

## Josephine Li

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**From:** Paramita Turner  
**Sent:** Monday, 10 July 2023 11:28 am  
**To:** Andy Beaufort  
**Subject:** FW: Submission on Pandora Black: Repeal Section 19 of the Prostitution Reform Act 2003. [IN-CONFIDENCE]

And an additional comment

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**From:** Vitasovich, Saskia <[Saskia.Vitasovich@justice.govt.nz](mailto:Saskia.Vitasovich@justice.govt.nz)>  
**Sent:** Thursday, 4 August 2022 11:20 am  
**To:** Paramita Turner <[Paramita.Turner@mbie.govt.nz](mailto:Paramita.Turner@mbie.govt.nz)>  
**Cc:** Rebecca Kingi <[Rebecca.Kingi@mbie.govt.nz](mailto:Rebecca.Kingi@mbie.govt.nz)>; Simon Barrett <[Simon.Barrett@mbie.govt.nz](mailto:Simon.Barrett@mbie.govt.nz)>  
**Subject:** RE: Submission on Pandora Black: Repeal Section 19 of the Prostitution Reform Act 2003. [IN-CONFIDENCE]

Thank you Paramita, for all your help, this is very useful context.

Ngā mihi,



Saskia Vitasovich (she/her)  
Policy Advisor | Civil Law and Human Rights  
DDI s 9(2)(a) [REDACTED]  
[Saskia.Vitasovich@justice.govt.nz](mailto:Saskia.Vitasovich@justice.govt.nz) | [justice.govt.nz](http://justice.govt.nz)

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**From:** Paramita Turner <[Paramita.Turner@mbie.govt.nz](mailto:Paramita.Turner@mbie.govt.nz)>  
**Sent:** Wednesday, 3 August 2022 5:22 pm  
**To:** Vitasovich, Saskia <[Saskia.Vitasovich@justice.govt.nz](mailto:Saskia.Vitasovich@justice.govt.nz)>  
**Cc:** Rebecca Kingi <[Rebecca.Kingi@mbie.govt.nz](mailto:Rebecca.Kingi@mbie.govt.nz)>; Simon Barrett <[Simon.Barrett@mbie.govt.nz](mailto:Simon.Barrett@mbie.govt.nz)>  
**Subject:** RE: Submission on Pandora Black: Repeal Section 19 of the Prostitution Reform Act 2003. [IN-CONFIDENCE]

I realise “all types of modern slavery” is not the most helpful description when the term “modern slavery” itself doesn’t have an internationally, or nationally, agreed definition – in any case, it does include trafficking for the purpose of sexual exploitation! We proposed that modern slavery be defined as “including the legal concepts of forced labour, debt bondage, forced marriage, slavery and slavery like practices, and human trafficking.”

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**From:** Paramita Turner  
**Sent:** Wednesday, 3 August 2022 5:19 pm  
**To:** 'Vitasovich, Saskia' <[Saskia.Vitasovich@justice.govt.nz](mailto:Saskia.Vitasovich@justice.govt.nz)>  
**Cc:** Rebecca Kingi <[Rebecca.Kingi@mbie.govt.nz](mailto:Rebecca.Kingi@mbie.govt.nz)>; Simon Barrett <[Simon.Barrett@mbie.govt.nz](mailto:Simon.Barrett@mbie.govt.nz)>  
**Subject:** RE: Submission on Pandora Black: Repeal Section 19 of the Prostitution Reform Act 2003. [IN-CONFIDENCE]

Kia ora Saskia,

In terms of the scope of the proposal (noting that final decisions are yet to be made), it applies to all entities regardless of the sector they operate in as well as to all types of modern slavery (including trafficking for the purpose of sexual exploitation). Technically it does apply to sex workers, but a key limitation in this context is that the focus of the legislation is on operations and supply chains i.e. the goods and services entities procure to turn into products for consumers – so it is unlikely to affect sex workers in practice.

With that in mind, the text in the paragraph itself is ok if you still want to use it.

Ngā mihi,

**Paramita Turner (he / him)**  
SENIOR POLICY ADVISOR

International Labour Policy | Labour, Science and Enterprise Group  
Ministry of Business, Innovation & Employment | Hīkina Whakatutuki

Īmera – Email: [paramita.turner@mbie.govt.nz](mailto:paramita.turner@mbie.govt.nz) | Waea Tōtika – Telephone: s 9(2)(a)  
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NZBN 9429000106078



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**From:** Vitasovich, Saskia <[Saskia.Vitasovich@justice.govt.nz](mailto:Saskia.Vitasovich@justice.govt.nz)>  
**Sent:** Wednesday, 3 August 2022 4:56 pm  
**To:** Paramita Turner <[Paramita.Turner@mbie.govt.nz](mailto:Paramita.Turner@mbie.govt.nz)>  
**Cc:** Rebecca Kingi <[Rebecca.Kingi@mbie.govt.nz](mailto:Rebecca.Kingi@mbie.govt.nz)>; Simon Barrett <[Simon.Barrett@mbie.govt.nz](mailto:Simon.Barrett@mbie.govt.nz)>  
**Subject:** RE: Submission on Pandora Black: Repeal Section 19 of the Prostitution Reform Act 2003. [IN-CONFIDENCE]  
**Importance:** High

Kia ora koutou

Again, thanks for all your comments. I have made those changes to the submission 😊

My manager has asked whether you think it would be appropriate to add the following about your work to the submission?

Modern Slavery and Worker Exploitation

1. The Committee may also be interested to know that the Ministry of Business, Innovation and Employment is currently working on proposals for new legislation that aims to achieve freedom, fairness and dignity in the operations and supply chains of entities to address modern slavery and worker exploitation both in New Zealand and internationally. More information about this work is available on MBIE's website: [mbie.govt.nz/business-and-employment/employment-and-skills/plan-of-action-against-forced-labour-people-trafficking-and-slavery/modern-slavery/](https://mbie.govt.nz/business-and-employment/employment-and-skills/plan-of-action-against-forced-labour-people-trafficking-and-slavery/modern-slavery/)

Also just wanting to confirm that, if progressed, this legislation would apply to sex workers?

Thanks



**Saskia Vitasovich** (she/her)  
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**From:** Vitasovich, Saskia  
**Sent:** Wednesday, 3 August 2022 2:43 pm  
**To:** 'Paramita Turner' <[Paramita.Turner@mbie.govt.nz](mailto:Paramita.Turner@mbie.govt.nz)>  
**Cc:** Rebecca Kingi <[Rebecca.Kingi@mbie.govt.nz](mailto:Rebecca.Kingi@mbie.govt.nz)>; Simon Barrett <[Simon.Barrett@mbie.govt.nz](mailto:Simon.Barrett@mbie.govt.nz)>  
**Subject:** RE: Submission on Pandora Black: Repeal Section 19 of the Prostitution Reform Act 2003. [IN-CONFIDENCE]

Kia ora Paramita

Thank you to you and the team for those useful comments/suggested changes and for getting back to me so soon!

Kind regards



**Saskia Vitasovich** (she/her)  
Policy Advisor | Civil Law and Human Rights  
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**From:** Paramita Turner <[Paramita.Turner@mbie.govt.nz](mailto:Paramita.Turner@mbie.govt.nz)>  
**Sent:** Wednesday, 3 August 2022 2:31 pm  
**To:** Vitasovich, Saskia <[Saskia.Vitasovich@justice.govt.nz](mailto:Saskia.Vitasovich@justice.govt.nz)>  
**Cc:** Rebecca Kingi <[Rebecca.Kingi@mbie.govt.nz](mailto:Rebecca.Kingi@mbie.govt.nz)>; Simon Barrett <[Simon.Barrett@mbie.govt.nz](mailto:Simon.Barrett@mbie.govt.nz)>  
**Subject:** RE: Submission on Pandora Black: Repeal Section 19 of the Prostitution Reform Act 2003. [IN-CONFIDENCE]

Kia ora Saskia,

Thanks again for checking in with us.

We have added in some suggested amendments to the text referring to UNTOC obligations, and some things you may wish to consider.

Ngā mihi,

**Paramita Turner** (he / him)  
SENIOR POLICY ADVISOR

International Labour Policy | Labour, Science and Enterprise Group  
Ministry of Business, Innovation & Employment | Hīkina Whakatutuki

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NZBN 9429000106078



**From:** Vitasovich, Saskia <[Saskia.Vitasovich@justice.govt.nz](mailto:Saskia.Vitasovich@justice.govt.nz)>  
**Sent:** Wednesday, 3 August 2022 12:29 pm  
**To:** Shay Duckworth <[Shay.Duckworth@mbie.govt.nz](mailto:Shay.Duckworth@mbie.govt.nz)>; Paramita Turner <[Paramita.Turner@mbie.govt.nz](mailto:Paramita.Turner@mbie.govt.nz)>  
**Subject:** Submission on Pandora Black: Repeal Section 19 of the Prostitution Reform Act 2003.  
**Importance:** High

Kia ora Shay and Paramita

I am have drafted a submission to the Petitions Committee on the Petition of Pandora Black: Repeal Section 19 of the Prostitution Reform Act 2003. [Petition of Pandora Black: Repeal Section 19 of the Prostitution Reform Act 2003](#)

**The petition requests:**

*That the House of Representatives pass legislation to repeal Section 19 of the Prostitution Reform Act 2003 and apply the same rights and legal protections to migrant sex workers who are on a work visa as given to citizens.*

**The petitioner states that the reason for their petition is:**

*Evidence has shown us time and time again that criminalising sex work helps no-one, and we have seen the benefits of decriminalization and a human rights based approaches to sex work for residents. Yet migrant sex workers are still vulnerable to coercion, exploitation and abuse by clients, managers and police due to their illegal status, as reporting such incidents may result in deportation and a conviction which may prevent future travel.*

My colleague Elspeth Knewstubb has kindly passed your details onto me, as I understand you are doing work on modern slavery. I was wondering if you (or if there is someone better suited) would be able to take a look at the enclosed information for the submission and let me know any comments or suggestions? We have a bit of a tight timeframe unfortunately, so if you might be able to take a quick look today that would be really appreciated, although I understand if this isn't possible.

Let me know if you may be able to help.

Kind regards,



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## Information from the Ministry of Justice on the petition of Pandora Black

### Section 19 of the Prostitution (Reform) Act

1. The Prostitution (Reform) Act 2008 (the PRA) decriminalised prostitution in New Zealand. One of the stated purposes was to create a framework to safeguard the human rights of sex workers and protect them from exploitation.
2. Section 19 of the PRA provides that while in New Zealand on a visa a person may not provide commercial sexual services; or operate or invest in a business of prostitution. Doing so may make a person liable [before](#) deportation under the Immigration Act 2009.
3. Section 19 was added during the Committee of the Whole House stage of the Bill's legislative process after being proposed by the Minister for Immigration at the time, Hon Lianne Dalziel. During parliamentary questioning, concerns were raised that the PRA would make it legal for international students to obtain student visas to come to New Zealand and work in the sex industry. In particular, there was concern that this could be exploited by overseas traffickers to bring people into the country to work in the sex industry.
4. As such, Hansard records that section 19 was inserted to ensure that New Zealand fully met its obligations under the United Nations Convention against Transitional Organised Crime (UNTOC) and its Protocols on the Smuggling of Migrants and Trafficking of Persons<sup>1</sup>.

