

Sex Workers' Voices Victoria Project

Decriminalising Sex Work in Victoria.

2020

***'We will insist on human rights for all, including for sex workers. Nothing else is acceptable as a matter of true public morality.'* Hon. Michael Kirby AC CMG.**

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Glossary.

Commonwealth law – laws that are set by the Australian Federal Government for the whole of Australia. Sex work laws in Australia are State not Commonwealth.

Prostitute – the word prostitute is used only where this term was used in other historical documents.

Illegal – a breach of a criminal law. Unlicensed brothels can also be described as illegal brothels.

Legal – compliance with a criminal law. Almost all sex work laws in Victoria are criminal laws. Licensed brothels can also be described as legal brothels.

Unlicensed – Unlicensed brothels or escort agencies can also be described as illegal brothels or escort agencies.

Licensed – Licensed brothels or escort agencies can also be described as legal brothels or escort agencies.

WorkSafe Victoria – the authority in Victoria that regulates occupational health and safety.

Sex and gender – The gender with which someone identifies. Some examples are genderqueer, non-binary, female and male. Sex is a biological label – male or female – assigned to a newborn based on the appearance of their genitals. It describes biological characteristics and does not mean the same thing as gender. Sex and gender may be used interchangeably in this document, especially when quoting or referring to former research.

Introduction

The Victorian government has asked Reason Party leader and Member of Parliament Fiona Patten to lead a review into how to decriminalise sex work in Victoria. It will report to the government in September 2020 after considering:

- All forms of sex work, including sex work in commercial brothels and escort agencies, sexual services provided in massage parlours and similar businesses, sex work by small owner-operated businesses, and street-based sex work;
- Workplace safety including health and safety issues and stigma and discrimination against sex workers;
- Regulatory requirements for operators of commercial sex work businesses;
- Enforcement powers required to address criminal activity in the sex work industry, including coercion, exploitation, debt bondage and slavery;

- Local amenity and location of premises providing sexual services and street-based sex work;
- The promotion of public health and appropriate regulation of sex work advertising
- The safety and wellbeing of sex workers, including the experience of violence that arises in the course of sex work and as a consequence of it;
- Sex worker advocacy for safety and wellbeing.

It is promising that the government has asked for advice from the Review about how to decriminalise sex work in Victoria rather than whether it should be decriminalised or not. This is because there is already strong evidence that the best way to regulate sex work is not with criminal law but with ordinary business regulations. It is essential that those regulations are appropriate and fair, and that they consider sex workers' real needs. This makes it crucial for sex workers to have their say about what they want from law reform and what regulations they think can fulfil sex workers' human and labour right to work safely and be free from discrimination, violence and exploitation.

This paper summarises some of the complex issues and conversations about how to decriminalise sex work in Victoria. It is intended as background information for sex workers and allies who want more information in order to join conversations about what sex workers want. It was drawn, very quickly, from a broad range of materials about the Victorian sex industry, which are listed at the end. It is not a referenced academic document, a guide to sex work law or regulations, or a statement of the policy or views of any organisation or individual. For verified and detailed legal information or comprehensive resources on sex work readers can visit the websites of Consumer Affairs, Scarlet Alliance, Sex Work Law Reform Victoria and RhED (a program of Star Health), which are also listed at the end.

The Sex Work Law in Victoria

In 1985, sex work was made partly legal in Victoria by the Planning (Brothels) Act, which legalised brothels and limited their location. After a government Inquiry led by Dr Marcia Neave, the Prostitution Regulation Act 1986 was introduced. In 1993, another inquiry led to the introduction of the Prostitution Control Act 1994, which initially made brothels legal if they had a planning permit, but later a licensing system for brothels and escort agencies was introduced, and independent sex workers had to register to work legally. Laws against street-based sex work were extended to clients, and police were given extra powers to move street-based workers on. Anybody found in an unlicensed brothel or selling sexual services without being registered would also be criminalised. This divided the sex industry into two distinct tiers – the regulated, legal sector and the unregulated illegal sector.

