

Sex Work Law Reform Victoria Inc.  
(Equality. Safety. Justice)

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The Hon A North QC  
Chair  
Victorian Law Reform Commission  
GPO Box 4637  
Melbourne VIC 3001  
By email: [law.reform@lawreform.vic.gov.au](mailto:law.reform@lawreform.vic.gov.au)

23 December 2020

Dear Chair,

**Improving the Response of the Justice System to Sexual Offences**

Sex Work Law Reform Victoria Inc. (SWLRV) is an independent non-partisan volunteer group led by sex workers, lobbying for the legal rights of sex workers in Victoria.

SWLRV advocates for, amongst other things:

- the full decriminalisation of consensual adult sex work in Victoria
- reducing barriers preventing some sex workers from reporting sexual violence to police

We appreciate this opportunity to contribute to the *Improving the Response of the Justice System to Sexual Offences* inquiry and attach our submission accordingly.

Sincerely,

Lisa Dallimore

President, Sex Work Law Reform Victoria Inc.

## 1. Who We Are

Sex Work Law Reform Victoria Inc. (SWLRV) is a volunteer run non-partisan advocacy group led by former and current sex workers. We formed in 2018 with the express purpose of advocating for the legal rights of sex workers in Victoria. This includes advocating for appropriate responses to sexual violence where the victim is a sex worker. Our committee includes six sex workers, and we have a further ten volunteers in our team.

## 2. Executive Summary

Sex workers face unique barriers to reporting sexual offences. These include ongoing stigma surrounding sex work, a lack of trust between the sex industry and law enforcement authorities, and a history of entrapment operations involving police and local councils. These barriers can be addressed by taking steps to strengthen the relationship between the sex industry, the police and other government authorities. To this end, advocacy by sex worker-led organisations who support victims of sexual violence and seek to form constructive relationships with government should be supported and increased.

## 3. Summary of Recommendations

### **Recommendation 1**

*Engaging in sexual acts in the course of entrapment operations or to otherwise gather evidence in relation to illegal brothels should be prohibited by law.*

### **Recommendation 2**

*Provide Victoria Police with additional resources to train and appoint at least ten sex work liaison officers.*

### **Recommendation 3**

*Provide additional funding for a sex worker organisation to work with Victoria Police in the training and roll out of sex work liaison officers.*

### **Recommendation 4**

*WorkSafe Victoria to increase the number of compliance visits to Victoria brothels, with a goal to inspect around half each year.*

### **Recommendation 5**

*Funding sex worker peer-led organisations to work alongside WorkSafe to train inspectors to become specialised in sex industry businesses.*

### **Recommendation 6**

*Train 1–2 specialist advisors through WorkSafe Victoria to provide advice to brothels on safety.*

## Recommendation 7

*Scarlet Alliance to amend Appendix 7 (Credentialing Tool) of its constitution to include a Standard which requires sex worker organisations to support sex workers in reporting crimes committed against them to the police.*

## 4. Victoria's Sex Industry

In any given year there are between 5,000 and 10,000 sex workers in Victoria<sup>1</sup>. Sex industry regulation varies from state to state<sup>2</sup>, with Victoria adopting a licensing system<sup>3</sup>. In Victoria a minority of sex workers and sex industry businesses operate legally, with the remaining majority operating outside the law in an underground, unregulated environment<sup>4</sup>. Around half of Victoria's sex workers are migrant workers, many of whom come from non-English speaking backgrounds<sup>5</sup>.

By far the least common type of sex work is street-based sex work, representing around 1% of all sex workers, with most sex workers being self-employed (private workers), comprising around 55% of the total working population<sup>6</sup>. Around 80% of sex workers are female, with around 20% identifying as male<sup>7</sup>. Most sex workers are aged under 30, with 60% having been born outside Australia or New Zealand<sup>8</sup>. Around one third reported having worked in the industry for between 1–2 years. 11.5% reported having worked in the industry for over 10 years<sup>9</sup>. There are 89 licensed brothels in Victoria, and according to Victoria Police, at least 500 unlicensed brothels<sup>10</sup>.

