

Ten years under the Prostitution Control Act (PCA) 1994

RhED Discussion & Recommendations to The Prostitution Control Act (1994)

The following is a discussion paper regarding changes that RhED recommend to the Prostitution Control Act (PCA).

Prostitution in Victoria is regulated by:

- *The Prostitution Control Act 1994*
- *Prostitution Control Regulations 1995*
- *Prostitution Control (Fees) Regulations 2004*
- *Health (Infectious Diseases) Regulations 2001*

Introduction

RhED is a state-wide health, education and support service for the sex industry provided by Inner South Community Health Service (ISCHS). Prostitutes' Collective, Victoria, previously delivered services and programs. Funding was transferred to the ISCHS in February 2000. Whilst RhED is not a representative body for members of the sex work industry it is committed to respecting and reflecting the needs of the industry in the development of health and education programs.

RhED provides health and educational services to the brothel, private, escort and street sex industry in Victoria. Our program, RhED is the successor of PCV - Prostitute's Collective, and is the lead agency in Victoria in respect to the delivery of health and education services to sex workers operating from these settings. The Program is funded to employ 4.8 EFT health and educational workers who are responsible for state-wide coverage. Given that sex work occurs predominantly within the brothel, private and escort segments of the industry, the majority of RhED resources are appropriately, directed toward legal workers male, female and transgender (estimated at 9,000 to 15,000), their clients and management. The number of sex workers operating outside of the current legislative framework in Victoria cannot be estimated.

Section 17 (3b)

Controls on advertising by prostitution service providers

It is illegal to advertise for staff to work in a brothel. This includes ancillary staff.

Discussion

It is discriminatory to restrict owners of brothels and escort agencies not to be able to advertise for ancillary staff. Additionally, because businesses cannot advertise for sex workers, this impacts on the business's ability to provide sex workers to clients and thereby creates other "inventive" means

of recruitment, some of which are misleading to people answering such advertisements (eg recruitment from interstate/overseas by advertising for "hostesses").

Recommendations

- RhED recommends that owners of brothels and escort agencies can advertise for ancillary staff including managers, security, cleaners, etc.
- RhED recommends that owners of brothels and escort agencies be permitted to advertise for sex workers.
- RhED recommends that all staff (ancillary and sex workers) show evidence that they have attended a workshop on occupational health and safety at RhED prior to commencing work.

Section 19 (Section 2)

Permitting prostitute infected with a disease to work in a brothel etc

Discussion

- All sexually active people, sex workers included, share the responsibility to practice safe sex.
- It is discriminatory to burden sex workers with the stigma of being a major risk who spread sexually transmissible infections (STIs).
- Research repeatedly shows that sex workers have the lowest rate of STIs in the general community (Victorian Surveillance reports, Fairley et al).
- The notion of a "clean bill of health" is a mistaken belief that a person is free of STIs. Given the various "window" periods of up to sex months for some STIs to be detectable, thus creating a false sense of security for both sex workers and clients.
- Monthly testing is costly to the Medicare system.

Recommendations

- Only those infections not preventable by use of condoms or safe sex practices should be included. Currently these are:
Herpes (whilst active lesions are present), Warts, Scabies, Tinea and Crabs. These infections are either skin borne or have intermittent phases of contagiousness. All are treatable, although not all are curable.

- Support the promotion of safe sex practices for all sexually active people.
- STI/health concerns in relation to the sex industry should be contained within enforceable occupational health and safety codes.
- As sex workers are more aware of sexual care than others, laws should not contain requirements for mandatory sexual health testing
- Peer based approaches to providing safe sex knowledge continue to be the most successful means of providing this information.

Section 23
“Special provisions for smaller owner-operated businesses”

These special provisions were made as an attempt to encourage workers who wanted to work independently, either in an exempt brothel (1-2 people) or as a private escort. Owner-operated businesses and private escorts are exempt from payment of licence fees.

