



# Government Response

to the Prostitution Control Act

Ministerial Advisory Committee Report

*Improving the Regulation of the Sex Industry and  
Supporting Sex Workers Who Want to Move On*

November 2008

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Published by Consumer Affairs Victoria  
121 Exhibition Street Melbourne Victoria 3000.

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## THE TERMS OF REFERENCE

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In August 2005, the then Minister for Consumer Affairs, John Lenders MP asked the Advisory Committee to enquire into and report on:

1. An appropriate model to deliver timely support to sex workers who are considering moving on from sex work, and
2. The elements of a well-run and compliant prostitution business operating within the law (licensees and small owner-operators), taking into account the restrictions on liquor and advertising in the Prostitution Control Act and occupational health and safety as experienced by sex workers and licensees.

The Advisory Committee reported on the first term of reference in *Moving On*, which was submitted to the current Minister's predecessor, Marsha Thomson MP on International Women's Day March 2006. The report *Improving the Regulation of the Sex Industry* responded to the second term of reference and was submitted to Minister Thomson in September 2006.

Minister Thomson asked the Inter Departmental Committee on Prostitution Regulation to coordinate a whole of government response to the two reports.

The two reports were later consolidated into *Improving the Regulation of the Sex Industry and Supporting Sex Workers Who Want to Move On*, which was submitted to the current Minister, Tony Robinson MP in October 2007.

As a result, a single consolidated response has been prepared.

## THE PROSTITUTION CONTROL ACT MINISTERIAL ADVISORY COMMITTEE

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The Committee was established under section 67 of the *Prostitution Control Act 1994*. Section 67(1A) states that the Committee's function is: "to advise the Minister on:

- (a) issues related to the regulation and control of the prostitution industry in Victoria
- (b) the general operation of the prostitution control industry in Victoria
- (c) liaison with the police force so as to assist the police force in carrying out its functions in relation to prostitution
- (d) the reference of relevant matters for investigation by the WorkCover Authority, the Australian Taxation Office or the Commonwealth Department of Immigration and Ethnic Affairs [now the Department of Immigration and Citizenship] or any other body
- (e) assistance for organisations involved in helping prostitutes to leave the industry
- (f) the development of educational programmes about the prostitution industry for magistrates, police and community workers, and
- (g) the dissemination of information about the dangers (including dangers to health) inherent in prostitution, especially street prostitution."

Section 67(3) provides that members of the Advisory Committee shall include:

- (a) persons with knowledge of the prostitution industry in Victoria, and
- (b) persons who are representative of religious or community interests.

Members of the Advisory Committee have been appointed for their knowledge of and expertise in connection with issues associated with prostitution, and not as representatives of any organisation. This in effect provides members with the opportunity to express views on issues that may not necessarily be held by the organisation with which they are currently employed.

## INTRODUCTION

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The Government thanks the Advisory Committee for the two reports and the options for possible action. The Government has examined the Advisory Committee's recommendations in the context of the overall harm minimisation objective in the prostitution legislative control framework.

Much of this response concerns itself with the findings in relation to supporting sex workers who want to exit the industry. This is because in the main the Committee recommended retention of the specific provisions whose operation was considered, with the exception of some aspects of the controls on advertising.

The Government agrees with the report's conclusion that it is the collective responsibility of all stakeholders to ensure harm is minimised, and this means broadening the scope for collaboration between Government, prostitution business proprietors, sex workers and the community.

In the Government's view, the key finding that harm minimisation cannot be achieved through legislative measures alone and that the provision of timely support for sex workers considering moving on is vital to create opportunities and address disadvantage, is consistent with the social policy platform *A Fairer Victoria*.

The service delivery models for career transition support explored in the report provide practical options for people who wish to move on from sex work and develop skills that are transferable across different occupations for a future out of the sex industry.

There are a range of factors that influence an individual's decision to leave the industry, such as the ability to access affordable housing, childcare, alternative income, vocational training, financial management and other essential life skills. Only when there is adequate support will moving on be a viable alternative with a reasonable chance of success.