The Sex Work Act authorises various regulations for the sex industry that are contained separately in the Sex Work Regulations 2016 (Vic). Regulations are more detailed than legislation and they can be updated more often because they don't have to go through parliament. For example, the 2016 regulations set out safety requirements for sex work businesses, rules regarding the suitability of licence applicants and how brothels and private

workers can advertise. The Act makes it an offence to work with an STI and the regulations list the relevant STIs.

The Two-Tiered Sex Industry

Brothels

Licensed Brothels

A brothel is any premises made available for the purpose of sex work. There are two types of legal brothels, those with licences and those registered as exempt from licensing. Both must get a Planning Permit from Council.

Brothels of up to six rooms are authorised by the Business Licensing Authority (BLA). Licence conditions include the owner and managers being of good character and one of these being present at all times, as well as some working conditions including:

- third parties must not misrepresent sex workers' qualities or negotiate sexual services on their behalf;
- Receptionists are different to approved managers. Approved managers must apply for a license through the BLA and all licensed brothels must have one approved manager per shift;
- a system is in place to ensure the safety of brothel and escort workers;
- all rooms have a concealed alarm, sufficient lighting to enable STI checks and safe sex signage in the reception area and in all rooms used for sex work;
- sex workers are provided with a free supply of condoms and water-based lubricant;
- sex workers are not required to clean or disinfect any bath, shower, toilet or spa on the premises unless those facilities have been used by that sex worker.

Small, owner operated brothels

Where one or two sex workers work in small premises, they do not have to obtain a licence but must register with the BLA as an 'exempt sex work service provider'. This registration involves providing applicants' real names and addresses; landlords' written consent; and planning permission from Council or a decision of the Victorian Civil and Administrative Tribunal if an appeal was necessary. Such requirements make establishing an exempt brothel an onerous undertaking and act as a disincentive to do so. For small businesses to operate without regulations the government could redefine a brothel as a place where 3 or more sex workers operate.

Unlicensed Brothels

Although the exact number of unlicensed brothels operating in Victoria is not known, there are clearly many hundreds of brothels of different kinds across the state. It is an offence to operate or be in unlicensed brothels, so workers, clients and managers can all be charged. Due to fears of prosecution or of being fined, workers in unlicensed brothels experience

barriers to accessing safer sex information and equipment and support services. Police and magistrates have specific powers to ensure the law against unlicensed brothels can be enforced.

The law creates four types of unlicensed brothel –

- otherwise legal businesses where paid sex is an unofficial add-on;
- brothels that do not meet the licence and/or planning conditions;
- private premises that are not registered as exempt providers and;
- hotels that knowingly rent out rooms for commercial sex.

Outcalls

Sex workers can legally visit clients in their homes or hotels, etc, if they register and obtain a SWA (Sex Work Act) number. To do that, sex workers must provide the Business Licensing Authority with their personal identification, including a witnessed photo. Although these records are not public, they are permanent, and can be accessed by police, the Department of Home Affairs and the Australian Tax Office.

Escort agencies must also be licensed. As with brothels, escort agency workers don't need a SWA number and they must comply with health and safety requirements as well. Some are specific to outcalls, such as the requirement that a licensee or manager remains in contact with the sex worker while they are visiting clients. In practice, whether or not this happens is down to the ethics of the escort agency operator rather than law enforcement.

Decriminalisation will mean that sex workers can see clients where they want. Outcalls are by nature risky (for any worker) so it is unacceptable for the law to make it legal while taking clients to a space controlled by the sex worker is not.

Street-based Sex Work

Buying or selling sex on the street is prohibited by laws against soliciting, loitering and accosting in public places. The law applies to both buying and selling sex. The Sex Work Act also gives police power to ban people from an area for 72 hours where an officer suspects that a person is offending.

The law that makes any place used for sex work an illegal brothel if it doesn't have a licence prevents sex workers from renting hotel rooms or a flat to take clients they meet in public. This means sexual services happen in inherently unsafe places such as cars and isolated public spaces.

