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## ***HOUSING, BIG BUILD AND MANUFACTURING COMMITTEE***

**Members present:**

Mr CG Whiting MP—Chair  
Mr JJ McDonald MP  
Mr DJ Brown MP  
Ms JM Bush MP  
Ms A Leahy MP  
Mr RI Katter MP (Virtual)

**Staff present:**

Ms S Galbraith—Committee Secretary  
Dr V Lowik—Assistant Committee Secretary

### **PUBLIC HEARING—INQUIRY INTO THE CRIMINAL CODE (DECRIMINALISING SEX WORK) AND OTHER LEGISLATION AMENDMENT BILL 2024.**

#### **TRANSCRIPT OF PROCEEDINGS**

**Tuesday, 26 March 2024**

**Brisbane**

## TUESDAY, 26 MARCH 2024

### **The committee met at 9.05 am.**

**CHAIR:** Good morning. I declare open this public hearing for the committee's inquiry into the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024. My name is Chris Whiting. I am the member for Bancroft and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples, whose lands, winds and waters we all share.

With me today are: Jim McDonald, member for Lockyer and deputy chair; Don Brown, member for Capalaba; Ann Leahy, member for Warrego, who is substituting for Michael Hart, the member for Burleigh; Robbie Katter, member for Traeger, who will be joining us via teleconference; and Jonty Bush, member for Cooper, who is substituting for Tom Smith, member for Bundaberg.

This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the hearing at the discretion of the committee.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I could ask everyone to turn their mobile phones off or to silent and computers to silent as well.

### **FORREST, Hon. Colin SC, Chair, Office of the Prostitution Licensing Authority**

### **ROSS, Mr Andrew, Executive Director, Office of the Prostitution Licensing Authority**

**CHAIR:** Thank you for coming along today. I invite you to give a brief opening statement, after which we will ask some questions.

**Mr Forrest:** Thank you to the committee members for inviting us along this morning. I join in sharing the acknowledgement of country and the traditional owners of the land that you have offered this morning. The Prostitution Licensing Authority is in a unique position to offer comment on the sex work industry in Queensland having overseen the licensed sector in this state for now 24 years since it was established in the 1999 legislation. Established in the wake of the Fitzgerald report and a further specific report from the Crime and Misconduct Commission, the Prostitution Licensing Authority and the regulatory system that it oversees was established around twin pillars of public interest. One of those was to keep criminal elements out of the sex work industry and the other was to reasonably address the health and safety concerns arising around the sex work industry. The transparency of the oversight and regulation provided by the PLA, the authority, in those ensuing years provides, in the authority's view, really the only truly reliable window into the sex work industry in this state. All else, I respectfully say on behalf of the authority, is little more than speculation and conjecture.

One of the stated aims of proponents of the current bill is to treat sex work just like any other work. The authority invites honourable committee members to ask yourselves the question: is sex work really just like any other work? The tattoo industry, pawnbroking, adult entertainment, even used car sales are not treated by the laws of this state as just any other work. The work in those industries is not left subject to the laws of general application but rather to specific regulatory provisions of specific legislation.

The licensing authority, frankly and respectfully, does not share the same confidence that the Law Reform Commission professes in the suitable regulatory effect of laws of general application. That said, the authority supports the complete decriminalisation proposed in the legislation and the more specific provisions aimed at reducing discrimination against and stigmatisation of sex workers. The authority also supports the contemporising of some of the regulatory provisions around things like the size of brothels, the number of brothels that can be operated by a single licensee, the number

of rooms that can be used in a brothel, around the licensing fees and around the application system that people currently have to negotiate. It also supports the freeing up of call-out for the licensed brothel system.

The authority's major concerns are with the idea that money laundering, worker coercion, people trafficking and illicit drug dealing in a totally decriminalised system can truly be properly overseen and regulated by the general law enforcement and criminal justice system. We also have a major concern with the idea that sex worker and client health and safety and rights, as well as public health safety and issues surrounding that, are all able to be appropriately managed through Workplace Health and Safety Queensland and the health department. Is letting just anyone into the industry as a brothel owner and employer of sex workers really a good idea, the authority asks? Is leaving the management of health risks and the use of protective prophylactics up to the individual worker and their client and their own arrangements really a good idea?

If honourable committee members have read the chapter of the Law Reform Commission's report that deals with health issues, you will have seen reference in there to a survey of sex workers said to have been conducted by Respect Inc, the union that says it represents sex workers, mostly those sex workers working outside the licensed sector. It revealed, 'More than approximately half of sex workers have regular sexual health check-ups.' That statistic was put in there meant to support confidence in the reader that health issues will not be a concern under the proposed legislation. Sex workers in the licensed sector repeatedly tell us—the authority—that legislated mandatory use of protective prophylactics gives them a perfect bulwark of defence to requests for non-protected sex, and we have also learned from the licensed sector that clients have high confidence in the standards of sexual health, cleanliness and sanitation that are provided in this sector under the current regulatory regime.

In conclusion, briefly, the authority says further reform in this area, in this industry, in this sector is most welcome, but the authority urges parliament to hasten carefully with the direction of all of the reform. Thank you.

**CHAIR:** Following on from your comment on health, is the authority involved in tracking trends in health care in this sector? Is that one of the things you do within the authority?

**Mr Forrest:** We are principally involved in enforcing health standards. We have compliance officers—the office of the authority has a number of very good compliance officers—who have, particularly in recent years, developed very respectful and trusting relationships with the licensees. They go out to licensed premises on a fairly regular basis and sometimes unannounced—so they make cold calls, if you can call it that—to check on health standards.

One of the mandatory health requirements is, of course, that a service provider in a brothel must have a current sexual health certificate, and 'current' means it has to be dated within three months of the time it is seen. Managers are required to ensure that the service providers have those sexual health certificates and that they are current and genuine. One of the complaints we sometimes get through the complaint line at the authority is that a service provider has provided what has been regarded as a fraudulent sexual health certificate. That then gets immediately referred to the Prostitution Enforcement Taskforce within the Police Service, and they go about making the inquiries to determine that.

Things such as the use of prophylactics in the actual provision of service we cannot immediately police, as you could appreciate. Indeed, although the current regulatory system requires video surveillance—good, updated, working video surveillance—throughout a brothel, including outside the entrance and coming in, it does not, of course, require video surveillance in each of the service provision rooms. What happens in the room is between the service provider and the client, of course. As I said, we are told by the service providers in the licensed sector that they rely on and appreciate the ability to say to a client who asks them to provide 'natural' service, 'I can't because the law says I can't.'

**CHAIR:** In terms of health, it is compliance with ensuring that certificate is held?

**Mr Forrest:** Most of our work is in compliance. In further direct answer to your question, I could only ask the executive director if he can tell you if any or what work is or has been done on following health trends after the event and that sort of thing.

**CHAIR:** I do not know if you have any research or information on that.

**Mr Ross:** We follow the advice given from Queensland Health, which has not found any anomalies in the relationship between sex workers and the general population across Australia. I might add, though, that, in addition to checking health certificates, the compliance regime also

ensures a range of prophylactics and lubricants are available in all of the service rooms. There is also a check of the working of a lamp that is used for a visual health check of clients before they go in. The last part of that particular stream is to ensure biohazard is managed correctly. Everything we do is at the preventive end. As the chair has pointed out, when we find anomalies they are generally prosecuted by the law enforcement agencies.

**Mr McDONALD:** Thank you both for being here today. Thank you for the opening statement and the questions you posed to the committee. Colin, they were very good questions and you articulated well in terms of regulating work in this case compared to all work. I appreciate those questions. What areas of focus would you like to see the committee concentrate on in terms of recommendations to the government?

**Mr Forrest:** As I indicated, we are particularly concerned that the notion of leaving the regulation of sex work and the sex work industry to the application of general laws is not going to be good enough. Firstly, if it is going to be handed over to workplace health and safety and the health department, there will need to be extra resources provided to them. The notion that there will be a saving of resources because resources directed to the authority will not be expended is probably wrong, because they will need to be resourced to be able to more appropriately regulate and oversee regulation of the industry and the providers.

One of the difficulties is going to be the identification of the places where the work is done. Under our current system, at least in the licensing sector, there is absolute transparency. We can tell government—and you will see in our annual reports—the names, addresses and places of all of the licensed brothels in Queensland and all of the people who operate them. We could show you the probity checks that are done by police. I can assure you of the consideration that is given to the probity check information we are given by police when we are considering applications for licences or renewal. We have not had many applications in the last couple of years due to this pending legislation. Indeed, some existing licensees have not renewed their licences.

This is by no means a plea by the authority to save us. I can assure you that the few loyal and hardworking members of the Public Service who work within the authority will be okay. They will have jobs. Those of us who serve on the authority, like me, do it as a public service, as you can imagine. We are not doing it for the financial reward that we receive for the fees. We have no truck in the abolition of the authority. We do not care. I have no problem if, when the bill is passed, my chairing of the authority ceases. I can move on with life.

There is a fairly strongly held view amongst all members—we have a really diverse background of membership on our authority—that it is an industry that still needs specific regulation by someone, even if that specific regulation is done by workplace health and safety, the health department or anyone. To treat it as though it is no different from any sort of other shop that might open down the main street of Gatton—it is different.

**Mr McDONALD:** Are there any models you are aware of that you could talk to the committee about? In your submission you mention industry involvement. It is unusual to have sex workers or clients involved in research or what have you. Is there a place for that in future regulation or in some sort of industry-led control?

**Mr Forrest:** Originally, a council was established under the act alongside the authority that had industry representatives on it. I do not know. That was back in 2003 or 2004 when it was done away with. I think it was around that time; is that right?

**Mr Ross:** That is right.

**Mr Forrest:** I am sorry to say that I do not exactly know the reason that was done away with. Then it was considered that we could not have industry representation on the authority because that would be a conflict with respect to our enforcement, compliance and licensing considerations. My personal view—it is not something really talked about at authority meetings—would be that industry involvement in its own regulation would not be a bad thing in determining what those regulations should be—definitely not in enforcing them or determining if regulations have been breached or anything.

**Mr Ross:** If I might briefly build on that, the chair mentioned earlier the criminality risks and the health risks. Our regulation approach at the moment is to deal with where that risk lies. That risk primarily lies with those who have a third-party commercial interest—the people who run the brothels themselves and manage them rather than the sex workers. All of our regulation is around the licensees and the managers. We do suitability checks and eligibility checks. We do these annually. We review those to make sure they are fit and proper people to be operating in the industry. The

regulation regime we have works across the spectrum of prevention, investigation, detection and prosecution firmly wedged to the prevention end. It is designed to keep the industry clean and give the public confidence. I do not think our argument is to regulate sex workers at all; it is to regulate that part of the industry where there are people making money, because that is purely where the risk lies. Where there is profitability, there is risk of criminality.

