



SEX WORK UNDER DECRIMINALISATION

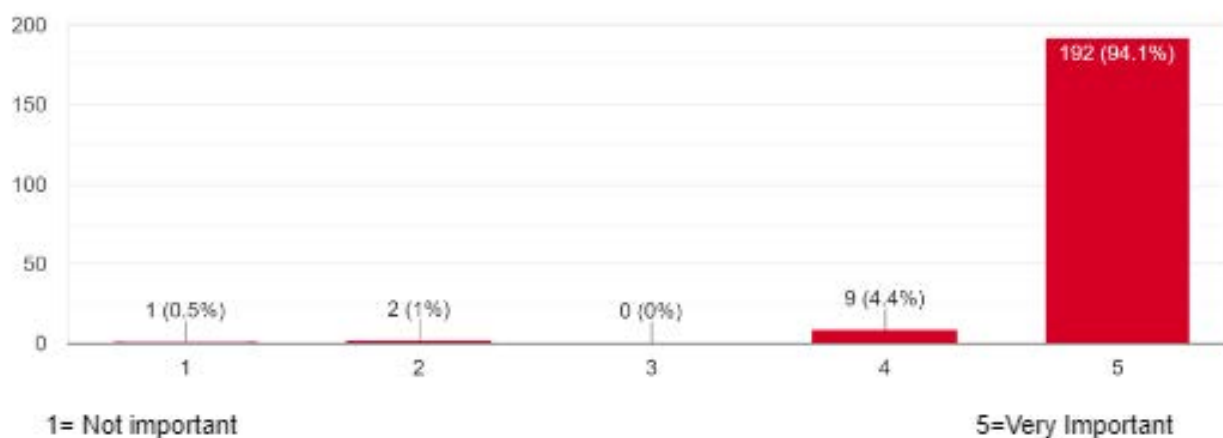
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Section 3 of 17 (pp18-45)

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



11. How important is decriminalisation of sex work to you?

204 responses



Above: Table from a recent survey of Queensland sex workers on the importance of decriminalisation.

CHAPTER 7: WHAT MIGHT A DECRIMINALISED SEX WORK INDUSTRY LOOK LIKE?

- Q1** What should be the main purposes of the recommended framework for a decriminalised sex work industry in Queensland, and why?
- Q2** Overall, what might the new framework look like?
- Q3** What changes would need to be made to the current framework, and why?
- Q4** Who should the new framework apply to, and why?

Q1 Main purposes of the decriminalised framework

The main purposes of the new framework should be:

1. To fully decriminalise sex work in Queensland to:
 - (a) recognise sex work as work
 - (b) enhance the human rights and workplace health and safety of sex workers
 - (c) reduce stigma and provide for discrimination protections for sex workers
 - (d) allow sex workers to work together and in collectives, and employ support staff
 - (e) protect sex workers and businesses to enable them to operate in accordance with the laws of the State and the Commonwealth as they apply to all individuals and businesses generally, including laws governing employment, workplace health and safety guidelines, workers compensation and rehabilitation, planning and discrimination.
2. To achieve full decriminalisation by repealing all current laws that refer specifically to sex work in Queensland so that existing general laws can be utilised.

Definition of decriminalisation:

A decriminalised framework for sex work recognises that sex work is work. It will have no criminal laws that specifically refer to sex work and there should be no police involvement or licensing in sex work. In their place will be the general laws and protections that govern all workplaces so that sex workers can access workplace rights like any other worker. In the Consultation Paper the QLRC presents a definition of decriminalisation that is not what sex workers have advocated for and does not reflect the evidence of what is best for sex workers and the broader community. For example, decriminalisation does not include '*criminal offences for exploiting or trafficking people*' (Figure 1: Basic regulatory models and policies, page 31). While sex workers would agree with the points laid out in Box 1: Common features of decriminalised frameworks (page 47), the phrase 'replaces sex work licensing laws' should read 'removes sex work licensing laws'. A review into the models of decriminalisation for which sex work organisations advocate would already be confident of the answers to questions such as:

- whether sex work business operators need a licence to operate;
- whether sex work businesses need development approval under planning laws; and
- whether some types of sex work are restricted, such as street-based sex work or sex work at massage parlours (pp. 31-32).

Licensing, development applications and restriction of street-based work or massage parlours are not part of a framework of decriminalisation. Years of evidence and first-hand experience lead sex workers to advise the QLRC that the above policies would fail to achieve high levels of compliance, would retain police entrapment in the working lives of sex workers, would retain the two-tier system that creates illegal working environments and divisions between sex workers, would act as a barrier to health promotion and would maintain a level of stigma against sex work that is incompatible with the goals of decriminalisation.

The main purposes of a decriminalised framework

In the process of law reform it is usual to create a list of the main purposes for changing the laws and these become the guiding principles of the new laws. Previous law reform discussions in Queensland framed sex work as organised crime and included purposes such as to reduce police corruption and uphold the rights of the wider community to be protected from sex work. The Explanatory Notes of the Prostitution Bill 1999 are clear about these sentiments:

The Government believes that the operation of brothels should not be an intrusion into the day to day lives of members of the community who do not want to be exposed to the nuisance of brothel activity or advertising... Strong government leadership is characterised by constant vigilance against corruption and organised crime.⁶

⁶ Prostitution Bill 1999 Explanatory Notes pp. 1-2. <https://www.legislation.qld.gov.au/view/html/bill.first.exp/bill-1999-608>

The purpose and underlying principles of the Prostitution Bill 1999 did not mention sex workers or their needs:

The purpose of this Bill is to regulate and control prostitution and related activities in Queensland. The underlying principles of this Bill are to: ensure quality of life for local communities; safeguard against corruption and organised crime; address social factors which contribute to involvement in the sex industry; ensure a healthy society; and promote safety.

In the consideration of a decriminalised framework for Queensland it is essential to separate actual impacts that can be substantiated by evidence rather than hearsay or perception of impact or risk. There was very little attention paid to the recognition of sex work as work or the rights, health and safety of sex workers in the 1999 Bill. Recognising the negligible impacts of sex work on public health, low amenity, low rates of exploitation and trafficking (adequately covered under other existing laws, policies and practices) is central to considerations of the decriminalised framework.

Improving the rights, health and safety of sex workers should be the primary purposes of the decriminalised framework.

Recommendation 1 (Q1): The main purposes of the Queensland sex work decriminalisation Bill should be:

1. To fully decriminalise sex work in Queensland to:
 - (a) recognise sex work as work
 - (b) enhance the human rights and workplace health and safety of sex workers
 - (c) reduce stigma and provide for discrimination protections for sex workers
 - (d) allow sex workers to work together and in collectives, and employ support staff
 - (e) protect sex workers and businesses to enable them to operate in accordance with the laws of the State and the Commonwealth as they apply to all individuals and businesses generally, including laws governing employment, workplace health and safety guidelines, workers compensation and rehabilitation, planning and discrimination.
2. To achieve full decriminalisation by repealing all current laws that refer specifically to sex work in Queensland so that existing general laws can be utilised.

