



ISCH Position Paper - Sex Work Legislation in Victoria

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Summary

[Please note, the use of 'prostitute' and 'prostitution' exists only when referring to historical documents, matters and direct quotes.]

This document was initially written in response to the then government review of the *Prostitution Control Act (PCA)* in 2009 (please see Appendix 1). The review of the Act resulted in language being updated to become the *Sex Work Act 1994 (SWA)*.

While there are many elements of the Act that are supported by Inner South Community Health (ISCH) and have worked well, there are several key parts of the Act which warrant further review and reform in order to better support the health and wellbeing of sex workers. In addition to this, the SWA still does not address many aspects of sex work which are important to sex worker rights, health and safety. Thus, some of the issues raised within this document lie outside the specifics of the Act but are critical in addressing many of the matters identified by sex workers which need to be addressed in a broader context.

Inner South Community Health is the leading organisation providing support, health information, referral and advocacy for the sex industry via the Resourcing Health and Education in the Sex Industry (RhED) program. ISCH acknowledges that sex work is a politically and morally contentious issue which creates mixed feelings throughout the Victorian community. ISCH views sex work as a legitimate occupation, focussing upon work choices and workplace rights and responsibilities.

The document covers a number of key areas:

- History of legislative reform in Victoria
- What sex workers identify as issues
- Different models of sex work which provide some guidance in relation to the health and wellbeing impacts of different responses
- Key issues identified within the SWA that need addressing
- Recommendations for future evaluation and review

Two key bodies of work have been undertaken in relation to sex work within Victoria including the Neave (1985) 'Inquiry into Prostitution' which was the basis of the first Prostitution Control Act and the Attorney General's Street Prostitution Advisory Group (AGSPAG) recommendations (2002). Both these bodies of work advanced the profile, community acceptance and support services to sex workers however there are key elements of both which were not adopted and still need to be addressed within the current legislation. The issues relating to street based sex work as identified in the AGSPAG report is one of the key areas which remains unaddressed.

Sex workers identify many issues impacting on their work including stigma and discrimination, regulation, health and wellbeing, exiting and vocational recognition. These are impacted both directly and indirectly by the current SWA. Many of the recommendations address issues raised by sex workers however there is still a need for ongoing work on to address the specifics of many of these issues with sex workers, the sex industry and the broader community.

The paper outlines current models of sex work legislation, and the impacts of the different models on sex workers. Any further development and/or of a model of sex work legislation in Victoria needs to be based on the principle that sex workers are a part of the community and that attempting to restrict sex work will not eliminate it. Maintaining the health and human rights of all sex workers can only be of benefit to all community members. A harm reduction approach to sex work minimises the impacts of the sex industry on the community and enables sex workers to maximise their control over their occupation. Respecting an individual's right to choose their mode of employment and enabling them to work in the safest way possible exemplifies this. Through harm reduction and human rights, ISCH's priority is to maximise the health, safety and human rights of sex workers. ISCH's position reflects the social health principles of the Ottawa Charter for Health Promotion, as well as the vision and mission of the organisation.

ISCH and sex workers support the decriminalisation of all forms of sex work in Victoria. This is based on research and evidence of the impacts of differing models of sex work and the need to address human rights and harm reduction issues for sex workers, their future health and wellbeing and that of the broader Victorian community. Decriminalisation would enable regulation through other occupational means such as workplace occupational health and safety and public health practices. ISCH would like to see all adults, sex workers included, being responsible for their own safe sexual practices, their own health and their own lives.

Reflecting upon sex industry legislation throughout Australia and the world as well as the history of sex work law in Victoria, ISCH has the following recommendations relating to legislation of the Victorian sex industry:

RECOMMENDATION 1: That owners of brothels and escort agencies be able to advertise for ancillary staff including managers, security, cleaners, etc, within clear advertising guidelines. *For more information, please see p. 23.*

RECOMMENDATION 2: That owners of brothels and escort agencies be permitted to advertise for sex workers within clear advertising guidelines. *For more information, please see p. 23.*

RECOMMENDATION 3: A requirement that STI testing adhere to clinical guidelines which should be established for sex worker testing. Reference to adherence to guidelines should be included in the SWA, rather than prescribed sexual health testing. Such guidelines would take into account the risk associated with various sexual practices. *Partially achieved, 2012. For more information, please see pp. 24-26.*

RECOMMENDATION 4: That STI and health concerns in relation to the sex industry should be contained within enforceable occupational health and safety codes. *For more information, please see pp. 24-26*

RECOMMENDATION 5: The SWA in relation to safe sex practices should be consistent with the Health Act which views safe sex practices as a responsibility for all sexually active people. Informed consent should be a part of all sexual practices, relating to risk. *For more information, please see pp. 24-26.*

RECOMMENDATION 6: That the Planning & Environment Act 1987 restrictions for smaller owner-operated businesses are adopted as the only restrictions applying to private sex workers so they do not have to meet additional requirements to other small businesses. *For more information, please see pp. 26-28.*

RECOMMENDATION 7: That small owner-operated sex worker businesses should be permitted to provide their own secure working environment from a business address. Any permission granted as such would be subject to the ordinary operation of all relevant state and Commonwealth legislation, ensuring that it adheres to occupational health and safety requirements. *For more information, please see pp. 26-28.*

RECOMMENDATION 8: That street sex work be decriminalised as part of a holistic strategy in which:

- a. Street based sex work is no longer a criminal offence;
 - b. Tolerance zones are established in sex working areas outside of which street based sex work is unlawful (subject to civil penalties);
 - c. Safe houses be established in sex working areas in which sex workers can safely provide their services;
 - d. Investment is made in specific social services, health, housing, education and training in order to enable choice to either remain in or leave the industry.
- For more information, please see pp. 28-31.*

RECOMMENDATION 9: That terminology throughout all legislation relating to the sex industry should reflect current best practice terminology and replace 'prostitute' and 'prostitution' with 'sex worker' and 'sex work'. *For more information, please see pp. 31-32. [Achieved 2011](#)*

RECOMMENDATION 10: That sex work legislation be regularly reviewed and evaluated within set timeframes by an independent service, ensuring participation of all relevant stakeholders. Such evaluation should encompass occupational health and safety, public health best practices and human rights. *For more information, please see pp. 32.*

1. Introduction

Resourcing Health and Education in the Sex Industry (RhED) is a state-wide health, education and support service for the sex industry provided by Inner South Community Health (ISCH). RhED is committed to respecting and reflecting the needs of the sex industry in the development of health and education programs.

ISCH is a multi-sited community health agency providing a comprehensive range of health and welfare services to the communities of Prahran, St Kilda, South Melbourne and Port Melbourne. The ISCH has a commitment to continuous quality improvement and has a reputation for innovation and excellence in its service delivery. The Service values collaboration and works effectively as part of the local service system and prides itself on developing innovative, responsive services to meet community needs. Our Mission is to improve the health of our community through the development and delivery of quality health services and health promotion initiatives. This includes providing links to health services for those in the community who may not readily access them and to advocate in partnership with the community to develop improved health policies and services. ISCH is responsible for the health of the entire local community, including sex workers.

As a program of ISCH, RhED operates from a harm reduction approach providing practical and realistic health information and supports. Sex work is an occupation that many individuals choose to engage in as a legitimate work choice. RhED aims to provide a service that recognises that health is not only a physical dimension but includes a person's emotional and social wellbeing.

RhED provides a range of services to the sex industry. The program aims:

- To provide health, education, support and advocacy services for sex industry workers.
- To share understanding and knowledge of safe sex practices through the promotion of positive health and wellbeing strategies.
- To be inclusive of sex worker views and experience through peer based mechanisms.
- To participate at a national level to promote solidarity amongst workers in the sex industry.

RhED works with sex workers of all genders, sexes and sexualities. RhED provides services at brothels, escort agencies, in private situations, on the streets and at other negotiated venues. RhED also works with commercial and private partners of those associated with the sex industry and with other relevant service providers. RhED provides, through confidential telephone, drop-in and outreach services, support and debriefing, counselling, information, referral, advocacy, education, educational resources, safe sex supplies and many publications.

RhED is not funded to provide services to unregulated brothels. Whilst RhED supports sex workers who choose to exit the industry, the program is not funded to provide services specific to sex workers which would facilitate exit from the industry (a long and complex process) for those who want to make that choice, namely:

- vocational education and training;

- non-generic social (or follow on) services which would provide support with barriers to exit like housing and income security; and
- post exit support and specialist counseling.

There continues to be harm and marginalisation associated with street sex work and other unregulated sectors of the sex industry. Further investment in funding services and investigating legislative reform would need to be explored in consultation with the community and government if we are serious about addressing these issues in the longer term.

Through this work ISCH has developed extensive networks and trust with sex workers to be able to be informed about their needs and desires for reform within the SWA and how any changes will impact on the health and wellbeing of sex workers in Victoria.

Due to the work of community based sex worker organisations and projects, Australia has one of the lowest rates of HIV amongst sex workers in the world.¹ Sex work occurs in a number of settings throughout Victoria, both regulated and unregulated. The number of sex workers operating outside of the current legislative framework in Victoria cannot be estimated. RhED has the highest level of contact with sex workers in Victoria, with close to 100% access to sex industry workplaces. Whilst there is much conjecture and debate about the sex industry in Victoria, no other independent service or support agency has the authority or access that RhED does to the voices, experiences and concerns of those individuals involved. RhED plays a leading role in informing Government at all levels, and informing the health sector on issues affecting sex workers in the Victorian sex industry.

Sex workers are a marginalised group of people. They need resources that respect their expertise and professionalism. Allowing sex workers to have input to all stages of reviews and evaluations of legislation that affects their workplace lessens this marginalisation. Making such endeavours participatory creates legislation that is more reflective of the industry and meaningful to its participants. Many of the “problems” associated with the sex industry can be eliminated when the fundamental principles of sex work legislation and services are focussed upon human rights, occupational health and safety and workplace conditions. Sex workers may be further marginalised if they feel that they have no say in the legislation that governs their business.

Sex Work in Victoria is currently regulated by:

- The Sex Work Act (1994)
http://www.austlii.edu.au/au/legis/vic/consol_act/swa1994129/
- Sex Work Regulations (2006)
http://www.austlii.edu.au/au/legis/vic/consol_reg/swr2006238/
- Public Health and Wellbeing Act 2008
http://www.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/

Other legislation relating to sex work includes the *Crimes Act (1958)*, the *Summary Offences Act 1996* and various other Commonwealth laws relating to sexual slavery, immigration and trafficking.

¹ Red, E, Saul, “Why Sex Workers Believe ‘Smaller is Better’”, *HIV Australia*, Vol. 3, no. 3, 2004.

Before the SWA was enacted, there were concerns relating to street sex work, particularly in St Kilda, as well as “massage parlours” which were operating without standardised regulation. The SWA was aimed at:

- “seeking to protect children;
- lessening the community impacts of sex work-related activities;
- ensuring criminals are not involved in the sex industry;
- ensuring that brothels are not located in residential areas or areas frequented by children;
- ensuring that no one person has at any one time an interest in more than one brothel licence or permit;
- promoting public health of sex workers and their clients;
- protecting sex workers from violence and exploitation;
- ensuring that brothels are accessible to inspectors, law enforcement officers, health workers and other social service providers; and
- promoting the welfare and occupational health and safety of sex workers.”²

In the SWA there are conditions and penalties relating to illegal, or unregulated, brothels. Yet, little consideration was made as to the impacts of increased licensing requirements, and the resultant unregulated industry created by this. People who will not or cannot meet licensing requirements by default become part of an unregulated sex industry. In this unregulated industry are massage parlours where sexual services are provided, any private sex worker who works without an exemption number, private sex workers who work from home and street based sex workers.

Many aspects of the SWA and the Sex Work Regulations indicate a position of respect for sex work and sex workers. Under this legislation it is illegal to force an individual into or to remain in sex work. It is also illegal to force a person to provide financial support out of sex work. It is additionally an offense to intentionally intimidate, insult or harass a sex worker. Sex workers are also, under any circumstances, permitted to refuse to service a client or cease the servicing of a client under this legislation. ISCH applauds these aspects of current sex industry legislation in Victoria. Yet, many of these aspects of the SWA are already contained within other legislation, including sexual assault legislation and public health legislation.

The Victorian sex industry has changed dramatically since the introduction of the Sex Work Act (SWA). There were 40³ sexual service providers in Victoria at the introduction of the SWA, and now there are 98⁴ brothels in Victoria. In addition to this, the industry has expanded with private escorts, exempt brothels and escort services operating throughout Victoria. The Victorian sex

² Macreadie, R, *D-Brief No 7, 2008: The Prostitution Control and Other Matters Amendment Bill 2008*, Parliamentary Library Research service, Parliament of Victoria, 2008, <http://www.parliament.vic.gov.au/research/2008DBprostitution.pdf>, Accessed 4/3/2009, p. 6.

³ Sullivan, M L, *Making Sex Work: A Failed Experiment with Legalised Prostitution*, Spinifex, Melbourne, 2007, p. 137.

