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SEX WORK LAWS: NEW SOUTH WALES

Sex work laws are different in each state and territory of Australia.

This guide is an introduction to sex work laws in New South Wales.

For more information, contact SWOP NSW: 02 9184 9466, swopconnect@swop.org.au



New South Wales Sex Work Laws

In NSW sex work is **mostly decriminalised**.

- Sex work is treated like other work.
- Sex work is mainly regulated through laws that apply to everyone, including public health law and work health and safety law.

There are some old laws, restrictions and discrimination that still impact sex workers in NSW.

- Sex workers must be 18 or older
- Clients of private sex workers must be 16 or older
- Clients must be 18 or over specifically to visit a **sex services premises**. This is a separate, higher threshold that applies only to workplaces, not to private work.
- There are laws restricting street-based sex work
- Council rules can restrict private sex work, brothels and other sex work businesses.

Private work (incalls and outcalls)	Decriminalised, but check your council's rules
Brothels and sex work businesses	Decriminalised, but requires local council approval
Street-based sex work	Decriminalised, but only in certain areas
Advertising	Laws exist, but are not enforced
Sex work at massage parlours, saunas, steam baths, gymnasiums or photography studios.	Criminalised, but rarely enforced

Private sex work - incall and outcall

Private sex work, also known as independent sex work, is decriminalised in NSW. This means you can provide both incalls (clients visit you) and outcalls (you visit clients). Incall private sex work is affected by:

- Local council regulations
- Strata by-laws and tenancy agreements.

Council (local government) regulations

If you provide incalls at home, whether you rent or own, your council may have rules about this. Your council may call this a 'brothel' or a 'home-based sex services premises.' Councils have different rules:

- Some allow home-based sex work without permission, up to three workers from the same residential location.
- Some require council approval. Only the owner of the premises can apply for this.
- Some do not allow sex work in homes at all.

Asking your council about their rules is allowed — this information is not confidential. If you need information about council rules, [SWOP NSW](#) can assist you confidentially.



Note: if you're an independent sex worker offering services involving skin penetration (see BDSM venues/dungeons, below), a further council registration requirement applies on top of the general rules above.

Dealing with council, landlords or strata

If your council, landlord, strata or building manager find out you are doing sex work and tell you to stop - you might not have broken any rules. They can only stop you from doing sex work from the premises if you have breached specific council rules, your tenancy agreement, or your strata by-laws. If you have not breached one of these, no action should be taken against you. If this happens, contact SWOP NSW immediately for legal support. If [multiple complaints are received about a sex worker working from home](#), the council can force you to stop doing sex work, even if you haven't broken any rules. This is uncommon, but it is still possible.

Hotels and Short-Stay Accommodation

Council rules about home-based sex work do not apply to hotels or other short-stay accommodation, such as Airbnb. However, these businesses may have their own rules banning sex work.

Brothels, escort agencies, and erotic massage premises

The law calls our workplaces 'sex services premises.' It is **decriminalised** to own, manage and work in a sex services premises. Premises must:

- comply with [workplace health and safety](#) regulations
- have a liquor license if they sell alcohol
- have permission from the local council.

Sex services premises and local councils

Local councils have different rules about sex services premises:

- Some councils have straightforward requirements similar to the rules for other businesses (e.g. shops or cafes).
- Others restrict sex services premises to industrial areas, ban them or impose requirements that are difficult to comply with.

If a local council believes that a sex services premises is operating outside of the rules, they can:

- Investigate, [search the premises](#) and tell the business to close.
- Apply to the Land and Environment Court for a '[brothel closure order](#)' or a '[stop use order](#).'
- [Follow up complaints from neighbours by applying for a court order](#), even if the business is compliant with council rules.

Councils and courts can shut down businesses, and the business owner may face a fine. Local council investigations are **not criminal investigations**, even if police officers attend with council workers.

