EXECUTIVE SUMMARY

Section 1 of 17 (pp1-4)

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

Our Story

This executive summary is part of our joint submission responding to the QLRC 'A Framework for a decriminalised sex work industry in Queensland Consultation Paper WP 80'.

Our submission was respectfully informed by the lived experiences of sex workers in Queensland, as well as academic research, recent survey results, and community consultations.

This reform has the potential to be the most significant policy change for sex workers, our partners, friends, families and children to ever happen in Queensland whilst simultaneously resulting in very little change for most other community members. That sex workers in Queensland and our workplaces would no longer be criminalised but instead afforded the same workplace, health and safety rights as other workers is significant.

Equally, decriminalisation can deliver a low-cost and high-compliance model of regulation that provides benefits for the broader community and government. The model has the ability to free up police resources and end the significant administration and resource burden of licensing on the industry and on government. Sex workers are an integral part of the Queensland community who urgently require legislative change in the form of full decriminalisation paired with human rights and protection from discrimination and vilification.

Respect Inc is the state-wide sex worker organisation in Queensland that provides a comprehensive health promotion and peer education program for sex workers. Respect Inc has offices and sex worker drop-in spaces in Cairns, Brisbane and the Gold Coast and provides regional outreach in other locations.

DecrimQLD is a committee of sex workers who have joined with Respect Inc to progress the removal of harmful and discriminatory sex work laws and achieve decriminalisation in Queensland.

We confirm this submission may be quoted from, and referred to, in the QLRC report and we are available to discuss any of these matters further.

DecrimQld and Respect Inc also endorse the submission made by Scarlet Alliance, Australian Sex Workers Association.

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Queensland has a unique opportunity to achieve a best-practice model of decriminalisation during this term of government. Other jurisdictions at the point of decriminalisation have had incompatible and stigmatising laws—such as licensing or criminalisation—added at the very last stages of reform by Cabinet, opposition parties or individual MPs as a result of the political cycle. The QLRC is an independent body with the scope to recommend practical and wide-ranging legislation, without the political pressures of perceived electoral vulnerabilities. Respect Inc, DecrimQLD and sex workers across Queensland have lobbied for decriminalisation of sex work to be referred to the QLRC for this reason.

Decriminalisation is the repeal of sex industry and sex work-specific laws, allowing sex industry businesses to be regulated by existing laws and regulations that apply similarly to other businesses. Decriminalisation is a low-cost, high-compliance model of sex industry regulation that has demonstrated improved access to justice for sex workers.

A licensing model inherently divides the industry in two and disincentivises compliance. A decriminalised model encourages compliance and is not hindered by additional layers of laws or regulation.

In order for Queensland to regulate sex work 'not as a crime' but 'as work' and make the historic shift to decriminalisation, it is necessary for policy makers to accept, as academia has, that criminalisation and licensing 'have developed through stigmatised narratives of disgust, protection and risk'[1] over many centuries. It is Queensland sex workers who carry the burden of this jurisdiction's harmful licensing laws, criminalisation of safety strategies and deceptive policing practices. This is the starting point and impetus for repealing and avoiding replication of the failings of the current laws.

For this reason we respectfully refute the Consultation Paper assertion that maintaining licensing (including certification) works as a safeguard to deter illegal activity and the exploitation of sex workers (9.67). Licensing systems split the industry into the compliant (legal) and non-compliant (illegal) sectors. Licensing creates an underclass of sex workers with diminished rights because their workplaces are not eligible to be licensed. This is the very opposite of providing protection:

> Criminalisation and licensing of sex work are both drivers and symptoms of whore stigma. They are drivers in the sense that the presence of criminal and licensing laws facilitate (and provide justification for) increased police contact. Additionally, they are symptoms in the sense that legal systems governing sex work have developed through stigmatised narratives of disgust, protection and risk. However, stigma bleeds out beyond blackletter law.[2]

For example, paternalistic 'protection' approaches that define *commercial sexual exploitation* differently from sexual exploitation, or differently from exploitation in the workplace for any person, reinforce the notion that exploitation in sex work is less deserving of the universal

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[1] Stardust, Z., Treloar, C., Cama, E., Kim, J. (2021). '"I wouldn't call the cops if I was being bashed to death": Sex work, whore stigma and the criminal legal system', *International Journal for Crime, Justice and Social Democracy* Vol 10 No 3. https://www.crimejusticejournal.com/article/view/1894

[2] Stardust et al. (2021) Ibid

protections applied to all others, but at the same time requires alternative (and often more heavily penalised) solutions.

