



## Info sheet on the Anti-Discrimination Act review and Anti-Discrimination coverage for sex workers



Sex workers disproportionately experience discrimination in many areas of life. Discrimination is when a person is treated less favourably because of an 'attribute', for example because they are a sex worker. The majority of discrimination cases go unreported because the legislation and complaints process does not meet our needs.

**Currently, there is a [review](#) of the [Anti-Discrimination Act \(QLD\)](#) underway and it is our opportunity as sex workers and as a sex worker organisation to recommend changes to ensure that discrimination against sex workers is illegal.**

The Queensland Anti-Discrimination Act attempts to provide coverage for sex workers under the protected attribute '*lawful sexual activity*'; however, this only provides limited coverage. Along with sex workers in other states and territories we are calling for the protected 'attribute' to change from 'lawful sexual activity' to 'sex worker' and 'sex work'.

There are significant barriers to sex workers making a complaint using the Anti-Discrimination Act. When a complaint is made, the first stage can involve the person entering into a conciliation process aimed at resolving the dispute; however, this requires the person's legal name to be used. If settled at this stage the terms often include a 'gag clause' meaning other sex workers never find out the outcome of the agreement and the outcome doesn't result in systemic change to discriminatory behaviours by individuals or entities.

Some sections of the Act specifically allow for sex workers to be discriminated against. This includes the amendment to s 106C that allows accommodation discrimination. Any law that allows for discrimination against sex workers should be repealed.

### How to have your say:

There are multiple ways to have your voice heard, and you can contribute using your name or **anonymously**. There are options for how you add your views:

- fill in the online survey, or
- write a submission, or
- use other forms of multimedia (including audio, video content, image or artwork) to advocate for changes that will better protect sex workers.

If you choose to fill in the online survey (the easiest option), we have provided some **sample answers** below to help you answer some of the more technical questions.

You can fill in the survey by clicking on this link:

<https://forms.office.com/Pages/ResponsePage.aspx?id=udsiCH8wrkyo6QgWD-Z9CiYad-1A1gRPirlamXnj98JURUIRNU84NkIVSkZCUkZDTVZHVIIDT1NUQyQIQCN0PWcu>.

DecrimQLD and Respect Inc have produced this document to try to ensure that as many sex workers as possible can inform the Anti-Discrimination Act review.

We will also be holding an **online forum** to discuss the review and what sex workers need. If you would like to be included, contact us on [info@respectqld.org.au](mailto:info@respectqld.org.au).



## More information about the review:

Comprehensive information about the Anti-Discrimination Act review is on the QHRC website: <https://www.qhrc.qld.gov.au/law-reform/about-the-review>

Queensland Attorney-General's announcement about the review:  
<https://statements.qld.gov.au/statements/92010>

Terms of Reference for the review:  
[https://www.qhrc.qld.gov.au/\\_data/assets/pdf\\_file/0005/32396/2021-Review-of-the-ADA-Terms-of-Reference.pdf](https://www.qhrc.qld.gov.au/_data/assets/pdf_file/0005/32396/2021-Review-of-the-ADA-Terms-of-Reference.pdf)

## Changes to the Anti-Discrimination Act needed to protect sex workers:

- Attributes - The 'attributes' set out who or what is protected from discrimination. Some sex workers are covered under 'lawful sexual activity'. Changing the attribute to specifically include 'sex workers' and 'sex work' is necessary to address the current gaps. Coverage for people who have been a sex worker, associated with a sex worker or are presumed to be a sex worker is also important.
- Conciliation process changes:
  - There are significant barriers to sex workers making a complaint. Changes to the conciliation process should reduce barriers by:
    - Allowing organisations like Respect to make a complaint on behalf of a sex worker.
    - Ensuring that the anonymity of a sex worker is protected at every *stage* of the process instead of having to be applied for at each stage.
    - Removing financial barriers. Although the conciliation process is free to access, if the person/organisation you have made a complaint about refuses to 'settle' the matter, it is then referred to the Queensland Civil and Administrative Tribunal (QCAT), and then the Supreme Court (if not resolved at QCAT).
  - When a complaint is resolved at the conciliation stage the conciliated agreement often includes a *release, discharge and indemnity agreement* (both parties sign) and this can:
    - withdraw the right to pursue the case in other ways.
    - result in people accepting way less than they deserve.
    - include a gag clause that prevents the parties discussing the discrimination or the agreement with anyone else.
  - The current process does not result in systemic or behavioural change because the results are not made public ('gag' clauses are usually part of the



agreement, especially where you receive monetary compensation) and so other similar businesses (who discriminate) don't know about it and other sex workers also don't get the information needed to know they could pursue their own complaints.

