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DEALING WITH AUTHORITIES - WORK SAFE

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

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.

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 contractors¹ 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.

INSPECTIONS

Inspections by WorkSafe usually occur after a 'reportable' workplace incident, i.e. death, serious injury and emergencies². 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 laws³.

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 delay⁴.

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 recordings⁵.

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 of a person because of the conduct taking place inside, they may enter at any time (even outside work hours)⁶.

IDENTIFICATION

WorkSafe inspectors are required to announce their entry at a workplace and produce their ID card before performing an inspection⁷. You can ask to see this ID card. The ID card must show the inspectors photo and signature⁸, and would probably include a copy of the WorkSafe logo. It may look something like this:



YOUR RIGHTS

Employers and staff¹⁰ present in the workplace are required by law to assist inspectors¹¹ and it is an offence for any person to obstruct an inspector¹², 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 comply¹³.

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 website¹⁴ 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. *Occupational Health and Safety Act 2004* (Vic), s35(2)(a) a reference to “employee” includes “independent contractor”.
2. Worksafe Victoria, *Worksafe Victoria Inspectors: How inspectors support and enforce health and safety at work*, (April 2012), accessed online on 23 April 2019 at [worksafe.vic.gov.au/resources/worksafe-victoria-inspectors-how-inspectors-support-and-enforce-health-and-safety-work](https://www.worksafe.vic.gov.au/resources/worksafe-victoria-inspectors-how-inspectors-support-and-enforce-health-and-safety-work).
3. *Occupational Health and Safety Act 2004* (Vic) s 99.
4. Worksafe Victoria, *Worksafe Victoria Inspectors: How inspectors support and enforce health and safety at work*, (April 2012), accessed online on 23 April 2019 at [worksafe.vic.gov.au/resources/worksafe-victoria-inspectors-how-inspectors-support-and-enforce-health-and-safety-work](https://www.worksafe.vic.gov.au/resources/worksafe-victoria-inspectors-how-inspectors-support-and-enforce-health-and-safety-work).
5. *Occupational Health and Safety Act 2004* (Vic) s99.
6. *Ibid* s98.
7. *Ibid* s102(1).
8. *Ibid* s96.
9. Worksafe Victoria, accessed online on 23 April 2019 at [worksafe.vic.gov.au](https://www.worksafe.vic.gov.au).
10. *Ibid* s121 includes employees, employers and ‘occupiers’ of the premises. It is arguable that this could also include independent contractors.
11. *Ibid* s121.
12. *Ibid* s93.
13. *Ibid* s100
14. Victorian Ombudsman website, accessed online on 23 April 2019 at [ombudsman.vic.gov.au](https://www.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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