



EVALUATION OF NEW LAWS



Section 11 of 17 (pp151-153)

from the joint submission responding to the QLRC
'A framework for a decriminalised sex work industry
in Queensland' Consultation Paper WP 80'



CHAPTER 15: REVIEW OF THE NEW REGULATORY FRAMEWORK

- Q47** Should there be a requirement in legislation to review the new regulatory framework for the sex work industry within a set period of time after decriminalisation? If so:
- (a) who should conduct the review (for example, should it be carried out by a relevant government department or should a review committee be established and, if so, what should its membership be);
 - (b) when should the review begin; and
 - (c) what matters should the review consider?
- Q48** If yes to Q47, should there also be a requirement to collect baseline data as soon as possible after decriminalisation commences? If so, who should collect that data and what data should they be required to collect (for example, data about the number of sex workers in Queensland and the nature of the environment in which they work)?

Review of the draft framework prior to release of QLRC report

Law reform of this level of importance and detail requires the QLRC to plan and resource sex worker organisations for technical expert input and consultation during the report drafting stage. Finally putting an end to the anti-sex work mentality that is so unfortunately entrenched in Queensland law needs humility on behalf of the QLRC to fully value the knowledge held within sex worker organisations. *The Lancet* series on HIV explains, after reviewing 800 articles on the topic:

Community empowerment is threatened by criminalisation and abusive practices that prevent sex workers from gathering and organising safely. At a minimum, governments should allow sex work organisations to exist and thrive without interference. They should engage with sex worker organisations to develop, implement, and assess policy.... Evidence-based, rights-based policy reform should be synergised with sex worker input to respond to, protect, and promote their rights. Sustained human rights surveillance is essential.¹⁶²

At our consultation meeting it was indicated that there have been no decisions made at this stage on the framework and we appreciate that this phase of the process is to gather information in order to inform a framework. At the point when a draft framework is developed a review by sex workers and sex worker organisations would identify unintended consequences. For sex workers to be fully ‘engaged about the issues that affect them’ (QLRC 5.3, p.30) we suggest that we should have the opportunity to consult on the law reform proposals that come out of the review prior to them being published in the final report.

Post-implementation review

The burden of research is carried by the community who are the subjects. It is unethical to conduct a research project on an industry in transition. It will not create an accurate baseline and is likely to replicate similar research efforts at the beginning of licensing. It can paint a picture of the moment of transition and all the anomalies that occur during change, but is not useful.

¹⁶² Decker, M.R., Crago, A-L., Chu, S. K.H., Sherman, S. G., Seshu, M.S., Buthelezi, K., Dhaliwal, M. & Beyrer, C. (2015). ‘Human rights violations against sex workers: Burden and effect on HIV’, *The Lancet*, vol 385, no 9963, 2015, pp. 186-199, ISSN 0140-6736. [https://doi.org/10.1016/S0140-6736\(14\)60800-X](https://doi.org/10.1016/S0140-6736(14)60800-X).

Baseline data for pre-decriminalisation was already tabled with the QLRC in November 2021 by Respect Inc. If Queensland was to follow other jurisdictions, it is expected the size of the various sectors of the industry will not undergo significant change. Respect Inc reports the raw data six monthly to Queensland Health. It is worth noting that Respect Inc does not have a funded policy position and without special resourcing the raw data remains without detailed analysis.

The legislation in Queensland will have to be followed by communication campaigns, health promotion, consultation, drafting and implementation of a WHS guideline, and training for relevant government agencies. If Queensland is able to avoid the staged approach adopted by Victoria, it would be reasonable to conduct a review five years after implementation. Passing the act through parliament should not be the date from which the five-year time span is measured.

Once the QLRC has considered submissions and its consultations and has developed a draft decriminalisation model it is hoped that there will be a phase of review with sex worker organisations to prevent unintended consequences of the approach.

There is a need to review the new framework no sooner than five years after implementation. The focus of the review should be the success or challenges of WHS health promotion. Respect Inc should be funded to design the review in partnership with WorkSafe, sex workers should collect the data and the analysis should be led by a partnership of agencies with prominent sex worker membership.

Recommendation 44:

Best-practice policy development includes consultation and engagement with the key stakeholders, sex workers. The discussion paper has sought critical feedback on aspects of the current framework and concepts to inform the direction of further work. We recommend the QLRC also consult with sex worker organisations in the development of a draft framework and when a draft Bill is developed.

Recommendation 45:

It would be appropriate to review the decriminalised framework no sooner than five years following implementation as long as Respect Inc is adequately funded to design and implement the review in partnership with WorkSafe and other relevant agencies.