### New Zealand's international human rights obligations under UNTOC and its Protocols on the Smuggling of Migrants and Trafficking of Persons

5. The Crimes Act 1961 criminalises trafficking in persons and smuggling [in accordance with the optional protocols to UNTOC](#). [\[RK1\]](#)
6. [Trafficking](#) [\[RK2\]](#) of [workers-persons](#) can occur in both legal and illegal industries. Trafficking requires an element of deception or coercion, [so the legal status of sex work in New Zealand does not appear to be a key factor](#). [\[SB3\]](#) The main New Zealand case in trafficking to date involved work in a [legal industry](#) [\[SB4\]](#) [\(horticulture\)](#). [\[RK5\]](#)
7. Smuggling requires illegal entry into the country. If you can legally enter the country to undertake sex work, then, by definition, you are not smuggled.
8. UNTOC and its protocols do not specifically require the banning of migrants as sex workers. We are not aware of any other international obligations that appear to require this ban on migrants undertaking sex work.

### Comments and recommendations by the United Nations Committee on the Elimination of Discrimination Against Women (the Committee) on trafficking and exploitation of prostitution

9. In their 2018 Concluding observations on New Zealand's Eighth periodic report (CEDAW/C/NZL/CO/8), the Committee noted the following in relation to exploitation of prostitution, amongst other recommendations related to addressing trafficking:

*The Committee commends the State party for the adoption of the Organised Crime and Anti-Corruption Act 2014 amending the Crimes Act 1961 to include a broader definition of trafficking, including internal trafficking and trafficking for purposes of forced labour. It further notes the establishment of an inter-agency working group to*

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<sup>1</sup> [Prostitution Reform Bill — In Committee - New Zealand Parliament \(www.parliament.nz\)](#)

combat trafficking and develop joint strategies. However, the Committee notes the following with concern:

- (a) That section 19 of the Prostitution Reform Act 2003 may have a negative impact on migrant women;
- (b) That migrant women engaged in prostitution may be exposed to exploitation and are at risk of trafficking, owing to the ban on engaging in prostitution imposed on migrants, which prevents them from reporting abuse for fear of deportation.

The Committee recommends that the State party:

- (a) Amend section 19 of the Prostitution Reform Act 2003, with a view to reducing its negative impact on migrant women;
- (b) Revise migration laws, remove the possibility of only a fine being imposed as punishment for trafficking and adopt measures aimed at preventing discrimination against women in prostitution in the State party, with a view to preventing and addressing the factors and structures that render migrant women vulnerable to trafficking.

10. In their list of issues and questions prior to the submission of the ninth periodic report of New Zealand (CEDAW/C/NZL/QPR/9), issued on the 11 July 2022, the Committee noted the following:

*In the light of the Committee's previous concluding observations (para. 28), please describe the measures taken to:*

- (a) Amend section 19 of the Prostitution Reform Act 2003, with a view to reducing its negative impact on migrant women;

11. New Zealand will need to address the recommendation and related question in its next report to the Committee due in 2023.

Main document changes and comments

**Page 1: Deleted Paramita Turner 3/08/2022 2:24:00 pm**

to

1.

**Page 1: Added Paramita Turner 3/08/2022 2:24:00 pm**

for

1.

**Page 1: Commented [RK1] Rebecca Kingi 3/08/2022 1:34:00 pm**

s 9(2)(g)(i)

**Page 1: Commented [RK2] Rebecca Kingi 3/08/2022 2:01:00 pm**

Suggested reword if helpful: Trafficking of persons can occur for the purpose of exploitation in both legal and illegal industries, and/or for exploitation that can involve both legal or illegal activities, so the legal status of the work or services performed in New Zealand by the victim does not determine whether trafficking has taken place. The main New Zealand case in trafficking to date involved work in a legal industry (horticulture).

**Page 1: Deleted Rebecca Kingi 3/08/2022 1:36:00 pm**

workers

1.

**Page 1: Added Rebecca Kingi 3/08/2022 1:36:00 pm**

persons

1.

**Page 1: Commented [SB3] Simon Barrett 3/08/2022 1:13:00 pm**

Not necessarily a key factor, but it may be a relevant factor in increasing the vulnerability of workers to coercion (is it similar to forced criminality perhaps)?

**Page 1: Commented [SB4] Simon Barrett 3/08/2022 1:22:00 pm**

Horticulture and viticulture have some protections for migrants (can't get an accredited employer work visa to pick crops; similar rule for fishing crew).

It may not be useful to frame it as 'legal and illegal' industries. It's more than some activities for temporary visa holder are not allowed.

**Page 1: Added Rebecca Kingi 3/08/2022 2:01:00 pm**

1.

**Page 1: Commented [RK5] Rebecca Kingi 3/08/2022 2:01:00 pm**

Suggested addition: However, the legal status of the industry and/or activity that forms part of the exploitation can be a factor that influences the level of control a trafficker may have over a victim and their ability to coerce them (trafficking requires an element of coercion or deception). The UNODC indicators of trafficking set out that people who have been trafficked may be

threatened with being handed over to the authorities, be afraid of revealing their immigration status, and be distrustful of authorities. - [HT\\_indicators\\_E.qxd \(unodc.org\)](#)

Header and footer changes

Text Box changes

Header and footer text box changes

Footnote changes

Endnote changes

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OFFICIAL INFORMATION ACT



## Josephine Li

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**From:** Paramita Turner  
**Sent:** Monday, 10 July 2023 11:30 am  
**To:** Andy Beaufort  
**Subject:** FW: Petitions Committee request - DUE 30 SEPT - Petition of Pandora Black - Repeal Section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]  
**Attachments:** RE: Urgent Request on Trafficking - Due 3pm Thursday 12 July; Final report.pdf; Update on Foreign Sex Workers in New Zealand.pdf.docx

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**From:** Paramita Turner  
**Sent:** Monday, 5 September 2022 1:40 pm  
**To:** Christine Hyndman <Christine.Hyndman@mbie.govt.nz>; Claire Owens <Claire.Owens@mbie.govt.nz>  
**Cc:** Andy Beaufort <Andy.Beaufort@mbie.govt.nz>; Simon Barrett <Simon.Barrett@mbie.govt.nz>; Rebecca Kingi <Rebecca.Kingi@mbie.govt.nz>; Marieke Jasperse <Marieke.Jasperse@mbie.govt.nz>; Yvette McCullough <Yvette.McCullough@mbie.govt.nz>; Caspian Leah <Caspian.Leah@mbie.govt.nz>; Emma Kindl <Emma.Kindl@mbie.govt.nz>; Andy Beaufort <Andy.Beaufort@mbie.govt.nz>; Simon Barrett <Simon.Barrett@mbie.govt.nz>; Anne Williams <Anne.Williams@mbie.govt.nz>; Andrew Craig <Andrew.Craig@mbie.govt.nz>; Karl Woodhead <Karl.Woodhead@mbie.govt.nz>; ParliamentaryServices <ParliamentaryServices@mbie.govt.nz>; Melissa Buckle <Melissa.Buckle@mbie.govt.nz>; Fraser Richards <Fraser.Richards@mbie.govt.nz>; Louisa Coxon <Louisa.Coxon@mbie.govt.nz>; Patrick Gibson <Patrick.Gibson@mbie.govt.nz>  
**Subject:** RE: Petitions Committee request - DUE 30 SEPT - Petition of Pandora Black - Repeal Section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

Christine – attached is our response to CEDAW on this issue from 2018. I'm not sure I saved this to MAKO, but you're right it would be good to have this documented...

Also, MBIE has previously commissioned research into this which found that migrant workers in the sex industry (who were interviewed as part of the research) were there voluntarily – but were a vulnerable group, including because of s19 of the PRA. Attached is a briefing INZ sent to the Mol on this issue in 2019 (the formatting seems a bit off but I'm sure there's a good copy somewhere in MAKO!).

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**From:** Christine Hyndman <Christine.Hyndman@mbie.govt.nz>  
**Sent:** Monday, 5 September 2022 12:13 pm  
**To:** Claire Owens <Claire.Owens@mbie.govt.nz>  
**Cc:** Andy Beaufort <Andy.Beaufort@mbie.govt.nz>; Simon Barrett <Simon.Barrett@mbie.govt.nz>; Paramita Turner <Paramita.Turner@mbie.govt.nz>; Rebecca Kingi <Rebecca.Kingi@mbie.govt.nz>; Marieke Jasperse <Marieke.Jasperse@mbie.govt.nz>; Yvette McCullough <Yvette.McCullough@mbie.govt.nz>; Caspian Leah <Caspian.Leah@mbie.govt.nz>; Emma Kindl <Emma.Kindl@mbie.govt.nz>; Andy Beaufort <Andy.Beaufort@mbie.govt.nz>; Simon Barrett <Simon.Barrett@mbie.govt.nz>; Anne Williams <Anne.Williams@mbie.govt.nz>; Andrew Craig <Andrew.Craig@mbie.govt.nz>; Karl Woodhead <Karl.Woodhead@mbie.govt.nz>; ParliamentaryServices <ParliamentaryServices@mbie.govt.nz>; Melissa Buckle <Melissa.Buckle@mbie.govt.nz>; Fraser Richards <Fraser.Richards@mbie.govt.nz>; Louisa Coxon <Louisa.Coxon@mbie.govt.nz>  
**Subject:** RE: Petitions Committee request - DUE 30 SEPT - Petition of Pandora Black - Repeal Section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

Thanks Claire

No wonder the issues are clustering! It looks as though the Committee does want a separate response from MBIE – while we could perhaps say that we were consulted on the MoJ response it would probably be worthwhile to provide one that has some specific INZ information (eg numbers, what actually happens to people who are found to be unlawfully providing commercial sexual services, and also whether we take any action against happens to people who eg arrange for those services). I have asked Emma if she can chase up the compliance information – does anyone have any idea how we might go about finding numbers?

I note the concerns that the team has, but I also note wider purpose of the prohibition, which is to remove any possible doubt about whether temporary migrants in the industry have been coerced or not. The Minister at the time (Lianne Dalziel) was concerned that it would be almost impossible for Labour Inspectors to be able to determine whether foreign nationals – especially people from less-developed countries who did not speak English well – were being exploited.

I also note that the position of people who are on valid visas with work conditions but providing commercial sexual services is identical to people who are working here in any job either on visas without work conditions, or as overstayers – ie they are all liable for deportation if located. Changing that aspect of the PRA03 would not therefore mean a big change in situation for many individuals (they would still not wish to come to the attention of the authorities because they would still not be undertaking lawful activities).

It is also a very open question as to how this would work with regard to work policy settings – it would not qualify under our current self-employment settings (which are focused on people with capital establishing businesses) and it is difficult to see Cabinet making a specific exception to enable commercial sex workers alone to be self-employed as temporary migrant workers. As I previously noted, MSD does not labour market test the deep sea fishing crew positions and would similarly not labour market test these roles (there is of course a specific carve out at s.18 of the PRA03). While it would be feasible for brothel managers to become accredited employers and to provide evidence that they had advertised etc for AEWV applications, it is not clear to me that this would necessarily make very much difference to the situation of the people currently working unlawfully or whether it would be likely to meaningfully reduce the incidence of that work in the future.

The major group of people who would be likely to benefit from a change to s.19 would therefore be people on open work conditions ie students or working holiday makers. This is the reason that Ms Dalziel was so concerned that people might essentially be trafficked in to work in the commercial sexual services industry, purporting to be students. (It's unlikely that a lot of WHMs would seek to work in this industry I suspect.) I note that the 2008 review of the 2003 Act agreed that on balance the current settings were likely to be avoiding more potential harm than they were enabling.