⁴ RhED, *RED #15: a magazine from Resourcing Health & Education (RhED) in the Sex Industry*, Inner South Community Health Service, St Kilda, 2009.

industry turned over A\$360 million per annum⁵ in the first five years preceding the SWA and it has been estimated that until 2010 the growth in revenues to in the sex industry will increase by 6.8 per cent per annum.⁶ Despite this dramatic increase in the size of the Victorian sex industry since 1994, services for the sex industry have not changed. Funding for support agencies such as RhED, has not increased since 2001.

Since the introduction of the SWA, very few changes have been made to sex work legislation despite dramatic advances in health, policy, human rights and occupational health and safety practices. Thus, current legislation does not reflect best practice occupational health and safety guidelines⁷, business practices and human rights and discrimination standards.

Moralistic debates about sex work often involve the rhetoric of empowerment and oppression, feminism and patriarchy, or right and wrong. Such debates rarely involve or provide any assistance to sex workers. Indeed, moralising about the perceived rights and wrongs of the sex industry draws attention away from those issues that are integral to the health and wellbeing of those individuals who are involved: health, safety, respect, human rights and social justice.

RhED takes into account the social, emotional and physical health needs of sex workers in Victoria. As reflected in the Ottawa Charter for Health Promotion, “the fundamental conditions and resources for health are:

- peace,
- shelter,
- education,
- food,
- income,
- a stable eco-system,
- sustainable resources,
- social justice, and equity.”⁸

Taking into account the social model of health, ISCH has a vision of a healthy and inclusive community. ISCH’s mission is the following:

- To develop and deliver health services that are innovative and respond to the particular/special needs of our communities
- To be leaders in advocacy, evaluation and policy direction
- To make sure that those people in our community who might not easily or comfortably use mainstream services can find and receive services that make a positive difference to their health

⁵ Victoria, *Parliamentary Debates*, Council, 1 June 1999, p. 963.

⁶ IBISWorld. (2006). Q9528 *Sexual Services in Australia*. (May): IBISWorld PtyLtd, p. 23.

⁷ Scarlet Alliance and the Australian Federation of AIDS Organisations, *A guide to best practice: Occupational health and safety in the Australian sex industry*, Scarlet Alliance and AFAO, Sydney, 2000.

⁸ World Health Organisation, *The Ottawa Charter for Health Promotion*, 1986, http://www.who.int/hpr/NPH/docs/ottawa_charter_hp.pdf, accessed 17/3/2009.

All discussions relating to sex work legislation as well as sex worker health and human rights must take into account the fundamental conditions of the Ottawa Charter for Health Promotion. All recommendations of ISCH to sex work legislation reform reflect this, as well as the mission and vision of ISCH.

ISCH welcomes any review and discussion around sex work legislation in Victoria. In doing this, ISCH believes that all legislation, services and support must be respectful of sex workers' experiences and privacy, must be non-judgemental and must involve sex workers and the sex industry at all levels of decision-making and consultation.

Whilst legislation exists, ISCH and RhED will continue to work with the industry and relevant government bodies in order to advocate that existing legislation best supports the occupational health and safety of sex workers and the public health of the community.

ISCH welcomes discussion regarding sex work legislation in Victoria. Respect for the human rights of all members of society and upholding their dignity and right to self determination should be the foundation upon which all laws are made. ISCH, as the leading Victorian organisation for sex work issues, will continue to advocate for the human rights of sex workers throughout discussions about sex industry law reform now and into the future.

2. A Brief History of Sex Work Legislation in Victoria

Sex work has a long history in Victoria, dating back to settlement. Various methods have been used to regulate, legislate and criminalise sex work throughout history. Sex industry legislation has had many faces in Victoria: legal and unregulated brothels existed in the 1870s and 1880s. Terrace houses with sole operators were prevalent throughout the inter-war period. Today we have a regulated (legal brothels, escort agencies and exempt workers) and criminalised (illegal brothels and street based sex workers) situation: Victoria has had a history of diverse government and community approaches to sex work.⁹

No matter what model of legislation is used in Victoria or throughout the world, several points remain true:

- The sex industry exists throughout the world, no matter what legislation exists.¹⁰
- Legislative means cannot eliminate the desire and actions of some individuals to provide commercial sexual services.
- Legislative means cannot eliminate the desire and actions of some individuals to purchase sexual services.¹¹

Prior to the SWA coming into effect the following legislation governed the Victorian Sex Industry:

- 1970s “Massage Parlours” were controlled through town planning permits
- 1986 *Prostitution Regulation Act*
- 1993 Inquiry into *Prostitution Regulation Act* and the Victorian Sex Industry.

2.1 Professor Marcia Neave “Inquiry Into Prostitution”

The Sex Work Act was developed from the Professor Marcia Neave “Inquiry Into Prostitution” in Victoria in 1985.¹² This report is considered to be the key document in discussions around legislation of the sex industry in Victoria. Neave reported that any costs to the community of controlling the sex industry must be weighed up against the benefits sought by such controls, and whether this is justified.¹³ This relates to criminal penalties, and their effect on the resources of law enforcement agencies, as well as health restrictions where extra expenditure may be required to administrate compulsory testing.

The report made several statements regarding sex work legislation which are central to discussions today as they were not taken up within the current SWA. These relate specifically to

⁹ Department of Justice, *Attorney-General’s Street Prostitution Advisory Group: Final Report 2002*, Department of Justice, Melbourne, 2002, pp. 27-31.

¹⁰ Lim, L L, *The Sex Sector: The Economic and Social Bases of Prostitution in Southeast Asia*, International Labour Office, Geneva, 1998.

¹¹ Banach, L, Metzenrath, S, *Principles for Model Sex Industry Legislation*, Scarlet Alliance and the Australian Federation of AIDS Organisations, 2000, <http://www.scarletalliance.org.au/library/model-principles>, Accessed 17/03/2009.

¹² Neave, M, *Inquiry into Prostitution*, Government Printer, Melbourne, 1985.

¹³ Ibid, p. 246.

recommendations; 3, 4, 6, 8, criminalisation, occupational health and safety and sexual health screening/public health aspects of sex work.

2.1.1 Criminalisation

Professor Neave stated that criminal penalties should not affect the private lives of consensual adults. Neave stated that despite individuals' moral and political objections to sex work as an occupation, a person's private consensual sex life should be their business alone.

Attention was drawn in the report to criminal penalties for sex work, and their long and short-term effects on sex workers themselves. The report stated that criminal penalties discriminate against sex workers and the cost and time involved in diverting police resources to such activity is prohibitive. Furthermore, criminal penalties for sex work do not eliminate any harmful consequences of the work.¹⁴

The report clearly stated that street sex work should be allowed in defined areas. Neave advocated for allowing street based sex workers to work in particular defined areas, which could be delineated and publicised.¹⁵ Choice of such areas would not be solely defined by the reduction of impact on local residents – rather, areas would be chosen both for this reason and for the safety of street based sex workers.¹⁶ Neave stated that defined areas for street based sex work would allow individuals to choose this form of work and undergo it safely in specific areas, while prosecuting those who choose to undertake it in residential areas. This would create a more positive environment for residents, sex workers and clients.

Decriminalisation of street sex work was advised as the way to prevent laws from having a “harsh and discriminatory” effect on street based sex workers, stating that criminal penalties have little success in dealing with the issue.¹⁷ Neave stated that it was unlikely that some of the perceived risks of decriminalising street based sex work, such as brothel workers moving to the street, would not occur as brothel workers choose to work in a brothel environment for specific reasons.

2.1.2 Sexual Health Screening Requirements

The report also stated that controls on individual sex workers, including regulation and mandatory health checks are “inconsistent with human dignity”¹⁸. In this respect the report specifically rejected the notion of compulsory medical examinations for sex workers, rather stating that the responsibility for safe sex lies on the whole community, and community education is the best way of preventing sexually transmissible infections.¹⁹ In fact, the report states that requiring sex workers to provide certificates of attendance or health cards can give the false impression that this individual is free of infection. It also states that compulsory medical checks for sex workers would be difficult to administer (Anecdotally, RhED reports that Neave's concerns surrounding sexual health screening requirements for sex workers are founded) and enforce. Neave stated that such compulsory medical checks would discourage voluntary testing. These measures ignore other significant groups whose prevalence of sexually transmissible infections is higher than that of sex workers.²⁰

¹⁴ Ibid, pp. 230-242.

¹⁵ Ibid, p. 260.

¹⁶ Ibid, p. 261.

¹⁷ Ibid, pp. 256-257.

¹⁸ Ibid, p. 244.

¹⁹ Ibid, pp. 360-366.

²⁰ Ibid, p. 370.

2.1.3 Restrictions for smaller owner operated businesses

Professor Neave expressed that sex workers working independently, rather than in large brothels or escort agencies, have more autonomy relating to their services and the conditions under which they work. This makes them less vulnerable to any possible harms associated with sex work. Thus, larger sex industry businesses should not be encouraged to the detriment of smaller enterprises.²¹ Also, small brothels used by one or two people were identified as being premises that should not be required to obtain a planning permit.²² The report argued that small owner-operated sex work businesses with one or two people working together are more empowering for sex workers and discreet for local residents. It was stated that individuals working under such circumstances should be free of penalties, and that private sex workers should be able to see clients from home.²³

2.2 The Attorney-General's Street Prostitution Advisory Group

In March 2001 the Attorney-General's Street Prostitution Advisory Group (AGSPAG) was established by the Attorney-General of Victoria, The Hon. Rob Hulls MP. The group was brought together to examine the issue of street based sex work in the City of Port Phillip (COPP), and involved local traders, residents, sex workers, welfare agencies, state government, Victoria Police and COPP. AGSPAG sought to:

- Increase the safety of the community (including street sex workers)
- Create opportunities for sex workers to leave the industry
- Facilitate community management of street prostitution issues.²⁴

Acknowledging the visible and tangible impacts upon the community caused by street based sex work, the report identified key concerns about street based sex work as being drug use, assault, abuse, sex in public places and crowding of roads with clients.²⁵ The report recognised the reasons for choosing street based sex work as financial, flexible working hours and independence.²⁶ Street based sex workers were identified as working 24 hours a day, seven days a week, around specific areas of St Kilda.²⁷

The report accepted that prohibition results in the most violent and destructive outcomes for street based sex workers.²⁸ In order to ensure the safety of the whole community and to increase opportunities for street based sex workers the following recommendations were made by AGSPAG:²⁹

Those recommendations which are relevant for the current recommendations are:

Key Recommendation 1 – Establishment of tolerance areas

²¹ Ibid, p. 245.

²² Ibid, p. 292.

²³ Ibid, pp. 304-305.

²⁴ Department of Justice, *Attorney-General's Street Prostitution Advisory Group: Final Report 2002*, Department of Justice, Melbourne, 2002, p. 6.

²⁵ Ibid, p. 6.

²⁶ Ibid, p. 38.

²⁷ Ibid, p. 43.

²⁸ Ibid, p. 44.

²⁹ Ibid, pp. 8-9.

That geographic areas (tolerance areas) be established in COPP in which police resources would not be targeted at persons loitering and soliciting for the purposes of sex work (as defined under sections 12 and 13 of the SWA). Instead, police resources and strategies should target loitering and soliciting offences in locations outside tolerance areas. Tolerance areas should be established for a trial period of two years, during which an ongoing independent evaluation should take place.

Key Recommendation 2 – Establishment of street worker centres

That safe and secure venues be established in COPP for street sex workers to service clients. These facilities, to be known as street worker centres, should be established under a new definition in the SWA.

Community consultation, including sex workers as well as local residents and traders and other key stakeholders, was emphasised throughout the process as integral to the effectiveness and evaluation of the process and of the recommendations.³⁰ Key to the report was the fact that the situation of street based sex work in 2001 was unacceptable, and that action needed to be taken by all relevant stakeholders in order to address this.³¹

The AGSPAG final report was released in 2002. Following a state election in 2003 the *Summary Offences (Offensive Behaviour) Bill* was passed, with the explicit statement that the state government would not implement the further recommendations of the report relating to tolerance zones or safe houses.³²

³⁰ Ibid, pp. 94-95.

³¹ Ibid, p. 7.

³² Rowe, J, *Street Walking Blues*, RMIT Publishing, Melbourne, 2006, p. 19.

3. Issues identified by sex workers

RhED engages in a high level of consultation with all sectors of the sex industry. This includes close to 100% access to Victorian sex industry workplaces. RhED outreaches to every brothel in Victoria twice a year and upon request for visits. In addition, RhED provides outreach services to escort agencies and private escort workers.

For street sex workers, RhED provides drop-in service and street-based outreach services to sex workers both during the day and during the night.

From March to September 2008 RhED engaged in a consultation process with the Victorian sex industry relating to the Sex Work Act (1994), about the way that it works and about the way that it affects workers.³³ The results of this Vox Pop (Appendix 2) have been referenced throughout this document. RhED also facilitates a reference group of the sex working industry which provides regular feedback issues within the sex industry.