The practice of local councils hiring private investigators to pretend to be clients to investigate non-compliant businesses is now **illegal under NSW consent laws**. If you believe a private investigator has received services while posing as a client, contact [SWOP NSW](#) for information and support.



Massage parlours

Erotic massage premises are classified as 'brothels' or 'sex services premises' if bodyslides, hand relief or oral sex occur on the premises. It does not matter whether all workers at an establishment provide these services.

Escort agencies

It is **decriminalised** to own, manage and do sex work for an escort agency. Escort agencies must comply with local council and planning regulations in the same way as other businesses.

BDSM venues/dungeons

BDSM venues are considered to be 'sex services premises,' even if workers don't provide 'mainstream' sexual services (e.g. full service).

If any workers at the business offer services involving skin penetration, the business requires further registration with the local council. This applies to both BDSM establishments and independent BDSM operators. Each council has a different registration process for skin penetration businesses. For further information on this see the [NSW Health Guidelines on the skin penetration industry](#) and/or contact [SWOP NSW](#).

Street-based and outdoor work

Street-based work is **legal, but only in certain areas**.

Meeting clients

It is **criminalised** to meet or approach a client to offer sexual services:

- In a school, church or hospital
- On a road that is near, or can be seen from, a dwelling (house or apartment building), school, church or hospital
- In a public place, in a way that harasses or distresses the other person.

It is also **criminalised** for clients to approach sex workers in these areas. **In practice, this means street-based work is only permitted in some parts of Darlinghurst Rd and in industrial areas.**

Where You Can Provide Services

This is a separate and broader restriction from the negotiation (solicitation) rules above. It is illegal for sex workers to provide sexual services:

- In a school, church, hospital or public place
- Within view from a school, church, hospital, public place or home
- In a vehicle in any of the above places, **even if no one can see inside**.

This includes [all types of sexual services](#) - penetrative sex, oral sex, using toys and masturbation. These laws specifically target sex workers. There are also general laws that apply to everyone:

- [Offensive conduct](#) — acting in a way that offends others in public
- [Obscene exposure](#) — exposing genitals in public.



Consent

If a person consents to sex using a condom, [their consent will be violated if a condom is removed or not used](#) (often referred to as 'stealthing'). If a person engages in sexual activity without consent, a crime has occurred. This applies to all people in NSW, including sex workers and clients.

Anti-Discrimination

[Threatening to tell someone else that you are a current or former sex worker](#) (also known as 'outing') is **illegal**.

There are currently **no specific anti-discrimination protections for sex workers in NSW**. Sex workers have reported experiencing discrimination in relation to housing, education, banking and financial services, and employment. If you have experienced discrimination in relation to your sex work, or someone has threatened to 'out' you, contact [SWOP NSW](#).

Safer sex

Sex workers are not required to disclose STI status to owners or managers. However, some sex services businesses may request workers provide a Certificate of Attendance for STI/BBV screening in order to work. A Certificate of Attendance should only contain your working name, date of appointment and name of test clinic/medical professional.

Sex workers and clients have the same sexual health rights and responsibilities as all adults in NSW:

- Sex workers can choose when they receive sexual health testing, and what PPE they use at work.
- All adults (including sex workers and clients) who have a [notifiable disease](#) or [scheduled medical condition](#) that can be sexually transmitted **must take [reasonable precautions](#) to prevent transmitting it to others**.
- NSW Health decides what [reasonable precautions](#) are required for different STI/BBV.
- Sex workers living with a sexually transmissible infection (STI) or blood borne virus (BBV) can do sex work if they take reasonable precautions to prevent transmission.

[Owner/operators of any location \(sex work or not\)](#) must not knowingly allow a person with an STI (whether worker or client) to engage in a service without taking reasonable precautions. Maximum penalty—100 penalty units or imprisonment for 6 months, or both.

Unenforced criminal laws

There are a [small number of old criminal laws](#) relating to sex work, but these are rarely enforced. These laws disproportionately impact marginalised sex workers, and do not assist sex workers or sex work regulation.

