



DISCRIMINATORY BARRIERS FOR SEX WORKERS



Section 12 of 17 (pp154-156)

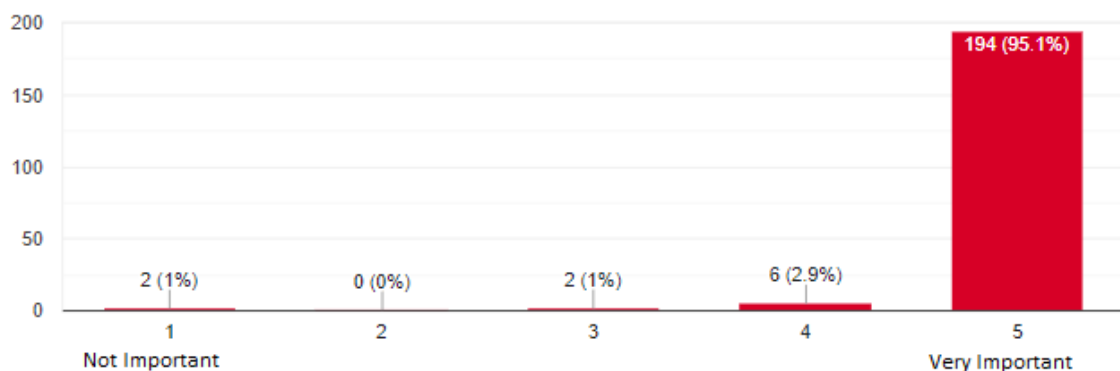
from the joint submission responding to the QLRC
'A framework for a decriminalised sex work industry
in Queensland' Consultation Paper WP 80'

CHAPTER 16: DISCRIMINATION AGAINST SEX WORKERS

Q49 Is there anything you would like to tell us about how the *Anti-Discrimination Act 1991* could best protect sex workers against unlawful discrimination in light of the decriminalisation of the sex work industry?

21. Currently accommodation providers are legally allowed to treat sex workers (suspected of working there) less favourably. This may include eviction, refusing your accommodation booking or charging more. How important is the repeal of this law to you?

204 responses



Sex workers in Queensland experience extremely high levels of discrimination and significant barriers to reporting it. In our recent survey of 204 sex workers¹⁶³, 72.5% of participants had experienced discrimination and a further 14.2% were unsure if what they had experienced would be considered discrimination. Ninety-one percent of sex workers who had experienced discrimination did not report it, noting a wide range of barriers.

This scale of discrimination outlined points to widespread and normalised unfavourable treatment of sex workers across many areas of life. Survey participants provided detailed examples in the areas of goods and services provision, health care settings, accommodation, banking, superannuation and insurance, education, work, policing and administration of state laws as well as sexual harassment and vilification. [Appendix 3](#) illustrates the widespread nature of discrimination experienced by sex workers in Queensland.

Our submission to the Human Rights Commission review of the ADA provides extensive feedback on changes necessary to ensure sex workers in Queensland have adequate protection from discrimination and vilification as well as the importance of changes to the reporting process. The submission can be accessed from https://www.qhrc.qld.gov.au/data/assets/pdf_file/0018/38610/Sub.130-Respect-Inc-and-DecrimQLD_Redacted.pdf

Our consultation with sex workers, including sex workers who have lodged complaints with the Commission, demonstrates the significant limitations of the attribute 'lawful sexual activity', specifically:

¹⁶³ Respect Inc. (2022). *Unprotected and under-reported*, Synopsis 1: Sex workers' experiences of discrimination anti-discrimination protections in Queensland. <https://respectqld.org.au/wp-content/uploads/Synopsis-1-ADA.pdf>

- Protection is limited to one's 'status' as a sex worker and does not cover discrimination on the basis of the practice of performing sex work.
- Many aspects of sex work are not 'lawful' in Queensland, including practising basic safety strategies, and the licensing laws criminalise the majority of workplaces, leaving many sex workers not protected under 'lawful sexual activity'.
- The attribute fails to provide clear direction to the Tribunal or courts, demonstrated by the lengthy legal debates over the attribute in the case of *Dovedeen Pty Ltd v GK* (2013).
- The attribute obscures the fact that sex workers are protected from discrimination, limiting its impact on reducing discrimination by providers of goods and services and conveying to sex workers that they may be protected and can report discrimination.

Our position on this chapter is informed by consultations, workshops and online discussions and a survey by DecrimQLD of 204 sex workers on experiences of discrimination and barriers to reporting, as well as legal opinion sought in the process.

Decriminalisation is an important first step to achieving improved workplace health, safety and rights for sex workers. It must be twinned with anti-discrimination protection if sex workers are to be protected and have an avenue to address discrimination and for the necessary culture change needed to shift discrimination and stigma.

Recommendation 46: Amend the AD Act to ensure robust anti-discrimination protections for sex workers are established as part of the framework. There is broad sector-wide consensus that the appropriate amendments to the AD Act should be:

- replace the 'lawful sexual activity' attribute with the new attributes of 'sex work' and 'sex worker'; and
- repeal current exemptions to the Act to remove lawful discrimination against sex workers in relation to accommodation (s.106c) and working with children (s.28).

Additional changes recommended by Respect Inc and DecrimQLD:

- change the complaints process to address significant barriers to reporting discrimination for sex workers;
- incorporate a change to enable Respect Inc as a representative organisation to make a complaint on behalf of a sex worker; and
- include 'sex work' and 'sex worker' as a recognised 'ground' for unlawful and serious vilification under sections 124A and 131A.

Support resources:

Unprotected and under-reported. Synopsis 1: Sex workers' experiences of discrimination & anti-discrimination protections in Queensland (2022). <https://respectqld.org.au/wp-content/uploads/Synopsis-1-ADA.pdf>

Scarlet Alliance Briefing Paper: Anti-Discrimination and Vilification Protections for Sex Workers (February, 2022) https://scarletalliance.org.au/library/Anti_Discrim2022