Another example of paternalism is the sentiment that '*no-one should have to rely on sex work to survive'*. People rely on sex work for an income and to survive, to pay rent, achieve ambitions and send their children to school, as happens in any industry. Paternalistic ideas deprioritise our safety and retain police as prosecutors in the daily lives of our community, even while intending to protect us. Ultimately the 'protection' approach guided the 1999 legislation favouring licensed brothels and penalising all other workplaces including sex workers working in groups. Stigmatising narratives were evident in political debate when the Prostitution Act was introduced and are also threads woven throughout the Consultation Paper.

These flaws and tensions in the development of sex work legislation are unfortunately not uncommon:

> In the end, what matters most is evidence-based research of the effects on the ground; the way a policy is implemented can be more important than the policy itself, and it will be our responsibility, in the sex worker movement, to continually monitor the impact of these policy projects (Katie Zen in Chateauvert 2015 p. 171).[3]

The task before us is to ensure the new framework does not replicate these stigmas, and instead create consistencies between sex workers' material needs and the Anti-Discrimination Act, workplace health and safety protections and the Human Rights Act. Listening, hearing and responding to sex workers in this review is the important counterbalance to end long-standing, stigma-driven policy approaches that undermine the rights of sex workers and negatively impact access to workplace health and safety (WHS). We appreciate the QLRC is working towards an understanding of sex work as work and the development of draft legislation that will reflect that sentiment into law.

The current framework of laws and regulations was in place prior to the introduction of the Queensland Human Rights Act 2019 (Qld) (HRA). As the Consultation Paper recognises, and our submission outlines, the current laws are likely to be incompatible with the HRA. To be compatible with the HRA, all new Queensland 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.[4] The HRA lists relevant factors that may be considered when deciding compatibility. The Consultation Paper also asks for feedback on retaining or creating new approaches that, after consultation and expert advice, we submit are also inconsistent with the HRA and the Anti-Discrimination Act 1991 (Qld) (ADA).[5]

For example, workplace health and safety (WHS) regulation applies to all workers in Queensland, including the provision of and training on the use and storage of protective personal equipment (PPE). Laws that single out sex workers for prophylactic use in work settings are unnecessary and potentially discriminatory. WHS guidelines developed as a result of a consultation process will identify common hazards and risks specific to the sex industry

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[3] Chateauvert. M. (2015). *Sex workers unite*, Beacon Press, 2015.

[4] *Human Rights Act 2019* (Qld) s. 13(1).

[5] Ibid, s. 13(2).

and ways they should be managed. A specialised Code is not required, and, if legislated, risks reformulating stigmas and barriers to compliance similar to the licensing approach. Workplace Health and Safety Queensland has existing powers to ensure WHS requirements are being met. Existing codes, laws and responsibilities ensure people conducting a business or undertaking (PCBU) implement WHS.

After decriminalisation these should apply to the sex industry. There is no need for additional statutory requirements. After decriminalisation, sex workers will be able to report WHS matters to the regulator in the same way as any other worker in Queensland. Long-lasting active participation in WHS compliance is only possible if the framework is useful, practical and designed for purpose.

Similarly for decriminalisation to be a success, the framework for private sex workers needs to be practical and workable. Private sex work in residential zones makes up 55% of the Queensland industry, with almost a quarter working in collectives. Touring, working from motels and short-term accommodation, escort work and NDIS services are all part of private sex work. Even considering these other locations, there is no practical alternative to allowing private sex work in residential zones. Appropriate legislative solutions exist. Policies that seek to prohibit, expose, identify, locate, ban or track private sex work in residential zones fail because compliance contraverts the business model.

Finally, we submit that this consultation has sought feedback on the key concepts of a licensing framework and impacts of the current model. To date there is no indication that the QLRC intends to consult with sex worker organisations on the technicalities of the new framework. Sex worker organisations can be of most use during the next stage of drafting, particularly in identifying unintended impacts on sex workers and making visible any retained stigmatising policies and laws that otherwise risk being replicated.

Thank you for considering our submission.

This submission is informed by consultations, workshops and online discussions about the Queensland sex work laws held by Respect Inc and DecrimQld with other sex workers over the last 5 years, several partnered research projects as well as our experiences in sex worker community building, peer education and advocacy over at least 15 years.

Additionally, a quantitative and qualitative survey, comprising 35 questions, was conducted through December 2021-February 2022. Responses were received from 204 sex worker participants with working experience in Queensland.