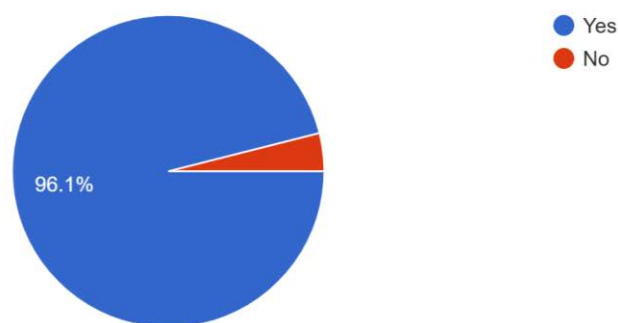
Q2 What does a decriminalised framework look like?

In relation to what a decriminalised sex work industry framework would look like, the Consultation Paper provides at 7.19 the QLRC's interpretation of what this would mean in Queensland. This differs from what sex workers and sex worker organisations see as decriminalisation of sex work in Queensland. [Appendix one](#) is a table we have created to illustrate differences and provide a short comparison between the QLRC's interpretation and what DecrimQLD and Respect Inc and our membership see decriminalisation in Queensland being, having consideration of the local context and the sex industry in Queensland. The comparison table shows the points of difference and provides a short description to assist understanding.

What does decriminalisation look like to sex workers and what will the impact be:

12. The licensing laws in QLD only allow sex workers to work in a licensed brothel or alone. Would having more options be better for you?

203 responses



Sex workers expressed that the decriminalised framework will support sex workers to make choices about sex work without fear of criminality or discrimination. These themes are apparent from our recent survey:

“Being able to choose how to work - when to work - where to work - with whom to work - options - it will give sex workers options.” [Survey participant 40]

“The more options sex workers can make by themselves, the better. We are adults, we can make our own choices.” [Survey participant 37]

Sex worker participants in the survey were unanimous in their call for the full decriminalisation of sex work in Queensland. For sex workers a picture of what decriminalisation will look like is largely one where all of the problematic laws and police powers under which they currently live and work have been erased. Essentially describing a repeal bill, for survey participants decriminalisation meant the removal of all legislation and criminal code laws that relate to sex work, including the repeal of the licensing system and expunging of previous sex work charges:

“Full decriminalisation of sex work, repeal of the licensing laws, removal of the police powers and remove sex work from the criminal code.” [Survey participant 6]

“Full decriminalisation, no specific laws or regulations about advertising or working in QLD.” [Survey participant 38]

“Please decriminalise sex work so that we can work safely and be treated like any other workers and humans.” [Survey participant 57]

“Sex work is not a crime and must be removed IMMEDIATELY from police jurisdiction. All historical cases of illegal sex work should be removed from workers records.” [Survey participant 161]

“The laws are discriminatory and I believe that having more freedom in Queensland will benefit the industry and the people quite a lot. Other states of Australia have decriminalised SW, so Queensland should to!!! I think the laws should provide more SAFETY and respect to the individuals who identify as SWers!!” [Survey participant 177]

For sex workers, decriminalisation meant bringing the sex industry in line with other industries under existing labour laws. Sex workers explained that they want access to workplace health and safety protections and workplace rights, which are standard in other industries. As participants told us:

“I want the same rules as any other Sole Trader Business. To not have them now is true discrimination.” [Survey participant 10]

“Remove all restrictions that don't apply to other businesses...” [Survey participant 31]

“Full decriminalization and full protection under the anti discrimination laws. Police no longer primary regulators of our industry; compliance is not a bunch of special conditions but regular health and safety regulations etc...” [Survey participant 28]

“I would love to see full decriminalisation of the sex industry with the same rights as other workers in any other industry.” [Survey participant 34]

For the general public, the decriminalised framework will look much as it does now. For sex workers, the change will be momentous because it will not have any licensing, criminal laws or police powers that specifically refer to sex work or commercial sexual activity. For planning purposes private sex workers in residential areas, in collectives, conducting escort work or offering NDIS services would be permitted under 'Material Change of Use' provisions. In Centre and Mixed zones, massage parlours would continue as 'Health Services', and brothels would be added to Schedule 6 of the Planning Regulations or become 'Accepted Development'. All would have to remain compliant with mandatory amenity rules, Fair Trading, building alterations, noise restrictions and strata regulations; the same as everyone else in that zone. Liquor licences would apply like any other venue seeking to serve alcohol.

Most Queenslanders will experience no impact at all. Evidence from other jurisdictions shows that the overall size of the sex industry will not change. Existing sex work businesses will continue as before with the following benefits: work locations that are currently illegal (many brothels, escort agencies and massage parlours) will have comprehensive, applicable WHS guidelines available to them, will be able to adopt them without fear of the practices being used as evidence of criminal activity and will be able to obtain workplace support from relevant authorities without fear of exposure. The guidelines will also apply to the current licensed brothel sector, which already has sound infrastructure, and they will be able to offer outcall bookings, which will assist their financial viability. Private sex workers will be able to work and draw support from people that they trust, without putting loved ones and colleagues at risk of criminal prosecution.

Decriminalisation will greatly improve mental health

In our recent survey sex workers told us that under decriminalisation the ability to use safety strategies such as check-in calls and working with other sex workers, as well as an end to police powers to entrap workers would significantly improve their mental wellbeing:

“I would feel so much less afraid and stressed all the time. Of cops, ugly mugs, discrimination when accessing services, I could make more money, feel safer at work and at home and just in myself, knowing that by doing my job and staying safe I'm not breaking the law and no police can come in and take all my money.” [Survey participant 86]

“These laws horribly negatively impact on me. My work life will improve 1,000 times better if these laws are eliminated.” [Survey participant 180]

The repeal of police powers to entrap sex workers is particularly relevant for improving sex worker safety. Having to avoid police detection compromises the ability to use safety strategies and effectively look after one's wellbeing. As one respondent commented:

“...The possibility of undercover police is something that takes up a lot of my thoughts and energy. Energy I should be using to stay safe and make money.” [Survey participant 57]

Sex workers also spoke about the stress of potentially having police enter their workplaces at any time, and the direct harms some sex workers are subjected to by police who abuse their power:

“...The potential to be entrapped by a police officer is stressful and doesn't help me feel safe at work at all. When I worked in brothels, the threat of having the PLA come in unannounced, rifle through my bag, and basically deny me basic rights is very stressful...” [Survey participant 90]