**Mr Forrest:** I just add to that a brief tale, my personal story. In the early 2000s I held a statutory position as Deputy Public Interest Monitor and as Public Interest Monitor. If members do not know what that is—it is under the Police Powers and Responsibilities Act—it is a statutory, independent position for a person who responds to police and CCC applications for covert surveillance, covert telephone intercept warrants and the like. I was involved in speaking for the public interest when those applications were being considered by Supreme Court judges and in the auditing and back-end following-up of it and reporting. The biggest legacy that I have from that seven or eight years of statutory independent work in this state was my concern as to the extent to which outlaw motorcycle gangs have a presence, particularly, dare I say it, on the Gold Coast. My major concern is that this legislation will open the doors wide open and say 'open for business' for outlaw motorcycle gangs particularly to legally get back involved in the sex industry. That will lead to employee exploitation—exploitation of service providers—coercion, drug trafficking in the sex work industry and the like. That is only a personal view.

**CHAIR:** That is a personal opinion.

**Mr Forrest:** A personal view, just simply from past experience. Do not get me wrong: I was no great supporter of the VLAD legislation, Mr Chair. I am not suggesting that we go down that path.

**Mr McDONALD:** That is a good caution—a well-informed caution.

**CHAIR:** Thank you for your opinion on that.

**Ms BUSH:** It is nice to see you again, Andrew, and nice to meet you, Colin. I have a couple of questions. Before I do that, I will make the comment. Colin, I think in your opening statement you referred to your submission as being one based in evidence and said that the others were somewhat conjecture. I think it is fair—for you and for those in the gallery who have made submissions—to advise that I will give your submission equal weight as others. I think you have a unique perspective and others have unique perspectives, and I think they need to be considered in the context of that. Your unique perspective is one of investigation and prosecution. That is worthwhile knowing, but it is one piece of that bigger pie. You have also made some statements about your concerns around where this could go with sex trafficking and outlaw motorcycle gangs. I note that that is your opinion, so that is conjecture in some ways.

**Mr Forrest:** Absolutely.

**Ms BUSH:** Do you have an evidence base for that opinion?

**Mr Forrest:** I stated the basis of my opinion, with my previous involvement.

**Ms BUSH:** Have you talked to your New Zealand counterparts? In 2003 they decriminalised sex work. Have you had discussions with them about what they found?

**Mr Forrest:** No, I have not. I have been chair of the PLA for not even two years yet. I do not know what previous chairs did or what the authority did previous to my appointment. Mr Ross has been in the job for only a year or so.

**Mr Ross:** Less.

**Ms BUSH:** I was just curious about the experience in New Zealand, because it has been quite similar to our model of decriminalisation. You would accept, though, the findings in other jurisdictions and the QLRC report that the broader public health and safety interests outweigh the risks associated with decriminalisation of sex work? That seems to be the substance of the written submission; is that correct?

**Mr Forrest:** Our written submission?

**Ms BUSH:** Yes.

**Mr Forrest:** Could you ask me that again, sorry? I did not quite follow it.

**Ms BUSH:** The broader public interest and health and safety concerns for workers and public health interests support the decriminalisation of sex work in Queensland?

**Mr Forrest:** Yes. The authority is not opposed to decriminalisation.

**Mr Ross:** In our submission we could see a lot of benefits in decriminalising it for workers and for their clients. Our concerns are not about decriminalisation; they are more about the extent of deregulation.

**Ms BUSH:** I just want to note that it is not a complete deregulation in some ways; there will be workplace health and safety standards, advertising guidelines and local by-laws that will apply to sex workers. There will certainly be a regulatory framework wrapped around this industry.

**Mr Forrest:** Sorry to interrupt you. We accept that you are not talking about total deregulation, but what you are talking about is that the legislation proposes abolition of specific industry targeted regulation and replacing it with, as I described it, laws of general application. The same sort of regulation that would apply to a businessperson deciding that they want to set up a hairdressing salon in a main street will apply to a businessperson wanting to establish a brothel.

**Ms BUSH:** Yes.

**Mr Ross:** If I can just clarify, in terms of that part of the discussion that was had earlier about what information we know, our position is that we can tell you exactly how many licensed brothels there are in Queensland, who owns them, who operates them and who the managers are. We can do that on a factual basis; we can evidence all of that. Outside of that, most of the information is based on estimates—informed or otherwise, it is not really our place to say. However, when we are saying we can provide factual information, that is what we are talking about and that comes from regulation. We do not have any real idea about how big the sex industry is outside the licensed sector.

**Ms BUSH:** I think you mentioned that in your submission.

**Mr Forrest:** That is the point I made about conjecture and speculation.

**Ms BUSH:** Yes, but what this bill will do is bring those workers out from the shadows and make that a more transparent—

**Mr Forrest:** Will it, or will it make the shadow larger?

**Ms BUSH:** Do you have evidence to suggest it will?

**Mr Forrest:** If someone decides they are going to establish a brothel as a legitimate business in the main street of a town and call it The Sweet Shop, who is going to know? What part of the regulatory authority is going to know it is a brothel?

**Ms BUSH:** They will advertise it as such.

**Mr Forrest:** They may; they may not.

**Ms BUSH:** You mentioned a reallocation of resources into health and other areas. How many full-time-equivalent staff does the prostitution licensing team have? How large is the team?

**Mr Ross:** There are only seven staff plus the executive director, which is a statutory appointment, plus the eight on the board. There is not a lot of resources.

**Mr Forrest:** The eight of us on the board meet once a month or at any other time that is necessary.

**Ms LEAHY:** Can I commend you on your submission to the committee. It is very thorough and very detailed. I want to go into the area around health checks. You have explained there are health checks that have to be done. Can you explain to the committee what health checks will no longer be required for sex workers under the proposed legislation?

**Mr Forrest:** None is the simple answer.

**Mr Ross:** In terms of the ones that are there at the moment, there is a three-monthly health check, the obligation to use protective equipment—

**Mr Forrest:**—and the check that the service providers do on the client before they provide the service. None of that will be required.

**Mr Ross:** The use of protective equipment will no longer be a specific offence, but it may well be picked up under the health and safety law. We would expect that that would still be the lawful manner, but the health checks and so on—we will put that by the by.

**CHAIR:** We are speculating what might be in the regulations and future changes.

**Mr Ross:** Obviously that is just based on what is in the bill at the moment.

**Mr BROWN:** Workplace health and safety and Queensland Health obviously have oversight of the transmission of those types of diseases right now. I do not understand how you do not have confidence in workplace health and safety and Queensland Health as they do it within dental settings and in hospitals. How can you come to that conclusion? They do it now; they are the same diseases.

**Mr Forrest:** But there are many controls in all of those environments.

**Mr BROWN:** As a former pathology scientist, I am trying to—

**Mr Forrest:** I read recently that syphilis is on the increase in Queensland—quite dramatically—just in the last few months

**Mr BROWN:** It is reportable to Queensland Health. They are those reportable diseases. I do not know where your position or your evidence is coming from to say that Queensland Health and workplace health and safety do not have the expertise to do this every day when they do it.

**Mr Forrest:** I do not know that we are saying—

**CHAIR:** We will take that as a comment. We have run out of time for this. We have many other questions. I had one—and we will send this to you as a question on notice—about the ownership structure. That could be a confidential letter to us. We would be interested to know of the work you have done on ownership structures and the role of the police in detection and enforcement. I know that you have your compliance officers, but we would be interested to see how you intersect with the police in your work.

**Mr Forrest:** Simply, anything that becomes a criminal matter—any complaints we receive or anything that we observe is a criminal matter—we pass to the Prostitution Enforcement Taskforce within police.

**CHAIR:** In terms of complaints that may come through the police and how the police refer it on to you or refer back to that?

**Mr Forrest:** We can take that on notice.

**CHAIR:** We will send that to you. Thank you very much. Responses to questions on notice are due by 2 April. We shall be communicating that to you. Thank you very much for your time.

**BAKER, Ms Crystal, Manager, Strategic Policy—Advocate, Local Government Association of Queensland**

**SMITH, Ms Alison, Chief Executive Officer, Local Government Association of Queensland**

**CHAIR:** Feel free to make some opening comments. After that we will have some questions for you.

**Ms Smith:** Thank you very much. Thank you for the opportunity to address the committee today. I would like to firstly acknowledge the traditional owners of the land on which we gather and pay my respects to elders past, present and emerging. My name is Alison Smith. I am the CEO of the Local Government Association of Queensland. With me here today is Crystal Baker, our manager of strategic policy. As you know, the LGAQ is the peak body for all local councils across Queensland—all 77—and we have been in existence since 1896 providing advice, support and advocacy for our council members.

With this bill the LGAQ acknowledges that the state intent is around decriminalising and destigmatising sex work in Queensland. However, we believe that the way the bill has been drafted is actually not going to achieve that. Worse, what it will do is seek to remove any consideration of public interest and community concerns at a grassroots level.

Some of the amendments in the bill are directly relevant to local councils. Others are not. Unfortunately, because of the timing of the consultation for this process and the timing of the recent March local government elections, we were not able to have as many submissions from members. I note that Brisbane City Council did, in fact, make a submission, but it was simply to note that it was not able to respond within the time lines for those reasons.

Today we would like to speak to the LGAQ statewide submission on what is relevant to our members. From the get-go, our concern is about the potential forthcoming amendments foreshadowed to subordinate legislation such as the planning regulations. Our view is that the state's intent—it is the objectives around decriminalisation—can be achieved without having to remove the ability of local government to regulate in the public interest on land use or businesses.

In Queensland, almost every land and every business is subject to some form of regulation. It could be regulation to protect community health or community safety; it could be regulation to manage the size and location of advertising signage. We believe that sex work businesses should be appropriately regulated, just like every other business is appropriately regulated.

We know that the state government has the intent to not have sex work be treated as different from other businesses. It does not want to discriminate; it does not want to have sex work businesses be different, but it wants to ensure sex work businesses are treated the same way as any other business in Queensland. We know that is what the sector itself wants as well. However, we say that this bill will actually limit the ability of councils to make local laws under the City of Brisbane Act and the Local Government Act. As the committee knows, local laws are important—they relate to a whole range of matters in communities: advertising signage, noise, traffic control, car parking—and they are core functions of local government. They relate to the sorts of things that add to our livability and our community safety. We say that this bill is drafted in such a way that councils—and I will quote from the bill—'must not make a local law that ... regulates ... the conduct of a sex work business' and that a 'local law has no effect to the extent that it is contrary to this'. To us, that wording would remove the ability of local government to make local laws to regulate any aspect of a sex work business. Removing this means that councils would treat those sex work businesses differently to any other business.

