BONDS

A private individual or business cannot lawfully fine you for any reason. They also cannot impose a bond or withhold your pay.

For example, you cannot be fined or have your pay withheld for being late to work, damaging property, or refusing to work with a particular client.

If someone withholds your pay, asks you to pay a bond, or demands you pay a fine, you should seek legal advice.

P3

**As stated above, sex workers may refuse to see a client, refuse to provide a particular service, or withdraw consent previously provided, for any reason, at any time.**

If a person forces you (physically or verbally) to perform or participate in a sexual act without your permission, they have committed a criminal offence.

If this happens to you, you have (as soon as it is safe to do so) a range of options including:

- » calling triple zero (000);
- » notifying the business where you are working;
- » contacting your local police station, Gay and Lesbian Liaison Officers (GLLO), or Sexual Offences and Child Abuse Investigation Team (SOCIT); or
- » contacting your local peer sex worker organisation, Vixen Collective.

## STI CHECK OBLIGATION

If you are a sex worker in Victoria you are required to have a sexually transmitted infection (STI) test (including blood tests and swabs) every three months. This can be arranged by your doctor or at a specialist sexual health clinic, such as the Melbourne Sexual Health Centre.

After an STI check, the doctor should give you a 'Certificate of Attendance' which is valid for three months. Brothel and escort agency workers will need this certificate to work. You do not have to wait for your results to have a certificate issued. Certificates can be issued in your working name and you can get multiple certificates (if for example you are working in more than one venue). You only need to supply your certificate of attendance, not the results of your test, to your manager/operator.

P5

## YOUR HEALTH AND SAFETY

All workers are entitled to a work environment that is as far as reasonably possible safe and without risks to health. Any business where you work is required to provide safe systems of work. Businesses have similar obligations towards other individuals, such as clients. Businesses running brothels should provide the following facilities to promote health and safety in the workplace:

- » **condoms and lubricants:** must be provided free of charge
- » **lighting:** must be appropriate so you can check for signs of sexually transmissible infections
- » **signage:** safer-sex signs should be displayed, these should be displayed in the reception area and in every room
- » **showers/baths:** suitable for cleaning and sanitation, and
- » **communication devices:** all client rooms in brothels must have a communication device (e.g. an alarm button) that works and is easily accessible. Also escort agencies must provide you with a phone (or other communication device) so that you can contact the service provider.

## NEGOTIATIONS ON YOUR BEHALF

A person taking bookings on behalf of a sex worker must not misrepresent the worker's qualities or negotiate the sexual services to be provided by the worker.

## RIGHT TO REFUSE TO PROVIDE SERVICES

All people are legally entitled to refuse to engage in a sexual act with any person for any reason or withdraw consent they previously provided at any time. This includes sex workers.

In particular, sex workers may refuse to provide a service if they suspect a client has a sexually transmissible infection (STI), or if a client refuses to use a condom.

P4

## SEXUAL HARASSMENT

Laws in Victoria and across Australia protect workers against sexual harassment at work.

### SEXUAL HARASSMENT

Sexual harassment is an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature that makes you feel offended, humiliated and/or intimidated where any reasonable person could see that it might offend, humiliate or intimidate you. Examples of sexual harassment can include unwanted touching as well as jokes about sexuality and gender identity.

**It does not matter whether you work in a brothel or an office - no one has the right to sexually harass you.**

Complaints about sexual harassment can be made under Victorian laws to the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) or the Victorian Civil and Administrative Tribunal (VCAT), or under Federal laws to the Australian Human Rights Commission (AHRC). Their details are at the end of this information sheet. Strict time limits may apply, so if you believe you have been sexually harassed and want to raise a complaint, you should seek legal advice immediately.