The sex worker reference group, *Red Rendezvous*, meets monthly and provides current feedback on industry issues. RhED also uses Facebook and the website www.sexworker.org.au for regular consultation with the industry. RhED maintains a free-of-charge 1800 number for sex workers and others in the sex industry to use as an anonymous, free and confidential service. An ISCH General Manager sits on the Sex Work Ministerial Advisory Committee. This committee provides feedback to the government on industry issues. RhED is also an associate member of Scarlet Alliance, the national peak body for sex workers.

The key issues identified by sex workers to RhED include stigma and discrimination, privacy, health issues, regulation, vocational recognition and exiting. Many of these issues are not exclusive to the sex industry however due to the often discreet and intimate nature of sex work they often have the potential to impact in very different ways to other less intimate industries within the current environment.

These issues impacted on by the existing SWA some are in subtle ways but others hit at the core of the legalities of the individuals chosen occupation. However many of these issues need to be addressed in not only reform of the SWA but broader approaches by government in partnership with the community to address many of these issues.

However, specific to the SWA, some of the barriers identified in exiting the industry could be alleviated within the recommendations as discussed within this document.

3.1 Stigma and Discrimination

First and foremost of issues in sex work today is stigma and discrimination. Sex workers regularly report to RhED that they face discrimination in their personal and professional lives. Stigma and discrimination affects the mental health of those in the sex industry, and can have negative repercussions for family, friends and colleagues. Some of the areas in which such stigma and discrimination are reported to RhED include:

³³ RhED, *RhED #15: A magazine from Resourcing Health and Education (RhED) in the Sex Industry*, Inner South Community Health Service, St Kilda, 2009.

- The health sector – sex workers in Victoria are required to have three-monthly (changed from monthly in 2012) STI tests (swabs and blood screens.) It has been reported to RhED that many GPs refuse to see sex workers due to their choice of occupation.
- Employment – those seeking to exit the sex industry often have difficulty explaining “missing years” on a resume, when they choose not to list their sex work occupation. This is due to potential discrimination by an employer relating to their sex working history.
- Services – Sex industry members report to RhED that many service providers, including professionals such as accountants, plumbers and legal counsel, raise their rates for services upon discovering that the individual is involved in the sex industry. Alternatively, many service providers refuse to work with sex workers.
- Advertisers – Advertisers regularly charge sex workers more to advertise their sexual services within print and online media. Generally the rate at which sex workers are charged is double the rate for a comparable advertisement for other trades and services.

As a services experience and response to these issues RhED:

- Maintains a list of sex worker friendly services
- Regularly refers individuals to the Victorian Equal Opportunity and Human Rights Commission in order to resolve issues of discrimination
- Regularly consults with health service providers and Victoria Police as well as other agencies, service providers, educational institutions and companies in order to provide education and awareness around sex industry issues

3.2 Privacy

Due to the stigma and discrimination faced by sex workers, privacy is a primary issue for those working in the industry. Sex workers report to RhED that they go to great lengths in order to keep their identity secret from clients and colleagues, and to keep their occupation secret from family and friends. Sex workers hide their true identities from clients in order to maintain their personal privacy and to keep their professional and private lives separate. Many sex workers feel that disclosing their occupation to family and friends may result in breakdowns in relationships due to stigma about the sex industry. In addition to this, the criminalised nature of some aspects of the sex industry makes those who work within it feel forced to hide their occupation for fear of possible repercussions.

3.3 Health

Health concerns are of vital importance to sex workers as in addition to impacting on their ability to perform work and the potential occupational health and safety issues currently within Victoria sex workers cannot work if they know that they have a sexually transmissible infection. As a

health and support service, RhED regularly receives enquiries relating to health issues in the sex industry. The following are the most regular health issues:

- Sexually Transmissible Infections
- Contraception
- Sexual and Reproductive Health
- Mental Health
- Drug/Alcohol issues

Sexual and reproductive health issues as well as contraception are important occupational health and safety issues for sex workers.

3.4 Regulation

Compliance to regulations around sex work is another issue raised by sex workers and to which they often require information and support. Regulatory bodies including Consumer Affairs Victoria, the Australian Federal Police, DIAC, DHS Partner Notification Officers and the ATO regularly visit sex work establishments on issues of compliance to legislation. RhED regularly receives enquiries relating to such issues, and assists establishments and individuals to meet their compliance obligations or to appeal decisions.

3.5 Vocational Recognition

The sex industry is highly professional. Sex workers use very specific skills throughout their careers. There are no qualifications to recognise sex work expertise or experience, nor is there recognition of the very unique skill set required to be a sex worker. The lack of vocational recognition of the sex industry impacts upon an individual's future employment prospects, whereby the skills used in the sex industry are rarely recognised by more mainstream industries.

Moralistic and judgemental debates about people who work in the sex industry provide little practical assistance to sex workers and make it harder to exit the industry. Thus, stigma and discrimination act as barriers to vocational recognition as well as vocational change.

3.6 Exiting

Sex workers identify barriers to exiting the industry. Some people who work in the sex industry may choose to exit from the industry. Supports are given by RhED and welfare agencies who work with sex workers to support them in their choices to leave the industry. For those street sex workers that have street sex work offences, there are difficulties in gaining employment as police checks are required for many occupations.

Working Girls in Melbourne Brothels,^{34,35} research undertaken by RhED, indicated that 60% of people interviewed who were working in the regulated industry would like to retrain for alternative employment and 49% of people would like to leave the industry. This must be read in context with other industry trends. Many individuals in many occupations have the desire to change jobs - for example, more than 40%³⁶ of U.S. workers surveyed in one study and 75%³⁷ of workers in a different U.S. survey want to change jobs in the next 12 months.

The main barriers to leaving the industry (reported by sex workers in the regulated industry) included the flexible working hours afforded in the sex industry, the high rates of pay in the industry and a lack of qualifications required to acquire another job.

Prior to the introduction of Pathways to Exit in 2010, RhED's practice in supporting sex workers, who approach them for assistance in exiting, was to refer them to the retraining programs that are accessible to the whole community. RhED provided support negotiating such arrangements where it is needed.

Specific exiting and retraining programs for sex workers are seen by those in the sex industry as discourteous. Such programs are seen to assume that sex workers are unskilled and/or uneducated, further discriminating against sex workers. Due to stigma and discrimination, many sex workers will not state "sex work" as a previous occupation. Thus, RhED regularly supports sex workers in writing resumes in order to explain "missing years".

Pathways to Exit

Since February 2010, RhED has provided case management support, through the 'Pathways to Exit' program, for sex workers wishing to improve their employability outside of the sex industry. Two case managers provide support to both street based sex workers and brothel sex workers. Sex workers have particular issues relating to exiting the sex industry; RhED is able to address these issues holistically as part of a broader community health centre which provides a one stop shop for a wide variety of services including family, AOD, dental, financial counselling, parenting, family violence and mental health.

Pathways to Exit was funded by Consumer Affairs Victoria. Currently it is funded by Office of Women until June 2016.

³⁴ Groves, J, *Working Girls in Melbourne Brothels*,

<http://www.sexworker.org.au/uploads/documents/workinggirls.pdf>, accessed 17/3/09

³⁵ Groves, J, Newton, D C, Chen, M, Hocking, J, Bradshaw, C, Fairley, C K, "Sex workers working within a legalised industry: their side of the story", *Sexually Transmitted Infections*, 2008, 84: 393-394.

³⁶ Meller, L, Tolk, J, *More than 40 Percent of U.S. Workers plan to change jobs over the next 12 months*, Yahoo Hotjobs website, <http://yhoo.client.shareholder.com/ReleaseDetail.cfm?releaseid=177017>, Accessed 3/4/09.

³⁷ Spherion, *Newsday references Spherion's Emerging Workforce Study*, Spherion website, http://www.spherion.com/press/press_coverage/v2.jsp, Accessed 3/4/2009.

4. Models of Sex Work Legislation

The model under which sex work is legislated will have consequences for how the industry operates and as research and experience would suggest ultimately on the health and wellbeing of sex workers. The current model of sex work in the SWA in Victoria would be defined as 'regulation' or 'legislation.'

The models through which sex work is legislated around the world fall in to three general categories:

Decriminalisation of the sex industry: This model involves the removal of the criminal sanctions overseeing sex work, and enables regulation through other occupational means such as workplace occupational health and safety and public health practices.

Regulation or legislation of the sex industry: this model is designed to control sex work, creating enforced prohibition with regulated and unregulated sectors.

Prohibition/criminalisation of the sex industry: this model is designed to attempt to remove the sex industry making it a crime. Criminalisation can make selling sex, buying sex or both a criminal act.

Each of the models through which sex work is legislated has its own impacts upon the health, social, financial situation and wellbeing of sex workers and the general community. Following is a discussion on models of sex work legislation in Queensland, New Zealand and Sweden. These are examples of the different types of sex industry legislation worldwide, and the effect of such legislation on the health and wellbeing of sex workers. The impacts of the models reinforce the need outlined in Recommendation 8 to move to a model of decriminalisation.

4.1 Decriminalisation – the New Zealand experience

Until 2003 advertising sexual services, running a brothel and living off the earnings of a sex worker were illegal in New Zealand, although sex work itself was not against the law. The *Prostitution Reform Act* was passed in June 2003, decriminalising the sex industry in New Zealand. This act was designed with input from sex workers across the country. The act is designed to:

- safeguard the human rights of sex workers and protect them from exploitation;
- promote the welfare and occupational health and safety of sex workers;
- be conducive to public health;
- prohibit persons under 18 years of age to enter into sex work;
- implement certain other related reforms.

Impacts

Sex work is now seen as legitimate work in New Zealand, with occupational health and safety standards and avenues for employment dispute resolutions. It has been shown that the introduction of the *Prostitution Reform Act* has not led to increased entry into the sex

industry,^{38,39} that sex workers are less likely to accept a client that they do not want to,⁴⁰ and that sex workers are aware of increased employment, legal and occupational health and safety rights⁴¹.

Critics of the *Prostitution Reform Act* state that it fails to protect sex workers from inherent occupational dangers, citing “the abuse that purchasers of sex are subjecting prostitutes to”.⁴² It is also stated that “in prostitution there is no avoiding sexual harassment, sexual exploitation, rape, and acts that are the equivalent of torture”.⁴³

In fact, such statements are refuted by evidence-based studies into public health. The Public Health Association of New Zealand has stated that the decriminalisation of sex work enables safer sex information and products in the industry, occupational health and safety standards, reduction of stigma and greater access to health care services and providers.⁴⁴ This organisation supported decriminalisation as a means of addressing justice and inequality in society, of assisting to promote safe sex and hence disease prevention, and of enabling occupational health and safety legislation to be rigorously applied to sex work workplaces.⁴⁵

In addition to this, it has been shown that the human rights of sex workers in New Zealand have been safeguarded by the *Prostitution Reform Act* by empowering sex workers through removing the illegality of their work.⁴⁶ Sex workers in New Zealand have also reported that under new legislation they are now more likely to report violent acts to the police.⁴⁷ The public health impacts of the decriminalisation of sex work in New Zealand have been positive for the community and sex workers – sex workers are now empowered to choose when, where and how they work, to report violence and other occupational health and safety issues, and to seek services when required.

4.2 Regulation – the Queensland experience

Sex industry legislation in Queensland changed in 1999 with the enacting of *The Prostitution Act 1999*, regulating the industry and enabling both private individual sex workers and licensed

³⁸ Gillian Abel, *Big increase of sex workers a myth: latest research*, University of Otago Media Release, 12 September 2006, http://www.uoc.otago.ac.nz/newsevents/media_release/2006/sexworkersmyth.htm. Accessed 3/3/2009.

³⁹ Abel, G, Fitzgerald, L, Brunton, C, *The Impact of the Prostitution Reform Act on the Health and Safety Practices of Sex Workers: Report to the Prostitution Law Review Committee*, Department of Public Health and General Practice, University of Otago, Christchurch, 2007, p. 10.

⁴⁰ Ibid, p. 12.

⁴¹ Ibid, p. 13.

⁴² Maxim Institute, *Report Shows Prostitution Reform Act is failing to accomplish its objectives*, Maxim Institute Media Release, 23 May 2008, <http://www.maxim.org.nz/index.cfm/Media/article?id=1492>. Accessed 3/3/2009.

⁴³ Farley, M, “Bad for the Body, Bad for the Heart”: Prostitution Harms Women Even if Legalised or Decriminalised’, *Violence against Women*, Vol. 10 No. 10, October 2004, p. 1093.

⁴⁴ Public Health Association of New Zealand, *Policy on Decriminalisation of Prostitution*, July 2003, <http://www.pha.org.nz/policies/phapolicydecrimprostitution.pdf>. Accessed 3/3/2009.

⁴⁵ Public Health Association of New Zealand, *Submission on the Prostitution Reform Bill*, Submission to the Parliamentary Justice and Electoral Select Committee on the Prostitution Reform Bill, 2001, <http://www.pha.org.nz/submissions/submissionprostitution010308.pdf>, Accessed 3/3/2009.