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<sup>1</sup> Antonia Quandara, *Sex Workers and Sexual Assault in Australia: Prevalence, Risk and Safety*, (2008) 8 Australian Centre for the Study of Sexual Assault

NB: This paper estimated 20,000 sex workers in Australia in 2008, which equates to just over 23,000 sex workers in 2020 accounting for population increase.

<sup>2</sup> Select Committee of the Legislative Council, Parliament of South Australia, *Report of the Select Committee on the Statutes Amendment (Decriminalisation of Sex Work) Bill 2005* (2005) Pt 5.

<sup>3</sup> Select Committee on the Regulation of Brothels, New South Wales Parliamentary Library, *Inquiry Into the Regulation of Brothels* (2015) ss 2.67-2.75.

<sup>4</sup> Scarlet Alliance, *Information on proposed changes to NT Sex Industry Laws* (2019) Scarlet Alliance Australian Sex Workers Association

<[http://www.scarletalliance.org.au/library/NT\\_Sex\\_Industry\\_Bill\\_2019\\_Info\\_Kit/](http://www.scarletalliance.org.au/library/NT_Sex_Industry_Bill_2019_Info_Kit/)>.

<sup>5</sup> Inner South Community Health, *Migrant and Multicultural Sex Worker Report 2012* (26 March 2013) Inner South Community Health, 10.

<sup>6</sup> Selvey, L., Hallett, J., Lobo, R., McCausland, K., Bates, J., & Donovan, B. (2017). *Western Australian Law and sex Worker Health (LASH) Study. A summary report to the Western Australian Department of Health*. Perth: School of Public Health, Curtin University, 18.

<sup>7</sup> Ibid 17-18.

<sup>8</sup> Ibid 18.

<sup>9</sup> Ibid 21.

<sup>10</sup> RhED, *RED Magazine*, (StarHealth, Issue 36, 2019)

<<http://sexworker.org.au/publications-and-resources/rhed-publications/red/red-magazine-archives/>>.

Historically speaking, Victoria's sex industry has not experienced a close or harmonious relationship with the Victorian government, nor with Victoria Police. This is due to a number of factors, including but not limited to:

1. longstanding, overly complex legislation regulating sex work, little understood by either authorities or sex workers<sup>11</sup>
2. the large number of government agencies responsible for regulating the sex industry – Victoria Police, the Australian Federal Police, the Australian Taxation Office, local governments, WorkSafe Victoria, Consumer Affairs Victoria (hereafter referred to as CAV), the Business Licensing Authority and the DHHS
3. lack of communication between the above regulatory bodies and a general lack of understanding on the part of these bodies about the sex industry<sup>12</sup>
4. that the majority of the industry operates underground, outside the law<sup>13</sup>
5. historical allegations of police brutality against sex workers

## 5. Sexual Violence Against Victorian Sex Workers

Sex work, like other any occupation, is not inherently violent. While sexual violence can and does occur, rates of such violence vary and depend on a number of factors, such as the type of sex work being carried out. Only a minority of sex workers surveyed have reported that engaging in sex work decreased their sense of well-being<sup>14</sup>.

Sex workers can experience sexual violence on the part of clients, or outside of work, in family violence settings or other settings. Alarmingly, sexual violence can occur against sex workers on the part of police, local government employees, private investigators or other enforcement officers in the course of carrying out their enforcement duties in relation to suspected illegal brothels.

## 6. Entrapment and Sexual Violence

Entrapment occurs when a law enforcement agent acts to induce a person to commit an offence which the person would not or otherwise would not have been likely to commit.

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<sup>11</sup> Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into People Trafficking for Sex Work* (2010) 136.

<sup>12</sup> Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into People Trafficking for Sex Work* (2010) 136.

<sup>13</sup> In 2020, there are 88 legal brothels in Victoria, and Victoria Police estimate at least 500 illegal brothels.

