



RELATED MATTERS

Section 13 of 17 (pp157-163)

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

CHAPTER 17: OTHER MATTERS

Q 50 What are the potential impacts of a new framework for the sex work industry?

Q 51 What other supporting measures are needed as part of the decriminalisation framework? For example:

- (a) education and training, such as:
 - i. public education and awareness programs to address stigma and educate the community about sex workers;
 - ii. information, education and training for sex workers and sex work business operators on their rights and obligations;
 - iii. education and training programs for officials and organisations who deal with sex workers;
- (b) steps to build positive relationships between sex workers, police and other authorities;
- (c) peer support and outreach services for sex workers on health and other matters.

Q 52 Is there anything else you would like to tell us about these or any other matters raised by the terms of reference to ensure the legislative framework for decriminalisation is appropriate and effective?

Q 50 Potential impacts of the framework. We only see positive impacts of decriminalisation as long as it is not undermined by local government, continuing licensing, criminal code laws or new penalties specific to sex work. However, it is difficult to respond to a question about the potential impact of the new framework without a clear draft framework. It is imperative that sex worker organisations are consulted on the new framework, separate to this early conceptual consultation phase. *See above (Q 47) 'Review of the draft framework prior to release of QLRC report'.*

Q 51 Supporting measures

Decriminalisation is the legislative step. Successful implementation of decriminalisation will also include funding to ensure:

- consultation with sex workers in partnerships with WorkSafe, for the development of WHS Guidelines
- appropriate translation of WHS guidelines into at least four languages
- creation of WHS promotional material in a range of media
- WHS guideline workshops for sex workers in at least four languages
- training for relevant government agencies
- communication strategies to educate the industry on the decriminalised framework
- ongoing peer education for sex worker understanding of the decriminalised framework.

Respect Inc will play a key role conducting training with public servants, engaging sex workers with the WHS drafting and guidelines and informing a wide range of sex industry businesses about their changing rights and responsibilities. Resourcing this work will be an investment in strong state-wide compliance.

Public education

It is important to consider that the discrimination and stigma that surrounds sex work will not reduce unless government authorities are prepared to conduct education campaigns to inform the wider community about the legal and human rights of sex workers. To this end it is not helpful to argue that 'decriminalisation does not mean sex work is actively encouraged' (QLRC p2). While we do not anticipate that the government will be actively involved in recruitment sponsorship campaigns with sex work businesses, it is important for the ongoing health, safety and wellbeing of sex workers that the government does not shy away from announcing that sex work is legitimate work and that sex workers have extensive rights under the law.

Q 52 Other matters you would like to raise

(1) Strippers should not be excluded from the review

Decriminalisation of sex work in Queensland should not exclude strippers who do sex work. Stripping including sex work occurs in many different locations including but not limited to adult entertainment venues. Excluding one sector of the sex work community from this review will likely result in a displacement of police focus from private sex workers to strippers, who are currently criminalised for offering or providing sexual services. The Terms of Reference for the review state:

5. For the purposes of this review, 'sex work' includes all forms of legal and illegal sex work, including but not limited to sex work in brothels and escort agencies, sexual services provided in massage parlours and other venues, sex work by sole operators and street-based sex work, but does not include an activity authorised under an adult entertainment permit issued pursuant to the Liquor Act 1992.¹⁶⁴

Sexual services are specifically excluded from the adult entertainment permits in Queensland and are therefore not an activity authorised under an adult entertainment permit.¹⁶⁵ We therefore see no reason for the review to exclude decriminalisation of strippers who offer sexual services.

The Consultation Paper states:

What falls outside our review?

Our review does not include activities authorised by an adult entertainment permit under the Liquor Act 1992 (such as stripping, exotic nude dancing and nude wait staffing). These activities fall outside the definition of 'prostitution' and are regulated by a separate framework under liquor licensing laws. (1.19)

¹⁶⁴ Queensland Law Reform Commission (QLRC). (2021), Terms of reference: Queensland's laws relating to the regulatory framework for the sex work industry, pp. 3-4 <https://www qlrc qld gov au/ data/assets/pdf file/0007/692026/tor-sex-work-industry.pdf>

¹⁶⁵ <https://www.business.qld.gov.au/industries/hospitality-tourism-sport/liquor-gaming/liquor/licensing/applications/adult-entertainment>

This statement seems to imply that stripping only takes place in adult entertainment venues; however, we have provided advice to the QLRC previously that this is not the case. In addition, there is some confusion over where, post-decriminalisation, the law would stand regarding sexual services provided by strippers in adult entertainment venues if they do not, as considered by the QLRC, fit under the definition of ‘prostitution’.