⁴⁶ New Zealand Government, *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003*, Ministry of Justice, Wellington, 2008.

⁴⁷ Ibid.

brothels to work legally within the state. The *Prostitution Act 1999* aims to eradicate the links between organised crime, police corruption and sex work.⁴⁸

Impacts

Legitimisation and recognition of sex work as an occupation are still absent in Queensland following *The Prostitution Act 1999*. Criminal sanctions have been seen to “change the structure of the sex industry, forcing it to operate covertly and in a clandestine manner”.⁴⁹ *The Prostitution Act 1999* marginalises and further stigmatises sex workers in Queensland, creating adverse relationships between sex workers and police, when it criminalises those involved in the industry.⁵⁰

Legislation in Queensland has created segregation within the sex industry of legal versus illegal sex workers with different criminal, health and occupational hazards and advantages to working in different aspects of the industry – workers are frequently compelled to choose unsafe work options in this situation.⁵¹ This situation of segregation of the industry has been shown elsewhere to have adverse impacts on the health, safety and wellbeing of sex workers.⁵² It has been shown that those in the unregulated industry in Queensland experience more violence, provide sexual services without a condom more often, and report less job satisfaction than those working in legal brothels.⁵³

As mentioned above, sex work in Queensland remains a stigmatised industry where the health and safety of sex workers is compromised, with adverse impacts on their wellbeing, with potential negative impacts on the health of the entire community.

4.3 Prohibition/Criminalisation – the Sweden experience

Whilst Swedish sex industry legislation does not criminalise sex workers themselves, it criminalises others involved in sex work transactions. The regulation of the Swedish sex industry revolves around controlling demand for the sale of sexual services. In Sweden it is an offence to pay for sexual services or to attempt to pay for sexual services.⁵⁴ Legislation of the sex industry in Sweden was designed to reduce violence against women and increase the equality of men and women. The aim of this legislation is to punish those exploiting or perpetrating violence against women, rather than those who are perceived as the “victim” whilst selling sexual services. The Swedish legislative view of sex work defines ‘prostitution’ as men’s violence against women, and

⁴⁸ Fischer, J, “Regulating the World’s Oldest Profession: Queensland’s Experience with a Regulated Sex Industry”, *Research for Sex Work*, Issue 8, 2005, p. 17.

⁴⁹ Ibid, p. 18.

⁵⁰ Ibid.

⁵¹ Seib, C, *Health, well-being and sexual violence among female sex workers: a comparative study*, Queensland University of Technology Thesis, 2007, <http://eprints.qut.edu.au/16398/>, p.173, accessed 3/3/2009.

⁵² Plumridge, L, Abel, G, “A ‘segmented’ sex industry in New Zealand: sexual and personal safety of female sex workers”, *Australian and New Zealand Journal of Public Health*, 2001, Vol. 25 no. 1.

⁵³ Prostitution Licensing Authority, *Selling Sex in Queensland 2003*, Prostitution Licensing Authority, Milton, 2004, p. 54.

⁵⁴ Swedish Minister for Gender Equality and Affairs, *Fact Sheet on Violence against Women: The Ministry of Labour in cooperation with The Ministry of Justice and the Ministry of Health and Social Affairs*, Swedish Government Offices on Issues Related to Violence Against Women. 1999 Swedish Law on Prostitution, Prostitution Research and Education, <http://www.prostitutionresearch.com/swedish.html>, Accessed 4/3/2009.

as an occupation that can never be voluntary where the sex worker is a victim of structural mechanisms.⁵⁵

Impacts

The Swedish sex industry legislation, criminalising those who purchase sexual services, has sent the sex industry underground in an effort to be undetected.⁵⁶ Many proponents of the Swedish model of sex industry legislation state that it is a holistic response to the issues faced by sex workers in that country.⁵⁷ Yet, sex workers in Sweden disagree with this. The *Sexworkers and Allies Network in Sweden* (SANS) states that the laws have increased the risks and violence against sex workers, forcing negotiations of sexual services to be rushed, forcing sex workers to work alone, and increasing stigma relating to the industry.⁵⁸ Sex workers in Sweden regularly frequent the homes of clients or other areas that they are not familiar with, placing them at increased risk of danger, and making sex workers more fearful than before the legislation was introduced.⁵⁹ Sex workers feel less inclined to report violent incidents in the workplace to police, for fear of being required to report their clients.⁶⁰ In Sweden the criminalisation of the purchasers of sexual services has not decreased the stigma associated with the sex industry.⁶¹

The criminalisation of the purchasers of sexual services, and the emphasis on the purchaser rather than the seller or “victim”, devalues and de-emphasises the experiences and issues of sex workers themselves.^{62,63} There are no services that offer harm reduction approaches of free condoms and health checks to sex workers.⁶⁴ Swedish sex work legislation stigmatises sex work and sex workers, and sees sex workers as victims rather than valid workers.⁶⁵ Sex workers in Sweden may be disempowered and disenfranchised due to the criminalised nature of their industry. This may result in poor health outcomes for sex workers, their clients and the general community.

⁵⁵ Working Group on the legal regulation of the purchase of sexual services, *Purchasing Sexual Services in Sweden and The Netherlands: Legal Regulation and Experiences: An Abbreviated English Version*, Ministry of Justice and the Police, The Netherlands, 2004, <http://www.nswp.org/pdf/PURCHASINGSEX.PDF>, accessed 4/3/2009, p. 45.

⁵⁶ Kilvington, J, Day, S, Ward, H, “Prostitution Policy in Europe: A Time of Change?”, *Feminist Review*, 2001, No 67, pp. 78-93.

⁵⁷ Bindel, J, Kelly, L, *A critical examination of Responses to Prostitution in Four Countries: Victoria, Australia; Ireland; the Netherlands; and Sweden*, London Metropolitan University, 2003, p. 25.

⁵⁸ Isabella Lund, “Negative consequences of the Swedish law against the purchase of sexual services”, *Sexworkers and Allies Network in Sweden*, <http://www.sans.nu/engelska/consequences.htm>, Accessed 10/03/2009.

⁵⁹ Working Group on the legal regulation of the purchase of sexual services, *Purchasing Sexual Services in Sweden and The Netherlands: Legal Regulation and Experiences: An Abbreviated English Version*, Ministry of Justice and the Police, The Netherlands, 2004, <http://www.nswp.org/pdf/PURCHASINGSEX.PDF>, accessed 4/3/2009, p. 13.

⁶⁰ Petra Ostergren, “Sexworkers Critique of Swedish Prostitution Policy”, *Petra Ostergren*, <http://www.petraostergren.com/content/view/44/67/>, accessed 10/03/2009.

⁶¹ Home Office, *Paying the Price: a consultation paper on Prostitution: July 2004*, UK Home Office, 2004, p. 82.

⁶² Scoular, J, “Criminalising ‘punters’: evaluation the Swedish position on prostitution”, *Journal of Social Welfare & Family Law*, 2004, Vol. 26 No 2, pp. 195-210.

⁶³ Petterson, T, Tiby, E, “The production and reproduction of prostitution”, *Journal of Scandinavian Studies in Criminology and Crime Prevention*, Vol. 3 No 2, 2003, pp. 154-172.

⁶⁴ Fenton, A M, “How Sweden Tackles Prostitution”, *BBC News*, http://news.bbc.co.uk/2/hi/uk_news/6343325.stm, 8/2/2007, Accessed 10/03/2009.

⁶⁵ Svansson, Y, “Prostitution in Sweden: debates and policies 1980-2004”, In Gangoli, G, Westmarland, N, *International Approaches to Prostitution*, The Policy Press, Bristol, 2006.

5. Recommendations and discussion on the Current Sex Work Legislation in Victoria

There is no doubt that the sex industry brings about diverging and conflicting viewpoints for government, the community, regulatory bodies and health services. The Sex Work Act, which conflates social control and regulation, does not necessarily lead to effective regulation or protection within the Victorian sex industry.

There remains limited protections for sex workers in occupational health and safety and human rights.

The Sex Work Act is out-dated, providing little protection for sex workers in occupational health and safety and human rights. Following are several points of the current legislation governing the Victorian sex industry which ISCHS would like to see addressed:

5.1 Controls on advertising by sex work service providers

RECOMMENDATION 1: That owners of brothels and escort agencies be able to advertise for ancillary staff including managers, security, cleaners, etc, within clear advertising guidelines.

RECOMMENDATION 2: That owners of brothels and escort agencies be permitted to advertise for sex workers within clear advertising guidelines.

It is currently illegal to advertise for staff to work in a brothel. This includes sex workers as well as ancillary staff such as managers, cleaners and security personnel.

For more information see SWA 1994, Part 2, Section 17: Controls on advertising by sex work service providers

Discussion

The sex industry in Victoria is highly professionalised, but cannot advertise for ancillary staff, making it difficult to recruit suitably qualified people. It is discriminatory to restrict owners of brothels and escort agencies in their advertising for ancillary staff, as no other business in Victoria faces such limitations on their individual business practices. It is Recruiting management and other staff is vital in being able to screen potential clients who may endanger staff and resolve situations that may arise. Not being able to advertise reduces the ability of these businesses to attract professional, competent staff who in turn will effectively manage services.

Sex workers currently cannot be advertised for in the sex industry. This is despite no evidence base in Australia suggesting that sex work is harmful to the health and wellbeing of sex workers. Open and honest advertising, with position descriptions and standard Human Resource processes enables individuals entering the industry to make an informed choice. This would prevent “inventive” means of recruitment and encourage competition, leading to better conditions for sex workers as well as reducing the stigma associated with the industry. Advertising for sex workers will better ensure that sex workers understand whether the establishments in which they work are licensed or not, and will enable informed choice regarding their place of work. 97%

of sex workers, owners and managers questioned by RhED in 2008 agreed that advertising should be allowed.⁶⁶

5.2 Permitting sex worker 'infected' with a disease to work in a brothel, etc.

RECOMMENDATION 3: A requirement that STI testing adhere to clinical guidelines which should be established for sex worker testing. Reference to adherence to guidelines should be included in the Sex Work Act, rather than prescribed sexual health testing. Such guidelines would take into account the risk associated with various sexual practices. PARTIALLY ACHIEVED 2012 see below

RECOMMENDATION 4: That STI and health concerns in relation to the sex industry should be contained within enforceable occupational health and safety codes.

RECOMMENDATION 5: The Sex Work Act in relation to safe sex practices should be consistent with the Health Act which views safe sex practices as a responsibility for all sexually active people. Informed consent should be a part of all sexual practices, relating to risk.

It is currently illegal for a sex worker with a proscribed Sexually Transmissible Infection (STI) to work while knowing that they have an infection. Also, approved managers and owners must make all efforts to ensure that the sex workers in their establishment have no STIs. *For more information see SWA 1994, Part 2, Section 19: Permitting sex worker infected with disease to work in a brothel etc.*

RECOMMENDATION 3 Partially achieved.

Following lobbying and advocacy by the Sex Work Ministerial Advisory Committee, Melbourne Sexual Centre and RhED, STI testing frequency has changed to three monthly testing for bloods and swabs.

On 6 October 2012, the Minister published an Order in the Government Gazette, determining STI testing frequency from monthly to three monthly.

Clinical guidelines to be established for sex worker testing remains outstanding.

Discussion

All sexually active people, sex workers included, share the responsibility to practice safe sex. Research repeatedly shows that sex workers have the lowest rate of STIs in the general community.^{67,68,69,70} Sex workers also use condoms as part of standard practice.^{71,72,73,74} The

⁶⁶ RhED, *RED #15: A magazine from Resourcing Health and Education (RhED) in the Sex Industry*, Inner South Community Health Service, St Kilda, 2009, p. 15.

⁶⁷ Lyttle, H, Thompson, S C, "Maintaining sexual health in commercial sex workers in Australia: condom effectiveness, screening and management after acquiring sexually transmissible infections", *Australian and New Zealand Journal of Public Health*, 2004, Vol. 28 no. 4.

World Health Organisation's 45th World Health Assembly, to which all countries were a signatory, stated that "there is no public health rationale for any measures that limit the rights of the individual, notably measures establishing mandatory screening".⁷⁵ Taking into account this evidence, it is discriminatory to burden sex workers with the stigma of being a major risk of STI transmission.

The notion of a "clean bill of health" after an STI examination is a mistaken belief that a person is free of STIs. Given the various "window" periods of up to six months for some STIs to be detectable, a false sense of security for both sex workers and clients is created. In addition to this, a negative STI screen is only valid until the next sexual encounter.

It is not relevant to test all sex workers for STIs in the same way. Different sex workers provide different sexual services which represent varying degrees of risk of transmission of infection. In such cases where sexual practices have no risk of STI transmission, testing is invasive and unnecessary.⁷⁶ Clinical guidelines specifying testing regimes for particular STIs and risk activities would enable health professionals and sex workers to make informed decisions relating to the most appropriate testing regime for an individual worker, and relating to the most appropriate sexual services that a worker may safely provide.