Street-based work makes up a tiny proportion of the sex industry, possibly up to only 2%, but it attracts a disproportionate amount of attention. Street-based workers are demonised by stigmatising stereotypes and locally they are targeted by gentrifying forces. Certainly, selling sex on the street provides an immediate option for women experiencing homelessness, health crisis or issues around substance use. But many cis and transwomen

workers (male street-based sex work having practically disappeared) point out that regular street work has clear benefits including flexible working hours, not paying commissions to bosses and only having to do 'quickies' rather than hourly rate jobs.

There have been many campaigns and projects by police, council, social work and health agencies to address street work in St Kilda. Levels of law enforcement and services for street-based sex workers have varied over the years and anti-solicitation laws are no longer routinely used. There are fewer street-based sex workers operating now than when prosecutions were common. This is consistent with a global trend away from sexualised public space, which is usually attributed to the rise of digital technology.

While locals have a right to express concerns about public amenity, there is no evidence that laws against street sex-based sex work improve it. What improves local amenity for a diverse community is better lighting, facilities and accessible local services and drop-in centres, all of which have proven to be effective in reducing harms associated with street-based sex work. The Ugly Mugs initiative, for example, is an effective tool against violence, and needle exchange and condoms supplies have certainly helped keep STIs and HIV out of the community. No doubt the Review will hear from the local organisations that operate programmes for sex workers whose work is hampered, not helped, by criminalisation.

Throughout the state, complex issues affect people who are vulnerable because they live with poverty often driven by mental health issues, homelessness, family violence or substance use issues; or being indigenous or disabled. For a very small fraction of this larger population, these issues interlink with sex work in St Kilda. This means that the aim of promoting safety and wellbeing for street-based workers is not only a local issue. Ultimately, it depends on government to improve economic and social policies to broaden access to public housing, mental health services, drug detox and rehabilitation and family and sexual violence support.

The Irrational Patchwork

In 1984, the Victoria Police insisted that if brothels were to be legal, they must be licensed. Health authorities insisted that if sex work was going to be legal, sex workers must be made to attend sexual health clinics. Sex workers warned the government that if sex work was partly legalised and these types of discriminatory laws introduced, a large illegal sector would emerge in Victoria. That is exactly what happened according to Marcia Neave, the chair of the 1985 Inquiry into sex work. She described the mix of legal and illegal sex work that emerged in Victoria as 'an irrational patchwork'.

Many sex workers comply with the restrictive brothel licensing and private worker regulations – but not enough for the system to have been a success. Many sex workers have reasons why they cannot or will not work in the regulated industry. The current process of becoming 'legal' by getting a job in a brothel or escort agency or registering yourself is too complicated, risky or expensive, especially for young people and those planning to only work briefly. By operating in the unregulated sector, sex workers can avoid their names being recorded; working in isolated areas, paying inflated commissions to brothel operators,

enduring oppressive work conditions including unpaid work; visa checks and/or intrusive and unnecessary STI and HIV testing.

Some sex workers find it difficult to secure a place in the legal sector. This might include undocumented migrants, older women, international students, transwomen, women with substance use issues and people living with HIV. Being unable to work in the legal sector can mean working in circumstances that put them at increased risk of violence and exploitation. Licensing has not ended violence and harassment in legal brothels. Some sex workers have said that some brothel managers won't call police to their brothels, in opposition to sex workers who want to report offences. Some have said there are managers who see repeat offenders as repeat clients and may sack workers who complain. Licensing has also meant that brothels are situated in isolated areas, which places workers in danger.

Street-based sex work will probably continue to decline after decriminalisation, possibly more rapidly than at present, due to the increasing accessibility of more ways to work independently. Communities where there are street-based sex workers will benefit from decriminalisation, limiting police to preventing violence and legitimate crime with laws that apply to everyone, not discriminatory law aimed at people buying or selling sex.

When sex work is decriminalised, sex business operators will no longer be able to use keeping sex workers' real names off official records as a bargaining chip. All sex workers will be covered by anti-discrimination law and other legal mechanisms that protect privacy, health and safety, not only those in the legal sector.