I think that there is room for a project on MBIE's approach to people found to be working in the sex industry, if INZ and the LI do not already have an agreed approach. For example, is MBIE treating those workers as victims? Is MBIE pursuing the people who have organised their travel and employment? In addition, I recall a publicity campaign (INZ and the Human Rights Commission and Police??) several years ago aimed at encouraging foreign nationals working in the industry who were being mistreated to come forward, on the basis that they would be supported. Was that ever evaluated? Would it be worth considering rerunning?

s 9(2)(g)(i)

It is an offence under the PRA03 to purchase services from an underage

person – s 9(2)(g)(i)

s 9(2)(g)(i)

(I am currently trying to dig up old CEDAW files so I can save them in a meaningful document in Mako as part of my ongoing aim to capture historic information. So far I have spent about 45 minutes on the phone to Help Desk because the file types will not cooperate. Crossing fingers it will eventually work, and I can pull everything together into a history of the PRA03 in relation to immigration settings.)

Regards

Christine

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From: Claire Owens <[Claire.Owens@mbie.govt.nz](mailto:Claire.Owens@mbie.govt.nz)>  
Sent: Monday, 5 September 2022 9:46 am  
To: Christine Hyndman <[Christine.Hyndman@mbie.govt.nz](mailto:Christine.Hyndman@mbie.govt.nz)>  
Cc: Andy Beaufort <[Andy.Beaufort@mbie.govt.nz](mailto:Andy.Beaufort@mbie.govt.nz)>; Simon Barrett <[Simon.Barrett@mbie.govt.nz](mailto:Simon.Barrett@mbie.govt.nz)>; Paramita Turner <[Paramita.Turner@mbie.govt.nz](mailto:Paramita.Turner@mbie.govt.nz)>; Rebecca Kingi <[Rebecca.Kingi@mbie.govt.nz](mailto:Rebecca.Kingi@mbie.govt.nz)>; Marieke Jasperse <[Marieke.Jasperse@mbie.govt.nz](mailto:Marieke.Jasperse@mbie.govt.nz)>  
Subject: RE: Petitions Committee request - DUE 30 SEPT - Petition of Pandora Black - Repeal Section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

Hi Christine

Thanks for looping us in on this. MoJ consulted with MBIE earlier in August on this petition – email thread attached. Just making sure we are lined up – do we also need to provide an MBIE response?

In terms of people trafficking, our team are concerned that section 19 means that migrants who are forced/coerced to engage in sex work are fearful to report and thereby remain in situations of exploitation.

Cheers  
Claire

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From: Christine Hyndman <[Christine.Hyndman@mbie.govt.nz](mailto:Christine.Hyndman@mbie.govt.nz)>  
Sent: Friday, 2 September 2022 4:48 PM  
To: Yvette McCullough <[Yvette.McCullough@mbie.govt.nz](mailto:Yvette.McCullough@mbie.govt.nz)>; Claire Owens <[Claire.Owens@mbie.govt.nz](mailto:Claire.Owens@mbie.govt.nz)>; Caspian Leah <[Caspian.Leah@mbie.govt.nz](mailto:Caspian.Leah@mbie.govt.nz)>; Emma Kindl <[Emma.Kindl@mbie.govt.nz](mailto:Emma.Kindl@mbie.govt.nz)>  
Cc: Andy Beaufort <[Andy.Beaufort@mbie.govt.nz](mailto:Andy.Beaufort@mbie.govt.nz)>; Simon Barrett <[Simon.Barrett@mbie.govt.nz](mailto:Simon.Barrett@mbie.govt.nz)>; Anne Williams <[Anne.Williams@mbie.govt.nz](mailto:Anne.Williams@mbie.govt.nz)>; Andrew Craig <[Andrew.Craig@mbie.govt.nz](mailto:Andrew.Craig@mbie.govt.nz)>; Karl Woodhead <[Karl.Woodhead@mbie.govt.nz](mailto:Karl.Woodhead@mbie.govt.nz)>; ParliamentaryServices <[ParliamentaryServices@mbie.govt.nz](mailto:ParliamentaryServices@mbie.govt.nz)>  
Subject: FW: Petitions Committee request - DUE 30 SEPT - Petition of Pandora Black - Repeal Section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

Kia ora colleagues

It's strange how issues cluster. We have had a few requests relating to the PRA03 recently. I have pasted in the petition wording below, which I have to draft a response to in the next couple of weeks. It includes an allegation that we prosecute people found unlawfully providing commercial sexual services. **s 9(2)(g)(i)**

I have also attached some information I provided recently following the publication of the Education Workforce Committee's final report ("RE: Publishing of Education Workforce Committee's final report as part of inquiry into migrant exploitation"). Could any one of you fine people advise me whether you consider that information we provided for that, or that has been published by that Committee, could, partially or in full, respond to Ms Black's petition? I am not keen to recreate any information if possible, and it feels like we have prepared a lot of related material over the years. Should I hassle anyone else?

Obviously our position remains that yes the current settings are imperfect BUT we consider that they reduce the potential for greater harm, which would be that people on temporary visas would be able to lawfully provide commercial sexual services and it would be extremely difficult to tell whether they had been coerced, especially with regard to people who did not speak English well. **s 9(2)(g)(i)**

The Petition of Pandora Black: Repeal Section 19 of the Prostitution Reform Act 2003 requests:

*That the House of Representatives pass legislation to repeal Section 19 of the Prostitution Reform Act 2003 and apply the same rights and legal protections to migrant sex workers who are on a work visa as given to citizens.*

The petitioner states that the reason for their petition is:

*Evidence has shown us time and time again that criminalising sex work helps no-one, and we have seen the benefits of decriminalization and a human rights based approaches to sex work for residents. Yet migrant sex workers are still vulnerable to coercion, exploitation and abuse by clients, managers and police due to their illegal status, as reporting such incidents may result in deportation and a conviction which may prevent future travel.*

Have a very lovely weekend all!

Ngā mihi

Christine

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**From:** Anne Williams <[Anne.Williams@mbie.govt.nz](mailto:Anne.Williams@mbie.govt.nz)>

**Sent:** Friday, 2 September 2022 11:10 am

**To:** Andrew Craig <[Andrew.Craig@mbie.govt.nz](mailto:Andrew.Craig@mbie.govt.nz)>; Christine Hyndman <[Christine.Hyndman@mbie.govt.nz](mailto:Christine.Hyndman@mbie.govt.nz)>

**Cc:** Karl Woodhead <[Karl.Woodhead@mbie.govt.nz](mailto:Karl.Woodhead@mbie.govt.nz)>; ParliamentaryServices <[ParliamentaryServices@mbie.govt.nz](mailto:ParliamentaryServices@mbie.govt.nz)>

**Subject:** FW: Petitions Committee request - DUE 30 SEPT - Petition of Pandora Black - Repeal Section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

Mōrena,

Sorry, thought this might one for Nita's team, but she says Christine is the expert – is it okay for you to take this one also please?

Anne

**Anne Williams** (she/her)

PRINCIPAL BUSINESS ADVISOR | KAITOHUTOHU PAKIHI APOREI

Business Management Team

Office of the Deputy Secretary, Labour, Science and Enterprise | Ministry of Business, Innovation & Employment

[anne.williams@mbie.govt.nz](mailto:anne.williams@mbie.govt.nz) | DDI: s 9(2)(a) | Cell: s 9(2)(a)

Level 5, 15 Stout Street, Wellington 6011 | PO Box 1473, Wellington 6140, New Zealand

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**From:** Anne Williams

**Sent:** Monday, 29 August 2022 5:26 PM

**To:** Nita Zodgekar <[Nita.Zodgekar@mbie.govt.nz](mailto:Nita.Zodgekar@mbie.govt.nz)>

**Cc:** Anna Clark (GM WRSP) <[Anna.Clark2@mbie.govt.nz](mailto:Anna.Clark2@mbie.govt.nz)>; Karl Woodhead <[Karl.Woodhead@mbie.govt.nz](mailto:Karl.Woodhead@mbie.govt.nz)>;

ParliamentaryServices <[ParliamentaryServices@mbie.govt.nz](mailto:ParliamentaryServices@mbie.govt.nz)>

**Subject:** Petitions Committee request - DUE 30 SEPT - Petition of Pandora Black - Repeal Section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

Kia ora,

A request has come in from the Petitions Committee for MBIE to provide comment on a petition from Pandora Black.

The specific petition is "That the House of Representatives pass legislation to repeal Section 19 of the Prostitution Reform Act 2003 and apply the same rights and legal protections to migrant sex workers who are on a work visa as

given to citizens". ([https://www.parliament.nz/en/pb/petitions/document/PET\\_111858/petition-of-pandora-black-repeal-section-19-of-the-prostitution](https://www.parliament.nz/en/pb/petitions/document/PET_111858/petition-of-pandora-black-repeal-section-19-of-the-prostitution))

A folder has been set up for you to save information into:

<https://mako.wd.govt.nz/otcs/llisapi.dll?func=ll&objId=132188489&objAction=browse>. It also has a copy of the actual Petition and a template letter should you wish to use this.

This looks like a crossover for WRS and Immigration, but I am assuming that Nita, your team might be best placed to lead this one? I'm not sure if you'll have done one of these submissions before so I've attached I summary of the process I wrote up a while back. Very happy to discuss if you think this should be led from another team, as well.

If you can please:

- Respond back to the Petitions Committee via [petitions@parliament.govt.nz](mailto:petitions@parliament.govt.nz) to let them know the best contact person for this work. The clerk notes in the email that this is going to EWC but I think that may have been an error, you may wish to clarify but it's likely fine to address this to the Petitions Committee.
- Provide a response by Friday 30 September (by submitting this to [petitions@parliament.govt.nz](mailto:petitions@parliament.govt.nz) and cc'ing myself and our Parliamentary Services team [ParliamentaryServices@mbie.govt.nz](mailto:ParliamentaryServices@mbie.govt.nz)).

We usually list any petitions in the weekly reports, so I'll email INZ BMT and Mikaela to add this one.

Happy to help if you need anything!

Thanks,  
Anne

Anne Williams (she/her)

PRINCIPAL BUSINESS ADVISOR | KAITOHUTOHU PAKIHI APOREI

Business Management Team

Office of the Deputy Secretary, Labour, Science and Enterprise | Ministry of Business, Innovation & Employment

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NZBN 9429000106078



## BRIEFING

### Update on Foreign Sex Workers in New Zealand

<b>Date:</b>	13 June 2019	<b>Priority:</b>	Medium
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	3513 18-19

Action sought		
	Action sought	Deadline
Hon Iain Lees-Galloway <b>Minister of Immigration</b>	Note the contents of this briefing	N/A
Hon Kris Faafoi <b>Associate Minister of Immigration</b>	Copy for your information	N/A

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Senta Jehle	INZ Programme Director	s 9(2)(a)   s9(2)(a)	✓
Jazial Crossley	Senior Engagement & Comms Advisor	s 9(2)(a)   s9(2)(a)	

The following departments/agencies have been consulted

Minister's office to complete:

- |   |  |
|---|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

Comments



# BRIEFING

## Update on Foreign Sex Workers in New Zealand

Date:	13 June 2019	Priority:	Medium
Security classification:	In Confidence	Tracking number:	3513 18-19

### Purpose

To update you on the Ministry of Business, Innovation and Employment (MBIE) activities being undertaken with respect to foreign sex workers and the immigration system.

### Executive summary

In June 2018 the Immigration Leadership Team (ILT) directed further work be undertaken on understanding migrants in the sex work industry to inform policy, operational activity and non-operational activity.

The approach taken included information gathering, stakeholder engagement, outreach, communication and operational activity. The programme identified an opportunity to improve the outreach efforts within the sex work industry and create a more cohesive regulatory response.

The focus of the operational activity was to gather and provide information to migrant sex workers, and to take enforcement action, as appropriate, in order to test the hypothesis that migrant sex workers were being exploited or trafficked in New Zealand. Migrant sex workers operating from Single Owner Operated Brothels (SOOBs) were identified as potentially most vulnerable, and were therefore identified as the focus area.