In addition to this, monthly testing is costly to the Medicare and Public Health systems, diverting essential and scarce resources from populations at higher risk of STI transmission. Peer based approaches to providing safe sex knowledge continue to be the most successful means of providing sexual health information. Research has shown that STI incidence is lower and testing is more frequent when screening is not mandatory, the sex industry is decriminalised, sex workers are not legally required to register, and voluntary screening is easily accessible.^{77,78,79} 72% of sex

⁶⁸ Goh CL, Chan RK. Prevalence of sexually transmitted diseases among commercial sex workers in Singapore from 1977 to 1993: the effects of screening measures. *Ann Acad Med Singapore* 1995;24:500-4.

⁶⁹ Ward H, Day S, Weber J. Risky business: health and safety in the sex industry over a 9 year period. *Sex Transm Infect* 1999;75:340-3.

⁷⁰ Sanchez J, Campos PE, Courtois B, Gutierrez L, Carrillo C, Alarcon J, et al. Prevention of sexually transmitted diseases (STDs) in female sex workers: prospective evaluation of condom promotion and strengthened STD service. *Sex Transm Dis* 2003;30:273-9.

⁷¹ Pell, C, O'Connor, C, "Demographic, migration status, and work-related changes in Asian female sex workers surveyed in Sydney, 1993 and 2003, *Australian and New Zealand Journal of Public Health*, 2006, V 30 No 2.

⁷² Harcourt, C, van Beek, I, Heslop, J, McMahon, M, Donovan, B, "The health and welfare needs of female and transgender street sex workers in New South Wales, *Australian and New Zealand Journal of Public Health*, 2001, V 25 no. 1.

⁷³ Lyttle, H, Thompson, S C, "Maintaining sexual health in commercial sex workers in Australia: condom effectiveness, screening and management after acquiring sexually transmissible infections", *Australian and New Zealand Journal of Public Health*, 2004, Vol. 28 no. 4.

⁷⁴ Plumridge, L, Abel, G, "A 'segmented' sex industry in New Zealand: sexual and personal safety of female sex workers", *Australian and New Zealand Journal of Public Health*, 2001, Vol. 25 no. 1, p. 81.

⁷⁵ World Health Assembly, *World Health Assembly Resolution 43.35*, 14 May 1992.

⁷⁶ Scarlet Alliance, *Mandatory or compulsory testing of sex workers for HIV and/or sexually transmissible infections in the Australian context*, Scarlet Alliance Website, http://www.scarletalliance.org.au/library/briefingpaper_mandtest/, Accessed 1/4/2009.

⁷⁷ Lyttle, H, Thompson, S. C, "Maintaining sexual health in commercial sex workers in Australia: condom effectiveness, screening, and management after acquiring sexually transmissible infections", *Australian and New Zealand Journal of Public Health*, 2004, Vol 28 No 4, p. 355.

⁷⁸ Morton, AN, Wakefield, T, Tabrizi, SN, Garland, SM, Fairley, CK, "An outreach programme for sexually transmitted infection screening in street sex workers using self administered sampling, *International Journal of STD and AIDS*, 1999, Vol 10, pp. 741-3.

⁷⁹ Donovan, B, Harcourt, C, "Prostitution: to decriminalise or legalise", *Lancet*, 1996, 348.

workers, owners and managers questioned by RhED in 2008 agreed that STI testing should be reduced to three-monthly for swabs and six-monthly for bloods.⁸⁰

All sexually active individuals need to take appropriate precautions to ensure that they are neither infected with nor infect others with sexually transmissible infections. Sex workers are included but not exclusive in this concept. Whilst it is not appropriate to legislate that all sex acts in Victoria involve the use of prophylaxis, it is vital to emphasise in legislation the importance of understanding the risks associated with various sex acts, and the methods of preventing the harms associated with such risks. Condoms are the most effective way of preventing the transmission of sexually transmissible infections.

Sexual practices which are undertaken by individuals who choose not to use prophylaxis must be performed with informed consent and negotiation of the risks involved. Thus, those individuals who know that they may have STIs must involve this fact in safe sex negotiations with their sexual partners. Individuals who knowingly infect others with sexually transmissible infections must be penalised as a matter of public health safety. All health legislation must make this explicit for all sexually active individuals.

For example: Under current New Zealand legislation, a person must not provide or receive commercial sexual services unless he or she has taken all reasonable steps to ensure a prophylactic sheath or other appropriate barrier is used. People who contravene this are liable on summary conviction to a fine not exceeding \$2000.⁸¹

It is realistic to expect that all parties involved in sex acts are responsible for their own and their partners' safety. Thus, the onus of responsibility for using preventative methods during sex must be on both parties. In the context of the sex industry, both sex workers and clients must be held responsible. Also, any individual who removes a condom during any sex act should be made liable. Sexual Assault legislation needs to reflect this standard.

5.3 Special provisions for smaller owner-operated businesses

RECOMMENDATION 6: That the Planning & Environment Act 1987 restrictions for smaller owner-operated businesses are adopted as the only restrictions applying to private sex workers so they do not have to meet additional requirements to other small businesses.

RECOMMENDATION 7: That small owner-operated sex worker businesses be permitted to provide their own secure working environment from a business address. Any permission granted as such would be subject to the ordinary operation of all relevant state and Commonwealth legislation, ensuring that it adheres to occupational health and safety requirements.

⁸⁰ RhED, *RhED #15: A magazine from Resourcing Health and Education (RhED) in the Sex Industry*, Inner South Community Health Service, St Kilda, 2009, p. 14.

⁸¹ New Zealand Parliament, *Prostitution Reform Act 2003*, New Zealand Parliament, 2003, <http://www.legislation.govt.nz/act/public/2003/0028/latest/DLM197815.html>, Accessed 17/03/2009.

Special provisions for smaller owner-operated businesses 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 agency (1-2 people). Owner-operated businesses and private escorts are exempt from the payment of licence fees.

For more information see SWA 1994, Part 3, Section 23: Special provisions for small owner-operated businesses.

Discussion

Exempt brothel

One or two workers can apply to register an exempt brothel. In order to acquire premises to establish an exempt brothel, these premises must be eligible for a permit with the Planning and Environment Act 1987. The Planning and Environment Act 1987 requires exempt brothels to be 100m from the nearest residence and 200m from any place where children may gather (e.g. school, church, amusement centre or playground). This results in many exempt brothels being located within industrial areas.

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

Additionally, when establishing an exempt brothel, the sex worker must find premises that they can rent or purchase in an industrial area and then apply to the local council for a permit. It is not unusual that when landlords are informed as to what the business is, they increase the rent beyond normal commercial rates.

Furthermore, when the local community are informed as to what the premises are to be used for, many object on moral grounds. This, in itself, is not a reason to disallow a permit. However, the sex worker then has to apply to the Victorian Civil & Administrative Tribunal (VCAT) to appeal the decision. The costs make this prohibitive to individual workers. To date RhED is aware of only three exempt brothels in Victoria, exemplifying the difficulties faced by those seeking to establish such a business.

Exempt Escort Agencies

Sex workers can apply to become an "Exempt Escort Agency" alone or with one other sex worker. A private worker in this situation must comply with the SWA which states that sex workers who are working as an Exempt Escort Agency are unable to provide sexual services from their own home or an office set up for the purposes of work. To comply with the SWA, these workers must provide "out calls" where they visit clients at their home or, as many clients do not want to do this, at an arranged meeting place, (e.g. a hotel room/motel booked in the client's name).

In this situation sex workers are entering another person's space, which may put the sex worker at risk of violence. It is a matter of occupational health and safety that a self employed person be able to provide their own secure working environment. This includes the right to privacy and discretion.

This situation can be compared to other small owner-operated, home-based businesses such as accountants and beauticians who are not required to submit to such severe planning restrictions. It can be seen that there is a risk of direct harm for sex workers working alone who provide out call services.

These restrictions unfairly discriminate against people wanting to set up an exempt brothel or to work privately – other small owner operated businesses that work from a business address are not required to meet such stringent regulations. Sex workers who work in a co-operative situation with another sex worker have greater ability to control the conditions under which they provide sexual services, yet are discouraged to do so by these restrictions. 70% of sex workers, owners and managers questioned by RhED in 2008 agreed that private workers should be able to provide their own business address from which to work.⁸²

Sex workers, as a matter of occupational health and safety, should be permitted to work from a nominated business address. Such a business address must, like any other business, comply with all relevant local restrictions and regulations and must adhere to legal, tax and insurance requirements.

Any concerns about sex workers conducting their business from a nominated address that relate to child protection, noise pollution, illicit drugs or violence are currently addressed by comprehensive legislation which provides protection to all members of the community.

5.4 Street Sex Work

RECOMMENDATION 8: That street sex work be decriminalised as part of a holistic strategy in which:

- a. Street based sex work is no longer a criminal offence;**
- b. Tolerance zones are established in sex working areas outside of which street based sex work is unlawful (subject to civil penalties);**
- c. Safe houses be established in sex working areas in which sex workers can safely provide their services;**
- d. Investment is made in specific social services, health, housing, education and training in order to enable choice to either remain in or leave the industry.**

It is currently illegal to street sex work in Victoria.

For more information see SWA 1994, Part 2, Section 12: Street sex work (offences by clients); and Section 13: Street sex work (offences by sex workers).

Discussion

Street sex work is currently illegal throughout Victoria. Criminal records apply to those convicted of street sex working and the stigma relating to this may prevent individuals leaving the industry. Those who choose this form of work may become institutionalised under these circumstances as they may find it hard to attain other jobs, even when they are qualified for

⁸² RhED, *RhED #15: A magazine from Resourcing Health and Education (RhED) in the Sex Industry*, Inner South Community Health Service, St Kilda, 2009, p. 16.

them. Criminalisation harms families - mothers may end up imprisoned and separated from their children, with potential for negative family consequences.

Research from the Home Office has shown that in order to reduce the negative impacts of street sex work:

- police enforcement activities must be run where community liaison and supports for street based sex workers are in place;
- Community mediation should be encouraged;
- Evidential requirements of prosecutions must be met.⁸³
- Investigating allegations of the exploitation of young people must be prioritised alongside identification of young people at risk and capacity building of services for young people.⁸⁴
- Outreach should be integral to services for street based sex workers.
- Separate services should be available for young people, with different approaches.
- Fast tracked drugs, emergency accommodation and re-housing programmes must be made available.
- Anti-violence programs for street based sex workers must be developed and extended.⁸⁵
- holistic support, which includes a range of mechanisms of support and services (outreach to engage those involved in sex work, one-to-one work and fast track drug services), geared to the individual needs of women and young people involved in sex work, are more likely to result in exit from [street sex work]. This should be central to any approach at tackling street [sex work].⁸⁶

Harm reduction and harm minimisation are seen as best practice when working with sex workers.^{87,88} Best practise harm minimisation violence and STI prevention programs state that criminalising street sex work endangers the workers and creates negative health outcomes.^{89,90,91} Street sex work can expose sex workers to a level of violence that is damaging to their mental health and wellbeing. Many street sex workers are individuals who feel that they have little choice but to street sex work because of social, legal, health and environmental factors.

The criminalised aspect of street sex work and the accompanying lack of occupational health and safety protections can result in street based sex workers having less ability to negotiate safe

⁸³ Hester, M, Westmarland, N, *Home Office Research Study 279: Tackling Street Prostitution: Towards an holistic approach*, Home Office Research, Development and Statistics Directorate, London, 2004, p. vi.

⁸⁴ Ibid, p. viii.

⁸⁵ Ibid, pp. x-xi.

⁸⁶ Ibid, p xiii.

⁸⁷ Cusick, L, "Widening the harm reduction agenda: from drug use to sex work", *International Journal of Drug Policy*, 2006, Vol. 17 No. 1, pp. 3-11.

⁸⁸ Shannon, K, Bright, V, Allinott, S, Alexson, D, Gibson, K, Tyndall, M W, "Community-based HIV prevention research among substance-using women in survival sex work: The Maka Project Partnership", *Harm Reduction Journal*, 2007, Vol 20 No 4.

⁸⁹ Rekart, M L, "Sex-work harm reduction", *Lancet*, 2005, Vol 366 No 9503, pp. 2123-34.

⁹⁰ Evans, C, *Toolkit for Targeted HIV/AIDS Prevention and Care in Sex Work Settings*, The World Health Organisation, Switzerland, 2005, http://www.who.int/hiv/pub/prev_care/sexworktoolkit.pdf, Accessed 4/3/2009.