The key to successful law reform is that sex workers voluntarily comply with 'ordinary business regulations.' Sex workers will 'vote with their feet' against unfair regulation or privacy violations by working illegally. Regulations must not only be administered fairly, they must be appropriately applied to the sex industry, for example, to meet sex workers' specific privacy and safety needs. For instance, if small businesses are required to inform local councils that they are operating, sex workers might have to do the same. But councils must not be given the power to refuse permission to sex work business to operate, nor any extra powers to inspect the property or impose penalties for non-compliance.

In 2015, New South Wales' Select Committee on the Regulation of Brothels made the following comments on Victoria's licensing legal framework:

- ***'the registration of sex workers provides the potential for a lifetime of stigma for sex workers, many of whom work in the industry for only a small part of their lives.'***
- ***Medical experts consider the registration of sex workers would probably have negative public health outcomes;***
- ***Registration of sex workers is not otherwise justified by the small benefits to be derived from such a system.***

Decriminalisation Issues

Sexual Health

The 1994 Act imposed monthly testing for sexually transmissible infections (STIs) and quarterly blood testing for HIV on sex workers (the STI component was changed to quarterly in 2012). This was done by making it an offence for a sex worker to work if they know they have HIV or one of the other sexually transmissible infections (STI) listed in the Sex Work Regulations 2016. The law assumes the sex worker knows they have the infection, unless they can provide a certificate as a defence. Although the results of STI and HIV tests are technically confidential between doctor and patient, the system means that sex workers must obtain a Certificate of Attendance. The sex worker shows the Certificate of Attendance to the licensed brothel or escort agency operator or, in the case of independent workers, keeps it on hand in case they need to prove to police that they are not guilty of working with HIV or an STI.

Licensed brothel operators and escort agencies are obliged to provide a free supply of condoms and water-based lubricant and to ensure those working on their premises have Certificates of Attendance.

The 1994 Act was introduced at the height of the HIV pandemic. At the same time, programmes to deliver information, condoms and lube to sex workers were scaled up and concerted efforts were made to ensure that sexual health services were made accessible and friendly to sex workers.

After legalisation, sex workers reported that these programmes and prescriptive licensing rules had increased the availability of condoms and sex workers attending clinics. However, at the same time those rules created barriers to safe practices in the unlicensed sector where condoms can be used as evidence that the place is a brothel.

Although there are good public sexual health clinics in cities and towns in Victoria, they do not provide the coverage needed by sex workers. Some sex workers continue to have difficulty accessing sexual health services or, for various reasons, for example, fear of experiencing stigma or concerns around privacy, are uncomfortable about doing so. Some do not have Medicare so they must pay for STI testing or travel to a free clinic, if they know of one. Decriminalisation will help services to reach sex workers who may be having these difficulties. Sex workers in regional Victoria particularly need to let the Review know if they have any difficulty accessing health services.

All medical procedures should be voluntary and the information that comes from them should be confidential. Mandatory or compulsory testing violates human rights; there have been suggestions that it also undermines people taking responsibility for their own sexual health and encourages clients to want to take the calculated risk of unprotected sex with 'tested' sex workers.

It is also unethical to perform intrusive vaginal or anal examinations where there is no clinical need for it. At least one leading Melbourne clinic has stopped internally examining sex workers, not, however, because it is an intrusive practice but because it has no public health benefit.

Many sex workers have pointed out that STI and HIV tests become irrelevant as soon as the person has sex. Also, it would not be difficult for a brothel to forge certificates or for a worker wanting to avoid an unnecessary clinic visit to obtain one in another name. A further reason to abandon mandatory STI and HIV testing is that it cannot be ethically justified, especially when there is strong evidence that Victorian sex workers would not be transmitting STIs and HIV without it. On the contrary, there is evidence that sex workers have better sexual health and safer sex practices than the general population. The Melbourne Sexual Health Clinic reports that sex workers who attended between 2002 and 2011 consistently had lower rates of STIs and HIV than the estimated rate in the general community. Extremely high rates of condom use (nearly 100%) with clients means that when sex workers do get an STI, it is usually from private lovers, not clients. According to the Kirby Institute, by 2011 there were no cases of a female sex worker having contracted or transmitted HIV at work in Australia.

