



27 August 2021

The Secretary
Review on Decriminalisation of Sex Work,
Department of Justice and Community Safety
GPO Box 4356
Melbourne VIC 3001

Email: swd@justice.vic.gov.au

Dear Sir/Madam

Submission on Decriminalisation of Sex Work

Thank you for the opportunity to make a submission to the Review on the Decriminalisation of Sex Work.

In making this submission, the Victorian Local Governance Association (VLGA) highlights the following concerns:

- a) the absence of opportunity for local governments as key stakeholders to provide specific comment prior to Government adopting its proposed direction; and
- b) the limited time available for making of submissions.

Due to the limited time available our submission is not as comprehensive as it might otherwise have been. We request that the wider local government sector, including the VLGA and other peak bodies, be provided with the opportunity to participate in further in-depth consultations on these issues before the process proceeds further. We believe that such an approach will yield the best outcomes for those most affected by the proposals.

Turning to the detail of this submission, we wish to make the following comments:

A. The Decriminalisation Model

We support the decriminalisation of sex work as an appropriate measure in response to the issues raised in the Patten Review.

However, we also consider there are a range of issues associated with the use of 'standard business laws' including land use planning and public health frameworks in response. A failure to address these issues may lead to a range of unintended consequences.

A recurring theme in our submission is a call for meaningful, timely and detailed consultation with the local government sector with a genuine openness to consider the issues raised.

B. Financial Implications

In broad terms the proposed direction sees increased local government involvement in a decriminalised sex industry through its land use planning and public health functions. This will clearly entail additional costs to councils.

In the absence of any further details provided to suggest otherwise, these costs could be treated in the following ways:

- a. absorbed by the councils;
This approach is a 'cost-shift' and is opposed in the strongest terms.
- b. user fees;
Whilst superficially attractive, fees (such as planning or health application fees) can be a barrier to participation in a regulatory regime. This is particularly so in relation to a cohort where compliance has been a challenge, particularly in relation to the most vulnerable workers.
- c. State Government funding
The additional costs to councils should be met by state government, noting that the wind-back of the current compliance regime will go some way to covering these costs.

C. Repeal of Offences Related to Mandatory Testing and Sexual Health

We note that the response to introduce 'a new public health and infection control framework for the sex work industry focused on health promotion and harm reduction' is still under consideration.

We submit that great caution should be attached to any thought of handing over this function to local government environmental health teams.

Such work requires personnel who are acutely alert to the context and risks associated with sex work. Local Government environmental health personnel are indeed highly skilled and undertake a wide range of vitally important public health and food safety functions.

However, it would not be prudent to assume that this group of officers is necessarily optimally skilled and resourced across Victoria to support a decriminalised sex work industry to operate in a manner that is universally conducive to acceptable public health outcomes.

We submit that it is most likely that a cohort of professionals, specifically trained and tasked to support public health in a decriminalised sex industry would be best placed to be effective. The issue of attracting, training, resourcing, empowering and retaining officers to work in this environment is a complex issue requiring careful consideration.

We are not convinced that local government is best placed to deliver this service and the sector would certainly not be able to do this without significant additional resources.

D. Amendment of controls under the Planning and Environment Act 1987

Consistent with our comment above, we support the objectives of decriminalisation and reduction of harm for sex workers.

We would expect that the 'devil will be in the detail' regarding such planning related questions, including removal of advertising controls and restrictions on sex work businesses holding liquor licences.

Notwithstanding decriminalisation, it is likely that considerable time and effort will be required to move community attitudes in relation to the location of sex work. Applications, even those that are well-founded on planning grounds, are likely to generate objections for some time due to the proposed land use for sex work. Applications which are subject to multiple objections are often referred to council planning committees for decision, which risks the unhelpful politization of planning decisions in these matters

Considerable guidance will be required to ensure as much clarity as possible for councils, applicants and objectors. Furthermore, that might include thresholds below which 'as of right' use is enabled. It should be remembered that many home-based businesses are currently operating in a way that does not require further planning approvals.

We are also concerned that enforcement of sex work related activity by councils under land use planning controls has been notoriously problematic, as evidenced by the inability of successive governments to land on a preferred model. These issues require deep consideration or there is a risk of creating a false impression of effectiveness in relation to the control regime, which might ultimately be harmful to those workers who are most vulnerable.

The VLGA reiterates that extensive, timely and substantive consultation with local government specialists is required before proceeding to the next stage of this process to best avoid unintended consequences.

Thank you for the opportunity to make this submission. Please contact me at kathryn@vlga.org.au to clarify any of the matters raised above.

Yours sincerely



Kathryn Arndt
Chief Executive Officer