⁹¹ Goodyear, M, Cusick, L, "Protection of Sex Workers", *BMJ*, 2007, Vol. 7584 No. 334, pp. 52-53.

sexual practices and services with their clients.⁹² Criminalisation of street based sex work creates environments where violence against sex workers can occur more easily,^{93,94} and where it can be tolerated and sex workers are less likely to be protected.⁹⁵ Furthermore, criminalised street based sex workers are less likely to report incidents of violence to the police due to past experiences, perceptions of police harassment and police scepticism.⁹⁶ Some street based sex workers have reported reluctance to report incidents of violence to the police due to fear of being charged with sex work-related offences.⁹⁷ Evidence has shown that police enforcement operations, or “crackdowns”, only serve to spread street based sex work to other areas, rather than address it directly.⁹⁸

Decriminalisation would improve the health outcomes of street based sex workers.^{99,100} Decriminalisation of street sex work would enable services to be more interactive and would provide more opportunities for harm reduction education.¹⁰¹

Decriminalising street sex work would:

- Support a harm minimisation approach by improving the safety of the environment in which street sex work occurs and supporting the choices of street sex workers to either remain in or leave the industry.
- Prevent ongoing stigma from affecting individual’s long term plans and goals.
- Increase safety for sex workers by creating an environment where the safety and security of all people in the community is ensured. Acts of violence will be reported more freely by individuals not discouraged by the legal repercussions of disclosing their illegal working lives.
- Enable workers to disclose their work to other agencies including drug and alcohol, mental health, housing and financial institutions in order to access their services and facilities.
- Enable defined zones and street houses in order to minimise the dangers that street sex workers continue to be faced with.
- Further enable and encourage industry exiting by reducing stigma and facilitating transition to other opportunities.

⁹² Rowe, J, *Street Walking Blues*, RMIT Publishing, Melbourne, 2006, p. 25.

⁹³ Hatty, S, “Violence against prostitute women: Social and legal dilemmas”, *Australian Journal of Social Issues*, 1989, Vol. 24 No. 4, pp. 235-248.

⁹⁴ O’Connell Davidson, J, *Prostitution, Power and Freedom*, University of Michigan Press, Ann Arbor, 1998.

⁹⁵ World Health Organisation, *Information Bulletin Series, No 3: Violence against women and HIV/AIDS: Critical Intersections: Violence against sex workers and HIV prevention*, The World Health Organisation 2005, <http://www.who.int/gender/documents/sexworkers.pdf>, Accessed 4/3/2009.

⁹⁶ Rowe, J, “In limbo and in danger: Street based sex workers and the issue of tolerance zones”, *Just Policy*, 2003, Vol. 30, pp. 24-31.

⁹⁷ Quadara, A, *Sex Workers and Sexual Assault in Australia: Prevalence, risk and safety*, ACSSA Issues No. 8, 2008, Australian Institute of Family Studies, Canberra, 2008.

⁹⁸ Rowe, J, *Street Walking Blues*, RMIT Publishing, Melbourne, 2006, p. 18.

⁹⁹ Morton, A, Tabrizi, S N, Garland, S M, Lee, P J, Reid, P E, Fairley, C K, “Will the legalisation of street sex work improve health?” *Sexually Transmitted Infections*, 2002, Vol 38 No 309.

¹⁰⁰ UNAIDS Inter-Agency Task Team on Gender and HIV/AIDS, *HIV/AIDS, Gender and Sex Work*, UNAIDS Inter-Agency Task Team on Gender and HIV/AIDS, http://www.unfpa.org/hiv/docs/factsheet_genderwork.pdf, Accessed 6/3/2009.

¹⁰¹ *Ibid*, pp. 175-179.

- Reduce the effects of an illegal, illicit and hidden industry on local residents.
- Allow specialist services greater access to those working within this industry. Services and strategies will be more effective and provide opportunities and an alternative lifestyle to street sex workers.
- Support individual advocacy in the street sex work industry by enabling peer-led initiatives which empower and include the experiences of those undertaking this work.
- Eliminate criminal convictions, which limit future opportunities.¹⁰²

Building upon the recommendations of Professor Neave and AGSPAG, the decriminalisation of street based sex work must occur in the context of other relevant issues to street based sex workers such as housing, drug and alcohol services, income security and mental health. In order to minimise the harms currently associated with street based sex work, decriminalisation must occur within the broader context of the social model of health. The harms associated with street based sex work can not be addressed by decriminalisation alone – such law reform simply enables other issues to be addressed more holistically and comprehensively.

Decriminalising street-based sex work has the potential to create safe working spaces for sex workers. Taking from the recommendations of AGSPAG, ISCH recommends tolerance areas for street based sex work (outside of which street based sex work is unlawful) and safe houses in which sex workers can provide their services. ISCH advocates for a situation where street based sex work is entirely decriminalised, yet unlawful outside of tolerance zones (for more information please refer to Appendix 3). This would reduce harm to both sex workers and the surrounding community.

In order to create a respectful and effective community-based solution all discussion around the decriminalisation of street based sex work and the establishment of tolerance zones and safe houses must be consultative. This means including the input of street based sex workers, local residents and traders, relevant support services and local council. Considerations would relate to the appropriateness of tolerance zones around areas of concern including a place of worship, hospital, school, kindergarten, children's service centre or other relevant public place. Because the establishment of the conditions of decriminalisation must be created as part of community consultation and discussions it is not within the scope of this paper to be able to suggest the location of tolerance zones, or any other specific conditions.

With the decriminalisation of street based sex work, ISCH advocates for increased investment in sex work specific services including outreach, housing, drug and alcohol and training services. Again such investment would be established with community consultation, prioritising the health and wellbeing interests of sex workers and the community.

5.5 Terminology

¹⁰² Rowe, J, *Street Walking Blues*, RMIT Publishing, Melbourne, 2006, pp. 20-21.

RECOMMENDATION 9: That terminology throughout all legislation relating to the sex industry should reflect current best practice terminology and replace ‘prostitute’ and ‘prostitution’ with ‘sex worker’ and ‘sex work’.

The PCA consistently referred to sex work as “prostitution” and sex workers as “prostitutes”.

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Discussion

The use of the words “prostitution” and “prostitute” throughout the (then) *Prostitution Control Act* stigmatised the sex industry. This terminology is outdated. Sex work is legitimate work and reflective, accurate terminology will aid in further educating the general community. UNAIDS states that “the term “sex worker” is intended to be non-judgmental, focusing on the conditions under which sexual services are sold”¹⁰³.

Of the sex workers, owners and managers questioned by RhED in 2008 13% agreed that they would prefer to be identified as sex workers and 59% agreed that they would prefer to be identified as service providers.¹⁰⁴

5.6 Evaluation

RECOMMENDATION 10: That sex work legislation be regularly reviewed and evaluated within set timeframes by an independent service, ensuring participation of all relevant stakeholders. Such evaluation should encompass occupational health and safety, public health best practices and human rights.

Discussion

To date the SWA has not undergone any regular and transparent evaluation processes. Thus sex workers, brothel owners, regulators and service providers have had little opportunity to discuss or debate aspects of legislation that hinder or help their aims. Meaningful evaluation of sex work legislation respects the views of all involved in the sex industry, and creates a more relevant and reflective framework for change.

5.6.1 Harm Reduction and Human Rights

Any legislation relating to the sex industry must be evaluated from a harm reduction and human rights approach, whereby all efforts are made to reduce any harm associated with identified risks

¹⁰³ UNAIDS, *UNAIDS’ Terminology Guidelines*, UNAIDS, 2008.

¹⁰⁴ RhED, *RhED #15: A magazine from Resourcing Health and Education (RhED) in the Sex Industry*, Inner South Community Health Service, St Kilda, 2009, p. 15.

and to maintain the human rights of all individuals involved. All efforts must be made to ensure that an individual's right to choose their mode of employment is protected, and to protect against discrimination based on one's choice of employment.

The World Health Organisation states that the following best practice key principles contribute to effectiveness and sustainability in sex work interventions. These must form the basis of sex work legislation and its evaluation in Victoria:

- “adopting a non-judgemental attitude;
- ensuring that interventions do no harm;
- ensuring that sex workers' rights to privacy, confidentiality and anonymity are respected;
- respecting sex workers' human rights and according them basic dignity;
- respecting sex workers' views, knowledge and life experiences;
- involving sex workers, and, where appropriate, other community members in *all stages* of the development and implementation of interventions;
- recognizing that sex workers are usually highly motivated to improve their health and well-being, and that sex workers are part of the solution;
- building capacities and leadership among sex workers in order to facilitate effective participation and community ownership;
- recognizing the role played in HIV transmission by clients and third parties, i.e. targeting the whole sex work setting, including clients and third parties, rather than only sex workers;
- recognizing and adapting to the diversity of sex work settings and of the people involved.”¹⁰⁵

Legalising and regulating sex work stigmatises sex workers by requiring them to register with the authorities. It subjects sex workers to prescribed medical testing that is not always effective and gives clients and workers a false sense of security - with respect to sexual health and otherwise.

New Zealand's 2003 Prostitution Reform Act is perhaps the most progressive response to the complex issue of sex work. The act not only decriminalises the practice but seeks to “safeguard the human rights of sex workers and protects them from exploitation, promotes the welfare and occupational health and safety of sex workers, is conducive to public health, (and) prohibits the use in prostitution of persons under 18 years of age”.¹⁰⁶

Furthermore, clients, sex workers and brothel owners bear equal responsibility for minimising the risks of STI transmission. In 2005, a client in New Zealand was convicted of violating the legislation by slipping his condom off during sex.¹⁰⁷

¹⁰⁵ Evans, C, *Toolkit for Targeted HIV/AIDS Prevention and Care in Sex Work Settings*, The World Health Organisation, Switzerland, 2005, http://www.who.int/hiv/pub/prev_care/sexworktoolkit.pdf, Accessed 4/3/2009.

¹⁰⁶ New Zealand Parliament, *Prostitution Reform Act 2003*, New Zealand Parliament, 2003, <http://www.legislation.govt.nz/act/public/2003/0028/latest/DLM197815.html>, Accessed 17/03/2009.

¹⁰⁷ RhED, *RED #8: a magazine from Resourcing Health & Education (RhED) in the Sex Industry*, Inner South Community Health Service, St Kilda, 2009, p. 2.

ISCH advocates for and supports decriminalising the entire sex industry in Victoria. Laws for the whole industry need to be made consistent in order to practise effective harm minimisation and fully respect the rights of those choosing to engage in this mode of employment.

5.6.2 Decriminalisation

Future evaluation of sex industry legislation in Victoria must move towards the decriminalisation of the entire industry. The entire sex industry in Victoria would benefit from full decriminalisation, with relevant legislation governing specific occupational health and safety and other concerns. Negotiation of sexual services by professionals in the sex industry encompasses many aspects of the industry that have, up until now, been regulated.¹⁰⁸ Negotiation of industry services (eg safe sex, fair trading and security) are an inherent part of the transaction. Condom use is standard throughout the sex industry. Any other occurrences that may impact on sex work are already legislated about by Victorian and Commonwealth laws (eg sexual assault, occupational health and safety, criminal acts, labour laws). Sex workers are protected by the same laws as the whole community and do not need separate laws to govern their lives or their transactions. Likewise, the whole of the sex industry is subject to criminal, taxation, migration, labour and health legislation and does not need further regulation in addition to this.

Decriminalisation of the Victorian sex industry would achieve:

- The prevention of ongoing stigma associated with sex work affecting an individual's long term plans and goals
- Increased safety for sex workers by creating an environment where the safety and security of all people in the community is ensured. Acts of violence will be reported more freely by individuals not discouraged by the legal repercussions of disclosing their possibly illegal working lives
- Enabling of workers to disclose their work to other agencies including drug and alcohol, mental health, housing and financial institutions in order to access their services and facilities
- Safety in street sex work, by enabling defined zones so as to minimise the impact of street based sex work on the local environment with safe houses to minimise the dangers with which street sex workers continue to be faced
- Ease in exiting the sex work industry by reducing stigma and facilitating transition to other opportunities
- Reduction of the effects of an illegal, illicit and hidden industry on local residents
- Greater access by specialist services to those working within this industry. Services and strategies will be more effective and provide more appropriate opportunities to sex workers

¹⁰⁸ Scarlet Alliance and the Australian Federation of AIDS Organisations, *A guide to best practice: Occupational health and safety in the Australian sex industry*, Scarlet Alliance and AFAO, Sydney, 2000.

- A harm minimisation approach by improving the safety of the environment in which sex work occurs and supporting the choices of sex workers to either remain in or leave the industry
- Support of individual advocacy in the sex work industry by enabling peer-led initiatives which empower and include the experiences of those undertaking this work.

Decriminalising the sex industry in Victoria would circumvent many of the issues faced in the ongoing management and regulation of sex work. Those unregulated areas of the sex industry, such as unregulated massage parlours and internet-based sex workers, would also benefit from this legislative change in the same way as street sex workers.

It is acknowledged that decriminalisation of the entire sex industry in Victoria will need to be a longer term goal and involve much greater consultation and discussion with key stakeholders and the community. As such this is identified as an area of future reform, the foundations of which need to be established.