- Other amendments - sections of the Act that allow discrimination against sex workers should be repealed:
  - s 106C is an amendment to the Act that makes it lawful to discriminate against sex workers by refusing to supply accommodation, by evicting someone or treating someone less favourably in offering accommodation if the accommodation provider reasonably believes the other person is using, or intends to use, the accommodation in connection with that person's, or another person's, work as a sex worker.
  - s 28(1) allows discrimination against sex workers in 'work involving the care or instruction of minors' (currently on the basis of lawful sexual activity or gender identity).
  - s 119 relates to sexual harassment and should specifically recognise (potential with an example) that sex workers can experience sexual harassment, including in sex work workplaces.

### **Suggested sample answers for the survey:**

There are multiple ways to have your voice heard and if you choose to complete the survey you will be asked to respond to some questions. These are only examples of how you might respond.

The first questions are about your personal experiences of discrimination.

#### **Q 2 asks if you would like to provide contact details.**

You can click 'no' if you choose. The **last question** before you submit your responses also asks if you would like to **submit anonymously** and for your information to be used only confidentially (and **not** be released, even though there is no identifying information collected).

#### **Q 6 asks you if you identify as a member of any of the following groups.**

You can click on as many boxes as apply. We suggest you also click on the last box 'Other' and type/write in 'sex worker'.

#### **Q13 asks you 'What makes it hard for people who have experienced discrimination, sexual harassment and/or unfair treatment to make a complaint?'**



#DecrimQLD



We have provided some examples below for you to use if you want. Please feel free to use your own words or to cut and paste these words in if they apply to you, along with anything else you want to say.

- Protecting my identity throughout the whole process is necessary before I would make a complaint to the Commission.
- The addition to the Act that made it lawful to discriminate against sex workers in the provision of accommodation has removed one of the most important provisions for sex workers, many of whom may not want to/cannot work from their own home or who tour to other places.

#### **Q 14 asks you ‘How could the complaints process be improved?’**

We have provided some examples below for you to use if you want. Please feel free to use your own words or to cut and paste these words in if they apply to you, along with anything else you want to say.

- Protecting sex workers’ anonymity throughout the entire process is critical to being able to make a complaint as a sex worker. Changes need to be made to ensure that sex workers can better access justice by removing barriers such as cost and concerns about being ‘outed’.
- Although the conciliation process is free to access, if the person/organisation that is subject to the complaint refuses to ‘settle’ the matter, it is then referred to the Queensland Civil and Administrative Tribunal (QCAT), and then the Supreme Court (if not resolved at QCAT), which could result in costs to the sex worker that they may be unable to pay.
- Respect Inc, as a peer-run sex worker organisation, should be able to make a complaint on behalf of a sex worker or group of sex workers.
- The Queensland Human Rights Commission should be able to take action where discrimination is occurring repeatedly or the person experiencing the discrimination is unable to progress a complaint themselves.
- The procedures should make it clear that ensuring that the anonymity of a sex worker is protected at *every stage* of the process (including at the level of the Supreme Court) needs to occur for sex workers to have faith in, and use, these processes available to other citizens.
- The amendment to the Act (s 106C) that now makes it lawful to discriminate against sex workers by refusing to supply accommodation, by evicting someone or treating someone less favourably in offering accommodation if the accommodation provider reasonably believes the other person is using, or intends to use, the accommodation



in connection with that person's, or another person's, work as sex worker needs to be repealed.



**Q 15 asks 'Thinking about your experience of discrimination, sexual harassment and/or unfair treatment, what are your suggestions and ideas for change?'**

We have provided some examples below for you to use if you want. Please feel free to use your own words or to cut and paste these words in if they apply to you, along with anything else you want to say.

We are seeking changes to the Anti-Discrimination Act (QLD):

- For the attribute 'lawful sexual activity' to be changed to:
  - 'Sex work', and
  - 'Sex worker'.
  
- For the attributes to include:
  - Protections for 'Someone assumed to be a sex worker', and
  - 'Associates, past, present and assumed'.
  
- The repeal of s 28(1) (work with children) is needed. It allows discrimination against sex workers in 'work involving the care or instruction of minors' (currently on the basis of lawful sexual activity or gender identity), is highly discriminatory and entirely without an evidence base. It fuels stereotypes and could be mis-used in work, accommodation and family custody matters.
  
- It needs to be recognised that sex workers can and do experience sexual harassment, including in sex work workplaces. The scenarios depicted on the QHRC website should include sex work scenarios.

**Q 17 asks you 'How would you like your submission to be used?' and provides two options:**

- Confidential – I do not give permission for my submission to be published and I would like my submission to be treated confidentially.
  
- Public – I give permission for my submission to be published on the Queensland Human Rights Commission website, and for the Commission to publish my name if that has been provided.