No evidence was identified through the investigation undertaken to support the hypothesis that migrant sex workers operating from SOOBs are being exploited or trafficked<sup>1</sup>. By creating opportunities for sex workers and the industry to engage with INZ (and wider MBIE) there is now improved information flow on areas of concern (i.e. exploitation and trafficking), which can direct targeted enforcement activity. The programme also developed material that will support working with the industry, and enable increased reporting on exploitation and trafficking.

### Recommended action

It is recommended that you:

- a **Note** that officials from MBIE have completed a range of activities relating to the sexual services industry, to encourage greater compliance with immigration rules. This included systematic information gathering, communication activities, engagement with a wide range of stakeholders, and frontline investigations by compliance officers.  

*Noted*
- b **Note** this work included further investigations into whether there is systemic exploitation or people trafficking in the industry, and that investigations showed no evidence of either being present<sup>1</sup>.  

*Noted*
- c **Note** that the regulatory context presents challenges to investigations and information gathering about foreign sex workers in New Zealand. This is primarily due to current legislative

<sup>1</sup> Noting there were limits to operational activities in that INZ compliance officers were not able to access some brothels, the focus was on SOOBs only, and the information gathered was limited to what was provided by sex workers.

powers providing limited ability to enter brothels, which includes enquiring to the immigration status of workers and owners on the premises.

- d **Note** the ongoing targeted INZ work which is continuing to be undertaken in the sexual services industry in order to support greater compliance with immigration rules, as well as to provide protections against possible exploitation.

**Noted**



Senta Jehle  
**INZ Programme Director**  
Immigration New Zealand, MBIE

13 / 06 / 19

Hon Iain Lees-Galloway  
**Minister of Immigration**

..... / ..... / .....

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## Background

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1. The Prostitution Reform Act (PRA) was passed in 2003 to decriminalise prostitution in New Zealand. The Act sought to reduce harm within the sex industry, protect workers' health and safety, provide express rights to fair employment relations and conditions, and reiterate that it is a fundamental human right not to be exploited or trafficked.
2. Particular restrictions relating to immigration were also introduced. Section 19 of the PRA sets out restrictions on the provision of, operation of and investment in commercial sexual services, and associated businesses by holders of certain visas. There are three restrictions:
  - a. Visas cannot be granted on the basis of the provision of sexual services, or on the basis of investment in or operation of a prostitution business;
  - b. It is a condition of every temporary entry class visa that the holder may not provide commercial sexual services, or operate or invest in a New Zealand prostitution business, while in New Zealand; and
  - c. Resident visa holders may not operate or invest in a New Zealand prostitution business. However, they may themselves provide commercial sexual services.
3. In June 2018, officials provided you with advice (3785 17-18 refers) that summarised the current information available on the activity of foreign sex workers in New Zealand. In summary the briefing set out that there was no evidence of systemic exploitation or people-trafficking in the industry. It also gave an overview of:
  - a. the ongoing activities undertaken by Immigration New Zealand (INZ) border officials, and INZ compliance officials to ensure people did not violate their visa conditions while in New Zealand by participating in the sex work industry;
  - b. the role of a wide range of agencies, as well as MBIE's Labour Inspectorate, in ensuring the safety of people providing commercial sexual services; and
  - c. activities that could be undertaken by MBIE officials to provide greater assurance that people are following immigration rules relating to the sex industry. Those activities included enhanced compliance, tailored communications, whole-of-government collaboration, and investigating further ways to support legitimate industry.

## Activities to encourage compliance

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4. MBIE has since completed a number of the identified activities to provide greater compliance with immigration rules, as well as to provide protections against possible exploitation. Each of the activities undertaken is discussed below.

### Information gathering and analysis

5. MBIE has established a more systematic approach to collecting information about foreign worker participation in the sexual services industry.
6. Areas of interest for gathering of data include experiences in other countries, with a focus on exploitation and trafficking and immigration breaches; cultural differences; website services; and evidence of illegal activity, including links to organised crime. The information gathered through these, and other areas will continue to provide greater insights for operational teams, and may be used for wider approaches within these areas in the future.

## Communications and outreach

7. In an effort to educate and undertake outreach efforts to employers of sex workers and sex workers themselves, a communications plan was developed. The plan included key messages for proactive media releases; booklets for employers and for workers (provided in multiple languages); targeted website content; and a dedicated phone line for reporting exploitation (to date no phone calls have been received relating specifically to the sexual services industry).
8. The programme also developed material that supports working with the industry, and enables increased reporting on exploitation and trafficking. By creating opportunities for sex workers and industry to engage with INZ (and wider MBIE) there is now improved information flow on areas of concern (i.e. exploitation and trafficking), which can direct targeted enforcement activity.

## Engagement with stakeholders

### *Government Agencies*

9. A wide variety of central and local government agencies play a role in the sex work industry, including INZ and the Labour Inspectorate. INZ enforces people's compliance with visa conditions and both agencies investigate allegations of exploitation and trafficking. A table which summarises the current engagement INZ has with these agencies can be found in Appendix A.
10. The programme engaged with an existing inter-agency work programme established to prevent people trafficking in New Zealand. This programme has contributed to the New Zealand response to the 2018 Trafficking in Persons Report (TIP Report). The TIP Report is an annual report issued by the U.S. State Department's Office to monitor and combat trafficking in persons. It ranks governments based on their perceived efforts to acknowledge and combat human trafficking.

### *New Zealand Prostitutes Collective*

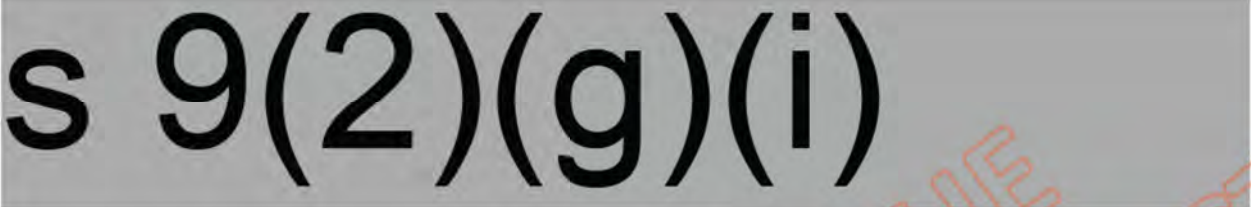
11. MBIE engaged closely with the New Zealand Prostitutes Collective (NZPC), with engagement commencing eight weeks before the increased operational activities began. There is an inherent tension in working with the NZPC given INZ regulatory obligations with respect to migrants working unlawfully in the sex work industry, and the NZPC commitments to all sex workers. However, areas of common interest were able to be established, and throughout the programme of work the NZPC actively engaged and provided their expertise and feedback.
12. The NZPC were strongly against any operational activity being undertaken and wrote to the Deputy Chief Executive (DCE) INZ to express this opinion. INZ acknowledged their view and while INZ has regulatory obligations, it ensured that any enforcement activity was appropriate and considered. As the operational activity developed, the NZPC were able to raise concerns.

### **Operational activities**

13. Over a three month period operational activity gathered as well as provided information to migrant sex workers, in addition to taking compliance enforcement action as appropriate, for example where unlawful individuals were identified. Focuses of this activity included compliance with immigration rules and investigating further whether migrant sex workers were being exploited or trafficked in New Zealand<sup>2</sup>.

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<sup>2</sup> The timing of this programme of work conflicted with other pressures on the INZ Border, and therefore prevented concurrent activity. However, the information gathered during this national operational activity directly informed existing settings and future Border operations.

14. Compliance Officers visited 57 brothels<sup>3</sup> across Auckland, Hamilton, Tauranga, Wellington, Christchurch, Queenstown and Dunedin. Depending on the region Compliance Officers were accompanied by a combination of Labour Inspectors, New Zealand Police Officers, and City Council Officers. A total of 66 migrant sex workers were identified, 36 were on visitor visas, two on student visas and the remainder were unlawfully in New Zealand. Twenty five Deportation Liability Notices (DLNs) were issued. Twenty individuals voluntarily departed New Zealand, one was subsequently deported and four remain unlawfully in New Zealand.
15. 
16. The lack of clarity regarding a place of employment presents challenges (specifically under Section 277a, 279 and 280 of the Immigration Act). In summary, the powers provide limited ability to enter brothels, which includes enquiring to the immigration status of workers on the premises due to narrow definitions and thresholds. Encumbered access to employment sites impacts on INZ's ability to identify exploitation and trafficking of migrant workers.
17. These findings have been shared with relevant teams within Labour and Immigration Policy, for consideration in wider reviews of legislation.

### **Outcomes of operational activities**

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18. Compliance Officers were able to collect information from the migrant sex workers they interacted with. Some of the workers had used unnamed facilitators to procure flights and visas, to connect them with brothels in New Zealand, and to remit funds offshore. There was evidence that New Zealand-based facilitators enabled the movement of sex workers once in New Zealand which provided evidence of nationwide links between the SOOBs. It became evident that sex workers were sharing information on INZ operational activity via social media, which also suggests that social media can potentially be a critical tool for sharing information with sex workers.
19. The outcome of the activities undertaken showed no evidence was identified to support the hypothesis that migrant sex workers are being exploited or trafficked. However, there were limits to operational investigations that should be noted in that INZ compliance officers were not able to access some brothels; the focus was on SOOBs only; and information gathered was limited to what was provided by sex workers, noting information was not always readily offered, and where information was provided, in some cases it was unable to be verified.

### **Next steps / ongoing work**

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20. Targeted operational activity will continue as part of Compliance and Investigations' ongoing work plan – and will be better informed as a result of the information gained and lessons learnt from the operational activity undertaken as part of this programme. The focus remains on facilitators.
21. Continued dissemination of outreach material and engagement with stakeholders has been established in order to provide mechanisms for migrant sex workers to report instances of

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<sup>3</sup> Compliance Officers were not permitted to enter on ten occasions, and in follow up visits the proportion of entry denials increased. This is likely because information was shared between brothels confirming that INZ can only enter with consent in most circumstances.

exploitation or trafficking where INZ access is limited. Website information will continue to evolve as feedback is received.

22. The information gathered enabled INZ's Risk and Verification team to investigate pathways of the migrant sex workers found to be in breach of their visa. This information has informed further risk rules to prevent fraudulent applications progressing through the INZ system. These risk rules will continue to be monitored and updated as required.
23. Information gathered has also enabled the INZ Border Operations to improve the identification and management of migrant sex workers attempting to cross the border. Work undertaken in this space will continue to be monitored and reported on.
24. The emergent approach which was successfully utilised in this work programme is being applied across a number of other work programmes and will be used in other industries and sectors.