<sup>14</sup> Selvey, L., Hallett, J., Lobo, R., McCausland, K., Bates, J., & Donovan, B. (2017). *Western Australian Law and sex Worker Health (LASH) Study. A summary report to the Western Australian Department of Health*. Perth: School of Public Health, Curtin University

### ***Entrapment Operations and Sex Worker Consent***

*I'm very nervous, I know it's not a licensed premise. I suspect the gentlemen [client in the room with me] is a police officer. What crosses my mind is, "If he's not and I don't provide the service, is he going to get angry and irate?" I'm in this room on my own, so if I don't provide this service, I could be in trouble. I felt intimidated, I felt trapped. But then again, I thought if I do provide the service, I thought, oh shit, it could have even worse implications for me. You're on the spot, so I felt I had absolutely no choice between two evils, either way. I provided the service and as he walked out, he said "You were right, I wear a lot of blue." This is full panic attack mode, heart thumping, sweating, shaking. I didn't sleep well for months on end.*

Quin, a Victorian sex worker, describes encountering a police officer inside an illegal brothel (prior to 2011).<sup>15</sup>

Historically, concerns around the proliferation of illegal brothels in Victoria resulted in attempts by Victoria Police and other authorities to gather evidence that sexual services were being offered or provided in suspected illegal brothels<sup>16</sup>.

Prior to 2011, this resulted in entrapment operations where the authority figure (in plain clothes) posed as a client, requested, paid for and sometimes received sexual services for the purpose of gathering evidence that said sexual services were actually being provided. Suspected illegal brothels were regularly the subject of enforcement action by councils<sup>17</sup>.

Reforms to the *Sex Work Act 1994* (Vic) in 2011 clarified Victoria Police, not local government, as the lead investigative and enforcement body responsible for dealing with illegal brothels<sup>18</sup>.

It remains unclear whether such entrapment-like operations still occur. Brimbank City Council has not ruled out that private investigators engaged by council have sex with unsuspecting women inside illegal brothels. When responding to this question, Council stated:

<sup>15</sup> 'Consent....and the women left behind with Cheryl and Quin' *Shut Up She's Talking* (Apple Podcasts, 20 December 2020) 00:33:50  
<<https://podcasts.apple.com/au/podcast/shut-up-shes-talking/id1505300120?i=1000503007189>>

<sup>16</sup> 'Councils Pay PI's to Hire Prostitutes', (29 January 2007) Government News

<<https://www.governmentnews.com.au/councils-pay-pis-to-hire-prostitutes/>>

<sup>17</sup> Councillor Dick Gross, 'Councils need more support to deal with illegal brothels', (Media Release, Municipal Association of Victoria, 25 January 2007).

<[http://planning-enforcement.com/doc/MR\\_illegal\\_brothels.pdf](http://planning-enforcement.com/doc/MR_illegal_brothels.pdf)>; Brimbank City Council, *Ordinary Council Meeting Agenda* (Agenda Meeting Number 554, 21 May 2019) Attachment 1.  
<<https://www.brimbank.vic.gov.au/council/council-meetings/2019-council-meeting-agenda-and-minutes>>

<sup>18</sup> Explanatory Memorandum, *Sex Work and Other Acts Amendment Bill 2011* (Vic) 5-6  
<[http://classic.austlii.edu.au/au/legis/vic/bill\\_em/swaoaab2011335/swaoaab2011335.htm](http://classic.austlii.edu.au/au/legis/vic/bill_em/swaoaab2011335/swaoaab2011335.htm)>

**Question**

Can Council guarantee that since 21 May 2019, independent investigators paid for by council to investigate suspected illegal brothels have not engaged in sexual activities with sex workers inside suspected illegal brothels?

**Answer**

The Mayor advised where independent investigators were used to investigate the seven illegal establishments prosecuted to date, the independent investigators undertook activities necessary for the purpose of gathering evidence.<sup>19</sup>

Where a sex worker believes a perpetrator of sexual violence is an authority figure carrying out law enforcement operations, the event is very unlikely to be reported to police.