**For information on unlawful discrimination as well as other contact details for organisations that may be able to give you advice on your rights at work - see the full information sheet online [skls.org.au](http://skls.org.au)**

### CONTACTS

**Vixen Collective** peer support line 0414 275 959  
or email [vixencollectivemelbourne@gmail.com](mailto:vixencollectivemelbourne@gmail.com)

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or email [sexworker@sexworker.org.au](mailto:sexworker@sexworker.org.au)

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or email [info@skls.org.au](mailto:info@skls.org.au)

P6

To seek further information about the process, and how to go about it, please visit the Magistrates' Court website or speak to your local community legal centre.

The police can apply for a PSIO on your behalf in some cases (this will stop the case having to go to mediation). If the police apply for your PSIO, you have the same right to apply for a suppression order.

Be aware that if you apply for a PSIO, the court will usually try and make you go for "mediation" with the perpetrator, to see if you can resolve the matter, unless there has been physical violence. Mediation is where an independent person (a "mediator") meets with the people in a dispute to try and support them to negotiate an agreed resolution to a dispute.

If you are concerned about your identity you can apply for a suppression order. A suppression order may be issued by a judge to prevent the publication of sensitive details such as your identity. However, these are difficult to obtain, and you may need a lawyer's help to argue for this in court. There is no guarantee you will get a suppression order even with a lawyer's help.

When making the application, you must provide your personal details to the court. You can ask for these details to be kept from the perpetrator. If you are seeking an order that the perpetrator not go near your home or workplace, the court may disclose these to the perpetrator as part of the order.

A PSIO can help protect you, and the perpetrator may be charged with a criminal offence if the perpetrator breaks it.

**PERSONAL SAFETY INTERVENTION ORDERS**

You can also apply for a Personal Safety Intervention Order (PSIO) at any Magistrates' Court. See more information below.



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:**

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- If you feel like you are being stalked, what should you do?**
- » In case of an emergency call police (000) straight away.
  - » Keep a diary of the details of stalking, including what the stalker did, time, date and any witnesses.
  - » Keep a copy of any text messages, emails or even a record of phone calls.
  - » Tell someone you trust that you are being stalked. For example, you could say: "If I don't check in with you by phone at 3pm every day then call the police with this information."

If behaviour occurred once or over a short duration it may not be stalking

- » watched or gathered information about you.
  - » loitered outside your home or workplace; or
  - » followed you;
  - » sent letters, notes or gifts; approached you;
  - » contacted you online;
  - » telephoned you;
- for example they have;
- or over an extended time someone has engaged in stalking, a course of conduct is defined as on one or more occasion
- purposely engages in a course of conduct that causes you physical or mental harm or makes you scared.

**STALKING**

You have the right to feel safe at work. This applies to all areas of sex work, including (but not limited to) brothels, escort agencies, street based and phone based. If a client wants more from you than you are willing to provide and won't take "no" for an answer, you may be able to take action against them in certain circumstances.

PUBLISHED JUNE 2019

**SAFETY**

**USEFUL THINGS TO KNOW ABOUT: ASSAULT STALKING BLACKMAIL AND YOUR SAFETY**

Funded by a grant from

**Victoria Law Foundation**

## BLACKMAIL

Blackmail is when a person threatens you and demands something in return (e.g. money or sex). Examples include:

- » if a client threatens to expose you as a sex worker to your family unless (e.g. paying them money or providing free services); or
- » if a brothel threatens to publish a photo of you or threatens to expose damaging information about you unless you do something for them.

If you have been blackmailed, what steps can you take?

- » In case of an emergency, call police (000) straight away.
- » Keep a diary of the details of blackmail, including what the blackmailer did, time, date and any witnesses. You should also keep a copy of any text messages, emails or even a record of phone calls.

## ASSAULT, SEXUAL ASSAULT, RAPE

**Victorian law recognises that sex workers are no less entitled to be protected from sexual assault and rape than anyone else.**

You are entitled to respect, even from someone who's paying for services, and from anyone else you are in a relationship with. Your safety is important and abusive behavior can be damaging.

You are the only person with the right to control your own body. Whether your work involves sex or not, you have a right to expect that your body will not be assaulted.