The ban on people living with HIV selling sex affects cisfemale and transgender sex workers more than cisfemales because Victoria's HIV epidemic is very small and concentrated in gay men. That means a cisgender woman sex worker is not only unlikely to have HIV, she is very unlikely encounter a client with untreated HIV to infect her, even if they have condomless sex. The ban was put in place before the introduction of HIV medication that both treats HIV and prevents HIV transmission. It is now redundant.

Some sex workers think that it should be illegal to buy or sell sex without a condom. This is the case in New Zealand. Although it is not necessarily enforced, NZ sex workers have said it can be a useful to negate any requests for condomless sex from clients.

Several studies have concluded that the most important thing sex workers need to maintain optimal sexual health is to trust their doctor and not feel judged by them so they can discuss sexual matters openly. Although there is always room for improvement, sexual health and gay men's health services in Victoria provide this. The appropriateness of those services for sex workers who are trans or non binary in Victoria hasn't been studied but there are anecdotal concerns.

Decriminalisation should provide an environment that enables all sex workers to access holistic, ethical medical services, not only those in one tier of the industry. Policy and government funding decisions must support this by ensuring there are adequate free clinics with well-trained multicultural staff.

Advertising

Advertisements for sex work must include a true licence or exemption number and meet these guidelines.

They must not....

- describe the services offered;
- be broadcast or televised;
- induce a person to seek work as a sex worker
- induce a person to seek work in a brothel or escort agency;
- use words which imply that massage is provided;
- refer to race, colour, or ethnic origin of the service provider;
- refer to the health of, or medical testing undertaken by, the service provider.

They must...

- only contain pictures taken above the shoulders;
- be smaller than 18cm x 13cm, except if its outdoors;

The rule that limits body images to “head and shoulders” in offline ads is intended to protect the community from offensive advertising. Male sex workers in particular have said on the record that their time is wasted explaining things about their services and appearance to clients that should be in ads.

Sex workers have expressed concerns that the ban on advertising for staff is discriminatory, that it reduces choices about where to work and encourages third parties to supply labour to legal brothels. Decriminalisation means that non-discriminatory advertising regulations would apply.

Alcohol

All alcohol sales and consumption are currently banned in brothels. The ban aims to promote sex workers’ health and safety and reduce public nuisance by discouraging undesirable alcohol-related behaviour. At the same time, it probably makes brothels less attractive and prevents them from expanding to become more general entertainment venues. Sex workers have expressed various opinions about this depending on how they assess the risks and benefits of alcohol in the workplace. Some have said that it can increase the amount of unpaid time workers have to spend socialising with clients. Others have said it makes for a more normal and relaxed environment and leads to clients staying longer and therefore spending more. Conversely, others worry they might spend less. Brothel owner are not in agreement either. Smaller brothels have generally supported the ban, while larger venues want it removed.

Everybody probably agrees that at least some alcohol on the premises for things like staff parties should be allowed.

Male, Trans and Non Binary Sex Workers

Male identified brothels and street working areas no longer operate in Victoria. Changes to the law and the advent of mobile phones and social media are said to have shifted male sex work to online connections and outcalls. Transmen and women work throughout the sex industry as do many gender-fluid people.

Male workers have said they rejected brothels because they had to work set shifts without any guarantee of clients, pay high commissions and compete with other workers for bookings. Demand for street sex work also dissolved as client preferences shifted en masse to 'shopping from home' because it is more private, convenient and, without commission costs, it offers better value for money. Direct online contact with clients is also considered to be safer because it enables sex workers to better screen clients for safety and to negotiate safe sex in advance.

The Sex Work Act applies to sex businesses regardless of the gender of the sex workers. This means that men can be prosecuted for using or operating an unlicensed brothel if they see clients at home, in saunas or other sex-on-premises venues. Options to work independently and safely will expand when this law is removed.