The Advisory Committee found that a successful career transition program follows a case management model, based on collaboration with community organisations and the involvement of those affected as partners in identifying and delivering solutions. This model would primarily involve case managers liaising with existing service providers to help broker access for the sex worker to appropriate development, training and employment services, as well as provide ongoing advice, counselling and support during the transition period.

Given that the Committee's recommendations in relation to career transition and early intervention programs, although reported in 2007, were finalised in 2006, part of the scoping of any pilot or program will necessarily entail a review of any developments in best practice in this area to date.

The detailed Government response is as follows.

### **Recommendation 1 – Review the *Prostitution Control Act 1994***

The Committee recommends Government review the *Prostitution Control Act 1994*. The review should reaffirm the harm minimisation principle underpinning the Act and include an assessment of the operation of the Act since its commencement and the impact of the Act on the operation of the industry. As part of the review process, Government should fund research into the nature and extent of the Victorian sex industry, taking into account the experiences of sex workers and prostitution business proprietors.

#### **Supported in part**

Government is reviewing the operation of the *Prostitution Control Act 1994* in stages, to ensure it effectively regulates the industry, meets public health objectives, uncovers criminal behaviour and promptly addresses emerging issues and problems, as set out in the 2006 Victorian ALP platform *Rising to the Challenges*.

Currently as part of stage one, issues relating to enforcement against brothels operating outside the regulatory framework are being addressed through legislative reform and the completion of Memoranda of Understanding between Victoria Police, Consumer Affairs Victoria and the Municipal Association of Victoria on behalf of local councils, all three of which have some enforcement responsibility under the Act.

Other aspects of the operation of the Act will be addressed over the coming year.

The Government supports in principle research that provides evidence upon activities in this complex sector and identifies means by which linkages can deliver improved whole-of-life outcomes for disadvantaged groups.

Research should include not only the experiences of sex workers and prostitution business proprietors, but also people who buy prostitution services. A specific component of research on the health and safety understandings and experiences of both sex workers and licensees should include investigation of what broad health and safety hazards and risks are identified, experienced and resolved, and what incidents are experienced and reported, as well as investigation into what licensees and sex workers know about their duties under the *Occupational Health and Safety Act 2004* (the OHS Act). Detailed research may provide more information that can help to inform regulatory agencies how best to assist the sex industry to understand the broad health and safety issues in their industry and their responsibilities under the OHS Act.

Through a Department of Human Services' Public Health research grant of \$97,000 the government funded research into the *Health needs and sexual health knowledge in the unregulated sector of the Victorian sex industry*. This research contributes to the ongoing monitoring of the legislative framework, by generating an informed public health risk assessment and providing the foundations for an appropriate public health policy and service response.



## **Recommendation 2 – Support sex workers**

The Committee recommends Government fund a career transition program for sex workers who want to move on. The Committee favours a case management approach that builds linkages and non-judgmental referral pathways for sex workers to other programs and services delivered by government agencies, education and training institutions and community organisations. This model allows the case manager to tailor support to the needs of individual participants. The package should include a component reserved for *emergency funding* – with the flexibility to provide small amounts of financial assistance to alleviate immediate crises, such as emergency accommodation, transport, winter clothing, blankets and so on.

A funded caseworker would provide specialised support to a sex worker wishing to expand his or her career options by helping them to:

- access appropriate government and community services, such as emergency housing, drug rehabilitation, counselling, financial management, and for young people, school retention programs etc;
- recognise prior learning and accredited education and training opportunities (for example through CAE, TAFE and Universities);
- assess transferable skills; and
- receive ongoing mentoring and support to seek and maintain employment in occupations outside the sex industry.

### **Supported in principle**

The Government supports the objectives of a career transition program for sex workers considering leaving sex work through skills development and training. Government will consider ways to implement this recommendation to ensure that the support offered is flexible and able to cater to the diverse needs of sex workers including those in the industry under unlawful and exploitative arrangements such as servitude or debt bondage.

One way to help implement this recommendation is to examine ways to link up existing services and the application of a case management model to deliver assistance to sex workers wishing to move on from the sex industry. The following are Government initiatives that have the potential to interface with a career transition program for sex workers wishing to move on from the sex industry.