**Recommendation 1**

*Engaging in sexual acts in the course of entrapment operations or to otherwise gather evidence in relation to illegal brothels should be prohibited by law.*

## 7. Police Sex Work Liaison Officers

The overwhelming reason sex workers choose not to report crimes to police is the perception that they will not be believed or taken seriously. Negative attitudes towards sex workers, prevalent in the general community and therefore presumably to an extent within Victoria Police, are likely to drive this lack of trust in police.

- 57% of sex workers surveyed in a 2020 study reported experiencing stigma ‘often or always’<sup>20</sup>

However, Victoria Police is actively taking steps to build trust with sex workers and the LGBTIQ community via:

- an expansion in the number of LGBTIQ Liaison Officers
- the presence of the Priority Communities Division, which seeks to build trust with the LGBTIQ and sex worker communities
- ongoing formal consultative mechanisms with the LGBTIQ and sex worker communities
- the *GLLO Show*, formerly airing on LGBTIQ community radio station Joy 94.9 FM<sup>21</sup>
- frequently meeting constructively with the various sex worker groups in Victoria

Building on the role of the LGBTIQ officers, specialised sex work liaison officers would greatly assist sex workers in reporting crimes to police. This is not a new concept, with NSW Police having appointed an officer at Kings Cross station to speak directly to sex workers who want to report crimes in NSW. Such officers would benefit from ongoing training and direct contact with sex

<sup>19</sup> Brimbank City Council, *Ordinary Council Meeting Minutes* (Meeting Minutes No 578, 15 September 2020) 14. <<https://www.brimbank.vic.gov.au/council/council-meetings/2020-council-meeting-agenda-and-minutes>>

<sup>20</sup> Newman, C., MacGibbon, J., Smith, A. K. J., Broady, T., Lupton, D., Davis, M., Bear, B., Bath, N., Comensoli, D., Cook, T., Duck-Chong, E., Ellard, J., Kim, J., Rule, J., & Holt, M. (2020). *Understanding trust in digital health among communities affected by BBVs and STIs in Australia*. Sydney: UNSW Centre for Social Research in Health 17 <http://doi.org/10.26190/5f6d72f17d2b5>

<sup>21</sup> *The GLLO Show* (Joy 94.9 FM) <<https://podcasts.apple.com/au/podcast/the-gllo-show/id1269581426>>

workers from the various sex worker groups in Victoria. Such officers would need to be stationed both in the CBD, metropolitan Melbourne as well as regional Victoria.

### **Recommendation 2**

*Provide Victoria Police with additional resources to train and appoint at least ten sex work liaison officers*