“Laws and avoiding police is my first priority. And police should be safety but they are not. I have been bribed and coerced by police officers on duty. I'm sure they wouldn't have done that if I was a regular citizen.” [Survey participant 142]

Sex workers told us that decriminalisation would significantly reduce the stress they currently face when making decisions about how to look after their mental, social and economic wellbeing while simultaneously avoiding arrest. One respondent had this to say about decriminalisation:

“Not having to factor evading police into my day to day work would immensely reduce the stress I experience and mean I could better prioritise my wellbeing and safety.”
[Survey participant 7]

As highlighted in the stories shared by survey participants, the current laws not only affect physical safety and wellbeing but also impact upon sex workers’ mental wellbeing and self-esteem. Countless participants described their experience of working under the current legal framework as ‘stressful’ and ‘anxious’. Sex workers told us that the fear of arrest; stigma and discrimination; isolation; fear for personal safety; and financial stress eroded their mental wellbeing. Moreover, sex workers described the compounding effects on their mental health arising as a result of the knock-on effects and not being able to mitigate the stressors they faced:

“They make me very uncomfortable whilst working privately. The safety factor is a huge problem, being legally only allowed to work solo, obviously is unsafe, which then does affect my mental health, due to stress about safety, which affects my income, due to being very very picky about which clients to take on, which again, affects my mental health over the stress of being able to afford to make ends meet. It’s a continuous cycle.” [Survey participant 84]

“I’m lonely and depressed working by myself. I feel isolated and the stress of working around my non SW housemates needs has made me very anxious and I’m not getting enough work to support myself.” [Survey participant 59]

“The current laws in Queensland cause personal stress around compliance and entrapment. The anxiety I experience during accommodation booking, client screening, from when I announce a tour over the border until my return to Sydney impacts my mental health and contributed to a panic attack on my last trip.” [Survey participant 67]

Speaking on decriminalisation, sex workers spoke about the benefits to their mental health that would be gained through the ability to work with others, such as alleviating isolation and building community; reducing the anxiety associated with police entrapment, facing criminal charges, PLA visits and having money confiscated; the ability to access support from other sex workers, friends, family and third parties, as well as decreased stigma and discrimination and broader changes in public opinion of sex work:

“It would mean feeling like my life is worth something. The way the current laws are written it’s very clear that society would rather see us dead then working safely...”
[Survey participant 56]

“Decrimin[a]lisation will relie[ve] my mental-health and feel safe with work.” [Survey participant 93]

“It would greatly benefit me, as I woul[d] feel more secure reporting to police in case of incident[ts]. It would be beneficial to my mental health to not have to constantly worry about [e]ntrapment, or breaking laws that seem arbitrary and not indic[a]tive of real world situations.” [Survey participant 75]

“Decriminalisation would mean I could work how I would like to (in a co-op [collective]) that makes me feel safer and also reduces costs and is less lonely and a more supportive environment for my mental health and wellbeing.” [Survey participant 7]

Decriminalisation means sex workers could work together, improve financial stability and reduce isolation

As seen in the above quotes, the most cited positive aspects of decriminalisation were how it could affect sex workers’ safety, mental wellbeing, income and business through their ability to legally work with another sex worker outside of a licenced brothel. Countless survey participants told us that they would prefer to work with another sex worker or in a collective situation because it provided peer support, safety options and because it reduced the stress and isolation of working alone and supported their mental wellbeing:

“It would be so much better I could work with friend and my sister girl and we could look after each other.” [Survey participant 159]

Sex workers told us that it is more economically viable to share overheads on hotels, and/or live with another sex worker at home to support economic and housing security; doubles services are requested by clients and are a good source of income; it is necessary for workplace health and safety to be able to share information about clients, refer each other and learn from one another. One survey respondent gave an in-depth account of the ways in which not being able to work alongside peers affects them:

“...The laws around not being able to work in pairs also negatively impacts on our health, well being and safety. Every worker in any other occupation is allowed to work with others in their same field. This is a victimless crime that only serves to punish and criminalise sex workers who are just trying to offer clients what they want (a double), or teaching each other additional skills, or one sex worker trying to do a proper hand over to another sex worker who will see the client in future (ie with a client with disability - learning where the entrance to their home is, where their communication board is, how their bed operates, where their specific things are located in their room/ house, showing them specific things about how to touch the client that works best for them). It's ludicrous that the law says that I can't keep myself safe by being able to call another person - who is also a sex worker - to tell them that I arrived safely at the client's home/ hotel and to set up my safety protocols in the unfortunate incident where they are threatening my life and safety. No other type of worker is actively discriminated again[st] by the Government to be actively isolated and made more vulnerable in order to legally work.” [Survey participant 63]

The possibility that it might one day be legal to work with another sex worker was positively embraced by several survey participants:

"I would love to be able to legally share a work space with another worker for support and share booking information for safety." [Survey participant 34]

"Having a co worker for peer support and financial bill sharing would be so helpful." [Survey participant 200]

"Safety! It's good to have fellow workers who can help you and vice versa." [Survey participant 185]

"A change in these laws would have a huge impact. It would mean workers are able to feel safer and...Sharing a work space provides positive mental health in many ways." [Survey participant 129]

"Having other sex workers around is a good thing. We share knowledge, skills, information. Why are there laws that get in the way of us working together, sharing costs, making sure we are ok. It's good for our mental health." [Survey participant 98]

"I will always choose to work in pairs and share overheads, have backup in case something goes wrong. It is counterintuitive to workplace safety...every other industry encourages working in pairs for safety." [Survey participant 7]

Survey participants talked about how they would like to be able to share costs such as advertising, work spaces/accommodation and security costs and increase income through offering doubles:

"Less money since I can't share accommodation or the bills associated with my business, and can't make the money I would doing doubles." [Survey participant 113]

"It is so expensive to work alone. My accountant can't believe we can't share costs like she can, she couldn't make a profit if accountants had the same rules forced on them. It is unreasonable." [Survey participant 100]

"These laws ...put my friends in POVERTY because they are unable to procure bookings and I am legally unable to aid them in acquiring bookings." [Survey participant 173]

"I am not legally allowed to see a client with another worker. This is a commonly requested service that has a high price point attached and denies us valuable income...sharing a workspace is by far the most convenient and financially viable option for working independently." [Survey participant 196]

Sex work income is currently curtailed because of sex workers not being able to legally hire third parties to more effectively run their business, for example hiring a receptionist to answer calls and arrange appointments while already in a booking. As one respondent wrote:

"...Not being able to have a receptionist also impacts my safety, mental health and income because sometimes I'm too busy getting ready for a booking to be able to

screen properly, sometimes I can't deal with all the enquires/time wasters so I turn my phone off and miss out on bookings..." [Survey participant 3]