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Appendix 1 – CAV Consultation 10/03/2009

Consultation was held between ISCH staff and an ISCH Board of Management representative and CAV staff 10/03/2009. The following aspects of the (then) PCA were discussed in relation to amendments, to be included in a Bill in late 2009:

- Possible examination of the restriction of advertising to head and shoulders. No examination of prohibition to advertise for ancillary or sex worker staff.
- Alcohol restrictions will not be lifted, and legislation will remain that prohibits alcohol from being on any licensed premises.
- “Active” and “dormant” licenses will not be explored. Instead a scheme similar to that of Estate Agents will be examined, which will provide for a “death or disability” clause enabling 30 days grace with a possible extension of license.
- Possibility of partnership applications for licenses.
- Application fees will remain the same.
- Updating the register of small owner-operated business upon changes of circumstances will be examined. No idea yet of the definition of “circumstances”.
- Possible delegation of BLA authority to CAV in relation to processing manager approvals.
- Possibly reduce the dependency on council permits and licenses.
- Frequency of swabs will be examined, possibly to be changed to three-monthly. HIV testing will not change, so that all tests are conducted quarterly. Sex worker being prohibited to work with positive HIV status not likely to change.
- Stronger administration of exempt escort agencies and exempt brothels will be examined. Possible power to strike people off the register if they breach conditions. Possible relaxing of permitting obligations.
- Powers of CAV inspectors to inspect illegal brothels without a warrant will be examined.
- Suppression of witness details in prosecutions will be examined.
- Increased penalties for running a brothel without a license to bring into line with running a brothel without a permit will be examined.
- Section 61i and 61b of the PCA relating to self incrimination will not be examined.
- Deducting AAEI memberships from license fees will not be examined.
- Lobbying COAG for a sex work category in migration legislation will not be examined.
- Increase in rooms in brothels will not be examined.
- Removing the advertising restrictions on nationality will not be examined.
- Application fees and probity checks for exempt escort agencies and exempt brothels will not be examined.
- Requiring all people on a licensed premises to carry proof of age will be examined.
- The language of sex work v prostitution may be generally examined, depending upon consultation process.
- Street based sex work will not be examined.
- Immunity for CAV inspectors at an illegal brothel will be examined.

These topics for consultation may be changed throughout the consultation process. No discussion paper is to be made available to the public. The review is looking at the operation of the Act, not all legislation. Submissions to the review process will be received up until May 2009. The following bodies were noted as being ones to be contacted by CAV for consultation:

- RhED
- AAEL
- Vixen
- Internal Government
 - Planning
 - Police
 - DHS
 - BBV/STI
 - Justice
 - Worksafe
- Project Respect
- PMAC
- Scarlet Alliance

Appendix 2 – RhED Vox Pop 2008

Summary

From March to September 2008 RhED asked the sex industry in Victoria various questions relating to the Prostitution Control Act (1994), about the way that it works and about the way that it affects workers.

126 people answered some or all of the questions:

- 67 respondents were sex workers currently working in brothels
- 8 respondents were sex workers currently working privately
- 36 respondents were owners or managers of brothels
- 15 respondents worked somewhere else—on the street, in massage parlours, or unspecified

What is this information telling us?

Most people who responded agreed that sexual health testing should be conducted less frequently due to negative results, cost, discrimination and human rights. Those who disagreed were concerned about their own peace of mind, maintaining their health and public safety. Almost everyone who responded agreed that establishments should be able to advertise for staff as legitimate businesses, to gain quality staff and for safety. Those who disagreed were concerned about normalising the industry for those who are not involved in it.

Most people agreed that private workers should be allowed to work from home for safety, independence and control over their income. Reasons for disagreeing were stated as safety, promotion of illegal brothels and unfairness to brothels.

The majority of respondents preferred to use the term “service provider”, followed by “sex worker”, “other”, and last of all prostitute.

There were suggestions regarding ways that the *Prostitution Control Act (1994)* can be changed to better the industry. Many people stated that brothels should be allowed to have more rooms and that laws should be consistent throughout Australia. Other concerns revolved around advertising and sexual health checks, as well as discrimination, anonymity, migrant sex workers, illegal brothels, licensing fees and regulatory bodies.

What is RhED going to do with this information?

RhED is using this information to inform discussions with Members of Parliament, the Government, regulatory bodies and the media regarding the proposed changes to the *Prostitution Control Act (1994)*. We are going to use this information to make sure that the voices of the people most affected by these proposed changes are heard.

We’re also using the information to inform our own work so that we can better meet the needs of the whole industry in Victoria. We’ve learned about people’s understandings of the Act, as well as people’s concerns about working in the industry. We are going to reflect these issues throughout our education, advocacy, training and support to the Victorian Sex Industry.

VOX POP Questions

Participants were asked to **AGREE** or **DISAGREE** and were offered the opportunity to **COMMENT**

1. STI CHECKS

Do you agree/disagree that law change should be made to set testing at three monthly for swabs and six monthly for bloods?

126 people answered the question

91 (72%) agree
35 (28%) disagree

Comments – agree

“It is a pain in the ass to get them done and I avoid it at every chance”

“I believe this is a waste of money and doctors' services when we already have a shortage of GPs, etc and taxpayers' money.”

“monthly tests are prejudiced and wrongly assume that sex workers are unsafe”

“I think swabs & bloods should be left to each worker to control, rather than there being another form of legal control over workers' bodies”

“I'm STI aware and assume other sex workers are so 3 monthly should be enough”

“results always negative”

“even the health clinic agree it should be every 3 months”

“For those who practice safe sex fine. Junkies should go monthly – bit hard to enforce I guess”

“yes I agree, very good idea”

“as brothels practice safe sex with condoms this will be a good idea”

“if testing at these intervals protects the service provider appropriately then I agree”

“three monthly for both”

“I believe that every month is too much. Every 3 months is a lot better for swabs.”

“it is pointless having medicals every month”

“common sense”

“it is more realistic for the health and wellbeing of the clients and workers”

“yes I do agree. It's a very good idea.”

“I do mine every month”

“YES”

Comments on the fence

“Actually I'm not sure”

“if a condom broke you would go and have blood test so every six months blood test. And swabs depending on how many shifts you work. Some girls only do one shift a week.”

“The ladies I work with have no problem getting their DCs done for their own peace of mind but should be the same in every state. I think in Qld swabs are done 3 monthly.”

“Only in that my concern the government may cut funding so that girls who want a monthly check and 3 monthly bloods would not have that choice.”

“I think it should be every 2 months for swabs - 1 month is too soon and 3 months is too long between doc visits”

“agree two monthly for swab test and six monthly for blood test. But those who offer extra fantasies like anal sex or girls with history of drug usage should have 3 monthly blood tests.”

“does it matter? It's so easy to get around them anyway.”

Comments – disagree

“better safe than sorry”

“yes I agree that testing should be as often as STIs and other diseases show up”

“the more often the better”

“swabs - monthly, bloods every three months”

“because if there is a condom breakage and I forget to follow it up - it would be detected sooner rather than later”

“once a month ladies must have checks to keep themselves healthy and to keep the public safe too.”

“getting it monthly is good peace of mind for me”

“not enough get it done now”

“service providers should be diligent about their health. So therefore, the time frames should stay the same.”

“I think that monthly encourages us to maintain our own health as well as others”

“swabs every month”

“I strongly believe girls should be tested monthly”

“they should stay as monthly for swabs and 3 monthly for bloods”

“keep the same current law”

“like monthly testing for safety reasons.”

“need regular check-ups. Sooner the better”

“I do agree with blood and swabs testing in case a condom breaks, etc. You need to know if you are safe.”

2. ADVERTISING

Do you agree/disagree that owners and managers of brothels/escort agencies should be permitted to advertise for ancillary staff including managers, security, cleaners, etc?

126 people answered the question

122 (97%) agree

4 (3%) disagree

Comments – agree

“they are a legal business then should be able to advertise for staff”

“for their safety”

“every other legal business has the right“

“any other business has the right to advertise for staff“

“definitely this is a legal business“

“cannot put everyone under suspicion. There should be "intelligence gathering" and "close monitoring" of antisocial elements once they are in and operating from day one - not to ostracise everyone in this group through "paranoia" by the BLA“

“they should be able to advertise for anything and anyone except for the working girls“

“it's so hard to employ staff - not being able to advertise - it would make it much easier“

“totally - this will enable this industry to employ persons that are of higher standards“

“if we were allowed to advertise for staff will allow this industry to employ professional reception, cleaners rather than ex service providers“

“yes absolutely. This will enable those in the industry to employ professional staff, not just ex-working girls“

“it is a legitimate business and should be allowed to advertise“

“yes. As with any business the ability to advertise for staff should be paramount“

“a job working in a brothel is exactly the same as any other business. There are people looking for work with flexible hours who are not aware of this industry“

“and service providers as well. the government can recognise and legalise the service then why not allow advertising across the board - only people who want to work in the sex industry will apply and others will know it is not for them“

“we are legal legitimate businesses who pay taxes same as the rest of the workforce“

“the industry is discriminated against with current restrictions“

“it is a legalised industry people over 18 years of age can choose to answer adverts or not“

“I think prohibiting advertising for ancillary staff further stigmatises the sex industry“

“I agree to advertising“

"It's a business after all! "
 "it should be okay"
 "it makes it harder to get good staff working in brothels"
 "yes we should be able to advertise for all types of staff"
 "brothels pay tax like every other business so why can't they"
 "we are being discriminated against by the law. We are a legal business but treated as illegal"
 "strongly agree there should be normal advertising allowed (Herald Sun employment guide, etc) "
 "they run a legitimate business and deserve to be able to be treated as one"
 "they should be able to"
 "it is a real job and industry isn't it? "
 "they should be able to advertise"
 "prefer "industry connected" staff rather than no experience in brothels or workers in brothel.
 Adverts normalise the industry which is not normal or desirable career avenue for many"
 "or if not allowed to advertise a database should be set up (maybe via RhED) where willing staff
 can leave their details and staff can be sourced using this database"
 "every other industry is allowed to advertise so please explain - it is a joke"
 "of course. The other should be allowed to advertise his/her business"
 "yes I agree that advertising should be advertised"
 "these positions need to be filled like all others"
 "there is a need for quality staff for main jobs ie reception, management and lack of staff"
 for cleaning and security"
 "makes owners life hard searching for staff of lawful jobs"

Comment – disagree

"prefer 'industry connected' staff rather than no experience in brothels or workers in brothel.
 Adverts normalise the industry which is not normal or desirable career avenue for many"

3. PRIVATE WORKERS & PLANNING LAWS

Do you agree/disagree that private workers should be able to provide their own accommodation to work from?

123 people answered the question
 88 (70%) agree
 38 (30%) disagree

Comments – agree

"for security reasons"
 "as long as they submit for a permit"
 "certainly"
 "safety yes, as long as environment is hygienic and no underage people are involved"
 "similarly to ACT/NSW, workers should have the right and ability to work privately, if they so
 choose with minimal bureaucratic interference"
 "yes we should be able to set up safe clean conditions for ourselves"
 "so workers have a choice not to pay room rental to a parlour"
 "Yes I do. What is the alternative? Working on the streets? Working for someone else?"
 "to do otherwise is an infringement upon the rights of sex workers"
 "it's business"
 "totally – they can choose their own business – nobody else's"
 "it is a matter of safety that private workers should be allowed to provide their own secure
 working environment"

“as long as it is away from family homes, children and in apartment blocks”
“it is allowed in Canberra and WA so why not. Makes more money and girls don’t have to put up with boss taking half”
“as long as they are well aware of potential danger in conducting their business in this manner (this would be hard to police either way)”
“I think they should be able to. Maybe they can be subsidised for it through tax”
“Yes I agree if they want to”
“they are getting paid more than brothel workers so they should be able to pay for accommodation”
“yes it is safer for the worker to be on their territory. It increases their safety”
“as long as the address is approved by the BLA”
“it all depends on what makes them comfortable”

Comments – on the fence

“not sure”
“but not from private homes”
“neither agree nor disagree”

Comments – disagree

“no – unsafe, these people would not be paying taxes, GST, etc. It would open the gates for illegal brothels”
“no that is what brothels are for and pay fees”
“Safety factor”
Too hard to control”
:”in a brothel”
“they we would be able to hand in our licences pay no fees and set up lots of little illegal brothels” (sic)
“that’s what brothels are for – hard enough to get men through the door as it is”
“I think that someone should drop them off to the address and pick them up so it’s safe”
“this would be unfair to brothels that pay rent, huge outgoing licensing fees and pay tax”
“safety”
“no they should not be able to – that’s what brothels are for”
“end of brothel industry and to make sure ladies have medical checks and safe place to work. Neighbours do not have a brothel next door. One girl can service up to 15 clients a day”
“no way. Firstly it is highly unsafe and it would promote illegal brothels to open and they wouldn’t pay taxes.”
“this will encourage more illegal brothels”

4. HOW WOULD YOU LIKE TO BE IDENTIFIED IN THE Prostitution Control Act (1994)?

(please circle) **prostitute, sex worker, service provider, other _____**

94 people answered the question

14 identified Sex Worker
63 identified Service Provider
4 identified Prostitute
13 identified Other

Other – comments

“sensual health carer or sexual health therapist”

“entertainer”
“relaxation therapist”
“working lady”
“sex fairy”
“pleasure working girl”
“entertainer”
“sex therapist”
“?”
“whore – it’s only a label. Whore, pro, cracker, who cares?”
“entertainer”
“working girl”
“relaxation therapist”

5. ARE THERE OTHER CHANGES YOU WOULD LIKE TO BE MADE TO THE Prostitution Control Act (1994) OR IS THERE ANYTHING ELSE YOU WOULD LIKE TO SAY?