Finally, we have concerns with the signals the bill is sending regarding potential consequential amendments to the planning regulations. Local governments are grassroots; they are uniquely positioned to be able to understand the local area, community concerns, amenity and livability. In fact, the LGAQ's own policy statement says—

Local government should be recognised as the sphere of government immediately responsible for land use planning and development assessment—

including—

the discretion to set planning requirements ... in consultation with their local community ...

This is why the LGAQ opposes any attempt to remove that discretion and autonomy from local governments in favour of a blanket statewide approach. Members of this committee know very well that Queensland is not blanket; we are by our nature unique. We have different communities. We are



the most decentralised state in all of Australia. A one-size-fits-all approach simply does not work in Queensland. Thank you for the opportunity to speak today. Crystal and I look forward to your questions.

**CHAIR:** You might be aware that we were briefed by the planning division of the department on Friday and we talked specifically about those issues that you raised in your submission. I think you will find that you would be assuaged by the response we received from those particular officers. They agreed when we said that one of the principles was the regulation is no more and no less than any other business within the state. I understand what you are saying about local governments' fears about that, but what we have seen and heard has gone some way to assuage some of our concerns about there being less regulation for this industry than there would be for other businesses around the state. That is the nub of your particular concern: you want the ability for local government to regulate or manage the impacts of this business as you would any other business in each local government area. Do I have that correct?

**Ms Smith:** That is correct. Councils are concerned that they would not have any ability to take into account community amenity or community concerns because they would not be able to necessarily identify things such as location around size and scale, car parking, traffic, noise, hours of operation and so on. Crystal Baker has had some initial consultation with the planning committee. Would you like to add anything to that?

**Ms Baker:** There are two things that play in the regulatory space for local government. One is in relation to local laws. Clauses 8 and 28 of the bill as they are currently drafted are not drafted as the 'no more, no less' provision. The interpretation of those clauses specifically in the bill is that local laws that currently apply to all businesses would not apply to sex work businesses, so we would like to see some clarification in the drafting of clauses 8 and 28 of the bill to achieve that outcome.

We also tuned in to the hearing on Friday to listen to the department present on the planning reforms. Whilst we have had some initial conversations, obviously they have been under the guise of confidentiality so we have not been able to share anything with our members. For us, there is a very important distinction between the current framework and where it may head. Currently under the Prostitution Act there is a definition of brothel. There are separation distances, the 200-metre limitation from certain sensitive land uses and those sorts of things, so at a minimum, as we understand it, those are going to be removed from the regulation. I guess that builds on Alison's comment. The importance of being able to engage with community on planning scheme amendments is something that local governments hold very close. To have those sorts of factors built into assessment benchmarks would be important, and it is something that we need to have a discussion about with our local government members and the department.

**CHAIR:** From what I have heard so far, within that state framework local governments are still going to have those planning scheme instruments to manage businesses as they would for any others. From what I see, that is the statement on any local laws in terms of banning the industry full stop in an area. That is something that under the state framework cannot be done, but that local level regulation will still come under local government. Have I got that correct?

**Ms Baker:** If that is the policy intent, once we see the final regulation and where it lands, yes, that would be a wonderful outcome. As I mentioned, clauses 8 and 28 of the bill, interpretation wise, do not seem to come across as drafted in that way.

**Mr McDONALD:** Thank you for being here; I appreciate your submission. When I read the bill and explanatory notes, being a long-term advocate and member of local government, I was quite concerned at the reduction in the powers and abilities for councils to participate in this space. Would you suggest that we hold off on the bill until we see the regulation? This is very broadbrush. What would you like to see in it?

**CHAIR:** Member for Lockyer, you are straying into policy and decisions of government and you are asking for opinions. Feel free to answer that, but please take some caution in answering.

**Ms Smith:** As I said in my opening comments, we are concerned that the way this bill is drafted is actually not going to hit the objectives of the state. We have given some examples of why we believe that is the case. We cannot be clearer in what it is that we are seeking on behalf of our 77 members across the state.

**Mr McDONALD:** I asked the planning department the other day about the problems that might be encountered in a sensitive area where a sex work business opens up in a quiet cul-de-sac and there is increased traffic, decreased amenity. Under the proposed bill, what ability will local government have to control those aspects?

**Ms Smith:** When we were thinking about how best we could describe to this committee the concerns our members have, we came up with a hypothetical scenario which, if you can indulge me to share with you, probably does address where our members are coming from. The hypothetical would be that, as we interpret it as being drafted, under this bill, if someone was to apply for a shop next door to a day care centre—it could be a traditional shop; it could be a sex work shop—the council would not necessarily be able to assess and determine that anymore. If a council is limited in that ability, a council might then err on the side of caution. They might look at an application and think, 'We don't know what it is.' We might err on the side of caution and not approve it because we do not know what we are approving. Then you are going to limit livability outcomes. For example, if it is a hairdresser, you are going to limit outcomes for that community—economic opportunities, community fabric. This is the worst case scenario that we think could occur because of how we are interpreting this bill as having been drafted.

**CHAIR:** I have a strip of shops over from a day care centre. There is nothing to stop a shop that offers massage services from opening up right now as of right in that particular commercial centre. Do I have that right? That could happen now?

**Ms Baker:** I will just refer back to one of our previous submissions. I think what is being looked at under this new framework is the consideration of using home-based businesses and shops, as we understand it through committee discussions. That is quite different from the land uses that are currently set up, with the planning regulation obviously having different prohibitions on certain land uses as well. Local governments cannot prohibit land uses. In this state we do not have the ability to do that. Whether it is as of right, I would need to look into that.

**Mr McDONALD:** The other day Dr Elena Jeffreys mentioned to us some challenges regarding the staged approach in Victoria. It appears the QLRC have put the section in here to stop local government doing things, because local government in Victoria stopped some bad actors through that transition. Have you been consulted in the development of this bill, and would you look forward to being part of the development of the regulations?

**Ms Smith:** I might answer the first part and ask Crystal to add to the second part. In relation to what is happening in Victoria, we note that those changes have only recently started to take effect. We would suggest that, like all new changes, there should be a review within an appropriate time, usually 12 months. It will be interesting to see what Victorians say about those changes that have occurred. It is probably a good reason for Queensland not to be an early adopter and see what is happening elsewhere. We see Victoria as a one-size-fits-all, which, as I have spoken about, we do not think is pertinent to Queensland.

**CHAIR:** They have one planning scheme in Victoria.

**Ms Smith:** We are different here. It is about Victorians having less say, which we certainly would not support for Queensland.

**Ms Baker:** In Queensland, local governments have many checks and balances. Nothing would be amended in a planning scheme without the state government having approval of that. Similarly, there are reviews and checks and balances for local laws that are in place as well. In terms of the consultation on this bill—and I guess there is also a conversation around the planning side of things, which are two separate processes at play—there was a confidential consultation draft of this bill consulted on late last year. We re-emphasised all of those same points that we made to the QLRC in 2022 and then in 2023 and through our submission in 2024. It is something we have been engaging on for many years. We did articulate similar concerns around retaining the autonomy of local government.

If I could just mention something that is really important for us in Queensland, we have different regulations applying to different uses because there are different impacts of those uses. That is treating all uses the same, the core principle. Whether it is an industrial use that might require separation from sensitive uses, if they are using hazardous chemicals; whether it is a food and drink outlet that may need to manage odour impacts; whether it is a live music venue that may need to manage noise—that is the reason local governments get involved in appropriate levels of regulation. As I mentioned, the state has all of those checks and balances to keep us in check and that it is appropriate.

**Ms BUSH:** Thank you for coming along. Thank you for your submission as well. When I first read your written submission I was not quite sure, but I think it has been clarified that you are just looking for clarification around clauses 8 and 28 to clarify the 'no more, no less' issue. You are not envisaging creating local laws that would explicitly or implicitly target the sex work businesses.

**Ms Baker:** I can clarify that is absolutely the case. The status quo that we have now is what we are looking to have going forward into our local law powers.

**Ms BUSH:** Hypothetically, a lot of the issues you have raised around parking, noise, patronage, comings and goings, safety amenities, community amenities and safety are issues that could be experienced by any business that is not operating well; would you agree? I am an elected member, as we all are, and we see the types of complaints that councils get around parking and patronage. Your councils are well experienced with managing this, I guess is what I am saying.

**Ms Smith:** That is right. As we have talked about, local laws are a core point for councils to deliver for our communities. Our point is around precisely what you are saying for any business and not treating any as different from another.

**Ms BUSH:** Your concern is the way this is worded. It is carving that industry out.

**Ms Smith:** Yes.

**Ms BUSH:** I understand.

**Ms LEAHY:** Thank you very much for coming in and addressing us today. The legislation seeks to abolish the Office of the Prosecution Licensing Authority; therefore, a lot of the assessments will fall to local government. Are there any elements of cost shifting that you can see evident in where the legislation is progressing?

**Ms Smith:** Cost shifting is a major focus by the LGAQ and our members. We have done research for the first time in 20 years that shows cost shifting from other spheres of government and the private sector onto councils has increased by around 360 per cent in the last two decades. It is a very clear focus and something that we want to avoid and recalibrate, in fact. Obviously, public health considerations ultimately will fall to the state government. We see that there would be a potential cost-shift to councils if our interpretation of this bill was to proceed without that community interest/public amenity test councils would typically apply to all other businesses. If that was not there, we see that circumstances would give rise to complaints and possible legal challenges. They would be the sorts of things that would potentially cost councils in terms of resources, potential legal disputes et cetera.

**CHAIR:** From what I see in this bill, councils would be asked to do a legal opinion on, say, the ownership of the structure, where that work would intersect with the police. I am just making it clear that that is not what you would be doing. Do you have a further question, member for Warrego?

**Ms LEAHY:** No, that is all.

**Mr BROWN:** Does your research include the state government grants and federal government grants that both levels of government give to local government, or were those figures not included?

**Ms Smith:** It is essentially looking at where there are cost imposts to councils. It is not looking at what funding they receive; it is looking at what they are out of pocket for, whether that is compliance or a whole range of other activities or responsibilities.

**Mr BROWN:** Just what went out, not what goes in. Can you envisage the difference between, for example, a female beautician shop that is 50 metres away from a Macca's playground where there are full body massages in paper underwear for women, or a doctor's surgery where you are laying down on a bed and you are getting your skin checked in underwear? Is there any difference in how council officers will assess that? Do you believe they should have extra above and beyond that for sex work shops?

**Ms Smith:** In terms of how Queensland's planning framework is set up, we have use terms and administrative terms, so there is an ability to differentiate between the different types of uses that are in there. There are also, therefore, I guess, different arrangements in terms of licensing or business operations. In terms of what we would like to see taken forward under the planning side of things—and once that regulation is tabled we will be able to have a more fulsome view and comment on it—it is that ability for differentiation in land uses for different purposes and to have the ability to do the check on whether there are impacts arising. There may not be, but in some cases there may be.

