



RED FILES

Red Files Inc.
PO Box 2010, St Kilda West VIC 3182
Email: info@redfiles.com.au
Web: www.redfiles.org.au

23 December 2020

Victorian Law Reform Commission
Improving the Response of the Justice System to Sexual Offences
law.reform@lawreform.vic.gov.au

Dear Commission,

Thank you for the opportunity to submit to the *Improving the Response of the Justice System to Sexual Offences*. Our submission focuses on reforms that relate to sex workers.

Red Files Inc. is a peer-led registered charity that aims to prevent violence against and exploitation of sex workers in Australia. We do this by using secure technology that provides an anonymous and safe online space for sex workers in Australia to connect with one another, and by distributing easy to understand information and resources about occupational health, safety, and emotional wellbeing.

At the time of writing, we have documented 10,377 incidents of violence and exploitation against sex workers Australia-wide and currently see an increase of around 300+ new incidents each month on average.

The Red Files website infrastructure was created in 2015, our organisation was incorporated in 2018 and registered as a charity in 2019. Our membership consists of 742 sex workers; the sex work national organisation Scarlet Alliance had 422 in 2018. Red Files is now one of only two registered national sex worker charities.

Please find our submission attached. If you have further questions related to our submission, please do not hesitate to contact the Red Files Inc secretary Estelle Lucas on info@redfiles.com.au

Sincerely,

Estelle Lucas
Secretary, Red Files Inc.

Introduction

Red Files supports the full decriminalisation of sex work and believes that decriminalisation is essential to sex workers' workplace safety. The current regulatory system of licensing in the Victorian sex industry¹ creates multiple barriers to sex workers' safety, wellbeing and access to justice. Compliance requirements in Victoria have created a two-tiered system, where a great number of workers who are unable to meet these specific and often strict requirements are forced to operate outside the legal framework, leaving them vulnerable to exploitation and violence in their workplaces. Often, complying with these laws and requirements increases sex workers' vulnerability to sexual assault.²

Sex work can be a positive experience for a large proportion of sex workers. A recent study of Australian sex workers³ found that almost 40% of respondents reported that sex work enhanced their well-being, while only a fifth reported that it hindered their well-being. However, a little more than one fifth of respondents reported having been assaulted at least once in the past 12 months. A number of sex workers described some clients as justifying their abuse because of a perception that sex work is illegal, reducing the likelihood that sex workers would report assaults.

This submission outlines Red Files' response to key areas of Issues Paper A and D, focuses on what increases sex workers' vulnerability to sexual assault, and what maximises their ability to disclose sexual assault and violence in the workplace and access support services. It is based on available evidence, data collated from our website, and observations of our team who work closely with sex workers, and advocate for their workplace safety.

Issues Paper A Working Together to Respond to Sexual Offences: Systems

- *What would make it easier for people who have been sexually harmed to get the supports and services they need, so they can decide whether to report the sexual harm?*
- *How can collaboration within the sexual assault system be improved, so that the justice system responds effectively to sexual harm?*
- *How can we improve how other services and systems work with the sexual assault system, so that people are supported to seek justice?*

Victoria has an active sex work support and advocacy community. At present, funding is provided to community health program RhED, which provides vital direct support to sex workers, but has provided little advocacy since 2015. There is no government support for any sex worker-led advocacy programs. In order to effectively work with governments with the aim of creating improved responses across the board to acts of sexual violence committed against sex workers, sex worker led organisations require resourcing and funding from the Victorian

¹ *Sex Work Act 1994* (Vic).

² Antonia Quadara 2008, *Sex workers and sexual assault in Australia*, Australian Institute of Family Studies 8

³ Donovan et al 2017, *Law and Sex Worker Health (LASH) Study*, School of Public Health, Curtin University.

Government. Advocacy organisations possess the skills and experience to work constructively with Victoria Police and the courts to improve responses.

Issues Paper D Sexual Offences: Report to Charge

- *What other issues need to be addressed to improve the experience of the police investigation process for adults who have been sexually harmed? How can they be addressed?*

Under Victoria’s current licensing system, the role of Victoria Police is to assist in monitoring and enforcing the licensing requirements of the Act.⁴ There exists an incongruity that sex workers are expected to report crimes against them to the oppositional body that is actively policing, not protecting them.

In Victoria, the administration of compliance by police inhibits positive relations between the sex industry and the police, creating significant barriers to sex workers accessing justice in the event of a crime. Not only are sex workers who are working non-compliantly less likely or able to report violence in the workplace to police without putting themselves at risk of criminalisation, but sex workers who are working compliantly are often reluctant to report incidences of violence due to negative experiences with the police. Negative experiences, personal or those shared within the community, often involve stigma and discrimination, where police have been unwilling to facilitate the making of a report or have made the experience of reporting unnecessarily uncomfortable or retraumatising.

The trial of Adrian Bayley, originally imprisoned for eight years over five attacks on sex workers and who later went on to murder Jill Meagher, revealed that at least ten other sex workers had identified Bayley as their attacker but did not trust police sufficiently to give evidence⁵.

Recent reports to both Red Files and also reported in the media have identified a serial offender in the Melbourne suburb Diamond Creek preying on sex workers.

‘Multiple workers suspect there is a serial rapist and fraudster targeting women around Diamond Creek using fake names and phony bank details. He insists he can pay up front, sometimes sending supposed real-time screengrabs of his cash-filled wallet. Once the woman arrives, he purports to make an online banking transaction, which turns out to be bogus.