Decriminalisation reduces stigma

Many participants believed a major benefit of decriminalisation would be a broad reduction in stigma and discrimination with increased public perception of sex work and sex workers, which would in turn promote better treatment from police, clients, hoteliers and society. In the words of sex workers:

"It would make it safer for all, decrease victimisation and violence against us." [Survey participant 30]

"...I also believe that the current legal framework and stigma that creates increases the likelihood of poor behavio[u]r from clients, as they know workers will be reluctant to deal with police if they want to report it." [Survey participant 34]

"...I believe it sends an important normalising message to society as well which helps in various aspects of our lives..." [Survey participant 65]

"The result of this absurd law is that some hotels will exclude me, and to work, I have to conceal my sex work from the hotel instead of openly working. It perpetuates shame, stigma, discrimination and harm." [Survey participant 40]

"Decriminalisation reduces stigma, it requires p[o]lice to take our concerns and any assaults or harassment seriously, means clients and the public can be p[ro]secuted for harassment and assault of workers..." [Survey participant 168]

Recommendation 2 (Q2):

The decriminalised framework should accommodate existing and new sex work workplaces to be protected under all current, applicable Queensland Codes of Practice, operate in compliance with local amenity, be able to work in suitable locations without undue council interference and safeguarded from discrimination within the ADA (Qld).

Exceptional criminal penalties, licensing, planning requirements, exploitation laws, police powers (including entrapment), anti-discrimination exemptions and other laws will be repealed.

Evidence from other jurisdictions shows the size, scale and types of sex work will not change substantially after decriminalisation. For most Queenslanders there will be no impact whatsoever.

Q3 What changes would need to be made to the current framework, and why?

To create a decriminalised framework it will be necessary to remove all the current laws and police powers that refer specifically to sex work and to dissolve the PLA and PETF.

Decriminalisation is primarily a process of repeal. Changes to the current framework would include:

- repeal all of Chapter 22A of the Criminal Code
- repeal all of the Prostitution Act and Prostitution Regulation
- amend other Acts to remove 'exemptions' or 'disqualifications' based on Criminal Code and Prostitution Act offences
- remove the police from any role in sex work regulation, repeal sections of the Police Powers and Responsibilities Act 2000 that refer to sex work including 'controlled activities', 'move on notices, powers in relation to consorting
- amend Planning Regulations (2017) to repeal Schedule 10, Part 2, Brothels, 'Prohibited Development—material change of use for a brothel', add brothels, massage parlours, escort agencies and private sex work including collectives to Schedule 6
- amend Consent in the Criminal Code Section 348(2)(e) 'by false and fraudulent representations about the nature or purpose of the act;' should be amended to include 'or the withdrawal of payment or non-payment of a sex worker' and add a provision 'by an intentional misrepresentation by another person about the use of a condom'
- amend anti-discrimination protections to cover sex work and sex workers against discrimination and vilification and repeal exemptions that allow lawful discrimination against sex workers
- amend the definition of sex work
- expunge sex work-related charges
- non-legislative approaches to ensure WHS responsibilities and rights are applied to all sex industry workplaces through the development of WHS guidelines
- no new laws specific to sex work.

The entire current licensing framework of the PLA, PETF, criminalisation, exceptional police powers, entrapment, anti-discrimination exemptions, council discretion and targeted police enforcement must be repealed. A decriminalised framework has no role for atypical treatment of sex work except where civil protections (WHS, accepted development, relevant anti-discrimination attributes) are required.

It is these laws that force approximately 90% of sex workers to choose between working safely or legally and allow the police to search, entrap, charge and move-on sex workers and their friends/associates, as well as enforce a criminal approach to sex workers' sexual health. They also give power to the Prostitution Licensing Authority to govern the (only) 20 existing brothels and decide how we can advertise. It will also be necessary to dissolve the PLA and the Prostitution Enforcement Task Force of the Queensland Police Service (PETF).

Exceptional laws, such as those that currently apply to sex work but not other types of work, are based on discriminatory and inaccurate understandings of sex work. The stigma that drives the creation of paternalistic and unjust laws in turn maintains ongoing stigma and

discrimination so that sex workers remain locked in perpetual cycles of criminalisation and stigmatisation, constantly assessing the risk of arrest and police abuse of power as part of everyday WHS strategies.

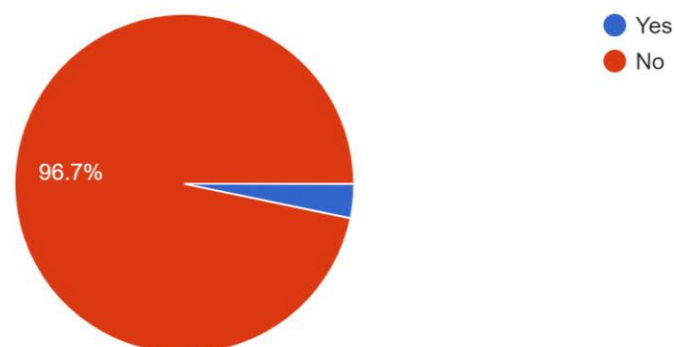
'Whore stigma' can be seen as a driving force behind many policies and regulatory frameworks that govern sex work, including criminalisation, licensing and end-demand policies. These are all 'infused with moralistic presumptions, draw on the rhetoric of risk, and are premised on (virtually identical) stigmatic assumptions' that view sex workers as victims of exploitation, their labour as delegitimate and sex work as risky (Bruckert and Hannem 2013: 61). Gail Pheterson referred to whore stigma as 'a social and legal branding' reinforced by 'police, judges, doctors, law-makers and researchers' who participate in 'direct or indirect collusion with the persecution of prostitutes' (1990: 397–398)... Consequently, sex workers occupy what Sibley called 'the liminal space between offender and victim' (2015: 1).⁷

Police entrapment

There must be a full repeal of all of the current criminal laws and police powers, including 'move-on' powers and 'controlled activities', which target sex workers, to remove forever the most problematic aspect of sex work policing, that is, entrapment with police officers posing as clients. These laws impact negatively on sex workers' working environments, their ability to engage in WHS strategies, mental health and wellbeing and the ability of sex workers to access justice and report crime to police. In our recent survey participants expressed strong views about police entrapment.

23. Under the current laws police can pose as a client and request illegal services from sex workers. Do you think police should be allowed to pose as clients?