Because men and trans women have a higher chance of encountering an HIV positive client than cisgender women, their access to HIV prevention and care services is crucial. This is particularly so now that PrEP protects people from HIV even if a condom is not used. Both HIV experts and sex workers rights advocates argue that the sexual health needs of male and gender non-conforming sex workers can only be achieved where there is a high level of trust and confidence in the clinical staff and where the services are easily accessed and free or affordable. These conditions are threatened by criminalisation of HIV positive sex workers forcing sex workers living with HIV to operate covertly and in fear. Decriminalisation will mean that people living with HIV who sell sex will be better able to access the services they need.

Substance Use

There are limited studies on drug use in Victoria's [sex industry](#) but credible studies from other states suggest low rates of drug use by sex workers. The most recent and extensive study was conducted in Western Australia and surveyed 331 sex workers in that state. Those surveyed represented all genders, sex work [sectors](#) and language groups. The study found the most common illicit drug currently being used was marijuana.

Decriminalising sex work will remove existing barriers to harm reduction services or support around substance use. It will also reduce discrimination against people who use drugs where sex work status typically compounds existing disadvantages, in matters such as child welfare, benefits claims and tenancy.

Migrant Sex Workers

Only Australian nationals and people with visas permitting them to work in Australia can work in the legal sex industry in Victoria. Immigration and Border Protection officers inspect legal brothels to ensure those businesses and their employees comply with the requirement that all workers have provided the employer with a valid visa that shows that permission. When a person in the process of migrating to Australia registers as a sex worker or applies for a brothel exemption, that information is recorded. This is assumed to prejudice progress to residency and citizenship and poses other significant threats including deportation. In 2012, RhED estimated that 50 per cent of sex workers in the legal and regulated industry are from multicultural backgrounds, and an even higher number of migrant sex workers operate in the unlicensed sector.

There is no single story of migrant sex workers' lives. Some are experienced and empowered, while others may experience a range of difficulties. Some arrive in the country to work in the sex industry, sometimes incurring a bonded debt, and there are people on working holiday and student visas who can only legally work for 20 hours per week. Others arrive with family or to study and then join the sex industry later. Many are mobile within Australia.

Depending on their experience and legal status, migrant sex workers may have limited access to universal health services, knowledge of HIV and STIs and ability to negotiate safer sex practices with clients. Without legal protection, it is inevitable that some are deceived about their working conditions and receive less money than promised. Although migrant sex workers may work in bad conditions and be vulnerable to debt bondage and trafficking, they should not be classed as trafficking victims until and unless there is coercion. The law must ensure that measures aimed at preventing trafficking cannot be misapplied to migrant sex workers.

Pushing migrants into the unlicensed sector exposes them to greater demand for unprotected sex, more STIs and more abusive behaviour from clients and bosses. In all sectors, migrants are additionally disadvantaged by fears of exposure in small communities, not knowing their rights, language limitations and immigration or visa-related concerns. Decriminalisation of sex work at state level will go some way toward enabling migrant sex workers to increase their access to safer workplaces and services. However, it will not be enough on its own. Substantial efforts need to be made to support migrant sex workers in Victoria to benefit from decriminalisation. Services should be improved, and the advocacy space expanded in ways that support migrant sex workers' participation in conversations about sex work as well as in broader movements that are lobbying for fairer visa and asylum systems and deconstructing the stigmatisation of racialised workers in Australian workplaces.

Because migrant sex workers are most likely to experience discrimination, particular attention needs to be given to understanding the specific threats posed to them by any new law or policy. The Review should therefore carefully audit its recommendations for impact on migrant sex workers before it submits them to the government.

Human Trafficking and Modern Slavery

Due to the transnational nature of human trafficking, the Commonwealth Criminal Code Act 1995 primarily deals with human trafficking, debt bondage slavery, sexual servitude and deceptive recruiting, although there are some ancillary offences in the Victorian Crimes Act 1958.