#### *Trafficked women*

The Department of Justice is supporting Project Respect, a Victorian based community organisation. On 26 October 2006, the Attorney General, Hon Rob Hulls, announced funding of \$180,000 over three years to Project Respect to assist them in providing

support for trafficked women in Victoria. In conjunction with the Good Shepherd Social Justice Network, Project Respect aims to assist around 30 women a year with secure accommodation, medical and legal advice and educational opportunities. The Victorian Multicultural Commission is also supporting the project.

### *Employment programs*

The Department of Planning and Community Development's Workforce Participation Partnerships (WPP) program, targets jobseekers facing significant barriers to employment or at risk of long-term unemployment. The program supports participants to gain sustainable employment in areas of labour and skills shortages. Vulnerable sex workers who have multiple issues that limit their capacity to be competitive in the 'mainstream' labour market – for example, substance abusers, ex-offenders, and others who have barriers to gaining sustainable employment – are eligible for assistance under this program.

The Department of Innovation, Industry and Regional Development's Office of Training and Tertiary Education supports a number of programs that are of relevance to sex workers with an interest in retraining that leads to alternative employment, these are:

- *Youth Guarantee* - the Government's *Skills Statement Maintaining the Advantage* announced funding of \$28 million over four years. This initiative supports the commitment to a guaranteed place at a TAFE Institute or other public training provider to facilitate the completion of year 12 or its equivalent for students under 20 years of age on 1 January in the year that the person undertakes study at the relevant provider. The *Youth Guarantee* initiative commenced in January 2007.
- The *Victorian Certificate of Education*, which can be studied by adults and may be completed in one year. Adults undertake the Victorian Certificate of Education as a pathway to university and TAFE courses, more satisfying work opportunities and new careers and personal enrichment.
- The *Victorian Certificate of Applied Learning (VCAL)*, which is an accredited Victorian senior secondary certificate that can be studied by adults at TAFE institutes and Adult and Community Education (ACE) centres. The VCAL provides practical work-related experience, literacy and numeracy skills and the opportunity to build personal skills. It is a qualification that provides pathways to higher-level qualifications, particularly at TAFE institutions, and employment.
- The *Mature Age Priority Training Initiative* is increasing training places for 35 to 64 year olds.
- A number of TAFE institutes offer a program called *TAFE Pathways*, which offers mature age students (over 45 years) and sole parents support, and career advice.

### *Health and occupational health programs*

The Victorian *Sexually Transmissible Infection (STI) Strategy 2006-2009* identifies sex workers as one of five priority population groups. DHS is working in close partnership with RhED and the Department of Justice on sexually transmissible infections education and access to treatment for sex workers from culturally and linguistically diverse backgrounds. A new 1800 number has been established to assist sex workers to easily access RhED for support.

The Legal Issues for Professionals information booklet is currently being reproduced and planning to establish a sexually transmissible infection information booklet has commenced with RhED, the Department of Justice and key stakeholders.

The Victorian Government Drugs Initiative, *Saving Lives Drug Strategy*, which underpinned the development of five primary health care services that operate in areas of high drug use. The nexus between the drug trade and sex work is central to any response to addicted street based workers who are the most vulnerable sex workers. This particular group and life style includes the usual 'paid' street sex work as well as a more hidden 'bartering' of sex for drugs. The capacity for these primary health care services to access this group is a potential opportunity for early intervention and diversion to a different life trajectory, and a clear link with the aims of *Moving On*.

### Recommendation 3 – Support young people

The Committee recommends Government establish a service to assist young people involved in prostitution to develop alternative pathways. The service can be delivered through existing 24-hour drop-in centres which are staffed by specialist youth workers.

#### Supported in principle

The Government supports the recommendation to assist young people involved in prostitution to develop alternative pathways. This should be in addition to, and where appropriate in conjunction with, the following services targeted to young people at risk, which the Government already funds.

#### Future Directions *programs*

A number of programs and initiatives in the Government's youth policy *Future Directions* outlined below can help prevent young people from being involved in the sex industry and assist those involved to develop pathways out.