Talking points are attached for your reference (refer Appendix B)

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**Appendix A: Summary of engagement with other government agencies (central and local)**

<b>Agency</b>	<b>Actions within programme activity</b>
<b>Labour Inspectorate (LI)</b>	1. Joint operational activity
<b>Inland Revenue (IR)</b>	1. Information was provided at the initial workshop 2. Operational engagement – where investigative leads were identified these have been passed to IR 3. Community engagement was discussed given existing IR platforms, but ultimately was not viable within the timeframes
<b>New Zealand Police (NRP)</b>	1. Operational support 2. Community engagement was discussed, but no specific follow up activity
<b>Ministry of Justice (MOJ)</b>	General engagement – legislative and policy interest were discussed including the platforms for on-going engagement regarding exploitation and trafficking more generally
<b>Ministry of Health (MOH)</b>	General engagement to understand the processes across public health
<b>Ministry of Women's Affairs</b>	General engagement – particular interest in abuse of women working in the sex work industry
<b>Auckland City Council</b>	Operational engagement – assessment of bylaw breaches

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## **Appendix B: Talking points on issues relating to foreign sex workers in New Zealand and INZ's response to these issues**

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- INZ compliance Officers visited 57 brothels across Auckland, Hamilton, Tauranga, Wellington, Christchurch, Queenstown and Dunedin. Depending on the region Compliance Officers were accompanied by a combination of Labour Inspectors, New Zealand Police Officers, and City Council Officers. Compliance Officers were not permitted to enter on 10 occasions.
- No evidence was identified to support the hypothesis that migrant sex workers are being exploited or trafficked. It is important to note that:
  - there were brothels that INZ officers were not able to access;
  - the focus was on small owner operated brothels only; and
  - information gathered was limited to what was provided by sex workers.
- Of the 66 migrant sex workers identified, 36 were on visitor visas, two on student visas and the remainder were unlawfully in New Zealand. Compliance officers were able to issue 25 Deportation Liability Notices (DLNs). Twenty of the individuals voluntarily departed New Zealand, one was subsequently deported and four remain unlawfully in New Zealand.
- All of the sex workers identified, except for one, were Chinese nationals. The operational teams were expecting a greater variety of nationalities given previous experience. In the year before this operational activity began, the top five nationalities of suspected illegal sex workers denied entry to New Zealand were Brazil, Taiwan, Hong Kong, China and Malaysia.
- Some of the migrant sex workers used unnamed facilitators to procure flights and visas to New Zealand and to connect with brothels in New Zealand.
- The information gathered enables INZ to investigate pathways of the migrant sex workers found to be in breach of their visas and improve the identification and management of migrant sex workers attempting to cross the border.
- There are limitations to existing legal powers that impact INZ's information gathering reach, including a limited ability to enter brothels in some situations.
- Sufficient information was gathered to indicate that while exploitation or trafficking of migrant sex workers is still possible the lack of evidence suggests it is less likely than in other industries where there has been clear and prosecuted evidence of exploitation.
- Investigations to date show no evidence of systemic exploitation. No instances of trafficking have been confirmed and, in recent years, the Labour Inspectorate has received no complaints of exploitation. Nevertheless, exploitation of foreign sex workers remains a risk that requires ongoing vigilance.
- While temporary migrants are unable to work in the sex industry, all employees in New Zealand, including migrant workers have minimum rights that employers need to comply with. MBIE has channels in place (both phone and online) for anyone to raise concerns about exploitation safely and anonymously, one example being Crimestoppers.



## Josephine Li

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**From:** Andy Beaufort  
**Sent:** Wednesday, 28 September 2022 2:58 pm  
**To:** Christine Hyndman  
**Subject:** Excerpt from Departmental Report on sex workers [UNCLASSIFIED]

Hi Christine,

This is what we presented to the EWC on exploitation of migrants working in the sex industry as part of its inquiry into migrant exploitation:

### **Foreign sex workers**

#### ***How many foreign sex workers have reported exploitation and what processes were there in place to handle those cases given sensitivities?***

Since July 2021 Employment Services has received one complaint through our new reporting system relating specifically to a sex worker and exploitation allegations.

For cases historically and currently of this nature or similar, such as potential sexual or physical abuse, we have urgency processes that are used to prioritise a multi-agency response to support the victim. This is not always necessary, for example, where it is a historic situation the person has since left and is now reporting. MBIE use such processes to escalate these matters quickly to take action to support the victim, for example where it involves potential trafficking or slavery, or imminent threat to life or other harm.

Regardless of whether urgent action is required to address threat of harm, Employment Services' liaison advisors work sensitively with each victim, with empathy and compassion, and, for example, they discuss wider needs for support including eg. accommodation and counselling, and supporting the individual to access these services.



***Has the Ministry done any work to consider amending the Prostitution Reform Act, to make it lawful for migrants who are entitled to work in New Zealand to work as sex workers?***

The Ministry has not undertaken any policy work to consider whether the Prostitution Reform Act should be amended to allow migrants entitled to work in New Zealand to work as sex workers.

The current settings under the Prostitution Reform Act 2003 (PRA) were intended to support its general “harm reduction” emphasis. The PRA aims to protect vulnerable people by establishing a minimum age and requiring that only citizens or certain permanent residents can provide commercial sexual services (or manage or invest in the provision of commercial sexual services).

This is intended to remove any incentive for vulnerable or potentially vulnerable people who could face a greater risk of being trafficked (for reasons of socio-economic status, lack of English proficiency, or lack of understanding of the New Zealand legal environment for example) from entering New Zealand for the purpose of providing commercial sexual services.

I hope this helps.

Regards,

Andy Beaufort  
SENIOR POLICY ADVISOR

International Labour Policy, Workplace Relations and Safety Policy  
Ministry of Business, Innovation & Employment

Andy.Beaufort@mbie.govt.nz | Telephone: s 9(2)(a)  
15 Stout Street, Wellington

NZBN 9429000106078



**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HĪKINA WHAKATUTUKI

## Josephine Li

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**From:** Andy Beaufort  
**Sent:** Thursday, 29 September 2022 3:03 pm  
**To:** Christine Hyndman; Rebecca Kingi  
**Cc:** Claire Owens; Patrick Gibson; Paramita Turner  
**Subject:** RE: Response to petition relating to section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

One tweak:

*(Migrant sex workers would not qualify for MEPVs, as they will not hold relevant work visas.)*

Ngā mihi,

Andy Beaufort  
SENIOR POLICY ADVISOR

International Labour Policy, Workplace Relations and Safety Policy  
Ministry of Business, Innovation & Employment

[Andy.Beaufort@mbie.govt.nz](mailto:Andy.Beaufort@mbie.govt.nz) | Telephone: s 9(2)(a)

15 Stout Street, Wellington

NZBN 9429000106078

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**From:** Christine Hyndman <Christine.Hyndman@mbie.govt.nz>  
**Sent:** Thursday, 29 September 2022 2:56 pm  
**To:** Andy Beaufort <Andy.Beaufort@mbie.govt.nz>; Rebecca Kingi <Rebecca.Kingi@mbie.govt.nz>  
**Cc:** Claire Owens <Claire.Owens@mbie.govt.nz>; Patrick Gibson <Patrick.Gibson@mbie.govt.nz>; Paramita Turner <Paramita.Turner@mbie.govt.nz>  
**Subject:** RE: Response to petition relating to section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

OK, how is this? (I have said "unlikely" as who knows, someone might be on a visa for hospo work and be being encouraged to work in the sex industry as part of that.)

*The government has invested significantly into combatting migrant exploitation in New Zealand. Decisions in March 2020 established a package of legislative, policy and operational changes aimed at prevention, protecting victims and improving reporting, and strengthening the offence and penalty regime to deter and penalise non-compliant employers.*

*Measures already established include a Freefone number to report exploitation in addition to an open temporary work visa to support certain temporary migrant workers to leave exploitative employment. Legislation enhancing the enforcement regime to address offending has just been introduced. As at the date of writing, more than 150 individuals have been granted Migrant Exploitation Protection (MEPV) work visas. (Migrant sex workers are unlikely to qualify for MEPVs, as they will not hold relevant work visas.)*

*This package complements existing measures to address the risk of migrant trafficking, which include specialised visa products and interagency protocols for sensitively managing victims. Some individuals who are identified as victims of trafficking have access to residence, if they meet the criteria established under the Victims of Trafficking Policy, including that they are certified as victims by the Police. This is independent of any prosecution action taken or not taken against perpetrators (who may be offshore). Since the policy was established, 96 principal applicants have been approved for Victims of Trafficking work visas and 15 principal applicants have approved for resident visas.*

At the date of drafting, one report of exploitation relating to a migrant sex worker had been received via the Freefone number, and officials operating in the area report that understanding of the measures is gradually growing within the migrant community.

Officials also note that the standard employment minima (including the provisions of the Employment Relations Act 2000, the minimum wage, holiday pay and sick leave) apply to all persons working in New Zealand even if they do not hold a relevant visa, as does the Health and Safety at Work Act 2015. The Labour Inspectorate can and does enforce the payment of wage arrears on behalf of unlawful workers.<sup>[1]</sup>

People who are working outside their visa conditions may be reluctant to report breaches of labour standards, but as the existence of the reporting pathways, liaison services and migrant exploitation visa becomes more well known, individuals working unlawfully (including individuals providing commercial sexual services) may become more aware of their rights and their ability to seek to enforce them.

Footnote: See for example the Employment Court judgement at [Labour Inspector of the Ministry of Business, Innovation and Employment v New Zealand Fusion International Limited \[2019\] NZEmpC 181 \(11 December 2019\) \(nzlii.org\)](#)

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From: Andy Beaufort <[Andy.Beaufort@mbie.govt.nz](mailto:Andy.Beaufort@mbie.govt.nz)>  
Sent: Thursday, 29 September 2022 2:47 pm  
To: Christine Hyndman <[Christine.Hyndman@mbie.govt.nz](mailto:Christine.Hyndman@mbie.govt.nz)>; Rebecca Kingi <[Rebecca.Kingi@mbie.govt.nz](mailto:Rebecca.Kingi@mbie.govt.nz)>  
Cc: Claire Owens <[Claire.Owens@mbie.govt.nz](mailto:Claire.Owens@mbie.govt.nz)>; Patrick Gibson <[Patrick.Gibson@mbie.govt.nz](mailto:Patrick.Gibson@mbie.govt.nz)>; Paramita Turner <[Paramita.Turner@mbie.govt.nz](mailto:Paramita.Turner@mbie.govt.nz)>  
Subject: RE: Response to petition relating to section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

One more thought from me, I do think we just need to be more explicit at the bottom that those here offering commercial sexual services aren't eligible for the MEPV – after rechecking the criteria, it's very, very specific on that s 9(2)(g)(i)

Regards,

Andy Beaufort  
SENIOR POLICY ADVISOR  
International Labour Policy, Workplace Relations and Safety Policy  
Ministry of Business, Innovation & Employment

[Andy.Beaufort@mbie.govt.nz](mailto:Andy.Beaufort@mbie.govt.nz) | Telephone: s 9(2)(a)  
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NZBN 9429000106078

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From: Christine Hyndman <[Christine.Hyndman@mbie.govt.nz](mailto:Christine.Hyndman@mbie.govt.nz)>  
Sent: Thursday, 29 September 2022 2:41 pm  
To: Rebecca Kingi <[Rebecca.Kingi@mbie.govt.nz](mailto:Rebecca.Kingi@mbie.govt.nz)>; Andy Beaufort <[Andy.Beaufort@mbie.govt.nz](mailto:Andy.Beaufort@mbie.govt.nz)>  
Cc: Claire Owens <[Claire.Owens@mbie.govt.nz](mailto:Claire.Owens@mbie.govt.nz)>; Patrick Gibson <[Patrick.Gibson@mbie.govt.nz](mailto:Patrick.Gibson@mbie.govt.nz)>; Paramita Turner <[Paramita.Turner@mbie.govt.nz](mailto:Paramita.Turner@mbie.govt.nz)>  
Subject: RE: Response to petition relating to section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

I was thinking about eg this [Exploitation of migrant workers heavily penalised | Centre for Labour, Employment, and Work | Victoria University of Wellington \(wgtn.ac.nz\)](#) – I'll look for the case so I can footnote it

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From: Christine Hyndman  
Sent: Thursday, 29 September 2022 2:25 pm  
To: Rebecca Kingi <[Rebecca.Kingi@mbie.govt.nz](mailto:Rebecca.Kingi@mbie.govt.nz)>; Andy Beaufort <[Andy.Beaufort@mbie.govt.nz](mailto:Andy.Beaufort@mbie.govt.nz)>  
Cc: Claire Owens <[Claire.Owens@mbie.govt.nz](mailto:Claire.Owens@mbie.govt.nz)>; Patrick Gibson <[Patrick.Gibson@mbie.govt.nz](mailto:Patrick.Gibson@mbie.govt.nz)>; Paramita Turner

<[Paramita.Turner@mbie.govt.nz](mailto:Paramita.Turner@mbie.govt.nz)>

**Subject:** RE: Response to petition relating to section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

Kia ora colleagues – this is great.