### WHAT IS A GENERAL ASSAULT?

Assault is a criminal offence. An assault is when one person applies force to you, your clothing or equipment, causing injury, pain or damage. This can be direct (e.g. someone pushes you) or indirect (e.g. someone pushes you and causes you to fall into another person, which can be an assault of the second person). P3

### WHAT IS RAPE?

Rape means sexual penetration without your consent. Sexual penetration means penetration, to any extent, by:

- » a penis into a vagina, anus or mouth;
- » another part of the body into a vagina or anus; or
- » by an object into a vagina or anus.

It is also rape when someone:

- » realises you are not freely agreeing (even if they initially thought that you were), to an ongoing act of sexual penetration, but continues with that act regardless; or
- » forces you to take part in an act of sexual penetration of themselves or someone else without your consent.

### SEXUAL ASSAULT, RAPE AND SEX WORK

Some examples of sexual assault/rape in sex work include:

- » a client taking a condom off without your permission/knowledge
- » seeing a client with an STI only after an owner/management threatens you to go through with seeing the client
- » if you decide you can't go through with a service e.g. agreed to anal but then can't do it, you advise the client of this, and they force you to complete the act regardless.

## CONTACTS

**Vixen Collective** peer support line 0414 275 959  
or email [vixencollectivemelbourne@gmail.com](mailto:vixencollectivemelbourne@gmail.com)

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or email [sexworker@sexworker.org.au](mailto:sexworker@sexworker.org.au)

**St Kilda Legal Service (SKLS)** call (03) 8598 6635  
or email [info@skls.org.au](mailto:info@skls.org.au)

P5

If someone spits on you, rips your clothes, or breaks your phone, this could be considered an assault. A threat to assault (for example "I will bash you unless you do...") may also be a crime. If someone causes you injury through an assault, intentionally or recklessly, this may be a more serious criminal charge.

### OFFENSIVE BEHAVIOR

In the *Sex Work Act 1994* (Vic), it is a specific offence for a person, in or near a public place, with the intention of intimidating, insulting or harassing a sex worker to —

- behave in an indecent, offensive or insulting manner; or
- use threatening, abusive or insulting words.

### WHAT IS A SEXUAL ASSAULT?

Sexual assault is one person touching another person sexually when that other person did not consent. This may include unwanted touching and kissing, rubbing, groping or forcing you to touch another person in sexual ways.

You may not have given consent in many situations, including:

- » if you agree to perform a sexual act because you are scared that something bad might happen to you or someone else; or
- » if you are asleep or affected by drugs or alcohol.

Consent means that you have clearly agreed to have sex, or perform another sex activity, with someone. A person has to be aware that you are consenting. There is no consent if someone hasn't turned their mind to whether or not you might be consenting.

Sexual assault is a criminal offence:

- » whether any semen is ejaculated or not;
- » even if you've had sex with the person previously;
- » even if you agreed to another type of sexual service (e.g. you may have agreed to vaginal penetration but this doesn't mean you agreed to anal penetration); or
- » whether you're male, female, trans or gender diverse. P4

## WHAT STEPS CAN YOU TAKE?

If you believe a crime has been committed, you should consider reporting this matter to Victoria Police. You may also wish to seek support from a counsellor, support worker, or a lawyer.

### MAKING A POLICE REPORT

It is your choice if you wish to report an incident to police. If the incident occurred within the last 72 hours it is recommended not to shower so forensic medical officers can test for DNA. This may involve taking samples of blood, pubic hair, anal, genital or breast swabs, saliva and mouth or dental impressions and taking notes about recent injuries. Any tests will be done in private and undertaken by a specially trained doctor, nurse or dentist.

The police will determine whether they will charge the perpetrator with a crime. You have the following options if you have made the decision to contact the police:

- » If it is an emergency and you are unsafe call the police on 000.
- » You can visit your local police station to report the assault. If you want, you can ask to speak to a lesbian, gay, bisexual, transgender and intersex Liaison Officers (GLLOs) You can find a list of GLLO officers via the Victoria Police website.
- » You can also contact your local Sexual Offences and Child Abuse Investigation Team (SOCIT) who are trained in assisting victims of sexual assault. You can find a list of SOCIT locations through the Victoria Police website.