One of his victims, Samantha Adams, was defrauded \$1000 based on two-and-a-half hours of service. She said she would have gone to authorities but she’d lost faith in the

⁴ Victoria Police, ‘Regulation of the sex work industry – Regulatory Responsibilities’, *Victoria Police Manual*, 2020.

⁵ R v Bayley [2013] VSC 313 at [25].

system after an earlier attack she endured while working at a strip club was not taken seriously by police.’⁶

The inability of current reporting mechanisms to bring an offender who has become notoriously well-known within the community to the attention of the police is reflective of the fact that predators will prey on workers who operate within criminalised workplaces.

Due to the increasing number of sex workers advertising and connecting with clients via the internet, sex workers are often well connected in online sex worker peer-only spaces such as Red Files. Personal accounts of negative experiences with police are often widely disseminated through the sex worker community and have corroded the level of trust and confidence that workers have in accessing these services. **As of publication, Red Files has documented over 10,000+ personal accounts of violence perpetrated against sex workers, yet less than 2% of these incidents were reported to police.**

One Red Files member stated that:

‘Making a report to Red Files immediately protects workers in a way that reporting to police does not. In an instance in 2019, a colleague reported an incident to police in which I had also been involved. My colleague was met with questions about her working status before any attempt was made to provide her with assistance. I felt like the police priority was not on protecting individuals from this client’s future actions, but instead on making sure escorts were not working without a SWA [private escort registration number]. For this reason, I did not make a report to police.’

Sophia, Red Files member.

It is clear that workers also need better avenues to report violence against them. One method to address this would be to provide funding for dedicated police sex worker liaison officers at major metropolitan police stations who have undertaken mandatory training from sex worker peer-based organisations⁷ about the sex industry and are publicly identified as a point of contact for sex workers seeking police assistance. This was a key recommendation from the Victorian Attorney General in 2002 but has yet to be implemented.⁸

Similar roles already exist in Victoria Police for other significantly marginalised communities, such as the LGBTIQ Liaison Officers (GLLO) for the LGBTIQ community. New South Wales also currently employs a sex work liaison officer at Kings Cross Police Station. These roles should necessarily be accompanied by ongoing sensitivity training provided to Victoria Police, delivered by peer-based sex worker organisations, to work towards reducing the present levels of stigma and discrimination faced by the sex worker community. Under-reporting of violence in the

⁶ Farrah Tomazin, ‘Sex workers are sick of rapes, assaults, and want protection’ *The Age* (online, 26 November 2019) <<https://www.theage.com.au/politics/victoria/sex-workers-are-sick-of-rapes-assaults-and-want-protection-20191126-p53ebz.html>>.

⁷ Peer-based organisations are those made up and run by sex workers.

⁸ Attorney General’s Street Prostitution Advisory Group, Final Report, 2002.

workplace is a prevailing issue for Victorian sex workers; sensitivity training and the appointment of sex work liaison officers would help facilitate sex workers reporting crimes against them.

The reduced ability of sex workers to report violence perpetrated against them and access justice has serious flow-on effects, to both levels of sex worker safety and the safety of the non-sex working community. There is evidence that the current system emboldens predators who are aware of sex workers' vulnerabilities, particularly if they are working outside of the regulations.

*Do you support access to alternative ways of reporting sexual harm? Why or why not?
If you support alternative ways of reporting sexual harm, what features should they have?*

In the face of barriers to reporting crimes to police, sex workers have created alternative ways of reporting sexual harm and violence. The first scheme to report and warn sex workers about dangerous individuals, labelled 'ugly mugs', was started in Australia in the early 1980s. Ugly mugs programs within the sex industry are the most common alternative mechanism by which sex workers can report sexual harm. Sex worker organisations around Australia, such as SWOP in NSW and Respect in QLD, now provide sex workers with lists of information on clients who have been labelled violent or dangerous.

In recognition of the fact that the majority of sex workers in Australia utilise online spaces for their business and often travel interstate to work, Red Files uses an online reporting system to create a network connecting hundreds of sex workers and support services. We receive incidents from sex workers and share anonymised warnings amongst our networks. This alternative way of reporting sexual harm and violence improves the safety of sex workers by helping them avoid dangerous offenders, but the challenge is in reaching as many sex workers as possible.

The traditional method of supplying ugly mug reports in printed form, developed in the 1980's, is now out of date and no longer adequate to meet the needs of the vast majority of sex workers, who advertise and initially connect with their clients online. The Victorian Government provides modest funding to this legacy form of ugly mugs program, with no funding going towards new online ugly mugs programs that reach many more sex workers. Funding is required to support online ugly mugs programs so that more sex workers can be supported to report sexual violence to police where such violence occurs.

Red Files recognises that the majority of established sex worker support organisations across Australia have been slow to integrate modern technology into their support services, and the existing alternative ways of reporting harm utilised by them are now of limited relevance to sex workers.

Recommendations

1. Ongoing sex worker sensitivity training for police officers delivered by peer-based sex worker organisations.
2. Dedicated sex work liaison officers based at major metropolitan police stations who have had mandatory sex worker sensitivity training.
3. Increased funding to sex worker peer-based organisations such as Red Files, to improve to sex workers who wish to report sexual violence to both police and other co-workers.