



**StarHealth**  
First for your Health & Wellbeing



**Submission to the consultation on:  
*Proposed model for decriminalisation  
of sex work in Victoria***

**August 2021**

To the Department of Justice and Community Safety,

Thank you for the opportunity to provide a submission to the consultation on the Victorian Government's proposed model for decriminalisation of sex work in Victoria, which responds to Fiona's Patten's review.

Star Health is a major provider of primary health and community services across the inner and middle south of Melbourne. Our Resourcing Health and Education (RhED) program provides services for the sex industry across the whole of Victoria. The team provide site based and outreach services, in collaboration with relevant programs and agencies. Star Health is committed to respecting and reflecting the needs of the sex industry and actively promoting the rights of sex workers through the RhED team.

Star Health strongly supports the decriminalisation of sex work in Victoria. Ultimately, decriminalisation will result in better protections and freedoms for sex workers across the State. Our submission, attached below, has been developed in consultation with sex workers. It outlines several suggestions which Star Health believes are crucial to the meaningful and successful implementation of this landmark reform, particularly in ensuring that the principles of the review are translated into practice through the new legislative framework.

Importantly, our submission advocates for the proposed model to be extended to a full decriminalisation model, removing any remaining criminalisation of sex work. Any criminalisation of sex work that remains will reduce the likelihood of sex workers, some of who are the most vulnerable workers, reporting violent offenders and crimes committed against them in their workplaces to police. It also diminishes their opportunities to access peer support groups and education. Removing any elements of criminalisation will remove barriers to these workers accessing important health and support services, reporting offences and accessing the justice system if needed.

Finally, to ensure the successful implementation of this reform, it is important to acknowledge and prepare for a significant anticipated increase in demand for sex work support services such as RhED that these reforms will precipitate. Whilst it is not anticipated that the size of the sex industry will increase, it is anticipated that there will be higher engagement from communities who have not accessed RhED's services historically as a result of their work being criminalised, or who may be more isolated due to their geographical location (e.g. rural or regional areas of Victoria). It is also anticipated that a large proportion of the cohort will be from migrant backgrounds.

Star Health will continue to work with the Victorian Government to ensure that public health and safety are promoted and enhanced for the sex work industry, through the implementation of these important reforms and beyond.

If any aspect of this submission requires clarification, please contact me at the Star Health office on (03) 9525 1300.

Yours sincerely,



**Damian Ferrie**  
Chief Executive Officer  
Star Health

## Responses to consultation questions

### 1. How can the Victorian Government support the sex work industry to achieve better outcomes for sex workers and industry?

#### a) Commitment to a full-decriminalisation model

Any model that continues to partially criminalise street-based sex workers isn't in line with a full-decriminalisation model (which is the model recommended by Amnesty, The Lancet and the WHO). There is no evidence that decriminalising street-based sex work leads to soliciting taking place near institutions of concern. Rather, evidence suggests that sex workers prefer to conduct their work away from these areas, discreetly and in areas already familiar to them. Continuing to criminalise areas of street-based sex work risks creating another two-tiered (legal and illegal) industry and may perpetuate ongoing stigma by the broader population due to ongoing police regulation. Street-based sex workers represent a more vulnerable cohort within the industry and achieving better outcomes for these workers would include full decriminalisation with harm minimisation strategies in place. The removal of all criminalised areas of street-based sex work will enable workers to access health and support services, report offences and dissolve barriers to seeking justice if necessary.

#### b) Dedicated industry-specific liaison officers

Ensure there are specific liaison officers/teams within particular regulatory units such as Worksafe and Victoria Police (Sex Industry Coordination Unit) who are well versed in understanding the particular barriers and issues for the sex industry. Precedent has been set within Victoria Police for this with the dedicated GLLO's/LGBTIQ liaison officers. Sex work needs be included in Worksafe Victoria's 2030 strategic response. There needs to be clear and consistent working relationships between brothels, massage parlours, escort agencies and Worksafe Victoria. There needs to be enforcement of the three basic employee rights: the right to know, the right to participate and the right to refuse unsafe work. It is essential that the same level of protections that are afforded to other workplaces are extended to the sex industry.

#### c) Mandatory training for the industry

Managers of brothels, massage parlours and escort agencies must have consistent training and knowledge of regulations that impact their conduct, their relationship with employees and their responsibilities in providing safe, healthy workplaces. This includes having a thorough knowledge of anti-discrimination, equal opportunity and occupational health and safety legislation. Employers need to ensure all public health measures are in place to protect the health and human rights of all staff, clients and the general community. Sexual assault agencies such as CASA, RhED and peer organisations are well placed to conduct this training in collaboration with other peak industry bodies - where required.