184 responses



Two strong themes emerged from survey participants' responses to a follow-up question about how police posing as clients impacted on them. The first theme is fear and mistrust of police because of the covert nature of police interactions, and the second is disgust and outrage due to policing activities that are considered a violation and abuse of power, often targeting the most marginalised sex workers. Sex workers spoke in very emotional terms about the impacts of police entrapment. A strong feeling of fear and mistrust, both of police and others, was

⁷ Stardust et al. (2021). Ibid.

mentioned by many of the survey participants (108/172) as a consequence of police posing as clients. Most of these participants expressed a distinct fear and mistrust of police themselves.

*“It makes me terrified... It feels like Rape. And it leaves me terrified of the police.”
[Survey participant 56]*

“It makes me feel unsafe, distrustful and scared. It makes me not ever want to turn to the police if I were in danger. It also scares me a lot to have to think about the police all the time.” [Survey participant 57]

The possibility of police entrapment creates a perpetual fear that permeates the work environment:

“I am scared and walk on eggshells.” [Survey participant 77]

“Even if I declined illegal services, I would be concerned that my words/actions could be misconstrued to press charges.” [Survey participant 75]

“I am always anxious at the start of a booking when I'm interacting with the client, which makes the environment feel edgy and unsafe.” [Survey participant 94]

Quite a few responses reveal extreme fear and mistrust of police, indicating that police who pose as clients are considered to be a potential source of harm far beyond legal charges or arrest.

“I'm afraid of being raped by police.” [Survey participant 83]

“It is absolutely terrifying and violating.” [Survey participant 115]

“This means they could obtain sexual services and then arrest you and take back cash. as you only consented to sexual services under the premise of being paid, this is rape. I don't want to be raped by police.” [Survey participant 101]

*“...fear of sexual assault from police who might push it and no one would know.”
[Survey participant 160]*

“It makes me scared. When I have someone acting funny, asking silly questions I am worried if I am rude it will be police who will then pick me out.” [Survey participant 98]

Strong expressions of disgust and outrage were evident in participants' responses about police posing as clients to entrap sex workers for advertising breaches, working with others or sexual health matters. It was felt to be an inappropriate form of policing (*unethical, violating, breach of consent, disgusting, rapey and gross, unsafe and betrayed*) and an abuse of power (*unethical, power trip, gotcha moment with the boyz, get their jollies*), which tended to target (*prey on, manipulate*) the most vulnerable sex workers: those who were in poverty or without English as a first language.

“I also fear being duped into providing a service to a cop by deception, which violates my consent. I need to know exactly who is presenting to me in order to consent to anything!” [Survey participant 94]

“I am afraid of being naked and vulnerable, thinking I am engaging with a client, and the idea that all of a sudden this might be an undercover officer with additional officers waiting outside - it feels like a HUGE breach of my consent. It is traumatic, it is harmful - and any police officer who is undercover and engages in SEX is a rapist. That is not consent. That is abuse.” [Survey participant 161]

“I am uncomfortable seeing an undercover police officer who will write up our appointment in a report. It feels rapey and gross.” [Survey participant 200]

“I try to build up trust with a client even before meeting and I'm terrified that someone I am allowing into my space might be an undercover cop, that would make me feel so unsafe and betrayed.” [Survey participant 57]

“...this currently gives far too much power to potentially vindictive cops. If one of us sex workers have said 'no' to a cop then they can quite easily go down the path of trying to entrap us... this law leaves the door wide open for potential corruption and leaves sex workers vulnerable to be exploited by the very people who most of society thinks is there to protect us.” [Survey participant 63]

“It's unsettling and an abuse of power. Also, they can manipulate survival sex workers or uneducated providers.” [Survey participant 9]

“They prey on survival sex workers and can be pushy even when a worker says no they do everything to make her agree anyway, offering large sums of money. It's completely entrapment and is disgusting and unfair.” [Survey participant 11]

“Even working in strip clubs it was a regular occurrence and it just became offensive and draining that someone was being paid an obscene hourly rate, as well as government benefits, to act like a vulture and waste a professionals time.” [Survey participant 78]

Some participants suggested that the abuse of power that occurred during police entrapment was based on deceit and dishonest policing that relied heavily on technicalities and semantics in advertising or phone communications.

“It's their word against yours and it's about interpretations of what was said over the phone. The idea that one word could be incorrect on your website from months ago and you could still get a knock on the door and be charged is horrific and frightening.” [Survey participant 63]

“...they force you to do things you don't want to and will record, making out your doing something your not, loudly, to be heard.” [Survey participant 29]

“I have to wonder whether each client is a police officer trying to set me up or trick me with a word game. I want to communicate honestly, have safe, legal and good interactions with all my clients -- not always worry about whether my words can be misconstrued by someone trying to trap me into saying something illegal.” [Survey participant 40]

Sex workers who had experienced police entrapment described the fear and abuse of power they felt.

“It has happened to me. Very scared after that to accept clients.” [Survey participant 2]

“I am worried that everyone I speak to is a cop and that they will know about how I operate my business and charge me... I was rubbing my breasts on him and then he told me he was a cop there undercover. It felt dirty. I hadn't consented to being touched or touching or kissing a cop. I couldn't do sex work for four months afterwards.” [Survey participant 6]

“It makes me super paranoid and I have been entrapped, it was a horrible experience.” [Survey participant 18]

“They are horrible. I have never ever offered illegal services but have been harassed and hounded by police in an attempt to get me to offer illegal services. This was to the point I thought the man was going to try and rape me as he was so aggressive and persistent. Until he told me he was a cop. I couldn't even report the verbal abuse and harassment as he was a police officer, no one would listen.” [Survey participant 198]

Police entrapment interferes with sex workers' WHS strategies

Survey participants described situations where the screening process became tricky and stressful because they wanted to use standard WHS strategies that would get them arrested if the 'client' turned out to be a police officer. For example, sex workers might want real clients to believe that they are not alone but if they communicate that to an undercover police officer they will be charged.

"...makes me afraid and anxious about what i say to clients over the phone ie i want to try and make clients feel like i'm not alone even if i am - but i know that could get me in trouble." [Survey participant 35]

"I can't tell the client that another sex worker already knows about the booking and location - as a way to deter them from violence or other ideas." [Survey participant 179]

"It causes me to second-guess all actions across harm minimisation strategies and worst case scenarios." [Survey participant 91]

"An example is I tell clients that I am ringing another worker to let them know when the booking will end - so the clients don't think I am just alone. This would be enough for police to target me." [Survey participant 6]

"It didn't change how I operated but I was well aware of the risk that I could be fined simply for trying to be clear about my services. I chose to take that risk to increase my personal safety." [Survey participant 155]

Some survey participants explained how the fear of police entrapment made them reluctant to describe in detail the services that they provided leading to potential misunderstandings with clients that could turn dangerous. This and other safety issues were described:

"Instead of being able to speak openly about what I do and don't do in a booking, I have to assume someone is a police officer and therefore speak in code and not give a potential client a clear indication of whether I will offer what they are asking. This is potentially dangerous if a client thinks they are getting something they aren't and are angry as they feel misled." [Survey participant 7]

"...not only is there a threat from dangerous clients there is also a threat from the so called protectors of society." [Survey participant 173]

Stigma and the mental health impacts of police entrapment

Some participants spoke about the stigma of criminalisation that they felt when having to deal with police posing as clients.