**Ms LEAHY:** This legislation has come at a difficult time when we have had local government elections and also in the absence of the regulation. Do you think it would have been preferable for the community and also for our new councillors to have that regulation so they can see how it will operate before this legislation goes through?

**CHAIR:** The deputy chair has asked that question. Do you have anything to add to your previous answer?

**Ms Smith:** For us to be able to do our job, it is great to be able to have good consultation. As I said at the beginning, because of the timing and the circumstances, we have not been able to achieve that, other than previous submissions we have made on this issue and our existing policy statement position.

**CHAIR:** The time has expired. Thank you, Alison and Crystal.

PROOF

**BRENNAN, Ms Rachael, School of Public Health, University of Queensland**

**DONOVAN, Professor Basil AO, Kirby Institute, University of New South Wales (via teleconference)**

**SELVEY, Associate Professor Linda, School of Public Health, University of Queensland (via teleconference)**

**CHAIR:** Welcome. Thank you for being here today. We will ask each of you to make an opening statement, after which we will ask some questions.

**Ms Brennan:** I thank the committee for this opportunity to present evidence and answer questions about the public health support for this important legislation. The decriminalisation of sex work and the strengthening of anti-discrimination protections for people who engage in sex work contributes to public health in numerous ways—protecting human rights and supporting occupational health and wellbeing and safety—and is a step towards the full social, labour and civil rights for all sex workers. I will leave it to Professor Donovan to elaborate on the sexual health benefits of decriminalisation. I will talk of other public health matters in the current Queensland setting.

Rather than reiterating the information already within the submission, I am going to give you some illustrations by reference to my own PhD research, which is so current that it is still with the examiners right now. My primary academic adviser is Associate Professor Linda Selvey, who is also present and able to respond to questions.

I explored the experience of cisgender women 50 years and older engaged in sex work in Queensland since the 1999 legislative regime. I talked with 24 women aged 50 to 70 years from six different Queensland regions. They spoke of ageism related challenges for older women within the licensing framework. Some talked of being pushed out of licensed brothels as they aged. A number discussed having reduced earnings, whether from fewer clients or change in work capacity.

With lower earnings, the prohibitions on working together and sharing costs are particularly onerous for older women. The very constricted work styles available in Queensland were particularly problematic for those who could no longer afford to work from hotels or did not feel comfortable working alone. They also talked of the stigma and discrimination that undermined their access to accommodation, banking and financial services, mental health care and justice, and they talked of discrimination, isolation and social marginalisation.

Although we must address these inequities, I also want to speak of the pride expressed by these older women in the value and importance of the work they did. Some continued sex work beyond retirement age and often beyond financial need because of the difference they made in the lives of their often older, sometimes disabled clients. They talked of how their work mitigated ageing loneliness—both their own and their clients.

Decriminalisation is important for the health and human rights of Queenslanders, and getting it right matters. We support the review of the legislative change but not sooner than four or five years after implementation. We will not overcome the legacy of stigma and decriminalisation in that time, but we can evaluate the benefits and the remaining challenges. The review scope should be limited to workplace health and safety and human rights and not repeat the work of the Law Reform Commission and yourselves. It should use best practice ethical research with sex workers, be participatory and collaboratively designed with sex worker organisations and other stakeholders, and the findings peer reviewed and published.

**CHAIR:** Thank you very much. Professor Donovan, would you like to address us?

**Prof. Donovan:** I have been looking at the issue of the law and sex work for well over 40 years now. I have studied it around Asia and Latin America and all around Australia. It has been quite a journey, to be honest. I can also bring you the perspective of New South Wales, which decriminalised it back in 1995. We are now long haul in terms of what can be expected in the long term.

We conducted a rigorous research study about 15 years ago called the Law and Sexworker Health study, which was funded by the National Health and Medical Research Council. We did a study that could only be done in Australia because of the different legal regimes. We compared three cities—Sydney, Perth and Melbourne. We chose Sydney because it was a decriminalised city, Melbourne because it was a regulated or licensed city, and Perth because sex work at that time was illegal. In each city we ascertained the location of every brothel. We then randomly selected them and went around and undertook questionnaires and collected samples from 200 randomly selected women in each city.

The striking finding was that, despite the three different legal regimes, all women had uniformly incredibly low rates of sexually transmitted infections. These women were being tested at work. There was no bias other than the exception of Melbourne, which I will mention briefly. The rates of infection were much lower than what we were determining in community cohorts of non-sex-working women of similar age out in the community.

To be honest, within Australia, probably because of the robustness of our health systems and the fact that we have community organisations that have educated these women, there really are very little public health implications for sex work, regardless of your legal structure. That said, there are other consequences of an illegal structure which do cause problems.

The experience we had in Melbourne—I should mention this—is that we could not get access to unlicensed brothels. They uniformly turned us away, which was something we did not experience in Perth or Sydney. When we looked over the shoulders of the person who opened the front door, we could see that virtually all of the women in those brothels were migrant sex workers. Effectively, what the licence system in Melbourne had created was a two-tier system—an alienated group who were not going to the clinics, as far as we could find, and were not subjecting themselves to being tested in a research project which is regrettable. It is quite likely, using alternative forms of surveillance, that they are still not a source of much infection, as determined by what men turn up with in the clinics and where they say they caught their infections.

Melbourne had serious problems with its licensing system. It had three levels of corruption: corruption with local government, who were reluctant to approve development applications; there were still problems with the police because the unlicensed women remain criminalised; and there was medical corruption, too, where some local doctors were deregistered because they were selling bogus medical certificates saying that these women were clear of infection. Hopefully that will now disappear.

In Perth, despite their denials, it was very obvious that the police were still running the industry. There is an unknown level of corruption associated with that. In Sydney there was no police corruption because the moment we decriminalised the police washed their hands of it: 'Thank God for that. We are sick of that work. We never liked it anyway.' Prior to decriminalisation, New South Wales was highly corrupt. I personally saw police going into brothels and collecting money and counting it. That is ancient history now.

The only downside to full decriminalisation is that you shift all of the onus onto local government and they are not resourced for it. What we do advocate is: possibly at a state level or a regional level, you should come up with some sort of sex industry liaison officers funded by the state government but housed within local government.

We still have an ongoing problem in New South Wales. Since the sole arbiters of the industry are local government, we come across people that I call the 'Taliban' who are basically moral nutters who think it is the job of local government to raise the moral standards of their community as the Taliban do. These people crop up all the time. They will refuse development applications because of their moral commitments or their opposition to the sex industry in general. They then get taken to court and the people who have put in the DAs invariably win. Most of the brothels in New South Wales now have approved DAs but they had to be fought for in court, so that is a serious expense.

I have to agree with Rachael's prediction about stigma and discrimination, even though it is almost 30 years now since New South Wales decriminalised sex work. The stigma and discrimination persists. We are trying to do something more about that. That is an ongoing job. That is about as much as I have to say for now.

**CHAIR:** Thank you, Professor Donovan. Associate Professor Selvey, I invite you to make a brief opening statement.

**Prof. Selvey:** I am mainly here to answer questions rather than make an opening statement, but I will just talk briefly about my background. When I was an associate professor in the School of Public Health at Curtin University I undertook a follow-on project—the Law and Sex Worker Project—from the work that Professor Basil Donovan had been involved in. We learned quite a bit from that. Subsequent to that at the University of Queensland, as Rachael said, I have been the primary supervisor for her project. I am happy to answer any questions.

**CHAIR:** Thank you. I will start and put this to the three panel members. I am seeing in a lot of our submissions a lot of opinion. I initially thought there may not be enough research, but what you have pointed out is that a great deal of research about this industry has been going on for decades. Is that research the best basis for a health response as well as a legal response? Rachael, would you like to go first?

**Ms Brennan:** Absolutely, there is a lot of research that is out there. Queensland will not be a frontrunner in decriminalising sex work, with New South Wales, New Zealand, the Northern Territory and Victoria all leading the way for us. We are not the frontrunners and, yes, we know that the decriminalisation of sex work is the single most effective way to reduce HIV among sex worker populations. Of course, that is not a huge issue here because we have already largely overcome those issues through our sex worker activism partnerships with public health organisations.

Yes, we have a lot of research but, unfortunately, we still often find there are a lot of stereotypes and media images of what sex work is and there are a lot of concerns about public disruption of sex workers in the community, when in reality in Queensland we have been in the community all the time. There have been sex workers working without parking disruptions and without all the planning concerns that keep coming up. We do not just have research; we have evidence on the ground. I will leave it for the professors to answer further.

**Prof. Donovan:** The public amenity around brothels is a non-issue. They are the quietest places in town. They have no traffic and their customers are deliberately very discreet and quiet. Public amenity is not an excuse to ban a brothel or to restrict development applications, and that has been proven over and over again. I have heard this argument for 30 years and it is garbage. As I said, the sexual health and public health implications of sex work in this country are minimal. Sex workers have a lower prevalence of infections than the general population. It is worth pointing out that in over 40 years there has not been a single case documented of a sex worker becoming infected at work or in turn transmitting that on to a client—in 40 years. It is a theoretical consideration, but essentially it is a nonconsideration. On top of that, with modern HIV treatments, if a sex worker ever was diagnosed with HIV they would go immediately on to treatment and they would become immediately non-infectious.

**CHAIR:** Professor Selvey?

**Prof. Selvey:** I think it has been largely answered. I do believe that the sex industry and the health and safety of sex workers in Queensland and elsewhere has been well researched. I concur with Rachael's recommendation about the evaluation in five years once the legislation is passed, assuming it is. That will be important to ensure the legislation is on the right track, and it is also an opportunity to look at what additional issues sex workers face that might need to be addressed.

**Mr McDONALD:** Thank you to you learned people for being here and giving us some good evidence today. In terms of the health issues—I heard Basil talk about the different legal environments and measures, and you said there was very little improved situation between sex workers and the public cohort of ladies—could you tell us the quantum of infection that you talked about?

**Prof. Donovan:** Like I said, we recruited 200 women in each city and the number of infections, depending on which infection you looked at, was between zero and three infections, so we are talking one or two per cent.

**Mr McDONALD:** In terms of education processes, what are the successful processes that different jurisdictions have put in place to help sex workers and their clients have the best health standards?