Industry-specific training also needs to be provided for owner/operators, reception staff and sex workers on responding to sexual assault. Sexual assault includes stealthing (the non-consensual removal of a condom during otherwise consensual sexual contact, or a deliberate failure to use a condom, without the awareness of one's sexual partner, despite an agreement to use a condom being made). Clients who participate in stealthing, or harass, threaten or are otherwise violent towards workers as well as clients who film workers without their consent need to be banned. Owners need to be reassured/informed that banning clients and reporting sexual assaults are not going to negatively affect their business and that it is their responsibility to provide a safe working environment for sex workers which includes denying service to clients who have assaulted, threatened or abused any staff. There also needs to be employment and privacy protection for workers who need to report their employers for unlawful behaviour.

d) Increase funding to RhED in order to support growth in demand

RhED will continue to be an asset in the sex industry as it is the funded health promotion agency to the sex industry; however, it will require more resourcing given the changing landscape that will unfold in a post decriminalised environment. This factors in the growth in the number of sex work businesses that become legal. That is, it is not envisaged that the overall size of the sex industry will increase; instead, several sex work businesses that currently operate illegally will become legal businesses under a decriminalised model. These businesses will become more accessible (to RhED and the community service system more broadly), and require training to be compliant. Such training could help restore relationships and reduce stigma. This could also improve sex workers willingness to seek police assistance in emergency situations, as these programs could help build trust. It also means that sex workers may then become more likely to seek medical, emergency and other care and support when required.

e) Widespread and readily available information on sex work in English and other languages

Sex work information needs to be more widespread and readily available to reflect the cultural diversity within the industry. This will help ensure sex workers and employers are familiar with their rights and what to do if these are breached.

Specialist services, in particular health and harm reduction education services, should be allowed greater access to those working within this industry. Services and strategies will be more effective and be able to provide greater support to sex workers if the industry is visible. Services need to be adequately resourced in order to deliver this.

Support unionisation of the industry – to protect pay grade entitlements and to help establish awards/align to existing awards.

f) Removal of three-monthly mandated STI testing

Laws should not contain requirements for prescribed sexual health testing for sex workers. This stigmatises people who work in the sex industry. Instead, they should state adherence to clinical guidelines which should be established for sex worker testing. Such guidelines would take into account the risk associated with various sexual practices.

Different sex workers provide different sexual services which represent varying degrees of risk of transmission of infection. It is important that legislation reflects the importance of health concerns including testing and treatment of sexually transmissible infections within World Health Organisation guidelines. Legislation does not need to mandate the frequency and types of tests that sex workers undergo. Instead, 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.

Placing STI and health concerns of the sex industry within enforceable occupational health and safety codes would protect workers and ensure that their workplaces promote the highest possible health and safety standards.

## **2. What can the Victorian Government do to promote understanding of the changes involved in the decriminalisation of sex work?**

Widespread, peer-led education and training programs to divisions responsible for responding to sex industry workers – e.g. Worksafe, local councils, Victoria Police, medical bodies and other community groups and services all with the aim of stigma reduction. The industry needs to be recognised in accordance with any other labour trade in terms of regulatory oversight, and not singled out or perceived as more unsafe than other forms of work.

Broader Government public health campaigns to raise awareness, de-stigmatise and educate the broader public is recommended to ensure wide recognition and understanding of sex workers rights. Translations of all campaigns is also recommended in order to reach migrant and multicultural sex worker communities to ensure they are aware of the changes and their rights as sex workers.

## **3. To enable the decriminalisation of sex work, changes will need to be made to planning controls. This is set out in the discussion paper. This could include changes to where sex work businesses can operate. What are your views on these changes?**

### **a) Acknowledgement of relevance of existing legislation/laws**

Star Health believes that sex work premises and residential places of work would need to meet the same requirements that are in place for other businesses, including home-based businesses. They would need to comply with noise restrictions, parking requirements and obscene exposure laws. Such laws and legislation exist already, e.g. public nuisance is a common law offence and as such covers action that endangers the life, health, property, morale or comfort of the public.

Sex work is between consensual adults and takes place in negotiated spaces in arranged premises. Thus, there should be no additional measures in relation to planning controls than those that apply to other business operations. This should apply across the entire sex industry and encompass the work of sex workers in more public spaces such as street-based sex work. 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.

### **b) No restrictions on street-based sex work**

Star Health advocates that street-based sex work should not be restricted to tolerance zones or safe zones, or have particular restrictions provided on it in relation to where it can operate. Instead they should be managed by providing health care services and harm reduction education to areas where street-based sex work occurs as there are already established street sex work areas in Victoria. Street sex work has declined dramatically in Victoria; police recorded only one solicitation charge against sex workers in 2020 – down from almost 500 offences 14 years ago. There is no evidence that decriminalisation of street-based sex work – without the creation of established zones – would lead to more street-based sex work occurring outside of already existing areas. The New Zealand model has demonstrated this. Applying criminalised components to the street-based sex worker community will continue to create division and a lack of trust between street-based sex workers and police and will require police resourcing which evidence demonstrates is not required.

### **c) Planning controls for exempt sex workers**

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. 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. 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.

#### **4. Do you have any concerns about the decriminalisation of sex work? If so, what are your main concerns?**

Concerns exist in relation to the proposed continued partial criminalisation of street-based sex work as detailed above.