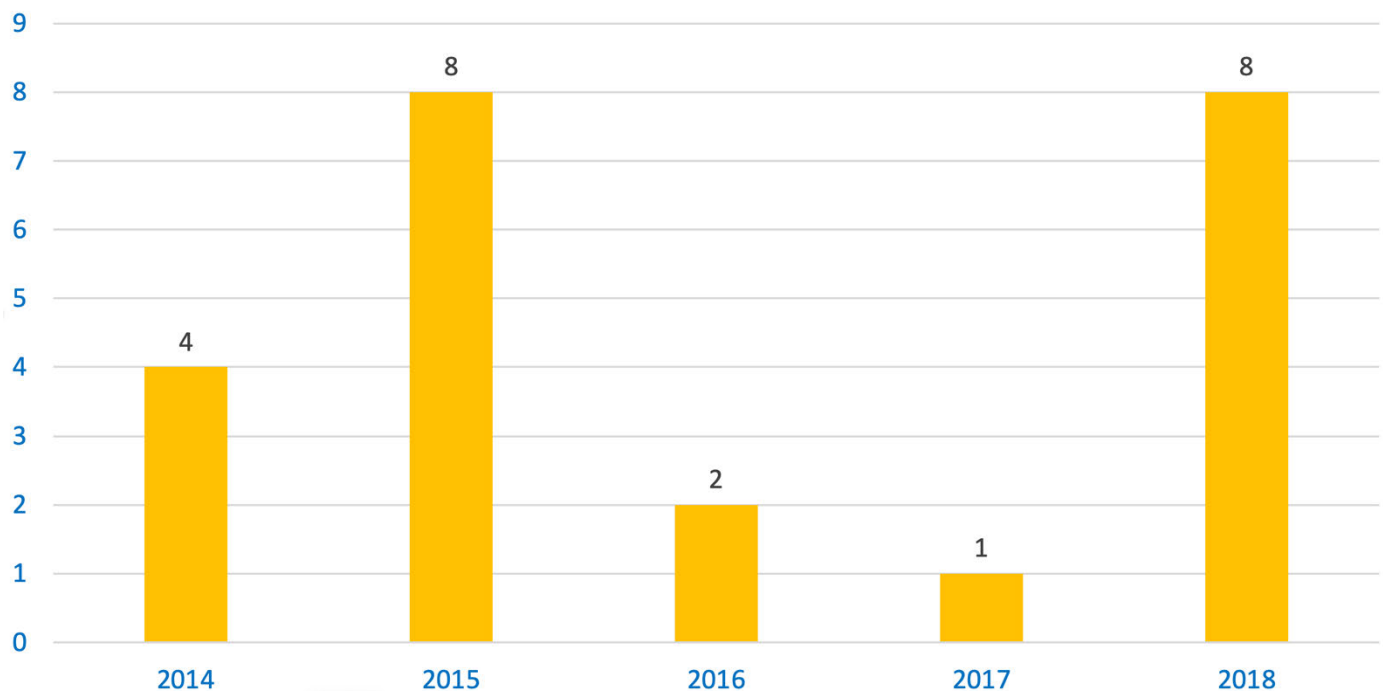
### **Recommendation 3**

*Provide additional funding for a sex worker organisation to work with Victoria Police in the training and roll-out of sex work liaison officers*

## **8. WorkSafe Victoria**

WorkSafe Victoria inspectors are given powers to conduct both responsive visits (responding to a health and safety complaint) and compliance visits (a routine compliance check not the result of a specific complaint). If criminal activity is detected at a business, WorkSafe Victoria can refer the matter to Victoria Police. In a similar manner, Victoria Police can and often do report workplace safety issues to WorkSafe Victoria. WorkSafe Victoria inspects Victoria's 89 licensed brothels as they would any other workplace.

### **Visits by WorkSafe Victoria to Licensed Brothels**



#### Notes on graph

1. Data extracted from Entry Reports as a result of Responsive and Compliance visits.
2. Years are financial years
3. In 2018 there were 88 licensed (legal) brothels and an estimated 500 unlicensed (illegal) brothels across Victoria.
4. WorkSafe Victoria staff inspect brothels as they do any other business

However, inspection of brothels remains uncommon and awareness within the sex industry about the role and function of WorkSafe Victoria inspectors is, anecdotally speaking, low. The stigma surrounding sex work can be so powerful as to discourage regulators from engaging with sex industry businesses, and this may be a factor leading to low engagement of WorkSafe Victoria staff. Greater awareness within the sex industry is needed as to the role and powers of WorkSafe Victoria staff.

There is also a need for WorkSafe Victoria to establish clear relationships with Victoria Police in relation to detecting and supporting sex workers to report sexual offences to police. We are aware of reports from over ten years ago of WorkSafe Victoria inspectors behaving in an insensitive manner while inside brothels. Reports include:

- Inspectors requesting to visit brothels just so they could ‘see what it was like’
- Staring at female sex workers inside brothels to ‘check them out’
- Asking unnecessary questions of female sex workers

These types of issues could be addressed if sex worker peer-led organisations were funded to work alongside WorkSafe to engage in sensitivity training.

#### **Recommendation 4**

*WorkSafe Victoria to increase the number of compliance visits to Victoria brothels, with a goal to inspect around half each year.*

#### **Recommendation 5**

*Funding sex worker peer-led organisations to work alongside WorkSafe to train inspectors to become specialised in sex industry businesses.*

#### **Recommendation 6**

*Train 1–2 specialist advisors through WorkSafe Victoria to provide advice to brothels on safety.*

These staff to be recognised as Accredited Advisors and be publicly listed on a database on the WorkSafe Victoria website. Accredited Advisors need to have specialist knowledge of Victoria’s sex industry and be trained in sex industry sensitivity awareness as referred to above.