I haven't had any comments from Employment Services – and I wasn't wanting to give the impression (eek) that the LI enforces conditions for migrant sex workers, just that they do for migrant workers otherwise. I will make sure that is clearer. Given the preponderance of "self-employment" / "contract" work I suspect that even NZ sex workers would have issues with enforcement as there seem to be very few actual EMPLOYMENT relationships nowadays.

Do you have TIP visa numbers to hand perchance?

Thank you all!

Ngā mihi

Christine

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**From:** Rebecca Kingi <[Rebecca.Kingi@mbie.govt.nz](mailto:Rebecca.Kingi@mbie.govt.nz)>

**Sent:** Thursday, 29 September 2022 2:20 pm

**To:** Andy Beaufort <[Andy.Beaufort@mbie.govt.nz](mailto:Andy.Beaufort@mbie.govt.nz)>; Christine Hyndman <[Christine.Hyndman@mbie.govt.nz](mailto:Christine.Hyndman@mbie.govt.nz)>

**Cc:** Claire Owens <[Claire.Owens@mbie.govt.nz](mailto:Claire.Owens@mbie.govt.nz)>; Patrick Gibson <[Patrick.Gibson@mbie.govt.nz](mailto:Patrick.Gibson@mbie.govt.nz)>; Paramita Turner <[Paramita.Turner@mbie.govt.nz](mailto:Paramita.Turner@mbie.govt.nz)>

**Subject:** RE: Response to petition relating to section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

Thanks Christine. All looks good except I was going to highlight the same section as Andy!

Also with the caveat I haven't reviewed/commented on the standard employment minima and whether the Labour Inspectorate does enforcement in the context of migrant workers in the commercial sex industry as I assume our colleagues from employment services etc have provided information about this. It isn't something we have seen within the TIP space but given our criminal exploitation focus as opposed to civil it may not feed into our interagency TIP operational reporting.

Also we have had confirmation you can use the TIP visa numbers if you want to 😊

Ngā mihi nui,

**Rebecca Kingi** (she/her)

Senior Advisor – Trafficking in Persons

---

**From:** Andy Beaufort <[Andy.Beaufort@mbie.govt.nz](mailto:Andy.Beaufort@mbie.govt.nz)>

**Sent:** Thursday, 29 September 2022 2:14 pm

**To:** Christine Hyndman <[Christine.Hyndman@mbie.govt.nz](mailto:Christine.Hyndman@mbie.govt.nz)>; Rebecca Kingi <[Rebecca.Kingi@mbie.govt.nz](mailto:Rebecca.Kingi@mbie.govt.nz)>

**Cc:** Claire Owens <[Claire.Owens@mbie.govt.nz](mailto:Claire.Owens@mbie.govt.nz)>; Patrick Gibson <[Patrick.Gibson@mbie.govt.nz](mailto:Patrick.Gibson@mbie.govt.nz)>; Paramita Turner <[Paramita.Turner@mbie.govt.nz](mailto:Paramita.Turner@mbie.govt.nz)>

**Subject:** RE: Response to petition relating to section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

Hi Christine,

One small suggestion below in red. I think it's better to focus on the wider package of changes and not just the MEPV as an incentive for people to report exploitation.

Re expanding the eligibility of the MEPV, there will be an evaluation of the MEPV alongside the other changes that came from the Review in 2023 – so it is something that might arise as an issue then. My first thoughts are that it's a

tricky one and would come down to the specifics of the situation. In cases where someone has been quite clearly forced into it by their employer, they might be better served by the trafficking provisions. If it's more a case where someone actively knew, consented and participated, then I think they wouldn't be eligible for the MEPV as it's meant to be for those here lawfully with a lawful job offer, etc. If say in theory there were reforms to the PRA and someone specifically came into the country on an assisted visa, then the MEPV would be appropriate.

Ngā mihi,

Andy Beaufort  
SENIOR POLICY ADVISOR

International Labour Policy, Workplace Relations and Safety Policy  
Ministry of Business, Innovation & Employment

[Andy.Beaufort@mbie.govt.nz](mailto:Andy.Beaufort@mbie.govt.nz) | Telephone: s 9(2)(a)

15 Stout Street, Wellington

NZBN 9429000106078

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From: Christine Hyndman <[Christine.Hyndman@mbie.govt.nz](mailto:Christine.Hyndman@mbie.govt.nz)>

Sent: Thursday, 29 September 2022 1:44 pm

To: Rebecca Kingi <[Rebecca.Kingi@mbie.govt.nz](mailto:Rebecca.Kingi@mbie.govt.nz)>

Cc: Claire Owens <[Claire.Owens@mbie.govt.nz](mailto:Claire.Owens@mbie.govt.nz)>; Andy Beaufort <[Andy.Beaufort@mbie.govt.nz](mailto:Andy.Beaufort@mbie.govt.nz)>; Patrick Gibson <[Patrick.Gibson@mbie.govt.nz](mailto:Patrick.Gibson@mbie.govt.nz)>; Paramita Turner <[Paramita.Turner@mbie.govt.nz](mailto:Paramita.Turner@mbie.govt.nz)>

Subject: RE: Response to petition relating to section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

Thank you! I may (well) have misunderstood the reference to the complaint (ie I thought I heard that a visa had been granted but I could easily have been wrong!) And I do think it would be worthwhile considering whether the MEPV policy scope is wide enough, as it would nice to have the ability to consider people in this position. Although of course we also don't want to look as though we are back door encouraging people to work unlawfully as sex workers here ... such a complex area of incentives and disincentives, BUT victim protection should still be the fundamental objective.

How do you feel about the adjusted wording below? It skirts over the fact that seeking discounted services, based on a threat to do an unlawful worker in, does not actually engage the migrant exploitation provisions, as the client is not an employer. Still we might as well reinforce that there is lots going on.

The government has initiated activity to address migrant exploitation more generally

The government has invested significantly into combatting migrant exploitation in New Zealand. Decisions in March 2020 established a package of legislative, policy and operational changes aimed at prevention, protecting victims and improving reporting, and strengthening the offence and penalty regime to deter and penalise non-compliant employers.

Measures already established include a Freephone number to report exploitation in addition to an open temporary work visa to support certain temporary migrant workers to leave exploitative employment. Legislation enhancing the enforcement regime to address offending has just been introduced.

These complement existing measures to address the risk of migrant trafficking, which include specialised visa products and interagency protocols for sensitively managing victims. Some individuals who are identified as victims of trafficking have access to residence, if they meet the criteria established under the Victims of Trafficking Policy, including that they are certified as victims by the Police. This is independent of any prosecution action taken or not taken against perpetrators (who may be offshore).

At the date of drafting, one report of exploitation relating to a migrant sex worker had been received via the Freefone number, and officials operating in the area report that understanding of the measures is gradually growing within the migrant community.

Officials also note that the standard employment minima (including the provisions of the Employment Relations Act 2000, the minimum wage, holiday pay and sick leave) apply to all persons working in New Zealand even if they do not hold a relevant visa, as does the Health and Safety at Work Act 2015. The Labour Inspectorate can and does enforce the payment of wage arrears on behalf of unlawful workers.

People who are working outside their visa conditions may be reluctant to report breaches of labour standards, but as the existence of the **reporting pathways, liaison services and** migrant exploitation visa becomes more well known, individuals working unlawfully (including individuals providing commercial sexual services) may become more aware of their rights and their ability to seek to enforce them.

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**From:** Rebecca Kingi <[Rebecca.Kingi@mbie.govt.nz](mailto:Rebecca.Kingi@mbie.govt.nz)>

**Sent:** Thursday, 29 September 2022 12:06 pm

**To:** Christine Hyndman <[Christine.Hyndman@mbie.govt.nz](mailto:Christine.Hyndman@mbie.govt.nz)>

**Cc:** Claire Owens <[Claire.Owens@mbie.govt.nz](mailto:Claire.Owens@mbie.govt.nz)>; Andy Beaufort <[Andy.Beaufort@mbie.govt.nz](mailto:Andy.Beaufort@mbie.govt.nz)>

**Subject:** RE: Response to petition relating to section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

Hi Christine

Please find attached some comments from the TIP team. I have also run our comments past Andy and we have a question for you in relation to the visa that was granted (detail in the document).

We are waiting for confirmation about whether the figure regarding the trafficking visas can be released externally in the event you wanted to include them, so will let you know later today when we have an answer.

Thank you for your efforts! Do let me know if you have any follow up questions for us.

Ngā mihi nui,

**Rebecca Kingi** (she/her)

Senior Advisor – Trafficking in Persons

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**From:** Christine Hyndman <[Christine.Hyndman@mbie.govt.nz](mailto:Christine.Hyndman@mbie.govt.nz)>

**Sent:** Wednesday, 28 September 2022 7:09 pm

**To:** Ari Overmars <[Ari.Overmars@mbie.govt.nz](mailto:Ari.Overmars@mbie.govt.nz)>; Chloe Ballagh <[Chloe.Ballagh@mbie.govt.nz](mailto:Chloe.Ballagh@mbie.govt.nz)>; Neville Menezes

<[Neville.Menezes@mbie.govt.nz](mailto:Neville.Menezes@mbie.govt.nz)>; Angela Vinsen <[angela.vinsen@mbie.govt.nz](mailto:angela.vinsen@mbie.govt.nz)>; Fraser Richards

<[Fraser.Richards@mbie.govt.nz](mailto:Fraser.Richards@mbie.govt.nz)>; Louisa Coxon <[Louisa.Coxon@mbie.govt.nz](mailto:Louisa.Coxon@mbie.govt.nz)>; Paramita Turner

<[Paramita.Turner@mbie.govt.nz](mailto:Paramita.Turner@mbie.govt.nz)>; Andy Beaufort <[Andy.Beaufort@mbie.govt.nz](mailto:Andy.Beaufort@mbie.govt.nz)>; James Newbould

<[James.Newbould@mbie.govt.nz](mailto:James.Newbould@mbie.govt.nz)>; Travis Benson <[Travis.Benson@mbie.govt.nz](mailto:Travis.Benson@mbie.govt.nz)>; Graeme Jewell

<[Graeme.Jewell@mbie.govt.nz](mailto:Graeme.Jewell@mbie.govt.nz)>; Amy Turner <[Amy.Turner@mbie.govt.nz](mailto:Amy.Turner@mbie.govt.nz)>; Neville Menezes

<[Neville.Menezes@mbie.govt.nz](mailto:Neville.Menezes@mbie.govt.nz)>; Kirsty Hutchison <[Kirsty.Hutchison@mbie.govt.nz](mailto:Kirsty.Hutchison@mbie.govt.nz)>; Claire Owens

<[Claire.Owens@mbie.govt.nz](mailto:Claire.Owens@mbie.govt.nz)>; Rebecca Kingi <[Rebecca.Kingi@mbie.govt.nz](mailto:Rebecca.Kingi@mbie.govt.nz)>; Marieke Jasperse

<[Marieke.Jasperse@mbie.govt.nz](mailto:Marieke.Jasperse@mbie.govt.nz)>; Patrick Gibson <[Patrick.Gibson@mbie.govt.nz](mailto:Patrick.Gibson@mbie.govt.nz)>

**Cc:** Simon Chan <[Simon.Chan@mbie.govt.nz](mailto:Simon.Chan@mbie.govt.nz)>; Emma Kindl <[Emma.Kindl@mbie.govt.nz](mailto:Emma.Kindl@mbie.govt.nz)>; Amanda Mehrtens

<[Amanda.Mehrtens@mbie.govt.nz](mailto:Amanda.Mehrtens@mbie.govt.nz)>; Jacqui Taylor <[Jacqueline.Taylor@mbie.govt.nz](mailto:Jacqueline.Taylor@mbie.govt.nz)>; Anne Williams

<[Anne.Williams@mbie.govt.nz](mailto:Anne.Williams@mbie.govt.nz)>

**Subject:** Response to petition relating to section 19 of the Prostitution Reform Act 2003 [IN-CONFIDENCE]

Kia ora colleagues

Some of you may recall my plaintive requests for information for this petition response. Thank you very much indeed for all of the assistance and information I have received. I now have a near final draft which is aiming for

signature out to the Minister tomorrow s 9(2)(g)(i)

I have included a lot of information in this – **IS IT ALL OK FOR RELEASE?** This will be published on the Parliamentary website in full eventually.

s 9(2)(g)(i)

**Is anything I have said about INZ activity incorrect?** There is quite a bit of “currently” wording – in particular, that MBIE is receiving complaints and triaging them but not actively going out and chasing people in breach of s.19 down. Is that right?