**Prof. Donovan:** I think it is a matter of access. Underlying a lot of the legislation seems to be an assumption that sex workers really want to catch infections and then hang onto them as long as possible. There is no recognition that they are human beings who have their own partners and families to protect. They do not want infections more than anyone else wants them to have infections. They will not avoid testing if they think they have been at risk or they think they have got something. I really think that is such a myth. They are so well educated now. The main difference that we see with the legal regimes is it can affect the health promotion programs trying to access these women and men. If your premises are not licensed and therefore illegal, you are unlikely to let strangers in. Community access to a lot of venues is restricted in illegal and unlicensed regimes, whereas in Sydney we have access to every brothel in the city and have for nearly 30 years. There is no dark, quiet corner of infection or bad behaviour going on.

**Mr McDONALD:** Could you expand on that term 'access'? I thought I understood what you meant but then you went on to explain a couple of other things. What do you mean by 'access'?

**Prof. Donovan:** You cannot educate people if you cannot get in the door. In the regulated environment in Melbourne, we could not get in the door of dozens and dozens of brothels. We knew they were brothels and were almost entirely staffed by migrant sex workers and therefore at increased risk of infection. No-one could get in there. That is regrettable. Hopefully, that situation will gradually become undone as Victoria has reformed its laws.

**Mr McDONALD:** Are you suggesting a regulated testing regime?

**CHAIR:** No. Decriminalisation leads to access, leads to better health outcomes. Have I got that right?

**Prof. Donovan:** It means you are not a threat to the managers or the staff of those brothels. They know that you are only there to help them. The other thing we did in Melbourne was a cost-effective study. They had mandatory screening. All of the women there had to be tested for STIs every month and for HIV every three months. We found that this was wasting millions and millions of dollars a year because the low prevalence of infections did not justify those tests. To prevent one case of chlamydia, which is a fairly benign sexually transmitted infection, from a female sex worker to a client would cost in excess of \$90,000 in screening. You cannot justify that. If you took the most pessimistic scenario, to prevent a case of HIV transmission from a female sex worker—mindful that it has never happened in Australia's history—would cost \$9 million in screening. Essentially, these regulated environments are just a big money pit. You are just pouring money down the sink.

**Mr BROWN:** On the reporting, has the public health unit on reportable diseases in New South Wales ever made a recommendation to government or to NSW Health around the sex worker industry because they saw any concerns of what sexual diseases had been reported in the 40 years?

**Prof. Donovan:** No. There is a statewide program. Under the New South Wales Public Health Act, it is illegal to have sex if you have an STI, particularly HIV, unless you have told the person you have got it and what all of the ramifications are. I used to deal personally with all of the reports. I think over the 10 years we got 140 reports and not a single one of them had a transmission occur. A lot of the reports on people who were being reported to the health department were spurious reports. In fact, quite a few of the people named were politicians. I had many discreet cups of coffee with politicians to say, 'Mr So-and-so, I need to ask you whether you have HIV and would you mind producing a letter from your doctor to show that you do not have HIV?' As long as you kept it discreet, everybody was happy and comfortable. Basically, the reports were often malicious.

**Ms LEAHY:** Professor Donovan, you mentioned there were 200 women in every city who were tested for sexual infections and the number that was found was between zero and three. I am happy if you take this question on notice and provide an answer to the committee. I am interested to know exactly which sexual infections were tested for. I think you mentioned some of the frequency, so I would like to know over what years that was done.

**Prof. Donovan:** It is actually referenced in some of the submissions. I authored a report for the New South Wales health department on the sex industry in New South Wales, and the details of the individual infections and the rates are all reported in that for all three cities. That survey in New South Wales was done, like I said, about 15 years ago, in the late 2000s.

**CHAIR:** I think I have seen that in one of the footnotes for the submission.

**Prof. Donovan:** The report is available online, too.

**Ms BUSH:** I am sorry to come in with this approach, but I think it is important to get on the record that some of the submissions have talked about their concerns that the decriminalisation of a sex worker will lead to increased public safety risks, public solicitation, people exposing themselves in public and a risk to the safety of workers, and that it will promote sex trafficking, outlaw motorcycle gangs, exploitation of women and sex workers attending career nights at schools. I am interested in your observations. In the 40 years you have been doing the work, have any of those things manifested in the decriminalisation space?

**Ms Brennan:** We do not have any evidence of those concerns arising in New South Wales since 1995. New South Wales also did a review in 2015 where they considered relicensing brothels. The New South Wales government firmly refused that, saying that decriminalisation remains the best model. If those issues were arising, there have been plenty of opportunities in the New South Wales environment for those to come up and be addressed. It is difficult to prove a negative but, no, there is not any evidence of that.

**CHAIR:** Professor Selvey, do you want to respond to that question?

**Prof. Selvey:** No, I do not have anything to add.

**CHAIR:** Professor Donovan?

**Prof. Donovan:** You just reminded me that of the first three legal regimes by far the cheapest is decriminalisation. It means you do not have police time being used up in giant proportions. If you are running a licensing system, you are basically pouring millions of dollars down the drain and achieving nothing. I spoke before the New South Wales parliamentary select committee in 1983 and



Peter Collins, who was then a Liberal member on that committee, said, ‘How come we’re getting all this evidence from pinko lefties like you to say that we should take a laissez-faire approach to sex work?’ The only thing I could say was, ‘Because it’s the only logical approach.’

**CHAIR:** Thank you all. The committee will conclude the public hearing for now and take a short break. I ask that the gallery be cleared, including all personal belongings. We will resume the public hearing later.

**Proceedings suspended from 10.31 am to 11.14 am.**

PROOF

**CHAIR:** The committee will now resume its public hearing for the committee's inquiry into the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024.

**NORMAN, Mr Rob, State Director—Queensland, Australian Christian Lobby**

**CHAIR:** I now welcome our next witness from the Australian Christian Lobby. Would you like to make an opening statement and after that we will have some questions for you?

**Mr Norman:** Thank you for allowing me to present at this inquiry. The Australian Christian Lobby currently has around 250,000 supporters Australia-wide, almost 45,000 of whom are Queenslanders. We are one of the largest and most active grassroots political movements in Australia.

This bill removes all controls and regulation of prostitution. In the introduction to our submission the ACL submits that the bill will promote sex trafficking and the exploitation of vulnerable people, especially young women, in Queensland. In our submission we demonstrate that decriminalisation is a model that has caused harm wherever it has been implemented and the bill should be rejected.

There are three parts to my presentation this morning. Firstly, prostitution will be promoted to young people. Amendments under part 2 of the bill will make prostitution a protected attribute under the Anti-Discrimination Act. This amendment will normalise an activity that is anything but normal and will mean pimps and third-party profiteers can and will promote sex work as a career path for young people seeking to survive a hostile economic environment. Queensland's housing affordability crisis, cost-of-living pressures and increasing rate of homelessness all feed into the temptation for young people to make fast money selling their bodies for sex. What young people mostly will not know is that prostitution is synonymous with sex trafficking, coercion, violence and the kind of abuse that leaves the mostly women often irreparably traumatised emotionally, mentally and physically injured or even dead.

This bill is even more liberal than the model of legalisation adopted 20 years ago in Germany where a prostitution and research and education study found that in the 10 years to 2019, 84 prostituted people had been murdered, there had been 47 attempts to murder prostituted persons, two had disappeared without a trace and two had died of drug overdoses. The violence against women in prostitution is disproportionate; 132 of these victims were women, one man and two transgender.

Prostitution murders are particularly violent. Some of the real people in this study include Natasha, a 35-year-old Bulgarian murdered by a 24-year-old regular client who strangled her to death on Wednesday, 12 September 2018; Monika, a 62-year-old strangled to death by a 27-year-old sex buyer on Saturday, 17 February 2018; name unknown, a 56-year-old Asian stabbed to death by someone aged 39 on Thursday, 26 October 2017—these are real people—Lica, a 33-year-old Romanian murdered by a 21-year-old on Wednesday, 29 August 2017; and Maria, a 48-year-old Equatorial Nigerian, whose body parts were found at eight different locations on Tuesday, 1 August 2017. These are just some of the violent crimes that were reported and do not count the undocumented rapes, beatings and verbal abuse survivors of prostitution tell us about on a regular basis.

**CHAIR:** We are looking at the bill. We would ask you to make sure that your comments specifically address the bill that we are looking at.

**Mr Norman:** These give background to the effects that we believe the bill will produce.

**CHAIR:** I understand that, but I would ask you to just focus on the bill specifically.

**Mr Norman:** We would never sanction any other industry with such a disturbing record of violence and yet this bill will portray prostitution as regular work in a protected industry with all the same rights as a tradie, a nurse or an accountant would have.

Secondly, prostitution will be visible and unrestricted. Part 3 of the bill effectively converts the whole of Brisbane into a red-light district by prohibiting the Brisbane City Council from making local laws to prohibit or regulate prostitution. I wonder what young families will think of the sight of industrial scale pimping in their suburb or shopping precinct. Just for good measure, part 7 of the bill removes the power of all Queensland local government authorities to regulate prostitution in their communities. This nightmare scenario leaves Queensland families wondering where they can take their children without being bombarded with the activities and images inherent in the sex industry. Clause 24 in part 6 of the bill is a complete contradiction of the decriminalisation mantra by preventing a person with an interest in the sex industry from applying for a hotel licence. Surely if prostitution is an activity which deserves the protection of the law over and above other occupations, there is no reason for this provision.

Thirdly, decriminalisation is a failed model. If this bill is passed, Queensland will implement a failing model of so-called prostitution reform. A comparison of Sweden's legislation, which criminalises the buying of sex, with Denmark, Germany and even New South Wales illustrates the failure of decriminalisation. Sweden, with a population of approximately 10 million, had around 600 individuals engaged in prostitution after introducing the Nordic, or equality, model of prostitution reform compared to 2½ thousand to 3,000 before the legal change. In contrast, Germany, with a population of about 80 million, now hosts 400,000 individuals engaged in prostitution. Denmark, also operating under a legalised regime, is estimated to have approximately 15 times more individuals engaged in prostitution per capita than Sweden. We know that decriminalisation leads to a significant increase in prostitution. Is that really what we want? The only people who benefit from a larger sex industry are the pimps and criminals who feed off it.

In conclusion, we believe this bill is a disaster for Queensland families and should be rejected in full. Thank you again for hearing our submission and supporting statements.

**Ms BUSH:** Thanks for coming along today. Rob, your views, of course, are in contrast to a lot of submitters and a lot of people who have worked in this sector for a long time, including the Joint United Nations Program on HIV/AIDS, the World Health Organization, Amnesty International, Human Rights Watch, United Nations Population Fund and the medical journal *The Lancet*. Multiple jurisdictions have decriminalised and have not found those experiences that you are referring to. I wonder if there is an ideological opposition to this for the ACL and, in fact, that is what is driving this? That is fine if that is your position, but I think it is important to draw that out.