Discussion

Exempt brothel

In order to acquire premises to set up an exempt brothel, these premises must apply for a permit with the Planning and Environment Act 1987. The Planning & Environment Act 1987 require brothels, exempt brothels and private workers to be 100m from nearest resident, 200m from anywhere where children may gather eg school, church, amusement centre, playground.

To locate an exempt brothel in an industrial area where there are 1-2 workers is unsafe. These establishments are not permitted to have a manager, a receptionist and security personnel.

Additionally, when setting up an exempt brothel, the sex worker must find premises that they can rent or purchase in an industrial area and apply to the local council for a permit. When landlords find out what the premises are going to be used for it is common for them to increase the rent beyond normal commercial rates. When the local community are informed as to what the premises are to be used for, many complain on moral grounds. This in itself is not reason to disallow a permit. However, the sex worker has to apply to the Victorian Civil & Administrative Tribunal (VCAT) to appeal the decision. The costs make this prohibitive to individual workers.

Private worker

A private worker has to comply with the Planning & Environment Act 1987. To comply with the PCA, private workers must visit clients at their home or an arranged meeting place, ie hotel room/motel. Private workers cannot work from their home. However, the majority of clients want to meet the worker away from their home.

The Planning & Environment Act 1987 restrictions unfairly discriminate against people wanting to set up an exempt brothel or to work privately.

Recommendation

- The Planning & Environment Act 1987 restrictions for smaller owner-operated businesses are removed.

Section 33 (3)

Application for Licence

It states that an applicant must consent to having his or her fingerprints taken by an officer of the Authority or an authorised member of the police force.

Discussion

RhED considers that this is discriminatory. No other application for a business licence requires people applying for business licences to be finger printed in order to receive their licence.

Recommendation

- That Section 50(2A) is removed from the PCA.

Section 50(2A)

Approval of a manager

It states that an application for approval as a manager must consent to having his or her fingerprints taken by an officer of the Authority or an authorised member of the police force.

Discussion

RhED considers that this is discriminatory. No other application for approval as a manager requires that person to be finger printed in order to receive their licence.

Recommendation

- That Section 50(2A) is removed from the PCA.

Other

Employment vs contract

Discussion

The PCA makes no mention of how sex workers should be employed by legal brothels. Hence, workers in brothels are regarded as “contractors”. It is seldom that a “contract” will be signed so this becomes an informal way of employment.

The lack of clarity around employment status enables brothel owners to be prescriptive in terms of employment which can impact negatively on workers. Workers are often unaware that they do have recourse to Wageline, when grievances or conflict arise over payment of monies in the brothel/escort agency.

Recommendation

- Owners/managers/workers are made aware of this discrepancy and are informed of their responsibilities regarding taxation, superannuation, workcover, conditions of employment, etc.

Conclusion

People who work in the sex industry may experience the following:

- Discrimination by medical practitioners, welfare agencies, government departments, insurance companies and prospective employers
- Isolation
- Stress
- Social and family breakdown due to stigma

Reducing harm associated with sex work can only be achieved through ensuring that people entering the industry are making an informed choice.

RhED advocates for the abolition of the Prostitution Control Act and the progressive option of decriminalisation. Whilst the legislation exists, RhED will continue to work with the industry and relevant government bodies to advocate that existing legislation best supports the occupational health and safety of sex workers and the public health of the community.

References

Attorney-General's Street Prostitution Advisory Group, Final Report 2002

Health (Infectious Diseases) Regulations 2001

Principles for Model Sex Industry Legislation, Scarlet Alliance & Australian Federation of AIDS Organisation, December 2000

Prostitutes Collective of Victoria "Decriminalisation of Prostitution Policy" (no date)

STIs – legal vs illegal sexworkers, Victoria, Australia, Fairley, Messieh, Skelsey June 2003

The Prostitution Control Act 1994

Victorian Surveillance Reports 1999-2004