Finally – have I missed anything out or misrepresented anything else?

If I could have any comments back by midday I would be HUGELY appreciative.

Nāku noa, nā

**Christine Hyndman**

PRINCIPAL POLICY ADVISOR | KAITOHUTOHU TINO

Immigration Policy – Labour, Science and Enterprise Group | Te Wāhanga Kaupapa-ā-Manene – Te Pūnaha Hiringa Whakaea  
Ministry of Business, Innovation & Employment | Te Manatū Pakihi, Auahatanga me Ngā Kaupapa ā-Mahi

Email - Īmera: [christine.hyndman@mbie.govt.nz](mailto:christine.hyndman@mbie.govt.nz) | DDI – Waea Tōtika: s 9(2)(a) | Mobile – Waea Pūkoro: s 9(2)(a)  
| Website – Pae-ipurangi: [www.mbie.govt.nz](http://www.mbie.govt.nz) | Postal – Poutāpeta: 15 Stout Street, PO Box 1473, Wellington 6145

NZBN 9429000106078



**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HĪKINA WHAKATUTUKI

<sup>[1]</sup> See for example the Employment Court judgement at [Labour Inspector of the Ministry of Business, Innovation and Employment v New Zealand Fusion International Limited \[2019\] NZEmpC 181 \(11 December 2019\) \(nzlii.org\)](#)

## Josephine Li

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**From:** Christine Hyndman  
**Sent:** Thursday, 29 September 2022 4:21 pm  
**To:** Craig Pontifex; Chris Holland (Parliament); Mark Andrew  
**Cc:** Kirsty Hutchison; Anne Williams  
**Subject:** Draft response to request for comment on petition of Pandora Black [IN-CONFIDENCE]  
**Attachments:** MBIE Submission on the petition of Pandora Black.docx

Kia ora colleagues

Please find attached a draft letter providing comment from MBIE to the Education and Workforce Committee on the petition of Pandora Black seeking the repeal of section 19 of the Prostitution Reform Act 2003.

If the office has any comments, we would welcome them by close of play next Thursday 6 October if possible, as the response is due on Friday 7 October 2022.

Nāku noa, nā

### Christine Hyndman

PRINCIPAL POLICY ADVISOR | KAITOHUTOHU TINO

Immigration Policy – Labour, Science and Enterprise Group | Te Wāhanga Kaupapa ā-Manene – Te Pūnaha Hiringa Whakaea  
Ministry of Business, Innovation & Employment | Te Manatū Pakihi, Auahatanga me Ngā Kaupapa ā-Mahi

**Email - Īmera:** [christine.hyndman@mbie.govt.nz](mailto:christine.hyndman@mbie.govt.nz) | **DDI – Waea Tōtika** s 9(2)(a) | **Mobile – Waea Pūkoro:** s 9(2)(a)  
| **Website – Pae-ipurangi:** [www.mbie.govt.nz](http://www.mbie.govt.nz) | **Postal – Poutāpeta:** 15 Stout Street, PO Box 1473, Wellington 6145

NZBN 9429000106078



**MINISTRY OF BUSINESS,  
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HĪKINA WHAKATUTUKI



## Josephine Li

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**From:** Josephine Li  
**Sent:** Monday, 24 July 2023 4:26 pm  
**To:** Josephine Li  
**Subject:** RE: FYI comms: MBIE comms re Calendar Girls labour rights issue [IN-CONFIDENCE]

---

**From:** Mary Direen  
**Sent:** Wednesday, 22 February 2023 2:55 pm  
**To:** Anna Clark (GM WRSP) <[Anna.Clark2@mbie.govt.nz](mailto:Anna.Clark2@mbie.govt.nz)>  
**Cc:** Astrid Smeele <[Astrid.Smeele@mbie.govt.nz](mailto:Astrid.Smeele@mbie.govt.nz)>; Charlotte de Feijter <[Charlotte.deFeijter@mbie.govt.nz](mailto:Charlotte.deFeijter@mbie.govt.nz)>; Divya Unnikrishnan <[Divya.Unnikrishnan@mbie.govt.nz](mailto:Divya.Unnikrishnan@mbie.govt.nz)>  
**Subject:** FYI comms: MBIE comms re Calendar Girls labour rights issue [IN-CONFIDENCE]

Kia ora Anna

Just sharing some lines that say across Te Whakatairanga and WRSP to support the Minister with any initial media queries.

Ngā mihi nui  
Mary

**Mary Direen** (she/her)

Team Leader (Labour, Science and Enterprise)  
Engagement, Communications and Ministerial Services  
Ngā Pou o te Taumaru  
Ministry of Business, Innovation & Employment

[Mary.Direen@mbie.govt.nz](mailto:Mary.Direen@mbie.govt.nz) Mob: s 9(2)(a) DDI: s 9(2)(a) Level 4, 15 Stout Street, PO Box 6140, Wellington 6011, New Zealand.

*Please note, I work Monday - Thursday.*

---

**From:** Divya Unnikrishnan <[Divya.Unnikrishnan@mbie.govt.nz](mailto:Divya.Unnikrishnan@mbie.govt.nz)>  
**Sent:** Wednesday, 22 February 2023 12:54 pm  
**To:** Travis Mills <[Travis.Mills@parliament.govt.nz](mailto:Travis.Mills@parliament.govt.nz)>; Zach Boyle (Parliament) <[zachary.boyle@parliament.govt.nz](mailto:zachary.boyle@parliament.govt.nz)>  
**Cc:** Mary Direen <[Mary.Direen@mbie.govt.nz](mailto:Mary.Direen@mbie.govt.nz)>; Liv Guthrie <[Liv.Guthrie@mbie.govt.nz](mailto:Liv.Guthrie@mbie.govt.nz)>; Arpan Mukherjee <[Arpan.Mukherjee@mbie.govt.nz](mailto:Arpan.Mukherjee@mbie.govt.nz)>  
**Subject:** RE: MBIE comms re Calendar Girls labour rights issue [IN-CONFIDENCE]

Kia ora koutou

Please find attached some lines re the Calendar Girls issue. This is still being confirmed by Labour Inspectorate but we are confident lines are appropriate as its gone through Policy.

Ngā mihi

**Divya Unnikrishnan** (She / her)

TEAM LEADER, ENGAGEMENT AND COMMUNICATIONS

Te Whakatairanga Service Delivery | Ngā Pou o te Taumaru  
Ministry of Business, Innovation and Employment

[Divya.Unnikrishnan@mbie.govt.nz](mailto:Divya.Unnikrishnan@mbie.govt.nz) | Mobile: s 9(2)(a)



Sector – Sex work – 24.3.23

1. Met with PC on Tuesday on worksafe referral
2. Wanted to check on their issues – stemmed from 19 dancers at Calendar girls
3. Penalty clauses in the industry of concern. \$100 fine for holes in stalkings.
4. Had issues with EEs or contractors – Need to look as a sector – NZPC quite frustrated.
5. They feel they have been let down. Set up a sector strategy but not as LI.
6. This is the start of the group running it. Shaurya – sector strategy lead from our side.
7. Meet them yourselves – who from I&E will come on board. Consumer part of MB teaching businesses how to run businesses.
8. Feel your way through it. How we can use different systems to bring changes.
9. Its not across the industry – older clubs and ERs who run it that way. Tell them about how to make a complaint – DR an option – Health and Safety then worksafe.
10. Richard Prosser – INZ – anti immigration
11. Will bring them in if needed due to NZPCs view on this
12. Pele – high degree of frustration – Emp conditions – exploitative.
13. Move towards employee model? Not quite –
14. Get measure of the problems – Moving to larger scale type investigation thing.
15. Upskilling them to understand their rights and obligations

2 dancers tried to produce they were employees – ERA rejected that. We werent involved. Collective wasn't involved. Not a legal precedent – another case could go the other way. 2 yrs ago

Right no 19 people come forward r the dancers.

Power lobby group – meet as a group – Dame Catherine Healy – Anna and Patricia Morgan. Hear from them as to what issues they are facing – talk to them about what your next steps are.

Look at the complaints lodged with the collective. Multi-faceted approach and see what works best.

Initial stage as I see if to work with I&E to work with both ERs and Dancers to support their concerns and advice.

Worksafe - If complaint raised – WS want to respond in a diff way – mental health a focus.

Intel products – get a product around the system. Sector scan. Successful tribunal cases.

Next move – Set the group up – will include in the email – arrange a meeting with intro. Suck in a whole lot of info.

They offered to send us a number of reports – Sex industry is overstudied because its legal – ton of studies by academics.

Shaurya – lead the group.

#### Meeting 17.4.23

1. Thanks for making yourselves available today.
2. Start with round of introductions again as our last one was a few weeks ago.
3. Purpose from LI end is one to facilitate discussion between NZPC and parts of regulatory sector so we can 1 understand your expectations and what your objectives are. And then we can look at ways in which we can support you reaching those objectives.
4. I have had a look at Dr Nesdale's slides and some other material so we have an understanding already but would be keen for you to outline to us where things are at currently, how your members are doing and some of your main concerns that you'd like addressed as a good starting point.
5. Some complaints have been lodged with you and keen to hear more about those complaints

#### NZPC:

1. National organisation – Fired up strippers. We are a separate org to them. Carry some of their concerns. Talking across all sectors.
2. Historically – situation in a brothel – gun violence – seem to be no response – situation like that had occurred. Reach out
3. We have tried different ways – pressing concerns that keeping cropping up.
4. Forcing sex workers to stay at work – violence –
5. Outed to friends of family – fines and bonds – had meeting with police.
6. Other orgs that can get involved –

Q.

1. Have you received direct complaints from your members.

Whats steps have you taken

Challenging for them – part of a culture – can be complex – worksafe / LI. Had a relationship with OSH.

Forced to do – unreasonable.

How do the brothels etc operate? Money is taken off sex workers.

Disputes over money – Sat in one hearing – adjudicators – prostitution reform act – ruling favoured brother operator –

Looks like I&E – would that help?

Tell us about the general operating models of brothers or clubs where they work –

Have you laid any individual complaints with govt agencies – or currently have any complaints that we can look at?