“...further marginalises workers from feeling confident, comfortable and at ease for doing their work. Also it completely disrespects workers in our profession because it encourages the idea that this work is ‘wrong’.” [Survey participant 148]

“It’s extremely stressful... always feeling like a criminal.” [Survey participant 80]

“Do they do that to other types of workers ? No... so why us ? Why are we singled out and treated so low.” [Survey participant 105]

Whilst describing the fear and mistrust caused by police entrapment most survey participants regularly used terms like *anxious*, *paranoid*, *hyper-vigilant*, but some specifically touched on the mental health impacts.

“...makes me very anxious, i’m overly paranoid when responding to bookings.” [Survey participant 16]

“...keeps me in fear, makes me very anxious organising bookings.” [Survey participant 12]

“Every contact becomes a potential anxiety attack.” [Survey participant 154]

“It...impacts my mental health negatively.” [Survey participant 38]

“It strikes fear into the heart of my already delicate mental state.” [Survey participant 173]

“Police entrapment only adds on the mental negativity for us as independent workers who already work in isolation.” [Survey participant 189]

“...make fear scare, not have much ability to cope with work.” [Survey participant 190]

“The possibility of undercover police is something that takes up a lot of my thoughts and energy. Energy I should be using to stay safe and make money.” [Survey participant 57]

“It induces fear which is unhealthy for me.” [Survey participant 82]

“It makes me very fearful... It has a huge impact on my anxiety and mental illness.” [Survey participant 202]

“It makes me stressed just thinking about it... it’s very distressing for us.” [Survey participant 204]

Mental health impacts, to the extent of being unable to continue to do sex work, were described by some participants as caused directly by police posing as clients.

“It felt dirty. I hadn’t consented to being touched or touching or kissing a cop. I couldn’t do sex work for four months afterwards.” [Survey participant 6]

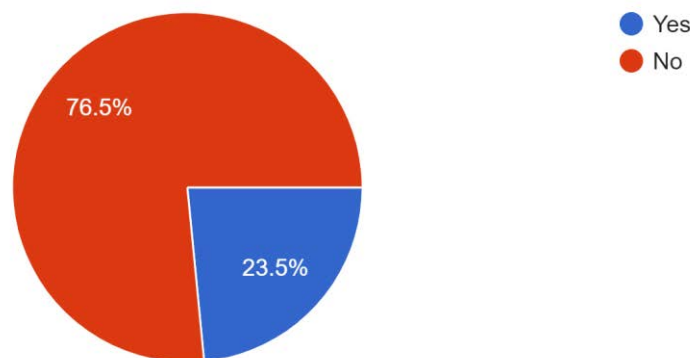
“I currently don’t take bookings for fear of it.” [Survey participant 103]

Inability to access justice and reluctance to report crime to police

All of the current criminal laws and police powers must be repealed to begin to repair the fractured relationship that sex workers have with police. In our recent survey 76.5% of sex workers indicated that they would not make a police report under the current laws (150/196).

7. Would you make a police report under the current laws?

196 responses



When asked for reasons the majority of sex workers indicated that they would not report because of fear that they would be charged with a crime themselves, or that they would be subject to increased police surveillance and future entrapment. Other participants said they would not report because they knew that some of their work practices were illegal or they were not sure whether they were working lawfully. Survey participants also indicated that they would not report because of police attitudes towards sex workers, including experiencing unfavorable treatment, stigma and discrimination, being dismissed and crimes not being taken seriously because of sex work status.

Many sex workers chose not to report because they felt that it was unlikely they would achieve a positive outcome through the criminal justice system, and moreover, that they would be subject to poor treatment and—potentially—to further violence and trauma through interacting with police. Many sex workers indicated that they would only report very serious violent crimes. Of those sex workers who said that they would make a police report, the majority said they would do so to hold perpetrators accountable and to stand up for their rights.

Reporting crime could lead to being charged or put under surveillance

One of the most common reasons sex workers told us that they would not make a police report under the current laws was a fear of the repercussions of making themselves known to police as a sex worker. Participants said that they feared being treated as a criminal instead of a victim and feared being charged with a crime themselves as a result of reporting:

“I tried to report a crime and I was treated like I was the criminal because I do sex work. I would never do it again.” [Survey participant 204]

“I would be afraid of being charged with other offences.” [Survey participant 35]

“I would but would find it pretty scary as I’d worry I’d be arrested if I said the wrong thing.” [Survey participant 64]

“I am afraid of being persecuted for my work.” [Survey participant 72]

“I don’t trust the police, and I don’t want to be prosecuted and I don’t want a criminal record.” [Survey participant 82]

“There are too many things that I could be charged for.” [Survey participant 96]

Several sex workers explicitly stated that they would not report because they knew that some of their working practices were illegal, as illustrated in the following quote:

“I know I’m breaking the laws as my check in person is also a sex worker, and I wouldn’t trust the cops to have any interest in why I’m making a report, they’re just going to want to nab me instead.” [Survey participant 37]

Others were unsure about the law, which was a barrier to reporting, as one respondent explained:

“Because the laws are so convoluted, outdated and problematic, I wouldn’t even know whether I was working 100% within the law. The risk of unwittingly incriminating myself feels too high...” [Survey participant 94]

Some sex workers explained that their decision to report would depend on whether they were working legally. Several participants said that they would report in other states where sex work is decriminalised, but not in Queensland:

“Working in a jurisdiction where parts of sex work are criminalised means I would be extremely unlikely, if ever, to go to the police. I would be worried that I have outed myself to them, that I wouldn’t be taken seriously, that I would be blamed for the way I am working. I would be more likely to make a report in NSW or the NT.” [Survey participant 90]

Licensed brothel workers are reluctant to report crime to police

It is not just sex workers in criminalised work sectors who are reluctant to report crime to police. We found that sex workers who work in licensed brothels were also reluctant to report crime to police, and they are less likely to do so now than they were five years ago. In our recent 2022 survey of Queensland sex workers more participants who worked in licensed brothels said that they would not report a crime to police, 73.5% compared with 50% of the licensed brothel workers who responded to the 2017 *Regulating Bodies* survey. In the most recent survey only 26.5% said they would report to police, compared with 46% in the 2017 survey. This suggests that sex workers in licensed brothels have become less confident about reporting assaults in the workplace to the police in the last five years.