(2) Licensed brothel owners’ ability to obtain and keep staff

Our recent survey participants who have experience working in licensed brothels were asked about what could be done to improve brothel workplaces and make it more likely that brothels could get and keep sex working staff. The following options were selected (in order of prominence):

Respect Inc and DecrimQld 2022 survey	
Q32 Brothels have said it is hard to keep sex workers working for them. What factors would significantly improve brothel workplaces? 74 responses	N (%)
Increased rates or increased cut of fee	58 (78.4%)
Increased shift flexibility (shorter shifts)	54 (73%)
Better training for new sex workers when starting on shift	53 (71.6%)
Improved management (more supportive, less coercive, better trained)	51 (68.9%)
Improved facilities (larger, better supplied staff areas, better ventilation, light, WI-FI)	42 (56.8%)
Better or less restricted advertising (due to the law)	41 (55.4%)
Increased interaction with Respect Inc	41 (55.4%)
Increased privacy (particularly parking facilities)	40 (54.1%)
Better access to stigma-free health testing	38 (51.4%)
Increased security	37 (50%)
More rooms/More workers on shift	35 (47.3%)
Alcohol licensing	33 (44.6%)
More and better cameras	28 (37.8%)
Improved cleanliness, sanitation, quantity/quality of supplies (e.g. linens and towels)	28 (37.8%)

Survey participants were also invited to suggest other ideas that would encourage them as sex workers to work at a licensed brothel:

- “...if we are really subcontractors we should be treated as sub contractors.”
- “...being able to advertise yourself that you’re working in the brothel would assist in bringing in clients specifically to see the advertised person only. You can’t currently say in your ad which brothel you work in. Having better options for swing shifts instead of set hours works better for some.”
- “...regular/guaranteed shifts, superannuation payments, annual leave/sick leave benefits.”
- “...managers who have done sex work - those who haven't are often disrespectful to us - and we are paying their wages.”
- “...generally treating workers with respect.”
- “...pay out credit card payments immediately not next week
- more money. They just don't have the clients coming in because of the laws being so restricting.”
- “...managers should not be doing second checks.”
- “...not having them only located in industrial areas which are poorly serviced by public transport, food options, often dark & deserted at night & basically reduce the chance of foot traffic/impulse purchasing.”
- “...ability to bring clients in and out - more fluidly with clients, renting of rooms for periods of time, ability to use alcohol.”

(3) Alcohol licensing and alcohol on premises at sex work businesses

Alcohol licensing is permitted in brothels in other states, but prohibited in Queensland. In fact it is an offence to have alcohol on the premises at all (The Act, s83), an extreme restriction which does not acknowledge the low-moderate risk that exists in brothels and in sex work generally. Just under half of the licensed brothel sex workers in our recent survey selected the option for brothels to have alcohol licensing (33/44.6%). This has increased considerably from the 5% of survey participants who noted it as a factor that would significantly improve the workplace and 10% who wanted it as a legislative change in the Respect Inc 2017 survey of licensed brothels.¹⁶⁶ As mentioned previously, if a brothel wishes to apply for a liquor licence, they should be subject to the same application methods, rules and approvals as any other business that is applying for an alcohol licence.

(4) Implementation of decriminalisation should not be split like Victoria

Unintended consequences have emerged from the decision in Victoria to implement decriminalisation in stages. The staged process is outlined on a Victorian Government information website indicating that the first stage commenced in 10 May 2022 and the second by December 2023.¹⁶⁷ Online resources to assist people, including sex workers and sex work business operators, to understand the changes to sexual health laws for sex work have been released. It is evident that the two-stage implementation has created a confusing legislative landscape. An example is that while all of the sexual health and prophylactic mandates for sex

¹⁶⁶ Respect Inc. (2017). *Regulating bodies: An in-depth assessment of the needs of sex workers [sexual service providers] in Queensland's licensed brothels*, pp.16 & 20.

¹⁶⁷ Victoria Government Decriminalising sex work in Victoria online resource <https://www.vic.gov.au/review-make-recommendations-decriminalisation-sex-work>

workers have been repealed the Department of Health is required to inform that 'Specific brothel and escort agency provisions in the Public Health and Wellbeing Act 2008 will not be repealed until the second stage of reforms on 1 December 2023. Brothels and escort agencies (including exempt small owner-operators) are expected to comply with these provisions until then.'¹⁶⁸ Individual sex workers will still be impacted by the definition of 'exempt brothel'.