What has been the attitude of employers when some of these matters have been raised?

Big clubs attractive to sex workers.

HR tribunal have taken good steps – addressed effectively – demise of those operators.

Femfatale – handed over – it was criminal. Need another notification.

Learning process – around where health and safety falls.

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT

**LABOUR INSPECTOR-NZPC-WORKSAFE MEETING**

<b>DATE / TIME:</b>	11/04/23 @ 13:00-1400
<b>ATTENDEES:</b>	Shaurya Malaviya-Regional Manager Wellington, Labour Inspectorate; Kevin Finnegan-Specialist Investigator, Labour Inspectorate; Judy Dell-Principal Mediator, Dispute Resolution; Paul Stowers-Mediator, Dispute Resolution; Dame Catherine Healy-National Coordinator NZPC; Patricia Morgan-National Research and Education Officer for NZPC; Lisa Ducat- Worksafe; Anna Pickering-NZPC
<b>SECRETARIAT:</b>	Joyce Rodrigo

<b>ACTION POINTS</b>	<ul style="list-style-type: none"> <li>• Any situation where you got someone who would like to be seen as an employee and if they ask NZPC for help, that's something that Labour Inspector can assist with. We can help determine if relationship is employment or contractual.</li> <li>• Labour Inspector &amp; Work Safe to engage with operators for some information and educational work with</li> <li>• NZPC to share the list of employers that has the most impact.</li> </ul>		
<b>DISCUSSION POINTS</b>			
<b>NZPC</b>	<ul style="list-style-type: none"> <li>• Brought up concern about the safety of the sex workers as there were issues in the past in a brothel that there was gun violence and criminal charges has been laid and that there was no response to the workers' safety.</li> <li>• Have been trying to address the issues over the years.</li> <li>• Have been in touch with the NZ police and they asked if there are any other organizations that could support sex workers and their safety which initiated NZPC to get in contact with Work Safe and since then have been waiting on the Labour Inspectors and Work Safe to take over the safety of the sex workers.</li> <li>• Issue about wage theft has been raised. Money is taken from sex workers.</li> <li>• Sex workers are still facing a lot of stigma and discrimination and can affect their mental health.</li> <li>• Were there any specific or direct complaints to NZPC and has it been directed to Labour Inspector or Work Safe? Yes, and has been reported to Work Safe and got no answer and informed to club management.</li> <li>• In terms of concerns, has this been raised with employer?             <ul style="list-style-type: none"> <li>➢ Employer normally don't engage. It can be difficult for contractors to communicate with PCBU operator of business. Some premises in Adult Industry (brothels, strip clubs, massage premises etc.) do have coercive practices of workplace bullying and exploitation in reference to labour practices. It is common for workers to be told in their workplaces that the contractor will be fired and blocked from working at other premises.</li> </ul> </li> </ul>		

**MBIE/WORK  
SAFE**

- Is there only few operating abusively like this or does it happen across the board?
  - The bigger the club the more abusive they are. There are some that are good.
- Dispute resolution has been involved in some cases in resolving these kinds of issues. We can be more involved if there is employee relationship.
- Dispute resolution clarified that mediation is voluntary. Either party can choose to not engage.
- Why do sex workers prefer contractor status?
  - Have thought about employer and employee but there is resistance and concern as sex workers want bodily autonomy.
- Are the instances that there is good engagement?
  - Small clubs mostly they feel safe.
- What would make them behave differently?
  - If the Labour Inspector or and work safe can be proactive and look at safety standards. They want to know that they are being watched but it's not happening currently.
- LI offered to run through information and education, mediation or work safe matters through workshops where workers can be told about employment relations act and what it is being an employee or contractor and let them know that if they need to raise concerns on how to come and approach us directly.
  - NZPC outlined that they are hoping that we would work with employers and not the sex workers.
- Works Safe-When an individual notification comes through it is more often seen as an employment issue or another issue in another department rather than H&S issue. Bullying and harassment is new to the H&S sector but working on it.
- Labour Inspectorate said rights go across whether you are an employee or contractor. As an employee your rights are governed by ERA but equally as a contractor your rights are covered by the contract and laws surrounding contract operation that also affords protection to parties.
- LI said we can do some education for operators. We can't take legal action or compliance actions unless there is an employment relationship.
  - They don't want to be employees but there is awareness of being a contractor and an employee.
- Labour Inspectors work on employments relations act, holidays act and wage protection mostly.
- Work Safe-does education, engagement, and enforcement.
- Next step – LI will work with their education and information teams and develop and engagement plans with some operators.

**NEXT MEETING**

6-8 weeks TBA

## Josephine Li

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**From:** Josephine Li  
**Sent:** Tuesday, 25 July 2023 10:22 am  
**To:** Josephine Li  
**Subject:** FW: Final\_MO Calendar Girls employment dispute.docx [UNCLASSIFIED]  
**Attachments:** Final\_MO Calendar Girls employment dispute.docx

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**From:** Liv Guthrie <[Liv.Guthrie@mbie.govt.nz](mailto:Liv.Guthrie@mbie.govt.nz)>  
**Sent:** Thursday, 20 April 2023 5:01 pm  
**To:** Dylan Moran <[Dylan.Moran@worksafe.govt.nz](mailto:Dylan.Moran@worksafe.govt.nz)>  
**Cc:** Lydia Jackson <[Lydia.Jackson@mbie.govt.nz](mailto:Lydia.Jackson@mbie.govt.nz)>; Mary Direen <[Mary.Direen@mbie.govt.nz](mailto:Mary.Direen@mbie.govt.nz)>; Arpan Mukherjee <[Arpan.Mukherjee@mbie.govt.nz](mailto:Arpan.Mukherjee@mbie.govt.nz)>  
**Subject:** Final\_MO Calendar Girls employment dispute.docx

Kia ora Dylan,

Trust you are well.

Following the MO catch up earlier this week, we've updated the key messages for Minister Wood re progress on the Fired Up Stilettoes and NZPC meeting.

Do you have anything further to add in from WorkSafe? If you could let me know by lunchtime tomorrow, that would be very much appreciated – so we can get this over to the MO before the weekend!

More than happy to chat.

Ngā mihi  
Liv

**Olivia Guthrie** (*Liv - she/her*)  
SENIOR COMMUNICATIONS AND ENGAGEMENT ADVISOR

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20 April 2023

## Lines for Minister Wood

**Media story:** [Calendar Girls dancers take employment campaign to Parliament | RNZ News.](#)

**Request:** Back-pocket lines in the event that the MO receive some questions about this issue.

The Government wants to ensure that all workers in New Zealand have access to decent work conditions and fair pay. There are different ways people can be employed in New Zealand, some people miss out on the choice and flexibility associated with self-employment, and others from the legal protections afforded to employees.

We are sympathetic to the reported treatment of the 19 dancers at Calendar Girls'. Every employee in New Zealand has the right to negotiate their employment agreement or contract with their employer, in good faith.

### **Fired Up Stiletto**

Contractors are self-employed and earn income by invoicing the principal or business owner for their services. Because of this, many do not have an employment relationship and, except for the provision of dispute resolution services, are not covered by the Employment Relations Act. A contract for service between a self-employed contractor and business owner may contain clauses about notice periods to cancel shifts or end the contract, so depending on the terms of the contract in this case, the judiciary has the power to identify if a breach/breaches have happened, and we would encourage the Fired-Up Stiletto Group to seek legal advice.

MBIE offers dispute resolution to people in employment-like situations, including those working as contractors. If both parties agree, then mediation services can help resolve the situation. Mediation services can be accessed via 0800 20 90 20 or by filling out this form [earlyresolution.employment.govt.nz](https://earlyresolution.employment.govt.nz) (<https://earlyresolution.employment.govt.nz/>).

### **New Zealand Prostitutes Collective (NZPC)**

Employment Services and WorkSafe met with representatives from the New Zealand Prostitutes Collective (NZPC) on 17 April. Employment Services and WorkSafe offered to provide support for NZPC members raising concerns with certain operators, and to provide information and education on the rights of workers and their obligations as good operators, including how to access dispute resolution services.

### **Better Protection for Contractors**

The Government has been progressing work on better protections for contractors. The Government is considering next steps on the working group's recommendations.

You can access work to date, including submissions to the previous consultation here:

<https://www.mbie.govt.nz/have-your-say/better-protections-for-contractors/>

**More detail if needed:**

- In 2021, the Government formed a tripartite working group to review options for improving the working conditions of contractors, Tripartite Working Group on Better Protections for Contractors. The working group delivered its report to me at the end of 2021.
- The group noted that in some industries contracting arrangements were used in a way that leaves workers vulnerable to poor working conditions, and recommended that the government design clearer legislation on the distinction between employment and contracting.
- The Government is considering next steps on the working group's recommendations.

### **Employee versus contractor**

There are many differences between contractors and employees that affect the rights and responsibilities of the organisation and the employee.

Employment law provides protection and minimum rights for employees. Those workers who are contractors are not currently covered by those protections.

In this case, the way that the dancers appear to have been dismissed would not be legal for employees, but if the dancers have been correctly classified as contractors, then they are not covered by employment law. If a dancer or other worker believes they have been misclassified as a contractor, then the Labour Inspectorate encourages them to get in contact on 0800 20 90 20.

Contractors are generally not entitled to things like annual leave and sick leave, and they are unable to raise personal grievances as provided for in the Employment Relations Act. Being a contractor means that they need to pay their own tax, and general civil law determines most of their rights and responsibilities, as well as the terms of their individual contracts.

### **Bullying and harassment in the workplace**

#### **General lines of bullying and harassment**

- Bullying and harassment at work is a complex and serious problem in New Zealand. Available research on workplace bullying suggests that New Zealand has higher rates of bullying than comparative countries, with some sources suggesting as many as one in five workers may be affected each year.
- In New Zealand, we want everyone to enjoy healthy and safe workplaces, and this includes being free from bullying and harassment.
- Under the Health and Safety at Work Act 2015 (HSW Act) businesses are expected to manage health and safety risks (such as bullying and harassment) arising from their work so far as is reasonably practicable.
- Businesses must ensure the health and safety of their workers, both contractors and employees, so far as is reasonably practicable. The business must also manage the risks to others affected by the work of the business. All workers, employees as well as contractors, must take reasonable care for their own health and safety and that of other people, when carrying out their work.
- Bullying behaviour harms people. This means that businesses should have a focus on eliminating or minimising the risk from bullying at work. This should include risk assessments and management practices to identify factors that may give rise to bullying, and consideration of how identified risks should be managed. They should also have specific policies and procedures

to follow when a complaint about bullying is made so that it can be addressed early and effectively.

### **Lines from WorkSafe**

We expect and encourage all employers in New Zealand to be acting in good faith, when engaging with employees or contractors on safe working conditions.

Poor work environments, especially ones where bullying or harassment occurs, can cause or worsen health conditions and mental illnesses. Everyone has the right to feel safe and comfortable at work.

WorkSafe's role is to determine whether business systems and processes sufficiently protect workers from work risks. Information on WorkSafe's position in supporting mentally healthy work is available here: <https://www.worksafe.govt.nz/laws-and-regulations/operational-policy-framework/worksafe-positions/supporting-mentally-healthy-work/>.

Situations that might prompt WorkSafe to consider intervening include:

- multiple incidents arising against a person conducting a business or undertaking (PCBU),
- if a high level of harm resulted from the failure to manage risks, or
- industry-wide or organisation-wide failings.

WorkSafe will make intervention choices based on strategic priorities and whether we are the best placed agency to intervene.

In many cases, people suffering harm should speak to their employer first, using existing employment relations approaches, or should access support such as Employee Assistance Programmes.

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