The reasons for licensed brothel workers not reporting violence to police are the same now as they were in 2017, where 45 (66%) identified stigma and a concern that their privacy would be compromised if they provided police with their personal details, and 26 (38%) said they mistrusted police, their competence, the legal system and/or anticipated discrimination.⁸

Fear of ongoing surveillance

As well as the fear of being charged, many participants stated that they feared making themselves known to police as a sex worker as it would put them in danger of future police surveillance and targeting for entrapment:

“Sex workers aren’t safe in these laws. They’d expose me or my community to further police scrutiny, fines or charges.” [Survey participant 32]

“Fear of being on their radar and would be constantly watched or under surveillance.” [Survey participant 45]

“It’s not safe. Let’s police know I’m a sex worker and sets me up for entrapment.” [Survey participant 36]

“I made a report years ago when I was receiving death threats over voicemail. Not only did the police do NOTHING but I have reason to believe my details were catalogued and led to later attempts at police entrapment.” [Survey participant 108]

“... I don’t see the Queensland police as being on my side. They are not my protectors, they are actively hunting us down and trying to catch us. I don’t want to get in legal trouble...” [Survey participant 57]

⁸ Respect Inc. (2017). *Regulating bodies: An in-depth assessment of the needs of sex workers [sexual service providers] in Queensland’s licensed brothels*, p. 21. <https://respectqld.org.au/wp-content/uploads/Documents/Regulating-Bodies-BWNA-2017.pdf>

Active targeting of sex workers by police made it difficult for sex workers to trust that police would effectively support them as victims of crime. Participants mistrust police as they feel they do not have the training or empathy to effectively work with sex workers who are victims, while actively entrapping sex workers at the same time:

“...The police force is NOT trained nor sensitive to the needs of women, of victims, and most especially not of sex workers.” [Survey participant 40]

“...Plus if police are tricking and pressuring to entrap us, how can i feel like i trust them? I dont.” [Survey participant 77]

Reporting crime would not be taken seriously

The fear of not being believed or taken seriously, or having crimes against them dismissed because of being a sex worker was another major barrier to reporting. Sex workers spoke about experiences of being blamed and shamed for the violence they experienced and having their sex work ‘used against them’, as participants put it:

“...Police and law enforcement are no help. I have been told before that I ‘put myself in the position for bad things to happen like that’ when I have tried to ask for help”. [Survey participant 105]

“When i was robbed and bashed kanngroopoint i rang the police 2 union police turned up an hour later and spoke to me like i was a piece of shit and told me i should change jobs...” [Survey participant 157]

“I’ve heard from multiple co-workers their reports were not taken seriously because of our job.” [Survey participant 106]

Police attitudes toward sex workers make reporting crime unlikely

Participants told us that police attitudes towards sex workers were characterised by stigma and discrimination; that their experiences of violence were often dismissed and that police generally had an unfavourable attitude towards sex workers, resulting in less favourable treatment and outcomes. In the words of sex workers:

“I have seen and heard of police laughing at reports of rape/stalking/abuse. It’s clear to me that police don’t think of sex workers as human. I also don’t see any examples where the police were helpful toward a sex worker.” [Survey participant 59]

“I don’t feel like I would be treated with respect and dignity by police. They seem to have something against us.” [Survey participant 146]

“There would be something they would find to get me on. They wouldn’t take me seriously. I’ve heard the way cops talk about sex workers, even the ones who think they’re friendly still hate the workers who aren’t highly educated or use drugs. There’s always some stigma.” [Survey participant 86]

Potential sexual violence by police makes reporting crime unlikely

As a result of negative experiences, many sex workers choose not to make a report in order to avoid police interactions. Disturbingly, several sex workers said that they would not report for fear of experiencing sexual coercion or violence from the police themselves:

“I would not expect police to believe that a sex worker could be sexually assaulted in the first place let alone take the complaint seriously. I would be worried that I might have done something illegal and be arrested instead. If I were arrested I would be worried that the police would sexually assault or coerce me in order to avoid being charged.” [Survey participant 83]

“I was committing a crime and only let go by a male police officer on duty for the promise of sex.” [Survey participant 142]

To allow sex workers to move out of *‘the liminal space between offender and victim’* and be recognised as legitimate workers who can access justice and report crimes to police it is necessary that there be no exceptional criminal laws or police powers remaining after decriminalisation.

To create a decriminalised framework it will be necessary to remove all the current laws and police powers that refer specifically to sex work and dissolve the PLA and PETF.

Recommendation 3 (Q3):

Decriminalisation is primarily a process of repeal. Changes to the current framework would include:

- repeal all of Chapter 22A of the Criminal Code
- repeal all of the Prostitution Act and Prostitution Regulation
- amend other Acts to remove 'exemptions' or 'disqualifications' based on Criminal Code and Prostitution Act offences
- remove the police from any role in sex work regulation, repeal sections of the Police Powers and Responsibilities Act 2000 that refer to sex work including 'controlled activities', 'move on notices, powers in relation to consorting
- amend Planning Regulation (2017) to repeal Schedule 10, Part 2, Brothels, "Prohibited Development—material change of use for a brothel", add brothels, massage parlours, escort agencies and private sex work including collectives to Schedule 6
- amend Consent in the Criminal Code Section 348(2)(e) 'by false and fraudulent representations about the nature or purpose of the act;' should be amended to include 'or the withdrawal of payment or non-payment of a sex worker' and add a provision 'by an intentional misrepresentation by another person about the use of a condom'
- amend anti-discrimination protections to cover sex work and sex workers against discrimination and vilification and repeal exemptions that allow lawful discrimination against sex workers
- amend the definition of sex work
- expunge sex work-related offences
- non-legislative approaches to ensure WHS responsibilities and rights are applied to all sex industry workplaces through the development of WHS guidelines
- amend Liquor Act (1992) and Liquor (Approval of Adult Entertainment Code) Regulations 2002 to decriminalise strippers
- no new laws specific to sex work.

The entire current licensing framework of the PLA, PETF, criminalisation, exceptional police powers, entrapment, anti-discrimination exemptions, council discretion and targeted police enforcement must be repealed. A decriminalised framework has no role for atypical treatment of sex work except where civil protections (WHS, accepted development, relevant anti-discrimination attributes) are required.

Q4 Who should the new framework apply to, and why?

Sex workers and sex work business types

Decriminalisation would mean all existing sex industry businesses and sex workers would be brought into the decriminalised sector. The decriminalised framework would apply to ALL sex workers and sex work business types. Sex workers are diverse and so are sex work businesses. The definition of sex work should include sex workers who do contact and non-contact sex work: erotic dance/stripping, erotic massage, full service sex work, bdsm, sex for favours, online and in-person services. It should also include sex workers who work independently, collaboratively, do incall/outcall, street/bar-based work or work in massage parlours, with escort agencies, in brothels and online.

