

SAFETY

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

You have the right to feel safe at work. This applies to all areas of sex work, including (but not limited to) brothels, escort agencies, street based and phone based.

If a client wants more from you than you are willing to provide and won't take "no" for an answer, you may be able to take action against them in certain circumstances.

STALKING

Stalking is against the law and happens when someone purposely engages in a course of conduct that causes you physical or mental harm or makes you scared¹.

A course of conduct is defined as on one or more occasion or over an extended time someone has engaged in stalking, for example they have;

- » telephoned you;
- » contacted you online;
- » sent letters, notes or gifts; approached you;
- » followed you;
- » loitered outside your home or workplace; or
- » watched or gathered information about you.

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

If you feel like you are being stalked, what should you do?

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

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

PERSONAL SAFETY INTERVENTION ORDERS

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

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

If you are concerned about your identity you can apply for a suppression order². A suppression order may be issued by a judge to prevent the publication of sensitive details such as your identity. However, these are difficult to obtain, and you may need a lawyer's help to argue for this in court. There is no guarantee you will get a suppression order even with a lawyer's help.

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

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

To seek further information about the process, and how to go about it, please visit the Magistrates' Court website³ or speak to your local community legal centre.

BLACKMAIL

Blackmail is when a person threatens you and demands something in return (e.g. money or sex)⁴. Examples include:

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

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

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

ASSAULT, SEXUAL ASSAULT, RAPE

Victorian law recognises that sex workers are no less entitled to be protected from sexual assault and rape than anyone else⁵.

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

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

*****WHAT IS A GENERAL ASSAULT?*****

Assault is a criminal offence. An assault is when one person applies force to you, your clothing or equipment, causing injury, pain or damage⁶. This can be direct (e.g. someone pushes you) or indirect (e.g. someone pushes you and causes you to fall into another person, which can be an assault of the second person).

If someone spits on you, rips your clothes, or breaks your phone, this could be considered an assault⁷. A threat to assault (for example “I will bash you unless you do....”) may also be a crime. If someone causes you injury through an assault, intentionally or recklessly, this may be a more serious criminal charge⁸.

OFFENSIVE BEHAVIOR

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

- behave in an indecent, offensive or insulting manner; or
- use threatening, abusive or insulting words⁹.

WHAT IS A SEXUAL ASSAULT?

Sexual assault is one person touching another person sexually when that other person did not consent¹⁰. This may include unwanted touching and kissing, rubbing, groping or forcing you to touch another person in sexual ways.

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

- » if you agree to perform a sexual act because you are scared that something bad might happen to you or someone else; or
- » if you are asleep or affected by drugs or alcohol¹¹.

Consent means that you have clearly agreed to have sex, or perform a sex activity, with someone. A person has to be aware that you are consenting. There is no consent if someone hasn't turned their mind to whether or not you might be consenting¹².

Sexual assault is a criminal offence:

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

WHAT IS RAPE?

Rape means sexual penetration without your consent¹³.

Sexual penetration means penetration, to any extent, by:

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

It is also rape when someone:

- » realises you are not freely agreeing (even if they initially thought that you were), to an ongoing act of sexual penetration, but continues with that act regardless; or
- » forces you to take part in an act of sexual penetration of themselves or someone else without your consent¹⁴.

SEXUAL ASSAULT, RAPE AND SEX WORK

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

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

WHAT STEPS CAN YOU TAKE?

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

MAKING A POLICE REPORT

It is your choice if you wish to report an incident to police. If the incident occurred within the last 72 hours it is recommended not to shower so forensic medical officers can test for DNA¹⁵. This may involve taking samples of blood, pubic hair, anal, genital or breast swabs, saliva and mouth or dental impressions and taking notes about recent injuries. Any tests will be done in private and undertaken by a specially trained doctor, nurse or dentist¹⁶.

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

- » If it is an emergency and you are unsafe call the police on 000.
- » You can visit your local police station to report the assault. If you want, you can ask to speak to a lesbian, gay, bisexual, transgender and intersex Liaison Officers (GLLOs) You can find a list of GLLO officers via the Victoria Police website¹⁷.
- » You can also contact your local Sexual Offences and Child Abuse Investigation Team (SOCIT) who are trained in assisting victims of sexual assault. You can find a list of SOCIT locations through the Victoria Police website¹⁸.

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

LEGAL ADVICE

If you believe a crime has been committed, you may wish to seek legal advice on the risks of reporting this. If you would like to seek legal advice, please visit the National Association of Community Legal Centres¹⁹ website to find a community legal centre that is close to you.

CONTACTS

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

VIXEN COLLECTIVE

Vixen Collective promote the cultural, legal, human, occupational and civil rights of all sex workers. You can phone them on Vixen Collective's peer support line 0414 275 959 or email vixencollectivemelbourne@gmail.com.

RHED

Resourcing health & Education in the sex industry (RhED) provides site based and outreach services in collaboration with relevant programs and agencies. You can contact RhED by email sexworker@sexworker.org.au, via their website sexworker.org.au or call them on 1800 458 752.

ST KILDA LEGAL SERVICE (SKLS)

SKLS receives referrals for legal assistance from sex worker organisations. It provides free legal assistance to residents in the cities of Port Phillip, Stonnington and Bayside, and runs specialist programs including a Community Outreach Program, Family violence Program, and LGBTIQ Legal Service. You can contact them via email info@skls.org.au or phone on (03) 8598 6635.

REFERENCES

1. *Crimes Act 1958* (Vic) s 21A.
2. *Open Courts Act 2013* (Vic) s 17.
3. Magistrates' Court of Victoria, *Personal Safety Intervention Orders* (11 July 2018), accessed online on 30 April 2019 at magistratescourt.vic.gov.au/jurisdictions/intervention-orders/personal-safety-intervention-orders.
4. *Crimes Act 1958* (Vic) s87.
5. Judicial College of Victoria, *Victorian Sentencing Manual* (14 October 2016) s 31.6.2.12
6. *Crimes Act 1958* (Vic) s31(2).
7. Ibid ss 31(2), (3).
8. Ibid at ss16-18.
9. *Sex Work Act 1994* (Vic) s 16.
10. *Crimes Act 1958* (Vic) s 40 (see also s 36 re meaning of consent).
11. *Crimes Act 1958* (Vic) s 36.
12. Legal Aid, *Sexual Assault*, accessed online on 2 April 2019 at legalaid.vic.gov.au/find-legal-answers/sex-and-law/sexual-assault.
13. *Crimes Act 1958* (Vic) s 38(1).
14. Ibid s39.
15. The option of a forensic medical examination is coordinated by Victorian Centres Against Sexual Assault (CASA), see *Victims of Crime, Sexual Assault* (3 July 2018) accessed online on 23 April 2019 at victimsofcrime.vic.gov.au/the-crime/types-of-crime/sexual-assault.
16. Victoria Legal Aid, *Legal Glossary*, accessed online on 23 April 2019 at https://www.legalaid.vic.gov.au/find-legal-answers/legal-glossary#forensic_medical_examination.
17. Victoria Police, Lesbian, gay, bisexual, transgender and intersex liaison officers, accessed online on 23 April 2019 at police.vic.gov.au/lesbian-gay-bisexual-transgender-and-intersex-liaison-officers.
18. Victoria Police, Sexual Offences and Child Abuse Investigation Teams, accessed online on 23 April 2019 at police.vic.gov.au/content.asp?Document_ID=36448.
19. National Association of Community Legal Centres, accessed online on 23 April 2019 at naclc.org.au/.



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

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