**Mr Norman:** Thanks for the question. Obviously we are opposed to prostitution—period. We believe there are ideological views for that; there are religious views for that. We believe that it is harmful to society in general, but our figures also stand up. If you go fishing for statistics on particularly this area of prostitution, you are going to get a very wide range depending on where you look. We have talked very broadly to survivors of prostitution. You are probably aware that we work closely with a group called Women Ending Exploitation Through Prostitution, which is basically made up of survivors who have been through the industry and come out the other side. These people are some of the most traumatised people we have ever met. They are suffering. I have a brother-in-law who was in the SAS. These women are suffering similar symptoms of PTSD. I am not a psych—that is not my qualification—but I have observed this many times over my 30 years as a pastor. I have seen women completely traumatised, physically abused, mentally abused and suffering PTSD. We draw from those people. We also draw from the official statistics, particularly in Germany, which are very easy to access and Germany has over 20 years of experience in legalisation and it is far more liberal than the bill that you are bringing into this parliament.

**Ms BUSH:** Germany and a lot of the jurisdictions you have cited operate under the Nordic model, which is—

**Mr Norman:** No, they do not. Germany does not operate under the Nordic model. That is incorrect.

**Ms BUSH:** But it is a different model to what we are establishing here. I just think that distinction is important to make. Have you consulted with researchers, public health experts in the Australian jurisdictions or New Zealand where we have similar models to look at some of the concerns that you have raised and whether there was any substance to those concerns?

**Mr Norman:** Again, we have consulted people in New South Wales, particularly survivors of prostitution. This bill is far more liberal than any other prostitution law in Australia. Again, Queensland leads the country in terms of social liberalisation. We just think this is a dangerous pioneering venture.

**Ms BUSH:** Finally, I wish to point out that in relation to some of the assumptions you have made around councils not being able to regulate, that is not what this bill says. This bill just says it cannot explicitly create laws for the sex work industry, that anyone engaged in the sex work business still would need to adhere to workplace health and safety laws, advertising standards and local by-laws. I think it is important that you know that.

**Mr Norman:** We fully understand that and thank you again for the question. We are talking about an industry that is synonymous with crime. Anyone who denies that does not read the papers or look at the stats. They are going to find a way to exploit local council rules and the local councils will have their hands tied behind their back by this bill.

**Ms BUSH:** I feel like we could debate this all day, but I will pass it around.

**CHAIR:** Before I go to the deputy chair, Rob, you said you were a pastor for 30 years. Can you give me an idea of your background and the church you currently lead and have led in the past?

**Mr Norman:** I am retired. We planted a church in Adelaide. It started with five people and grew to about 500. Part of the ministry that we had was to deal with people who were homeless. We had a very large relief-of-poverty charity that worked with us called Southland Compassion. We dealt with people who were living on the streets and many of those were prostituted persons.

**CHAIR:** What was the name of that church?

**Mr Norman:** It was called Southland Church in Adelaide.

**CHAIR:** Are you involved with any groups here in Queensland?

**Mr Norman:** I work with networks of churches, so as part of ACL, I am part of a group called Thrive Brisbane which is a group of cross-denominational churches. They are also on the Gold Coast and out towards the northern end of the metropolitan area, as well. So I am well connected in the churches and I know of several churches that work in the city area with prostituted persons.

**Mr McDONALD:** Thank you, Rob, for your submission and your representation here today. In your submission you talk about concerns regarding other criminal activities getting involved with brothels and some evidence from the report into the New South Wales parliamentary select committee. Would you like to expand on some of those things?

**Mr Norman:** The background to that part of our submission basically comes out of Queensland's youth crisis. Youth crime is obviously topical. It is in the papers; people are talking about it. We know that homelessness is high. We know that there is a housing crisis. I do not think it takes a lot of nous to work out that people are desperate, and particularly young people of university age will look for fast money, and prostitution unfortunately offers that to them. The consequences of it are horrendous. I do not think any study in the world can disprove that and there are probably many that would agree with it.

**Mr McDONALD:** Your submission outlines, through that review, that approximately 40 brothels were implicated with associations and connections with outlaw motorcycle gangs.

**CHAIR:** Was that the New South Wales study?

**Mr McDONALD:** Yes, the 2015 final report of the New South Wales Legislative Assembly Select Committee's inquiry on the regulation of brothels.

**Mr Norman:** I do not have particular detail on that. I know that it has been well researched and I am happy to provide extra detail on that if it is necessary.

**CHAIR:** That is fine. I think we can gain access to that study.

**Ms LEAHY:** Rob, you mentioned that you worked with an organisation—

**Mr Norman:** Women Ending Exploitation by Prostitution.

**Ms LEAHY:** How close is the relationship between the ACL and that group? When that group are dealing with women, do any of those women report that they have been impacted by organised crime or outlaw motorcycle gangs? Is there any evidence of that?

**Mr Norman:** Yes, there is. We are not working next to each other, but we have actually worked alongside each other in many areas. One particular lady—I will not mention her name—has written a book and she is a Queensland woman. I can give you the book title afterwards if you would like to read it. She documents in detail the kinds of abuse that she underwent.

**CHAIR:** I think that is in your submission.

**Mr Norman:** Yes.

**CHAIR:** Thank you very much for your time. We appreciate it.

**Mr Norman:** Thank you very much.

## **HOLMES, Ms Neroli, Deputy Commissioner, Human Rights Commission**

**CHAIR:** We will now hear from the Human Rights Commission's Deputy Commissioner Neroli Holmes. I invite you to make a brief opening statement after which committee members will have some questions for you.

**Ms Holmes:** Thank you, Chair. I acknowledge the traditional owners of the land on which we meet today and pay my respects to elders past, present and emerging. I thank the committee for the opportunity to appear today.

This bill establishes a decriminalised framework for the sex work industry based on the recommendations of the Queensland Law Reform Commission. The Queensland Human Rights Commission supports the passing of the bill. I would like to very briefly speak to the amendments to the Anti-Discrimination Act, which are the ones that we are the most involved with.

The bill proposes a new attribute in relation to the amendments to the Anti-Discrimination Act. We endorse the omission of the current 'lawful sexual activity' attribute and its replacement with the attribute of 'sex work activity', but we do suggest two amendments that I think other submitters have also suggested to the committee. The first is to amend the definition of 'sex work activity' in clause 6 by removing the word 'adult' in paragraph (a) to make it consistent with the definitions contained in clauses 8 and 28 and schedule 1, other amendments.

The QHRC in no way endorses or encourages children to be involved in sex work activity; however, this definition is not about who should or should not do sex work activity, it is aimed at protecting those who do sex work activity from unlawful discrimination. The inclusion of the term 'adult' in the definition of 'sex worker activity' is problematic for three reasons. Firstly, it is inconsistent with other definitions of sex work throughout the bill. Secondly, it introduces unequal protection of the law into the Anti-Discrimination Act based on the age of the complainant at the time they did the sex work, and it potentially disadvantages children who have been the victims of crime, including the new coercion offences. We suggest that the committee look at removing that word.

Our second recommendation is the addition of the word 'or' between the paragraphs (i) and (ii) for the sake of clarity. This would make it clear that the services can involve the person participating in certain activities or the use or display of a person's body, but that the definition does not require both limbs to be made out.

With regard to the accommodation exemption, the commission supports the omission of section 106C of the Anti-Discrimination Act, consistent with recommendation 24.3 of the *Building belonging* report that was released by the commission about a year ago and the Law Reform Commission's report. Both the commission and the Law Reform Commission heard of the unfair treatment of sex workers, including overcharging and eviction, based on this exemption. If the bill is passed, accommodation providers will not be able to discriminate in the provision of accommodation to sex workers on the basis of their attribute. They will still be able to control the use of the premises in the same way that they can for any other person including compliance with land use and planning laws. They are the only suggestions the commission has in relation to the bill, so I will leave it there.

**CHAIR:** My first question touches on the issue of accommodation. The situation we have now is that nowhere else in Australia has a clause like 106C of the Anti-Discrimination Act where someone can refuse to have a premise used. The premise owner can lawfully refuse accommodation if they 'reasonably believe' that a venue is for that purpose, which is quite subjective—down to one person.

**Ms Holmes:** It is a very broad exception, it really is just someone having an inkling that something may occur or that a person may be a sex worker. They can refuse that accommodation. It is a very broad exemption. No other jurisdiction has an equivalent exemption. It came in after a QCAT case was heard, back in about 2012 I think it was. It is an unusual provision.

**CHAIR:** You mentioned that it is very clear that there is no viable recourse if someone has been subject to this reasonable belief test.

**Ms Holmes:** It is a total exemption. It means that very unfair behaviour and sometimes extortionate behaviour can occur. The other thing we heard is that sometimes people ask for free sex services in order to keep their accommodation or increase the rent. It is very unfair behaviour from landlords in relation to that exception because they know they have people totally over a barrel.

**CHAIR:** In those cases, it probably adds to criminality instead of preventing it. Deputy chair, do you have any questions?

**Mr McDONALD:** I do not have any questions for the Human Rights Commission. I think your submission is very good, thanks.

**Ms Holmes:** Thank you.

**Mr BROWN:** The amendments that you have suggested around the word 'adult', will that in practice mean that 16-year-olds will be able to participate in lawful sex work?

**Ms Holmes:** The change will prohibit them from being discriminated against if they have ever—even unlawfully—been involved in sex work activity. It does not criminalise or decriminalise the lawful age that people can participate in sex work activity, but it does protect them if they ever—by misfortune or whatever—have participated at a very young age in sex work activity and, say, further down the track an employer gets to know about that and decides to sack them just because they have been a sex worker in the past. They have no recourse at the moment, so it protects them from discrimination if they have ever had the situation of being a sex worker or still a sex worker. It has nothing to do with legalising who is able to do sex work; it is all about protection. We are concerned that the anti-discrimination law protects everyone who has been involved in sex work. If they are a very young person who at some stage has been involved in sex work, certainly we do not want to exclude them from the protections of the Anti-Discrimination Act.

**Mr BROWN:** Thank you for that clarification.

**CHAIR:** Yes, it is very important.

**Ms LEAHY:** In relation to removing the term 'adult', is there any concern then that a child may be able to work in a reception area?

**Ms Holmes:** Not that I understand it. I am not probably the person to ask that question of because I am not totally across the whole regime of how the law will work in relation to who can work with a sex worker, but certainly the area that we are most concerned with is protecting that child or young person from discrimination. The impact that we are concerned with is where the word 'adult' remains in the definition.

**Ms LEAHY:** If the term 'adult' is removed, then it would open the door to children working on a reception?

**Ms Holmes:** It potentially would. If it is a lawful establishment and the sex work is occurring in a lawful way.

**CHAIR:** The commissioner has said that that is outside what she has looked at in terms of discrimination. I note that issue has been dealt with somewhere in the responses from the department as well.