Much of the push against decriminalisation is based on unfounded concerns about the trafficking of women and children for sexual slavery. According to the Australian Federal Police, only five people were charged with trafficking for the sex industry in Victoria between 2005 and 2016.

Sex workers and academics have repeatedly spoken against the conflation of sex work and human trafficking. Like most Australians, sex workers want to see an end to genuine human trafficking but analysis by sex worker groups consistently illustrates that anti-sex trafficking initiatives unfairly target migrant sex workers and make their lives more difficult and riskier. There is evidence that the government has spent far more money on addressing sex trafficking than is justified by the incidence of sex trafficking. As a result, anti-trafficking NGOs who have little casework have diverted their energies and taxpayers' money to lobbying against sex work because they regard it as indistinguishable from trafficking. Decriminalisation does not take away the power of the Australian Federal Police and their state counterparts to tackle genuine human trafficking. In fact, when sex work is decriminalised, trafficking becomes more visible and more reportable by other sex workers. By ending the illegal, underground industry, the conditions in which trafficking and exploitation are most likely to occur will be greatly reduced.

Licensing of sex work should not be regarded as a viable legislative response. For over a century, systems that require licensing of sex workers or brothels have consistently failed – most jurisdictions that once had licensing systems have abandoned them. As most sex workers remain unlicensed, criminal codes remain in force. Licensing systems are expensive and difficult to administer, and they always generate an unlicensed underclass. Thus, licensing is a threat to public health.

Privacy and protection from discrimination

Sex workers frequently say that criminalisation causes stress and places them at risk of discrimination, violence, humiliation, family rejection and reduced economic and social opportunities. It also threatens sex workers' children and can compromise sex workers in, for example, family law, housing or probate cases.

The current law threatens privacy because it requires sex workers to provide their personal information to sex business operators, police, local councils and/or the BLA. Although the information is not public, this requirement is still regarded as invasive and dangerous by sex workers.

Some sex workers want law that enables them to work anonymously and others are willing to provide data under some circumstances. This presents a challenge for decriminalisation because the law requires other legal businesses and service providers to provide data to comply with ordinary business regulations. It becomes clear that the success of decriminalisation depends on sex workers' compliance with fair business regulations. Sex workers' views on this subject are particularly important because police and local councils will pressure government to give them the power to collect as many names of people in the sex industry as possible. Police particularly insist on being able to screen who can run a brothel to reduce the possibility of criminal involvement.

Reclassifying sex work as work opens up new opportunities to destigmatise sex work. For example, prior convictions and other records that name sex workers, including the existing SWA registration, should be expunged.

Inspecting and Monitoring a Decriminalised Sex Industry

After decriminalisation, Victoria Police will no longer be the lead agency for the enforcement of laws relating to the sex industry: planning, workplace safety and health authorities will be responsible. As already mentioned, the success of decriminalisation depends on these agencies treating sex businesses with the same good faith they treat other businesses. New law must ensure such authorities don't discriminate against the sex industry and must reduce the potential for corruption within them.

In the past, the government oversaw the sex industry with a Ministerial Advisory Committee made up of health and welfare professionals, government agencies and law enforcement. It provided an opportunity to exchange information and to educate and advocate to government on sex work issues as they happened. For example, the requirement for STI testing was changed from monthly to quarterly as a result of a recommendation of the committee. However, some members said the MAC lacked 'teeth' and it was disbanded in 2014. The Committee could be revived or a new model for the interface between the government and the sex industry could be created.

However the impact of decriminalisation is monitored, resources should be made available for sustained, ethical research. In contrast to NSW, there has been little funding for collecting accurate information about sex work in Victoria. After legalisation there was a flurry of research by various agencies and academics, but by 2015 it appeared to have dwindled, resulting in a significant gap in knowledge. Researching sex work ethically and inputting that information to government without generating stigma is a complex challenge. It can only be done if sex workers are at the centre of the research rather than merely subjects of it. Whatever decriminalisation looks like in Victoria, it must be supported by a coherent, properly resourced research plan if it is to deliver the best outcomes.