- Increasing support to homeless people - \$10.81m over four years. New and flexible initiatives to support young people who are homeless or at risk of homelessness (for example, the Youth Futures program) will be provided through the *Homelessness Assistance Programs*. One of the key factors that affect an individual's decision to leave the sex industry is access to affordable housing. The Youth Futures program will provide intensive support to 200 young people, including life skills and competencies to establish and maintain housing. The program could provide initial support prior to young people accessing Youth Transition Support service.
- *Responding to Family Violence* more effectively, this initiative will build a new system to protect women, children and young people. Family Violence is a key factor that can precipitate young people's involvement in the sex industry. A system that better protects young people from family violence is an important part of helping to prevent young people's involvement in sex work.
- *Supporting Young People Leaving Care* - \$11.2m over four years. The *Children Youth and Families Act 2005* makes provision for young people up to the age of 21 years who have been on a Guardianship or Custody to the Secretary Order to receive support to assist them to gain the capacity to make the transition to independent living. Services that may be provided to these young people may include: information about available resources and services; assistance in obtaining accommodation, education and training, employment, financial assistance, counselling and support. A Leaving Care Reference Group in the Child, Youth and Families Division within the Department of Human Services has been working to develop the parameters of potential

services and a range of initiatives including detailed and targeted transition planning, limited casework support, mentoring and brokerage funding services will be available to this client group across the State in the near future.

- *Preventative Youth Early School Leaver and Youth Employment Program* - \$1.8m over four years. This program will provide intensive outreach support to Koori young people so they remain in school or connect to alternative education and training programs. This program will help to prevent and address one of the key factors that contributes to young people's involvement in the sex work industry, namely disrupted schooling.

### *Education and career transition*

The Department of Education and Early Childhood Development has a range of programs and tools available to assist young people in their career transitions. These can enable young people to take advantage of the broad range of qualifications and subjects available to develop pathways out of prostitution. These include the careers and transition resource and a variety of delivery arrangements.

Further information on the initiatives listed below is included in the Senior Secondary and Youth Transitions section of the Department of Education and Early Childhood Development website at: <http://www.education.vic.gov.au/sensecyouth/default.htm>.

- The web-based careers and transition resource provides a comprehensive range of career and transition support materials and resources for Victorian teachers, careers coordinators, students, parents/carers, employers and community organisations. The resource links to other services that provide information on careers, for example, *Myfuture*, *Youth Central*, *Local Learning and Employment Networks* etc.
- *Youth Transition Support Initiative* - As part of the second instalment of initiatives under *A Fairer Victoria*, in 2006 the Government committed \$10 million over four years to fund twenty-four transition support workers in twelve areas where there are high numbers of disengaged young people aged 15 – 19 years. The initiative aims to support young people who have been through other services and are ready to re-engage. The *Youth Transition Support Initiative* will ensure that disengaged young people have access to a youth transition support worker to refer them to support services including specialist youth services, and to help young people locate appropriate education, training and employment options.
- The *Managed Individual Pathways program* introduced in 2001 provides better support for young people to make a successful transition into education or employment and prepare them for productive and satisfying lives. Government schools are funded to support pathway planning processes for all students 15 years and older to provide

additional support to enable follow up and associated support for exit students. Students deemed at risk of leaving school early are supported through a case management process to enable them to continue their schooling or to make a successful transition into further education, training or secure employment.

- *Community Victorian Certificate of Applied Learning (VCAL)* - “Community VCAL” refers to a form of delivery tailored to the needs of students who have become disengaged from mainstream schooling. These programs play an important part in re-engaging marginalised young people by providing intensive support to build literacy and numeracy skills and access to work-related experiences. Students are enrolled at a government school but other educational providers deliver most or all of the program, usually away from the school site.

#### **Recommendation 4 – Continue the Tuesday Court**

The Committee recommends Government ensure the continuation of the court attendance program at the Melbourne Magistrates' Court known as the "Tuesday Court" so that street sex workers can continue to access appropriate supports.