Criminalisation isolates street-based sex workers, forcing them into unsafe working practices and conditions. Any criminalised components will reduce the likelihood of sex workers reporting violent offenders and crimes committed against them in their workplaces to police. It also diminishes their opportunities to access peer support groups and education. Criminalisation instils fear and may encourage sex workers to engage in risky sexual encounters to avoid interactions with police; this then poses the risk of elevating BBV and STI transmission. Street based sex workers who use drugs are at greater risk of experiencing legal and health issues as a result of criminalisation, stigma and discrimination. Evidence suggests policing fails to reduce the size of the sex industry.

Street-based sex workers' relationships with police will improve if police are no longer the regulators of the industry. Without any aspect of criminalisation attached to street-based sex work, greater safety will be able to be provided to those who participate in street sex work, by enabling a greater focus on safety and amenity rather than enforcement.

#### **5. What other factors do you think are important for the Victorian Government to consider in ensuring the successful implementation of this model?**

##### **a) Provision of adequate facilities**

Councils need to ensure adequate facilities are provided for street-based sex workers, including: public toilets, hand washing facilities, water fountains, showers, NSP vending machines, safe and secure bins for disposal of used safer sex supplies and/or NSP equipment etc. Councils should also consider lowered speed limits in known sex work areas to provide additional protection for workers, clients, residents and the broader community, due to an increase in traffic on the roads. Other models should be explored where safe houses/spaces such as private car parks with no or minimal fees have been used (e.g. NSW, Germany). Star Health is a proponent of a model where such spaces could be community health service run support facilities with the appropriate resourcing.

##### **b) COVID-19 and the importance of sex work as a legitimate occupation**

COVID-19 has had a disproportionately negative impact on those involved in the sex work industry. Under the full COVID-19 lockdown restrictions, the entire sex industry has been rendered illegal. Sex workers who are working legally, including those who are registered, may not declare income with the ATO for a number of reasons. There are also those deemed to be working illegally because they are not working in licensed brothels, massage parlours and escort agencies. Those working in the sex industry may not have other income sources, and yet are ineligible for government support.

Also, those who have worked for different legal employers during the last 12 months may also not qualify for support as they are deemed to have not worked for the same organisation within a year. We need to ensure that decriminalisation provides sex workers with greater entitlements and securities and in the process ensure it protects their dignity and their human rights.

In practical terms, further consideration needs to be given to providing sex workers with access to supports that other waged employees are entitled to, such as access to the \$1500 State Government COVID payment or Centrelink payments due to the loss of income. Access to government supports such as these needs to be designed in a way that seeks to minimise applicants' experiences of stigma and discrimination, which is often attached to the profession if declaration of work type is required as a part of the process.

c) Significant increased opportunity to support previously criminalised/unregistered sex workers under a decriminalisation model

The RhED program envisages that demand for the program will escalate significantly as a result of decriminalisation. RhED does not envisage that the size of the sex industry will increase, however under a decriminalised model, RhED will have greater access to work environments that are currently criminalised under the legislation such as massage parlours.

In addition to this, RhED anticipates an escalation of queries from the community about the legislative changes, their legal rights, business registration and taxation implications and how any legislation change may impact additionally on their working environment and the personal implications for them in relation to these changes.

Any estimation in relation to the size of the current Victorian unregulated industry is difficult to make. According to sources such as Sex Work Law Reform Victoria however, there are approximately 1200 independent sex workers currently registered in Victoria. Under a decriminalised model, there is an estimation of another 4000- 5000 independent workers who are not registered whose work would no longer be criminalised under a decriminalised model. In addition to this, there is an estimation of 500 currently illegal brothels in Victoria as reported by agencies such as Project Respect and Victoria Police Sex Industry Coordination Unit.

Under a decriminalised model, these workers would be more likely to access services including RhED as there is often a perception that RhED, as a health service, is linked with authority services. This is particularly magnified in migrant communities where language barriers and cultural factors require significant resourcing to address appropriately to ensure equitable service delivery and cultural sensitivity.

From a public health perspective, RhED would like to see all information including health, workplace rights, taxation law etc... being available to all sex workers irrespective of their work environment. Decriminalisation will allow the program to be able to seek these opportunities to reach these target groups who have previously not received this information assertively as a result of their work being criminalised. However, given the anticipated significant increase in the communities RhED will have access to, RhED is not currently equipped within the existing funding remit to effectively resource these communities into the future.

RhED also anticipates higher engagement from communities who have not accessed the RhED program historically as a result of their work being criminalised, or who may be more isolated as a result of being geographically located in rural or regional areas of Victoria that are not currently effectively assertively resourced by the program. A significant percentage of these workers are anticipated to be from migrant backgrounds. In short, the need for RhED's services will multiply several times over. In order to carry out this work successfully, in addition to increasing our social media and digital reach amongst communities, RhED requires significant additional resources in the health education, health promotion and community development space to effectively address the diversity of the sex industry across all parts of Victoria.