SEX WORKERS’ PRIVACY RIGHTS

The right to privacy is of particular importance to you as an individual in the sex worker community because breaches of privacy can have significant consequences, including increased risk of discrimination.

The *Privacy and Data Protection Act 2014* (Vic) (**PDP Act**) recognises this and gives special protection to information about your sex work.

Under the PDP Act, information about your sex work is classified as **‘sensitive information’**.

THE PRIVACY AND DATA PROTECTION ACT

The PDP Act contains [10 Information Privacy Principles](https://ovic.vic.gov.au/privacy/information-privacy-principles-short-guide/) (**IPPs**) that outline how **Victorian public sector** (**VPS**)organisations must handle your **personal information**. These IPPs only apply to State government organisations, agencies, and services.

However, the PDP Act does not apply to:

* [health information](https://ovic.vic.gov.au/privacy/your-privacy-rights/#health-information); or
* how [Commonwealth government agencies](https://ovic.vic.gov.au/privacy/your-privacy-rights/#other-privacy-rights) (e.g. Centrelink, the Australian Tax Office etc.) and [private organisations](https://ovic.vic.gov.au/privacy/your-privacy-rights/#other-privacy-rights) (e.g. companies and charities) should handle your personal information.

Instead, these are covered by [other privacy laws](https://ovic.vic.gov.au/privacy/your-privacy-rights/#other-privacy-rights).

YOUR RIGHTS WHEN A VICTORIAN PUBLIC SECTOR ORGANISATION ASKS FOR INFORMATION ABOUT YOUR SEX WORK

A VPS organisation can only collect information about your sex work if it is necessary for the organisation to do its work **and** one of the following also applies:

* you consent to the collection;
* another law allows or requires this information to be collected;
* it is necessary to lessen or prevent a serious threat to health or safety;
* it is relevant to ongoing or future legal proceedings; or
* it is necessary for research, statistics, or provision of welfare or education services funded by the government.

**Example**: If a VPS organisation were calling for submissions to be considered for the drafting of policies around the regulation of sex work, you would not be required to answer a question on the submission form asking if you are currently a sex worker.

Where a VPS organisation legitimately collects information about your sex work, it should make you aware of the reason for the collection and tell you if it usually discloses the information to another organisation or individual.

YOUR RIGHTS OVER WHAT A VICTORIAN PUBLIC SECTOR ORGANISATION CAN DO WITH INFORMATION ABOUT YOUR SEX WORK

If a VPS organisation has collected information about your sex work for one reason, it should not be used or disclosed for a different reason.

**Example**: If a VPS organisation has collected information about your sex work in order to provide you with crisis or domestic violence support, it should not disclose this information to a different organisation, because they assume you might be interested in some employment services they offer to support sex workers.

Find out more information about the [8 specific exceptions to this rule](https://ovic.vic.gov.au/privacy/your-privacy-rights/#your-rights-over-what-an-organisation-can-do-with-your-information).

YOUR RIGHT TO HAVE INFORMATION ABOUT YOUR SEX WORK HANDLED SECURELY

VPS organisations that hold information about your sex work should protect this information against loss or misuse.

**Example**: VPS organisations should have security measures in place to ensure information about your sex work can only be accessed by specific employees who have a legitimate need to access it.

Information about your sex work should be permanently de-identified or destroyed when it is no longer needed or where no other law requires it to be kept.

YOUR RIGHT TO HAVE INFORMATION ABOUT YOUR SEX WORK KEPT ACCURATE AND UP TO DATE

Information held by VPS organisations about your sex work should be kept accurate, complete and up to date.

**Example**: If you have changed your name or gender identity and advised a VPS organisation of that change, the organisation should update and use your correct details when interacting with you.

You have the right to ask for access to information held by a VPS organisation about your sex work, and request amendment if it is incorrect.

The easiest way to do this is to contact the organisation you believe holds the documents you seek and informally ask for them. If the organisation does not provide them, you should make a formal FOI request. Find more information on [how to make an FOI request](https://vimeo.com/362181223).

YOUR RIGHT TO MAKE A COMPLAINT

If you have concerns about how a VPS organisation has handled information about your sex work, you have the right to make a complaint.

You should first make a complaint to the organisation’s Privacy Officer and try to resolve the issue.

If you aren’t satisfied with the way the organisation has dealt with your concerns, you can [make a complaint](https://ovic.vic.gov.au/privacy/privacy-complaints-at-ovic-guide-for-individuals/) to OVIC and we will attempt to resolve it.

MORE INFORMATION ON YOUR PRIVACY RIGHTS

Find more information about [your privacy rights](https://ovic.vic.gov.au/privacy/your-privacy-rights/)and the organisations that the PDP Act applies to.

If you have any questions you can contact us at privacy@ovic.vic.gov.au or on 1300 006 842.

**Disclaimer:** The information in this document is general in nature and does not constitute legal advice.