50 people answered the question

“I think we need more respect - we are human”
“not familiar with the Act”
“absolute & total anonymity to all service providers”
“I reception in a brothel and do escort privately on Mornington Peninsula. I visit them but a lot ask if they can visit me. No - not till this law gets changed - then it would be great”
“any girl should be a resident of Australia for at least 12 months to help stop illegal workers”
“I would like to see the laws changed so anywhere in Australia, the laws would be the same”
“I would like to work my own hours but the bosses tend to enforce us to do a set amount of hours”
“to choose own hours - more flexible”
“more rooms”
brothels in CBD should be permitted to have more working rooms”
“I believe that brothels in the CBD should be able to increase from six rooms to nine rooms”
“an increase from 6 rooms to 8-10 would be applicable in Melbourne”
“more rooms for working and less brothels”
“get into the 21st century”
“manager's licence to be longer than 3 years”
“managers' licences should be every 5 years not 3 years and after 10 years should be of no cost to manager. This is bull****, no one else has to reapply every 3 years just to answer phone, wash towels and handle money. It is discrimination. I am not a criminal”
“more rooms in bordellos catering for overflow of girls”
“owners' licences should be transferable to spouse if accident or death occur”
“complete closure on repeat offenders of known unprotected sex where brothel owners are aware of such behaviour. More than 6 rooms to be available”
“why is there a limit to only 6 rooms”
“more rooms”
“why are there a limit to 6 rooms with new establishments, when others are still able to trade with more, eg Daily Planet”
“more working rooms to accommodate service providers' needs and to be able to compete on a level playing field to other establishments”
“I think it is ridiculous that we can only have 6 rooms. How is this beneficial to clients or sex workers? If anything it is detrimental”

“brothel owners and approved managers go through rigorous STI training and knowledge (books are not enough) “

“private workers, escorts to have STI checks. Unprotected oral sex, unprotected vaginal/anal sex illegal“

“complete overhaul of the outdated legislation. Special attention to illegal brothels and power to shut them down“

“less discrimination“

“private workers should be able to work together for their protection and security. Max 2 to an apartment“

“remove advertising restrictions head and shoulder (full body). Increase room numbers from 6 to 8. Restrict the number of licences given out“

“should be easier to advertise and should be able to show more than above the shoulders“

“get into the 21st century“

“medical certificates should not be handed over until workers' results are back to further ensure the prevention of spread of disease and to deter infected ladies from continuing to work“

“brothels should be able to advertise for business on newspaper and TV (including the ladies) “

“get a union for managers“

“I'd like to see laws put into place about how much a brothel can take as their cut - 60-40 would be nice“

“the laws should be the same Australia wide - not different from state to state. Many ladies work all over the country - not just Victoria“

“security person. Buzzers that are easy to reach“

“changes could be made to receptionist in regards to renewing licence - once in system could be more simple, eg no need to always provide same ID and information time after time“

“if they allow private workers from home, the underground business would run out of control and brothels would not be able to get staff and some brothels would close down. Plus ladies working would be in danger“

“I think that people knew to the industry should be informed more - details about STIs and what provides a proper service, eg what to do“

“I think something should be in place that the brothel can continue to run in the case of death or unforeseen circumstances with the service provider who holds the licence until the family or other arrangements can be put in place. This will stop the panic of ladies who have built up regular clientele and suddenly have to find alternate work placement. Or family trying to continue on before the business sells, etc“

“I don't agree with the decriminalisation of street work and I'm a street worker/ex brothel. Probably 10 years on streets“

“clear, concise tax info and easy access to ATO information for sex workers“

“There should be equal opportunity laws to protect all girls wanting to work in the sex industry particularly those from the massage parlours to be able to choose from private worker at home (ie 1 girl, 1 house) or in brothels – system like in Queensland so RhED can reach out to these displaced girls from massage parlour for education, health and safety. “

“In other words, decriminalise only for those with citizenship or residence status and not for “overseas recruits” to work privately in their home. “

“Advertising agency should also be made responsible to collect “health certificates” when due before next advertisement allowed to go through ie two monthly, or blood test three or six monthly. So the responsible advertisement agents need education and support from RhED to handle this. From the health certificate, genuine workers will then be screened for residency status and ATO to keep out illegal girls from free advertising and illegal operations, to prevent proliferation in community and to avoid unnecessary social impact and traffic build up. There would be time of operational restriction. “

“BLA should be replaced by a panel of more broader diverse persons from a wide range of backgrounds and skills in the area of human sexuality and sensuality psychology, metaphysics, morals and social interaction, empathy and understanding of this type of mainly female dominated business. Knowledge of sex and human behaviour an advantage. “

“Environmental Planning Act to review, with councils given more education regarding sex, morals and be included in the new Prostitution Control Board. “

“The current BLA is far to insular and inward with officers too geared at “block and cordite” of administrative paperwork thereby letting cunning “cons and crooks” slip into the net, or owning more than one brothel for monopoly and thereby making a monkey out of the legislation. They have no sufficient commercial experience at a practical level. These administrative clowns are very focused on draconian, autocratic style of handling the industry. They need to concentrate on “first hand intelligence” gathering not only on “DOB in’ mentality.

Discontinue exempt brothels – not safe for two workers in industrial site.

Kevin Rudd’s words – social inclusion, workforce participation, fairness test, equal opportunity for girls from massage parlour to be included to be able to enjoy the education from RhED in Victoria. “

“BLA/Consumer Affairs/Police/Councils - one of the governing bodies to be made accountable for closing illegal brothels down. If this was in the legislation once and for all that body would be accountable - rather than the ambiguity we are currently stuck with - NO ONE taking responsibility.

A ceiling on how much a manager’s licence is. Currently it is over \$280 and to someone out of work for a while, this is an obscene amount of money to make one self employable. The managers are not out there like they use to be. Where you would get a few calls per month, now you are lucky to get a few calls a year. “

Appendix 3 - Decriminalisation of Street Based Sex Work

Decriminalising street based sex work has been shown to reduce the health and social impacts of this occupation, and to give more opportunities to those who sex work on the street to exit the industry.

Both New South Wales and New Zealand have decriminalised street based sex work completely. Both legislative models have been recognised as creating positive solutions for both sex workers and the local community. In New South Wales it has been recognised that placing “safe houses” in tolerance zones has reduced the impact of sex work on the local community by creating discreet and safe spaces where transactions can take place rather than in gardens, cars or laneways.¹⁰⁹ It has been shown to not increase the number of sex workers who choose to work on the street.¹¹⁰¹¹¹ Decriminalising street based sex work prevents the two-tiered system of sex work that now exists in Victoria, where the criminalised parts of the industry work “underground” in order to avoid detection and prosecution.

Two options for the decriminalisation of street based sex work exist:

- 1. Decriminalising within tolerance zones whilst continuing to criminalise sex work outside of these zones**
 - No criminal penalty applies to those working within tolerance zones
 - Criminal penalty applies to those working outside tolerance zones
- 2. Decriminalising sex work everywhere with civil penalties enforced for those working outside of tolerance zones.**
 - No criminal penalty applies to those working within tolerance zones
 - Civil penalties, instead of criminal penalties, apply to those working outside of tolerance zones.

¹⁰⁹ Carrick, D, *Street Prostitution*, The Law Report, ABC Radio National, 30/4/2002, Scarlet Alliance Website, <http://www.scarletalliance.org.au/library/sherrifs03>, accessed 2/4/2009

¹¹⁰ Press, M, *Community and Services Development Committee 20 March 2000: Street Sex Work Policy Review*, City of Port Phillip, 2000.

¹¹¹ Abel, G, Fitzgerald, L, Brunton, C, *The Impact of the Prostitution Control Act on the Health and Safety Practices of Sex Workers: Report to the Prostitution Law Review Committee*, University of Otago, 2007, p. 7.

The following table outlines advantages and disadvantages of each model, as they relate to various issues in street based sex work.

	Impact on the local community	Police enforcement issues	Impact on the health of sex workers	Legal impacts for street based sex workers	Exiting the sex industry	Stigma and Discrimination
1. Decriminalising street based sex work within designated tolerance zones whilst continuing to criminalise street based sex work outside of these zones	<u>Inside tolerance zones</u> Local residents close to tolerance zones would experience less impact through better resourced and regulated sex work in their local community. Divisions would exist in the community between those inside and those outside of the zones.	<u>Inside tolerance zones</u> Within tolerance zones police will not be required to attend, unless specific issues are reported. Any operations required will focus on the perpetrators of harm, including hoons and sex tourists, rather than workers.	<u>Inside tolerance zones</u> Sex workers who choose to work within tolerance zones will benefit from less police presence discouraging clients in the area. There will be better protection by police, better health outcomes through greater access to health services and more reporting of violent incidents.	<u>Inside tolerance zones</u> Those working within tolerance zones will benefit from not receiving criminal penalties for their work, thus creating more opportunities for health interventions and/or exiting.	<u>Inside tolerance zones</u> Those who choose to work inside tolerance zones will have more opportunities to exit the industry due to the lack of a criminal record from their work and greater access to support services.	<u>Inside tolerance zones</u> Sex workers will benefit from sex work being recognised as valid work, without criminal penalties. Stigma and discrimination will thus be reduced.
	<u>Outside tolerance zones</u> Local residents outside of tolerance zones where sex workers may still conduct their business would experience an increase in police presence due to law enforcement requirements. Local residents outside of tolerance zones will also be effected by the presence of boyfriends or “spotters”, and by hoons and sex tourists.	<u>Outside tolerance zones</u> Outside of tolerance zones enforcement operations will increase, as criminal penalties will remain for those working in such areas. Police operations will potentially be more difficult, as sex workers may work in less traditional, more hidden areas which will be harder to find.	<u>Outside tolerance zones</u> The harms associated with criminalising street based sex work will remain. Sex workers who choose to work within criminalised areas will be perceived as more vulnerable, as the criminal nature of their work will discourage them from reporting acts of violence (etc) to the police, for fear of criminal consequences. Violence will be more frequent, as these sex workers will be known to be more vulnerable	<u>Outside tolerance zones</u> Those working outside of the tolerance zones will continue to receive criminal penalties for their work, exacerbating those negative impacts of such (as previously mentioned in the position paper).	<u>Outside tolerance zones</u> Those choosing to work outside of tolerance zones will continue to receive criminal penalties, thus limiting their opportunities for future employment. In addition to this, they will receive fewer health and support services.	<u>Outside tolerance zones</u> The stigma of a criminal record as a street based sex worker will remain for those choosing to work outside of tolerance zones. Stigma and discrimination may, in fact, increase for those working outside of tolerance zones, as they may be judged for choosing to work in a criminal context.

			and less likely to report violence to the police. They will also have less access to health services, due to the more clandestine nature of their work.			
2. Decriminalising street based sex work fully, with civil penalties enforced for those working outside of designated tolerance zones.	<u>Inside Tolerance Zones</u> Local community members would all be protected by the same legislation. Residents will be effected less by the presence of boyfriends or “spotters”, as sex workers will require less protection.	<u>Inside Tolerance Zones</u> Within tolerance zones police will not be required to attend, unless specific issues are reported. Any operations required will focus on the perpetrators of harm, including hoons and sex workers.	<u>Inside Tolerance Zones</u> Sex workers who choose to work within tolerance zones will benefit from less police presence discouraging clients in the area, better protection by police, better health outcomes through greater access to health services and more reporting of violent incidents.	<u>Inside Tolerance Zones</u> Those working within tolerance zones will benefit from not receiving criminal penalties for their work, thus creating more opportunities for health interventions.	<u>Inside Tolerance Zones</u> Sex workers will have more opportunities to exit the industry due to the lack of a criminal record from their work and greater access to support services.	<u>Inside Tolerance Zones</u> Sex workers will benefit from sex work being recognised as valid work, without criminal penalties. Stigma and discrimination will thus be reduced.
	<u>Outside Tolerance Zones</u> As above.	<u>Outside Tolerance Zones</u> Better communication between police and street based sex workers will minimise the need for police operations.	<u>Outside Tolerance Zones</u> Sex workers choosing to work outside of tolerance zones will be able to access police and health services more effectively and safely.	<u>Outside Tolerance Zones</u> Those working outside of tolerance zones will have the opportunity to not receive criminal penalties for their work, instead receiving civil penalties, thus enabling safer and more effective transition into tolerance zones and out of the industry.	<u>Outside Tolerance Zones</u> As above.	<u>Outside tolerance zones</u> As above.