If all types of sex work business are included it will mean that no sex workers will be denied the benefits of decriminalisation. There will be no need to construct rigid and confusing rules that separate, define and describe what types of sex work are allowed and what are not.

In our recent survey sex workers were asked the following question about their preferred styles of working:

2022 DecrimQld Survey Q13. If sex work laws in Queensland supported a range of workplace options, how would you choose to work? (choose ONLY your top four preferences). Available choices: private, brothel, massage parlour, co-operative/group, escort agency, strip club, street based, online content creator, sex for favours.

The answers revealed that a wide range of workplace types are necessary and desirable, with some more popular than others. Most sex workers chose either private work or working privately with other sex workers in collectives (sharing overheads and providing support for each other) as their first choice. Quite a few selected online content creation as their preferred work style with escort agency, massage parlour, brothel, strip club and sex for favours clearly desirable but less popular as a first choice. Very few participants chose street-based work as their first choice, which we suggest is due to the prevalence of that sector (small) and not an indication that the sector is less in need of reform. When considering second choice work options, collectives were the highest selection followed by brothels as a high second choice. Online content creation, private, escort agency and massage parlour were moderately presented in the second choice category but with strip clubs, sex for favours and street-based work less popular. What came through strongly in these answers is that there is a need for a diverse range of workplace types to provide enough options for sex workers to work in the ways that suit them without limiting safety and wellbeing:

“There are so many ways to work. When I haven't had money for advertising I have wanted to do street work. When I've been sick and didn't want to do full service, I've wanted to do massage work. Different types of work suit different people at different times and we shouldn't be forced by the government to do only these certain types of work if we don't want to.” [Survey participant 86]

“My preferred way to work would be with friends in shared accommodation. This would increase my safety and also decrease my overheads and feelings of isolation. If I had the choice I would also like to work in a massage parlour where I have the option to

not do full service, to set my own prices and have flexibility to offer what I feel like depending on the client.” [Survey participant 7]

“I would not be able to work in a licensed brothel because I am too old and there are not enough of them so the roster shifts go to younger sex workers. I would not want to work from my own residence because it's important to me to keep boundaries so I would prefer to do escort work with an agency or with another sex worker.” [Survey participant 22]

“I like to have choices. Sometimes I feel like working with a friend, sometimes I feel fine to work alone. I like to work in a brothel during periods in my life when I don't have the energy to advertise and I feel more like a 9-5 lifestyle. I know many sex workers, especially those who are parents feel that working in a brothel is more discreet and easier to combine with school hours.” [Survey participant 57]

“I am a dominatrix and need a specific space. I would feel safer working with or sharing a space with another worker.” [Survey participant 66]

“I usually find clients at work at a strip club which doesn't have the licence.” [Survey participant 170]

“A workspace that could be shared by multiple workers would be a much more affordable option.” [Survey participant 196]

“To let us work freely from our homes, rent is super expensive and it's not getting any cheaper if we keep booking motels and hotels.” [Survey participant 203]

“I would like the choice to adapt my work to suit my health, mobility and capacity when it changes.” [Survey participant 204]

Massage parlours

Massage parlour work is an important traditional style of sex work that has many benefits. Survey participants who worked in massage parlours were asked about their reasons for choosing that business type. The answers convey a range of reasons why working in a massage parlour is better for them than working in another sector of sex work. The most common reason for working in a massage parlour is that full service is not required and/or it is easier to handle negotiations with clients in massage parlour workplaces:

“I like the option of not having to provide full services in every booking.” [Survey participant 100]

“The clients are often happy with a handjob and I just take my top off so it's easy.” [Survey participant 204]

Some participants talked about how the massage parlour was an introduction to sex work, being able to learn about erotic labour and see how they went before starting work privately and therefore by themselves, or in a brothel, which usually includes full service sex work.

“It was a starting point. A place to start with sex work and learn.” [Survey participant 20]

“I also wanted to learn what I was doing before I went out on my own, about safety and sexual health etc.” [Survey participant 181]

Others said that erotic massage is just what they do. This is their skill area, they enjoy it and they are good at it.

“It makes people happy and I am very good at it.” [Survey participant 98]

“I enjoy massage, it’s physical and sensual.” [Survey participant 204]

Other reasons for choosing massage parlour work included flexibility, that is, shorter or more flexible shifts than brothels, and better money, more work or a better cut with management.

“It meant I could alter my hours to meet childcare needs and I received a higher cut from each booking.” [Survey participant 6]

“clients more rate compensation for services.” [Survey participant 162]

“There is much more money to be made. This is how I worked in Sydney.” [Survey participant 102]

One participant noted that for migrant sex workers massage parlour work is just easier to get into because of systemic and language barriers that make it difficult for them to work alone or in a licensed brothel.

“Language barrier prevented migrant workers from working privately and applying job in brothels. Front desk staff [at massage parlours] can handle booking for the workers.” [Survey participant 189]

Definition of sex work must be modernised:

There is broad consensus that the current definition of sex work including “any other activity that ‘involves the use of one person by another’ for their sexual satisfaction ‘involving physical contact’” is outdated. An important component of modernising sex work laws in Queensland through decriminalisation is a change to the definition of sex work. This includes removing stigmatising and outdated terms like ‘prostitution’, but it is also essential that the definition be reflective of what sex work is in 2022 in Queensland and what it is not. The definition in and of itself should not be stigmatising of sex work.

Sex workers do not offer ourselves or our bodies for the ‘use’ of another person. By reflecting outdated attitudes to sex work, as if a client pays for the use of a sex worker’s body, the current definition undermines critical understandings of consent in a sex work setting. The definition does not recognise sex work as work and that sex workers provide a wide variety of services, which are better captured by the definition used in the NT Sex Industry Act 2019:

*Sex work is the provision by a person of services that involve the person or persons participating in sexual activity with another person in return for payment or reward.
Sex worker means a person who performs sex work.*

Recommendation 4 (Q4):

All sex work, regardless of the sector, should be decriminalised as part of this review.

All sex industry businesses should be included in the new framework.

All sex work in Queensland will be covered by universal human rights and generic industrial safeguards after decriminalisation, except where civil protections are required (WHS guidelines, accepted development, relevant anti-discrimination attributes).

No sector or sex worker will be left behind.

Recommendation 5 (Q4):

The definition of sex work must be replaced and modernised. We recommend the new definition as:

Sex work is the provision by a person of services that involve the person or persons participating in sexual activity with another person in return for payment or reward.

Sex worker means a person who performs sex work.