

Health and safety guidelines for sex services premises in NSW

This guide outlines the minimum standards for maintaining a safe and healthy environment for sex workers, clients, visitors and others in sex service premises in NSW.

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1. Regulation of sex work in NSW

Owners and managers of commercial sex services premises, such as brothels, massage parlours, bondage and discipline, sadism and masochism (BDSM) houses, and escort agencies have certain duties with regard to workers, sub-contractors, customers, suppliers and others in the workplace.

If you have sex workers on your premises, regardless of their working arrangements, you have duties under the work health and safety legislation to ensure the workplace and working conditions do not expose them to risks to their health and safety. Obligations under the workers compensation legislation may apply.

The *Work Health and Safety Act 2011* and the Work Health and Safety Regulation 2017 set requirements for health and safety at work and cover every place of work in NSW, including sexual services premises (SSP).

Working conditions must be in accordance with NSW industrial relations laws and you must consider the hours and days worked (including reasonable length shifts), breaks between shifts and leave provisions.

You must not coerce anyone to work as a sex worker, or request a sex worker to provide services that are outside their personal boundaries. You must also not prevent, or attempt to prevent, sex workers from using personal protective equipment, such as condoms.

As an owner or manager of any premises providing sexual services, you must also be aware of your duties required by the *Public Health Act 2010*.

To ensure compliance with work health and safety, workers compensation and public health laws you must provide reasonable access to authorised representatives from:

- SafeWork NSW
- NSW Health (for example from Public Health Units)
- Local government

You should also provide reasonable access to authorised representatives of such services as the Sex Workers Outreach Project (SWOP).

You have the right to request identification from anyone who presents themselves as an authorised representative of the above organisations prior to them entering your premises.

Roles of authorised and other agencies

Authorised agencies

Representatives from the following regulators have the legislative powers to enter and inspect your premises to ensure it meets relevant requirements or in response to a complaint:

- SafeWork NSW is the state's workplace health and safety regulator. We provide advice on improving work health and safety, investigate workplace incidents and enforce work health and safety laws in NSW. We are also responsible for complaints regarding workplace policies, procedures and practices, including the use of personal protective equipment (PPE).
- NSW Health provides policies, guidelines and services to support population health, including access to sexually transmissible infection (STI) prevention, testing and treatment.

- NSW Health Public Health Units are responsible for complaints regarding public health infection risks, including workers or clients infected with STIs, pools, spas and food preparation facilities in sex services premises.
- Local government is primarily concerned with land use planning under the *Environmental Planning and Assessment Act 1979* (the EPA Act) and the operation of premises in accordance with the *Local Government Act 1993*. Conditions of consent may include operating to an approved plan of management. Council visits to SSP may be due to a complaint, relate to noise or other disturbance, or following on from council approval. Local councils have powers under the EPA Act to regulate land use and ensure that the location and operation of SSP are consistent with local environment plans and development control plans.

Council officers can conduct periodic inspections. If requested by the owner or occupier, the council officer must produce written permission from the council to enter the workplace. The permission must include the:

- name of the Council officer to whom it is issued
- type of power that is given to the Council officer
- date (if any) on which it expires
- kind of premises covered by the power
- signature of the council's general manager.

Other agencies

- The SWOP provides confidential peer to peer education information and support services for NSW sex workers through outreach, web-based information services, phone and face-to-face counselling, and information services. They also supply PPE.
- Scarlet Alliance, Australian Sex Workers Association, is the peak national organisation representing sex worker organisations, projects and collectives as well as individual sex workers in Australia. Through their objectives, policies and programs, Scarlet Alliance aims to achieve equality, social, legal, political, cultural and economic justice for past and present workers in the sex industry, to empower them as self-determining agents who build their own alliances and choose where and how they work.

Next: Sex workers are 'deemed workers'

<https://www.safework.nsw.gov.au/resource-library/other-services/health-and-safety-guidelines-for-sex-services-premises-in-nsw>

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