#### **Supported in principle**

The Government cannot guarantee the continuation of the Tuesday Court, because the day-to-day running of the Court is a matter for the Magistrates' Court itself, and the Court is responsible for the decisions as to how this is best done. However, the Government understands that the Court will continue and commends the parties involved in the development and implementation of this innovative diversion program.

### **Recommendation 5 – Continue and strengthen the post release programs**

The Committee supports the continuation of Correction Victoria’s post release programs initiated through the pilots “Bridging the Gap”, the “Correctional Services Employment Program” and the “Transitional Housing Management Program” for a further three years. It is further recommended that wherever practicable, female, male and transgender prisoners with a history of prostitution should be provided with access to information regarding exiting the sex industry if this is a personal choice they believe will be of benefit to them.

Additionally, the Committee has learned that female prisoners at Dame Phyllis Frost Centre and Tarrengower Prison currently do not have access to treatment for hepatitis C. In light of the high prevalence of hepatitis C amongst female prisoners and the fact that many female prisoners have a history of prostitution, particularly street prostitution, and a history of illicit drug use, the Committee believes action should be taken to address this anomaly in the provision of health services to female prisoners. Currently male prisoners in Victoria are able to access treatment for hepatitis C at Port Phillip Prison.

#### **Supported in principle**

##### *Post release programs*

The Government supports the provision of transitional services for high need and high-risk people exiting prison and reaffirms its commitment to deliver pre and post release bridging support programs to assist exiting prisoners and offenders.

The report notes that people released from prison without a supportive social or family network are at risk of homelessness, and homelessness can be a pathway into street prostitution.

Since 2002, the Government has funded several key transitional programs – the Bridging the Gap program (BTG), the Correctional Services Employment Program (CSEP) and the Correctional Housing Pathways Initiative (CHPI). An independent evaluation of these programs showed they are highly successful at significantly lowering re-offending rates; however, it has become clear that there is complexity, with multiple entry points and duplication of activities.

As such, the Government is building on the foundations laid by BTG, CHPI and CSEP and had developed integrated transitional support programs for men and women exiting prison. The intention is to streamline the transitional support services, producing a single clear entry and assessment point, which will reduce duplication and increase service coverage across the Victorian correctional system.

The Women’s Intensive Support Program, which commenced on 1 October 2006, has now replaced the three programs (BTG, CHPI and CSEP) for women and provides pre and post release support within a holistic welfare-based case management model. The



program, which is delivered by a consortium of Melbourne Citymission, the Victorian Association for the Care and Resettlement of Offenders and the Brosnan Centre, provides individualised support to each participant and addresses their identified needs, which may include substance abuse, housing, finances, family unification and social isolation.

During 2006/07, BTG, CHPI and CSEP continued to be available to the Men's Prison System. However, on 1 July 2007, the Men's Integrated Bridging Support Program will commence operation. The new integrated bridging support programs for men will be similar in structure to WISP and will build on the successes of BTG, CHPI and CSEP to deliver an improved transitional support service to men exiting prison.

#### *Hepatitis C treatment for women prisoners*

Women who enter the corrections system while on a hepatitis C treatment plan have always had access to treatment to continue their existing treatment plans.

In the past women have not been able to initiate hepatitis C treatment plans, however male prisoners have been able to initiate treatment plans for some time, at Port Phillip Prison.

The Department of Justice is currently piloting a comprehensive shared care model for the delivery of hepatitis C treatment at Marngoneet Prison, in partnership with the Department of Human Services, Marngoneet Correctional Centre and St Vincent's Correctional Health Service. The pilot will form the basis for an implementation plan for hepatitis C treatments across other correctional sites in 2008, including Dame Phyllis Frost Correctional Centre, where Victorian women prisoners are held.

**Recommendation 6 – Advertising for ancillary staff**

The Committee recommends Government allow advertising for ancillary staff such as approved managers, receptionists, accountants, cleaners, etc, and prescribe a condition of employment so that employers do not pressure ancillary workers to take on a sex worker role.

**Recommendation 7 – Advertising for sex workers**

The Committee recommends Government retain the prohibition on advertising for sex workers. The Committee is aware that the views of licensees differed depending on the location of their businesses. City operators were not concerned about the ban on advertising while suburban businesses said they found it difficult to find sex workers. The Committee is also aware that advertisements for sex workers are available via the internet and in other countries.