**Ms Holmes:** I would defer to the department on that because it is something that I am not totally across.

**Ms LEAHY:** Thank you.

**Ms BUSH:** I hear what you are saying: that removing the term 'adult' will allow children or young people to have access to anti-discrimination legislation as anybody would, it does not necessarily send a signal that we want young people working in that sector.

**Ms Holmes:** Absolutely not.

**Ms BUSH:** Recognising that there is still a Criminal Code that sits behind this—

**Ms Holmes:** Absolutely.

**Ms BUSH:**—that protects young people from extortion and a whole range of things.

**Ms Holmes:** All those laws sit there. It really is protecting them from discrimination. So if their boss or their landlord decides 'I not going to give this young person a house'—all the instances that we have heard about with adult sex workers where they have been discriminated against can happen against children—they should not be excluded from the protections of the act just because they are a child or a young person.

**Ms BUSH:** Yes, understood, thank you.

**CHAIR:** I point out that the issue of the children working and how the bill will not enable that, is on page 31 of 61 of the departmental response. We do not have any further questions. Thank you very much, Neroli, for appearing before us today.

**Ms Holmes:** Thank you, committee.

**ALEXANDER, Ms Matilda, Chief Executive Officer, Queensland Advocacy for Inclusion**

**BEST, Ms Donna, Queenslanders with Disability Network**

**CHESTERMAN, Dr John, Public Advocate, Office of the Public Advocate**

**MOSS, Ms Michelle, Queenslanders with Disability Network**

**CHAIR:** Welcome. We will have brief opening statements and then we will have some questions.

**Dr Chesterman:** Thank you for the opportunity to be here. I acknowledge that we are on the traditional lands of the Turrbal and Yagara people and pay my respects to elders past, present and emerging. As members of the committee know, as the Public Advocate for Queensland I undertake systemic advocacy to promote and protect the rights of Queensland adults with impaired decision-making ability. There are several conditions that may affect a person's decision-making ability. These include intellectual disability acquired by injury, mental illness, neurological disorders such as dementia, or alcohol and drug misuse. As members would know from my submission, my contribution to today's discussion concerns the implications of the bill for adults with impaired decision-making ability.

As committee members know, the objectives of the bill obviously are to decriminalise sex work in Queensland as recommended by the Queensland Law Reform Commission in its *A decriminalised sex-work industry for Queensland* report. The matter I would like to address concerns the bill's repeal of chapter 22A of the Criminal Code, which includes a number of references to people 'with an impairment of the mind', a term which the Queensland Law Reform Commission report found 'outdated, discriminatory and stigmatising'.

The Queensland Law Reform Commission also referred to my 2022 report *A discussion of section 216 of the Queensland Criminal Code*, which called for the Queensland Law Reform Commission to examine the ongoing need for this outdated provision in our Criminal Code. As I wrote in my submission and in that report, the definition of 'impairment of the mind' can be broad and can unfairly disadvantage some people, which is something the Queensland Court of Appeal has also identified. As I wrote in my submission, I do support the repeal of chapter 22A and the use of this outdated terminology. It is important to remove chapter 22A, as it currently uses that term 'person with an impairment of the mind' in a way that would prohibit such a person even being present where sex work occurs. The Queensland Law Reform Commission and Queensland Advocacy for Inclusion have previously pointed out the problems this creates.

In terms of the implications of repealing chapter 22A, I agree with the Queensland Law Reform Commission which took the view that amending the coercion provisions in the Criminal Code would mean there is no need for there to be a specific offence protecting people who are considered to have an impairment of the mind in relation to the operation of paid sex services. As you would know, clause 14 of the bill amends section 218 of the Criminal Code—which deals with coercion around sexual acts—to provide fuller protections around coercion in the provision of commercial sexual services.

While removing chapter 22A is important, I would like us to go further and review the ongoing need for section 216 of the Criminal Code, which ostensibly prohibits a person with an 'impairment of the mind', to use that phrase, from participating in consensual sexual activity. I note a defence exists where it is proven that the circumstances are not exploitative. The relevance to this inquiry, as I mentioned in my submission, is that section 216 will potentially continue to criminalise sex workers and/or clients of sex workers with disability who fall within the problematic and overly broad definition of being a person with an impairment of the mind. Therefore, to properly decriminalise sex work and remove the unnecessary discrimination found in the Criminal Code section 216—and indeed section 217, which deals with procuring a person with an impairment of the mind to engage in sex—it should be reviewed in order for those elements of the Criminal Code to be in line with contemporary values.

Thank you for the opportunity to comment on the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill. I welcome committee members' questions.

**Ms Alexander:** Thank you for the opportunity to take part today. I would also like to begin by acknowledging the traditional owners of the land that we are on today, the Turrbal and Yagara people, and acknowledge First Nations Australians with disability and the intersectional disadvantage they

experience. I would like to pay my respects to the First Nations elders past and present and in particular to our president, Byron Albury. We are glad to be here today with our close allies and a long-term member of the QAI management committee, Donna Best.

As a management committee member, Donna is legally my boss. She can make decisions about our multimillion dollar budget and the complex operations of our service; however, because of section 216 of the Criminal Code she cannot freely exercise the same autonomy and choice over her personal relationships. QAI is an advocacy organisation and specialist community legal centre for people with disability. We have a 35-year history of campaigning, including at least a decade-long campaign to remove section 216 from the Criminal Code.

Disabled people want fulfilling relationships and sexual connections without stigma and discrimination. We are supportive of changes to decriminalise sex work, but we are concerned that it only exacerbates the legal difference for disabled people. We consider this a great opportunity to fix both issues at the same time. Section 216 has been in the Criminal Code in various forms since 1899, although originally only in relation to women. When it was created there was an abysmal understanding of the autonomy and rights of people with disability. Over a century ago people who were considered to have an impairment of the mind were treated either like children or dangerous animals. We live in more enlightened times now and have the context to understand how outdated discriminatory legal provisions limit the rights of people to engage in fulfilling and consensual relationships.

The law before us is, in most other ways, a progressive and welcome step forward for Queenslanders; however, sadly for sex workers and their clients with a so-called impairment of the mind this change will only bring about more confusion and discrimination. 'Impairment of the mind' is a phrase that includes any person who has an intellectual, cognitive, psychiatric or neurological disability or a combination thereof resulting in a substantial reduction in capacity for learning, social interaction or communication, and that person needs support. It is ironic that in Queensland a person with such an impairment of the mind could obtain an NDIS package to facilitate them seeing a sex worker for reasonable and necessary supports yet place that worker at risk of criminalisation through this professional relationship. No-one wants to commit what is potentially a crime and then rely on vague and untested exemptions.

In order to protect against violence, abuse and exploitation of people with disability, we need to have open education that is based on the universal standard of consent. Consent needs to be the defining concept at the heart of every relationship, and this message must be reinforced through the law. Currently, consent and the capacity to consent are not enough to beat a criminal charge under section 216, as was seen in the 2013 case of R v Little. It is time for equality and fairness. The Office of the Public Advocate pointed out in his report that section 216 is inconsistent with the Anti-Discrimination Act, the Disability Services Act, the Guardianship and Administration Act and the Human Rights Act as well as the federal NDIS Act and our international obligations. Passing laws to decriminalise sex work while keeping the criminalisation of consensual sex for people with a so-called impairment of the mind will only enhance these inconsistencies. Now is the time to fix this problem.

**Ms Moss:** Good morning, and thank you for the opportunity to appear before the committee. I too would like to acknowledge the traditional owners of the land on which we meet and pay my respects to elders past, present and emerging. My name is Michelle Moss. I am the CEO of Queenslanders with Disability Network. QDN is the peak body for Queenslanders with disability. We have almost 3,000 members across the state. It includes people with diverse disability including physical, intellectual, cognitive, sensory, neurological and psychosocial. QDN provided a joint submission with our colleagues QAI and WWILD with regard to the issue of removing legislative inconsistencies in the Criminal Code in relation to consensual sexual expression and relationships for people with intellectual disability and outlined the key issues and recommended changes.

For QDN and our members with intellectual and cognitive disability that fall under the definition of impairment of the mind, people make informed decisions about a wide range of areas in their lives every day. Consent is an important issue, and decision-making capacity for people with intellectual disability is important to ensure that people's human rights are upheld and that there are protections in place against sexual exploitation.

Seeking amendments to section 216 of the Criminal Code has been part of QDN's and our members' advocacy over the past 15 years. We see this as an important opportunity to address any inconsistencies that arise through the current changes being debated. I would like to now hand over to my colleague, Donna Best, to speak on this issue.



**Ms Best:** My name is Donna Best. I am a woman with a mild intellectual disability. Section 216 has been something that I have been speaking and advocating on for the past 40 years. I am the leader of a QDN peer support group called Hot Topics, which is a group of people with intellectual disabilities. We meet together each month. For the past 25 years we have been doing work on self-advocacy around issues to improve life for people with intellectual disabilities.

People with intellectual disabilities have the right to have a relationship with someone. We have the right to protection under the law and to make decisions on consensual sex, sexuality and relationships. We should not be charged as criminals. The row around section 216 of the Queensland Criminal Code has been going on for hundreds of years. It is 2024; it is time it was changed. Over the past 25 years Hot Topics has been advocating to have the law changed. It is one of topics that comes up in our Hot Topics discussions every year. Rob Ellis, peer support leader of the QDN Gold Coast Hot Topics group, and I spoke at a conference on intellectual disability on this subject six years ago. Most of the people with intellectual disabilities told me they are frightened about what this means for them and whether they can be charged when they make a decision for themselves and have a consensual sexual relationship. As people with intellectual disabilities, we have the right to have a sexual relationship. We are people with feelings, and we have the same needs and wants as other people in the community.

Over the past year we have spoken up because we do not think it is fair that it is a criminal offence. We know there needs to be safeguards in place to protect people with intellectual disability, who might be more vulnerable, from being assaulted or abused. However, a law that means no person with an intellectual disability should have a legal sexual relationship is not right. My group and many other Queenslanders with intellectual disabilities are passionate about this issue. They do not want to be discriminated against anymore. We want to live life with the same rights as everybody else. Thank you for the opportunity to appear before this committee.

**CHAIR:** Donna, you mentioned you have been talking about this particular issue for—

**Ms Best:** Forty years.

**CHAIR:** You said that in the last 12 months you have increased your advocacy over this particular issue, section 216.

**Ms Best:** Yes.

**CHAIR:** Would you all agree there is a greater push to address this particular part of the 1899 Criminal Code? Has it become more important?

**Mr Chesterman:** It was one of the first things I did in my role as Queensland Public Advocate. I am not actually sure who drew my attention to it, but my attention was drawn to section 216. I thought—as everyone thinks who sees this provision—this is a very outdated provision, but it is still there. Obviously, on its face it makes illegal even consensual sexual activity. There is a defence if it is not exploitative, but then the onus is on the person who engages in sex to show that it is not exploitative, so it is problematic. It was just one of those provisions that really does not have a place in a modern tolerant society.