Support for Sex Workers

A range of organisations provide targeted health and welfare services and information to sex workers. Some are government or charity funded while others are volunteer based.

Red Files Inc.

[Redfiles.org.au](http://redfiles.org.au)

Red Files is a sex worker peer-led online safety resource for sex workers Australia wide. Red Files provides an online platform for sex workers in Australia to connect, network and communicate with one another to help build a sense of community.

RhED

<http://www.sexworker.org.au>

Resourcing health & Education (RhED), a program of Star Health, is a service for the sex industry, providing site based and outreach health services across the state.

Sex Work Law Reform Victoria

<https://sexworklawreformvictoria.org.au/>

Sex Work Law Reform Victoria is an advocacy group made up of sex workers and allies advocating for equality before the law for all sex workers in Victoria.

St Kilda Legal Service

<http://www.skls.org.au>

St Kilda Legal Service provides free legal assistance to street sex workers on loitering and related charges.

St Kilda Gatehouse

<https://www.stkildagatehouse.org.au/>

St Kilda Gatehouse is a faith-based organisation committed to supporting the most vulnerable in St Kilda.

Vixen Collective

[Facebook.com/swersvictoria](https://www.facebook.com/swersvictoria)

twitter.com/VixenCollective

Vixen Collective is Victoria's peer only sex worker organisation. Through their objectives and work they promote the cultural, legal, human, occupational and civil rights of all sex workers.

Sex workers use many 'mainstream' services too, of course. De-stigmatising sex work means sex workers are better treated and more able to access the services they need at hospitals, counsellors, legal advisors, drug services and family and sexual violence services. However, the government must also invest more in research and training that improves the quality of services.

Advocacy

In theory it is accepted that listening to and learning from sex workers is essential for developing effective law and policy. Since sex work was legalised, both government and charity money has been directed almost exclusively to health and social service organisations to address sex trafficking and violence, promote sexual health and assist people out of sex work. By allowing the service and advocacy space to be dominated by traditional social health and service providers, the government has marginalised sex workers, who must advocate for their rights without sufficient recognition or resources. Despite this, several groups of sex workers advocate on behalf of sex workers and some also provide high quality information and effective services. However, without resources they have limited capacity and lack adequate structures to ensure the levels of transparency, accountability and confidentiality that sex workers need. This both limits what they can achieve and can even make them unreliable spaces for sex workers.

When the government decriminalises sex work, it should conduct a thorough review of how Victorian sex workers receive health and social services and how they are represented in discussions about themselves. That review should specifically recommend that a more sex worker-centred approach to service delivery and policy making is supported in Victoria, and that it gives particular attention to including migrant, indigenous and CALD sex workers.

Conclusion

The current law violates the rights of all sex workers. In the unregulated sector, sex workers effectively have no rights and complying with the law involves expense and sacrificing privacy, autonomy and flexibility, without necessarily gaining access to decent workplaces or to equal treatment under the law.

Decriminalising sex work must enable sex workers to access safe workplaces and enjoy rights to privacy and autonomy along with the rights that enable others to safely conduct trade, claim welfare benefits, live securely in families of choice, make contracts, accrue assets and access justice and proper police protection. Government must understand that decriminalisation must deliver this full suite of rights and benefits for all sex workers in practice and in theory.

Resources

This information about sex work and law in Victoria was compiled from the following list of articles, websites, reports and reports. To keep it brief and more readable, it has not been referenced. We thank the authors and particularly acknowledge the value of the material written and shared by sex worker activists and researchers to support arguments for decriminalisation.

Consumer Affairs Victoria

<https://www.premier.vic.gov.au/review-into-decriminalisation-of-sex-work/>

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The Summary Offences Act 1966, the Business Licensing Authority Act 1998,
The Confiscation Act 1997,
The Equal Opportunity Act 2010,
The Rooming House Operators Act 2016,
The Planning and Environment Act 1987 and the Planning and Environment (Planning Schemes) Act 1996 and the regulations made pursuant to those Acts.