## **10. Barriers to reporting sexual offences from within the sex industry**

While many sex workers lack trust in the police and other branches of government, they are far more likely to trust their sex worker support and advocacy organisations. Where sexual violence might not be reported to police, it is more likely to be informally reported to a sex worker organisation. Such organisations provide an ideal opportunity to strengthen referral pathways and support sex workers to report sexual violence to the police, *provided their respective individual cultures are aligned with doing so.*



In Australia, Scarlet Alliance<sup>22</sup> is the national association of sex workers. Other than Scarlet Alliance, there are seven sex worker organisations/groups operating in Victoria:

1. *Behind Closed Doors* is a peer-led, weekly community radio program
2. *Red Files* is a sex worker led registered charity providing online anti-violence information
3. *RhED* is a community health centre supporting sex workers
4. *Salome's Circle* is a peer-only support and advocacy service for female strippers
5. *Sex Work Law Reform Victoria*
6. *Vixen Collective* is a Victorian collective
7. *Working Man* is a support and advocacy group for gay and bisexual male sex workers

Scarlet Alliance only recognises one of the above organisations, Vixen Collective. Such recognition is dependent upon an organisation applying to become a member organisation of Scarlet Alliance in the first place, and then meeting Scarlet Alliance's own credentialing Standards<sup>23</sup>. Once a sex worker organisation is recognised by Scarlet Alliance, sex workers are strongly encouraged to seek support only from that organisation, to the exclusion of others<sup>24</sup> <sup>25</sup>. None of Scarlet Alliance's credentialing Standards requires a sex worker organisation to support sex workers in reporting crimes committed against them to police. Again, the culture and political ideology of an organisation can determine its willingness to support sex workers in reporting crimes to police.

In 2020, a spokesperson from Vixen Collective spoke at a Slutwalk<sup>26</sup> event about responding to and addressing sexual violence against sex workers. She identified as a prison abolitionist:

*'I consider myself a prison abolitionist and I don't think that prisons are necessarily the best way to deal with issues like this [rape].'*<sup>27</sup>

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<sup>22</sup> 'Who We Are' *Scarlet Alliance* (web page, 14 June 2018)

< <https://www.scarletalliance.org.au/who/> >

<sup>23</sup> 'Credentialing Tool' *Scarlet Alliance* (web page, September 2005)

< <https://scarletalliance.org.au/library/constitution-app7/> >

<sup>24</sup> 'Links' *Scarlet Alliance* (web page, 4 September 2018)

< <https://www.scarletalliance.org.au/links/> >

<sup>25</sup> 'Joint Statement' *Scarlet Alliance* (webpage, 26 June 2020)

< [https://scarletalliance.org.au/library/joint\\_statement\\_VIC\\_Review](https://scarletalliance.org.au/library/joint_statement_VIC_Review) >

<sup>26</sup> A global movement to end victim blaming of sexual assault victims

<sup>27</sup> Slutwalk Melbourne 'After SlutWalk Panel 6 of 11' (webpage Youtube, 14 June 2020)

< <https://www.youtube.com/watch?v=knsAiOY5xZo&list=PL5KdjfvQOnbfpEiofLnz2bbbc91ZukZWR&index=6> >



*The culture and political ideology of an organisation can determine its willingness to support sex workers in reporting crimes to police.<sup>28</sup>*

## Recommendation 7

*Scarlet Alliance to amend Appendix 7 (Credentialing Tool) of its constitution to include a Standard which requires sex worker organisations to support sex workers in reporting crimes committed against them to the police.*

## 11. Conclusion

We appreciate the opportunity to submit to this important inquiry. We look forward to reading the final report and are hopeful that subsequent reforms will make it easier in the future for sex workers to report sexual offences committed against them.

<sup>28</sup> Vixen Collective 'Untitled' *Twitter* (tweet, 7 June 2020)  
<<https://twitter.com/VixenCollective/status/1269494440663478272>>