(5) Expungement

Expungement for sex workers who have been entrapped and/or charged should be part of the shift from criminalisation to decriminalisation. People who have criminal records relating to sex work should not be discriminated against. Some sex workers live with sex work charges issued by corrupt police during the pre-Fitzgerald era, and many others with charges issued by police including through entrapment since then. Sex workers and their colleagues or family members can currently be charged with consorting offences under the Police Powers and Responsibilities Act 2000 (Qld) 53BAC, 53BAD, 53BAE and the potential for this must not continue after decriminalisation.

Some sex work charges are also 'disqualifying offences' under the Disability Services Act 2006 (Qld), Introduction Agents Act 2001 (Qld), Liquor Act 1992 (Qld) for an Adult Entertainment licence, Transport Operations (Passenger Transport) Act 1994 (Qld), and the Working with Children (Risk Management and Screening) Act 2000 (Qld). Under these laws they have been denied approval for taxi drivers' licences, Blue Cards, etc.

To further protect against unjust discrimination on the basis of historic charges an attribute may be framed as an 'irrelevant criminal record' in the ADA. This would provide protection from discrimination on the basis of a criminal record, where the sex work criminal record is not of relevance. In interactions with police, sex workers are interrogated on their sex work criminal history in circumstances where it is irrelevant, such as routine traffic stops.

(6) Other matters: Compatibility with the Human Rights Act 2019 (Qld)

Current sex industry laws pre-date the HRA 2019 (Qld). The Consultation Paper recognises, and our submission outlines, that many of these laws are likely to be incompatible with the HRA. Sex workers are part of Queensland community and should have the right to the same human rights protections as any other member of our community. Repeal of these laws as part of the decriminalisation of sex work is essential to enable sex workers in Queensland to access human rights.

Laws that are potentially equally inconsistent with the HRA as well as the ADA (Qld), and may result in the actual benefits of decriminalisation being undermined as well as actively limiting the human rights of sex workers, are considered in the Consultation Paper. The HRA lists relevant factors that may be considered when deciding compatibility. To be compatible with the HRA, new legislation must not limit human rights, or must only limit rights to a reasonable and demonstrably justifiable extent in a free and democratic society based on human dignity, equality and freedom.¹⁶⁹ After consultation and expert advice, we submit that a number of the proposals in the discussion paper do not meet this measure and we have discussed these in the relevant chapters.¹⁷⁰

¹⁶⁸ Victoria Department of Health Key issues - stage one health reforms <https://www.health.vic.gov.au/preventive-health/key-issues-stage-one-health-reforms>

¹⁶⁹ *Human Rights Act 2019* (Qld) s. 13(1).

¹⁷⁰ *Ibid*, s. 13(2).

Recommendation 47: See recommendation number 44, (Chapter 15 review)

There will be a need for funding to be provided to Respect Inc to produce or lead the following:

(a) education and training, including:

- i. public education and awareness programs to address stigma and educate the community about sex workers
- ii. peer education, information and training for sex workers and sex work business operators on their rights and obligations and
- iii. sensitivity education and training programs for officials and organisations who deal with sex workers.

(b) steps to build positive relationships between sex workers, police and other authorities

(c) continuing peer support and outreach services by Respect Inc for sex workers on health and other matters.

All of these programs and resources should be translated to allow equitable and effective access by all sex workers.

Recommendation 48: That adequate funding be allocated for Respect Inc to undertake public education and awareness programs and sensitivity education and training programs for officials and organisations who deal with sex workers. These stigma-reducing endeavours must be created in partnership with Respect Inc. In addition Respect Inc should be funded to produce or lead production of WHS guidelines and new peer education resources, translated into at least four languages and in a variety of formats, and conduct workshops and outreach for sex workers in a range of workplaces and in remote areas. It is also essential that Respect Inc is resourced to develop a communication strategy to support effective implementation of decriminalisation, so that sex workers and a wide range of sex industry businesses are aware of their changing rights and responsibilities.

Other matters 1-6

Recommendation 49: Strippers should not be excluded from this review and the benefits of decriminalisation

Recommendation 50: Decriminalisation will alleviate many of the factors that contribute to licensed brothels' inability to obtain staff and other perceived impacts.

Recommendation 51: Alcohol licensing should be available to sex work businesses under the same methods, rules and approvals as any other business

Recommendation 52: Implementation of the decriminalisation Bill should be conducted at the time legislation is passed, not as a staged or delayed process

Recommendation 53: Sex work charges should be expunged.

Recommendation 54: The new decriminalisation framework must not maintain or develop new laws that limit the human rights of sex workers in Queensland. The new decriminalisation framework should be compatible with the HRA (Qld) to ensure sex workers in Queensland have access to human rights.