

QLRC Review

A framework for a decriminalised sex work industry in Queensland

May, 2022



Current criminalisation of sex work in QLD

Prostitution Act 2000 (Qld)

- 20 licensed brothels, all other sex industry business models are criminalised
- Establishes regulations, licensing authority and advertising restrictions

Criminal Code 1899 (Qld), Covers *all* sex workers outside of licensed brothels,

- ★ Working in pairs or sharing a workspace
- ★ Making referrals to other workers
- ★ Hiring a receptionist or someone to answer our phones
- ★ Using a driver that another sex worker also uses & recommends
- ★ Texting another sex worker when our client arrives or leaves

Approx. 90% of sex workers and the industry is criminalised.

Police Powers and Responsibilities Act 2000 (Qld) (entrapment, consorting etc)

Entrapment is legal as 'controlled activities':

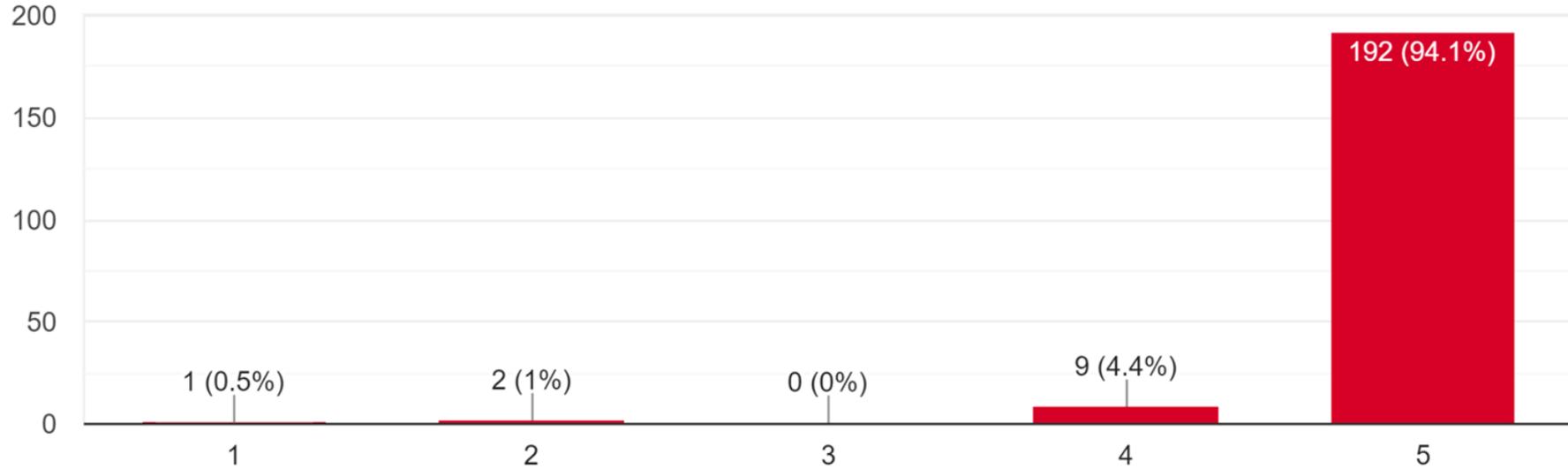
police pose as clients, ask for illegal services, make booking, charge sex workers

**SEX WORKERS IN
QUEENSLAND HAVE TO
CHOOSE BETWEEN
WORKING LEGALLY OR
WORKING SAFELY**



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

204 responses



0 = not important

5 = very important

Public call for submissions on decriminalising the sex work industry in Queensland

11 April 2022

The Queensland Government has committed to decriminalising the sex work industry. This means regulating sex work as work, not as a crime.

The QLRC has been asked to recommend what the framework for a decriminalised sex work industry should be.

Definition of sex work

Current Criminal Code 229E Meaning of prostitution

(1) A person engages in prostitution if the person engages, or offers to engage, in the provision to another person, under an arrangement of a commercial character, of any of the following activities—

(a) sexual intercourse; (b) masturbation; (c) oral sex;

(d) any activity, other than sexual intercourse, masturbation or oral sex,

that involves the **use of 1 person by another for his or her sexual satisfaction** involving physical contact.

Proposed new definition: 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.

Ch 8 Offences to protect against Commercial sexual exploitation

Proposes to maintain sections from the Prostitution Act and Criminal Code

If laws are left in the criminal code it will maintain the role of the QPS

- Other laws framed as protecting sex workers have been used against sex workers
- Federal trafficking, child protection and employment law already exist
- 'Impairment of the mind' definition is broad and would mean people with disability and mental health concerns (disability orgs & Qld Public Advocate have called for this definition to be reviewed) could criminalise sex workers and clients of sex workers or be used by families or carers to limit sexual freedom

Ch 9 Licensing of Sex Work Business Operators

Proposal to continue existing elements of the licensing laws by licensing business operators

Based on a suitability certification approach

Similar to the system in place in New Zealand which they say is unnecessary, creates a significant burden on the industry and government.

And has replicated the two tiered industry that results from licensing.

Licensing is not decriminalisation and it will undermine the attempt to decriminalise the sex industry in Queensland.

Ch 14 Public Solicitation

Proposed continuation of criminalisation of Street based sex workers based on nuisance/public amenity grounds

- Street based sector is very small
 - No proof of nuisance impact in 2022
 - Criminalisation distances from services
 - Limiting *Freedom of Movement* is not compatible with the Human Rights Act
 - Move on notices used against Aboriginal Torres Strait Islander & Trans women
- New Zealand & Northern Territory decriminalised street based sex work.

QPS Statistic Data' Public Soliciting offences	
2016-17	3
2017-18	0
2018-19	1
2019-20	0
2020-21	2
Last 5 years total	6

Ch16 Anti-discrimination Act amendments

72.5% OF SEX WORKERS
EXPERIENCED DISCRIMINATION
A FURTHER 14.2% WERE NOT SURE IF
THEIR EXPERIENCE WOULD COUNT
AS DISCRIMINATION



91% OF SEX WORKERS
DID NOT REPORT
DISCRIMINATION
EXPERIENCED

REPLACE LAWFUL SEXUAL
ACTIVITY WITH PROTECTED
ATTRIBUTES 'SEX WORKER'
AND 'SEX WORK'

It is likely that 7(l) 'lawful sexual activity' is incompatible with the Human Rights Act 1999 (Qld) as it has the effect of depriving a person who is working unlawfully from accessing protections under the Anti-Discrimination Act.

REPEAL S28 THAT MAKES
WORKING WITH CHILDREN
DISCRIMINATION AGAINST
SEX WORKERS LAWFUL

REPEAL S106C LAWFUL
DISCRIMINATION AGAINST SEX
WORKERS BY ACCOMMODATION
PROVIDERS

'The effect of the legislative history and the decision in *Dovedeen* for sex workers in Queensland is that there is not sufficient protection from discrimination by the current Anti-Discrimination Act 1991 (Qld) in circumstances where:

- The person is a sex worker without the status of a "lawfully employed" sex worker; and / or,
- The alleged discrimination is based on the activity of engaging in sex work, as opposed to their status as a sex worker.'

Cairns Community Legal Centre,
February, 2022

Info Sheet:

<https://respectqld.org.au/wp-content/uploads/Decrim/Info-Kit-QLRC-May22.pdf>

Follow us on social media @DecrimQLD or 0491 228 509