**Recommendation 8 – Advertising of services**

The Committee recommends Government remove the advertising restriction that only allows “head and shoulder” images to be used for advertising.

**Noted**

The Government notes the Advisory Committee’s recommendations relating to the advertising controls. The policy principle of harm minimisation that underpins the legislative framework governing prostitution necessarily takes into consideration ethical, health, human rights and criminal issues in determining appropriate controls, including controls on advertising.

The Government needs to be confident that any changes to the advertising controls will not compromise the harm minimisation principle underpinning the legislative framework. The Government will retain the prohibition on advertising vacancies for sex worker roles and ancillary staff, while the adequacy and effectiveness of the controls on advertising of prostitution services is one of the aspects of operation of the Act to be considered in 2009 (as discussed in the response to Recommendation 1 above).

### **Recommendation 9 – Serving and selling liquor in a brothel**

The Committee recommends Government retain restrictions on serving and selling liquor to clients in brothels.

#### **Supported**

The Government supports recommendation 9, to retain the restriction on serving and selling liquor to clients in brothels.

### **Recommendation 10 – Consuming liquor in a brothel**

The Committee recommends Government retain the restrictions on consuming liquor in a brothel. While reliable data on drinking patterns within the sex industry is not available, we do know that the environmental determinants of liquor-related harm include general workplace stressors, physical availability, the social norms defining its consumption, and the economic incentives that promote its use. Separating liquor and brothels has proved an effective measure to serve the public good.

#### **Supported**

The Government supports recommendation 10, to retain the restriction on the consumption of liquor on brothel premises.

### **Recommendation 11 – Health and safety**

The Committee recommends Government work with the sex industry to develop health and safety guidelines in line with the *Occupational Health and Safety Act 2004* and the Prostitution Control Regulations 2006. These guidelines should draw on the work already undertaken by Scarlet Alliance and the New Zealand Government, which set out the relevant health and safety duties for all parties in the sex industry and provide practical advice to achieve those duties.

#### **Supported**

The Government supports the development of occupational health and safety guidelines for the sex industry. However, the paucity of data about occupational health and safety risks in the industry and the reluctance of industry participants to report injuries means a needs analysis will be required before the precise nature of the guide is determined. The research referred to in the response to recommendation 1 could assist to develop a precise understanding of the nature of the guide required.

### **Recommendation 12 – ‘Active’ and ‘dormant’ licences**

The Committee recommends Government amend the *Prostitution Control Act 1994* to create a distinction between an “active” and “dormant” licence, and revise the licence fees according to this distinction.

#### **Not Supported**

The Government does not support the Advisory Committee’s recommendation to differentiate between ‘active’ and ‘dormant’ licences. The licensing system is an important aspect of the framework in place to ensure that the harm minimisation objectives of the *Prostitution Control Act 1994* are met. The Government needs to be confident that any changes to the licensing system will not compromise the pursuit of these objectives.

### **Recommendation 13 – Small owner-operator register**

The Committee recommends Government amend the *Prostitution Control Act 1994* to require registered small-owner operators to update the register whenever their circumstances change.

#### **Supported**

The Government supports the Advisory Committee's recommendation to require registered small owner-operators to update the register whenever their circumstances change.

### **Recommendation 14 – Education and communication**

The Committee recommends Government informs and educates the industry about the respective roles and responsibilities of the various government agencies working with the sex industry, including who is responsible for compliance monitoring and enforcement of the various Acts and Regulations.

The Committee further recommends that government and non-government officials working with the sex industry receive awareness training on the objectives of harm minimisation.

#### **Supported**

The Government supports the Advisory Committee's recommendation for a communications strategy to increase knowledge and understanding among industry participants about the law. As part of the industry communications strategy the Government funds a toll free 1800 telephone number for sex workers to get help and information. Further, an information booklet about the law is being developed jointly by the St Kilda Legal Service and Resourcing Health and Education.

Government officials currently receive appropriate training.