If you do not wish to report the incident to the police, are unable to get to them in time or are not yet ready to go to the police, peer sex worker organisation Vixen Collective can accompany you to the police station to support you when reporting an incident/being interviewed and can provide advice on anonymous reporting mechanisms.

### LEGAL ADVICE

If you believe a crime has been committed, you may wish to seek legal advice on the risks of reporting this. If you would like to seek legal advice, please visit the National Association of Community Legal Centres website to find a community legal centre that is close to you. P6

WorkSafe Victoria (**WorkSafe**) is the agency responsible for ensuring that workplaces comply with OH&S Laws.

**This information sheet does not deal with the rights and obligations of brothel and/or escort agency proprietors.**

In accordance with OH&S Laws an employer/ licensee has to provide safe systems of work, training and instruction, suitable facilities like toilets and kitchens, and safe access to and from the workplace. They must also consult with employees and/or independent contractors when introducing measures that affect their health and safety.

Employers must also make sure that other people, such as clients or members of the public, aren't exposed to any risks to their health and safety from the work and how it is being done.



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:**

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**Victoria Law Foundation**

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. Things that may impact your health and safety include the cleanliness of sex work rooms, bathrooms including showers and toilets, breakout areas and even public areas such as entrances or reception.

The **Occupational Health and Safety Act 2004** (Vic) **OH&S** Laws applies to all workplaces in Victoria, including brothels and escort agencies. Under the OH&S Laws an employer or (manager/operator) has to keep the workplace safe and without risks to the health of employees and independent contractors working there. This includes sex workers (sub-contractors as well as casual, part time and full time employees) office staff, clients and visitors.

PUBLISHED JUNE 2019

# DEALING WITH AUTHORITIES - WORK SAFE

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

## INSPECTIONS

Inspections by WorkSafe usually occur after a 'reportable' workplace incident, i.e. death, serious injury and emergencies. Worksafe inspectors are authorised to enter a workplace without warning and undertake an inspection, look at documents, take photos and seize evidence of offences against OH&S laws.

When entering a workplace, WorkSafe inspectors are expected to take all reasonable steps to notify the employer of their presence, unless doing so would defeat the purpose of their entry or cause unreasonable delay.

During an inspection a WorkSafe inspector has quite broad powers, including the power to:

- » inspect or look at anything (including documents) inside a workplace;
- » bring any required equipment to the workplace;
- » seize anything (including a document) that may show there was a breach of OH&S requirements; or
- » take photos or measurements or make sketches or recordings.

P3

## RIGHTS OF ENTRY

A WorkSafe Inspector may enter a workplace at any time during working hours. If they think there is an immediate risk to the health or safety or a person because of the conduct taking place inside, they may enter at any time (even outside work hours).

## IDENTIFICATION

WorkSafe inspectors are required to announce their entry at a workplace and produce their ID card before performing an inspection. You can ask to see this ID card. The ID card must show the inspectors photo and signature, and would probably include a copy of the WorkSafe logo. It may look something like this:



P4

## YOUR RIGHTS

Employers and staff present in the workplace are required by law to assist inspectors and it is an offence for any person to obstruct an inspector, for example by assaulting or intimidating them.

You may be required to answer questions or produce documents on the request of a WorkSafe inspector. It is an offence if you don't comply.

## COMPLAINTS

If you are unhappy with the conduct of a WorkSafe inspector, you can make an initial complaint to CAV by calling the WorkSafe Advisory Service on **1800 136 089** or emailing **complaints@worksafe.vic.gov.au**.

If you have complained to WorkSafe and are not satisfied with how they 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 website or call **03 9613 6222** (**1800 806 314** for regional callers).

P5

## 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.

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