**CHAIR:** Have you taken the opportunity in other hearings on other bills to raise this issue, or is this the first time you have addressed it as part of a parliamentary inquiry?

**Ms Alexander:** We address it whenever we can. When I was preparing my material here, the folder that I had to go through on my work computer was so extensive. We did an episode of *Australian Story* on this. We have done a news article that I included in our submission. There has been a whole lot that has happened. It has not just been in the last year. Also the Public Advocate, in preparing for the introduction of the Human Rights Act, said this is one of the laws that needs to be looked at for its inconsistency with the Human Rights Act. Every time that we can raise section 216, we are raising it. We have talked to the Queensland Law Reform Commission about addressing this as part of decriminalisation. I think this is a very important opportunity to look at the issue because of the further inconsistency for sex workers and their clients that will be created by this change.

**Mr McDONALD:** Thank you all for your presentation and your advocacy. My background was as a police officer for many years so I understand the code pretty well. I am concerned about the removal of 216 as you are suggesting. I do not disagree that much of the code, including this, is outdated and some of the terms are not contemporary at all, but when you read each of the different

sections and you look at the definitions you actually understand what it means, and particularly subsections (a) and (b) which are in relation to impairment of the mind, and, in particular, where it states—

- (b) results in
  - (i) a substantial reduction of the person's capacity for communication, social interaction or learning; and
  - (ii) the person needing support.

I am just concerned about the unintended consequences of taking that out and seeing people who are vulnerable and do fit that definition protected when somebody has taken advantage of them.

**Dr Chesterman:** If I could respond. I think that is a very good question. My report recommended that the Queensland Law Reform Commission review the ongoing need for that provision and perhaps alternative formulations that do exist in other jurisdictions in Australia that, for instance, criminalise a person who has a sexual relationship when they are providing a service to a person. Some jurisdictions use different terminology around cognitive disability. That is one possibility. It is important to remember that our current definition of impairment of the mind was described by the Queensland Court of Appeal back in 2004, I think it was. It expressed concern that the definition is so broad it potentially includes people who do not have any 'diminution in their capacity to acquire knowledge' and simply requires some level of neurological impairment that affects the power to communicate. For example, the definition is so wide as to include a cerebral palsy sufferer of genius IQ. There are problems obviously with that terminology. The issue about this bill shores up the Criminal Code provisions around coercion in relation to sexual services. That is going to be very important for the people we are talking about and for society more generally, and the issue that Matilda raised earlier around consent, consent becomes the key question and that is where you look at did the person actually consent, you look at where they are.

**Mr McDONALD:** Are there any examples where somebody has been charged with this offence when it has been a consensual situation or where there has been sex work?

**Dr Chesterman:** No, it is one of those provisions that we would accept is not actively policed, but it has implications for the reasons we are talking about in relation to this bill. It also has implications, for instance, for service providers being reluctant—and this sounds bizarre—even to provide sex education for people in this cohort for fear that they may be encouraging the commission of a crime.

**Ms Alexander:** Certainly the case of Little, which is the 2013 case, is an example of a prosecution. So it is not that it is not being prosecuted and certainly those cases have this kind of chilling effect that John talked about. I think your question about wanting to have a law to protect people with disabilities is important, but we need to ask people with disabilities if that is what they want, because too much harm has been done by people trying to protect people with disabilities without talking to them about what they are wanting. I think that Donna would maybe be the best to respond to that. Certainly in our submission we have women with intellectual disability in Queensland, WWILD, as the voice in our joint submission who were unable to make it here today. We talked about this exact issue when we were preparing the joint submission and have come up with several really good solutions that are used in other states and territories. Queensland is the only state that has a law that looks like this. We can look at any other jurisdiction. There are other models that we can adapt to and we have certainly made, towards the end of those submissions, those legislative adaptations.

**Ms Moss:** I would add that I think that the sentiment of people with intellectual disability and cognitive disability and what Donna has also reflected in her submission today about the impact that that law does have on people of being different to and discriminated against is also a significant point in the decision-making about this.

**Mr BROWN:** Dr Chesterman, in regard to section 217, is it just amending the impairment part or would the procurement of a young person be captured under another section of the Criminal Code? It has been a while since I have studied it. I cannot remember off the top of my head. In your opinion can we get rid of 217 altogether?

**Dr Chesterman:** My recommendation would be to look at removing it. My focus is on adults with impairment of the mind, not children. We have to make sure that there are protections elsewhere in relation to procurement. Simply abolishing 216, 217 we need to make sure there are not any unintended consequences in terms of protections there, particularly around procurement of young people. That would have to be looked at. I am not saying we repeal both provisions.

**Ms BUSH:** I want to make the comment that I know that John, Matilda, Michelle and Donna have been advocating in this space for a long time. They have presented in front of us on the Legal Affairs and Safety Committee on this issue before. I think with the changes that we are seeing in anti-discrimination, the Human Rights Act and the NDIS, we have now changed consent legislation. What I am hearing you say is the time is now right to look at this. I do not think that you are asking the committee to recommend that we repeal 216, but to review the operations of that and whether it could be amended to be more modern and capture the modern sentiments around people living with a disability. Would that be correct?

**Dr Chesterman:** That is fair from my perspective.

**Ms Alexander:** I think there is a distinction between our evidence there. Our submission does recommend the repeal and with the provisions that we have about amending section 348, the meaning of consent, and also introducing a circumstance of aggravation in the Penalties and Sentences Act and a prohibition on a sexual relationship with a person who is responsible for the care and treatment of a person with intellectual disability such as in the case in New South Wales, Victoria, Tasmania, Northern Territory and South Australia. All of those jurisdictions have model law that we can pick up and put in here. We do believe that you can repeal now.

**Mr BROWN:** They do not have a Criminal Code.

**Dr Chesterman:** Correct.

**Mr BROWN:** Are there any examples in WA? Is it still in there?

**Ms Alexander:** Our submission looked at New South Wales, Victoria, Tasmania, Northern Territory and South Australia.

**Dr Chesterman:** Page 13 of my report of 2022 looks at the situation in various jurisdictions and the provisions that I would be recommending be looked at are the ones that you have just referred to around the criminalisation of people providing services. I think that is the key issue where you can almost assume coercion. We cover WA and other jurisdictions in my report at page 13.

**Ms Best:** If you go back to September of last year, I did a TED talk for the first time in Australia as a person with an intellectual disability and we talk about section 216 of the act in the speech.

**CHAIR:** You have canvassed it broadly.

**Ms Best:** Yes, because it was the first time in the world that it was sold out in Australia.

**Ms BUSH:** Congratulations.

**CHAIR:** Thank you very much for coming along today. We do not have any questions on notice. We really appreciate your input into this inquiry. Thank you.

**BRUNELLO, Mr Dominic, Chair, Criminal Law Committee, Queensland Law Society**

**FOGERTY, Ms Rebecca, President, Queensland Law Society**

**CHAIR:** Welcome. Would you like to start with a short opening statement after which we will have some questions for you?

**Ms Fogerty:** Thank you for inviting us to appear today. I respectfully recognise the traditional owners and custodians of this land. As you know, we are the peak professional body for the state's legal practitioners. We are independent and apolitical. We support the decriminalisation of sex work in Queensland. This bill is a welcome reform. Decriminalisation is important for a number of reasons, including the removal of criminal laws with respect to sex work. Overall, we think this bill details specific amendments to various legislation that will mostly achieve the objective of decriminalising sex work in Queensland and ensuring sex work businesses are treated equally and fairly.

In addition to our written submission though there are a couple of other brief issues I would like to touch on. We note that there is some disquiet in the local government sector concerning this bill and the interaction with local government and its regulatory roles and responsibilities. While the Queensland Law Society's Environmental and Planning Committee have had a brief opportunity to review the bill, they have been unable to provide comprehensive views in the limited time available. Some initial reservations have been expressed by committee members about the proposed provision that expressly limits councils from making local laws that prohibit or regulate sex work. I should say as well that unfortunately Dominic and I are criminal lawyers and unable to be of any meaningful assistance on that issue today, but are more than happy to take questions on notice should that be required.

We understand from the department's briefing on Friday that there is more work yet to be done on the regulations to support the changes and we wholeheartedly support the department's statement that it will be engaged with stakeholders in this work to ensure that there are not any unintended consequences as a result. We also consider that the regulation should take effect at the same time as the bill package. We welcome any questions you may have.

**CHAIR:** The issues of local government and planning have exercised people's minds. Professor Donovan, in part of his address to the committee, talked about how local laws can be made to specifically target this particular industry. I think we are looking to get better clarity over what exactly these provisions mean. It is clear that that part of the act is aimed at preventing that kind of specific targeting. We would appreciate some further clarity through your Environment and Planning Committee.

**Ms Fogerty:** That is really the thrust of what we have come to say about that: we appreciate that there are some more investigations happening and we welcome the opportunity to be an involved stakeholder on that point at the appropriate time.

**CHAIR:** You had a reservation about the new definition of commercial sexual services in section 207A. Do you have any more details on that as to what your reservations might be?

**Mr Brunello:** It is really the language, in particular terms like 'sexual arousal' and 'gratification'. We query whether there could not be a more neutral use of terminology.

**CHAIR:** That got our attention.

**Mr Brunello:** Such as in the Northern Territory which defines sex work as 'the provision by a person of services that involve the person participating in sexual activity with another person in return for payment or reward'. You can see that that is less laden with the adjectives which will be an interpretation challenge and more objective. This definition becomes an element of offences and when that happens courts and juries are required to determine whether evidence is sufficient to prove the element beyond a reasonable doubt and when adjectives like 'gratification' or other terms that are of unsure remit and definition are used there can be problems in fact finding.

**Ms BUSH:** Which clause was that, Dominic?

**Mr Brunello:** Clause 207A, which provides the definition of 'commercial sexual service'.

**Ms BUSH:** Sorry, you said that, thank you.

**CHAIR:** You spoke about removing convictions 'under a spent conviction scheme'. Could you explain exactly the impact of that and what that specifically means?

**Mr Brunello:** I think the meaning is that if section 22A of the Criminal Code is to be removed and therefore the offence provisions that used to exist, which some people will have been convicted of and punished under, that is a recognition that modern contemporary standards and mores and Brisbane

proper regulatory practice mean those offences are now inapt, so there needs to be some mechanism by which, once appropriate periods have passed without like reoffending, people, the subject of previous convictions for those offences, can have them expunged from their record.

**Ms Fogerty:** There is already clear precedent for that in relation to the laws expunging convictions in relation to homosexuality.

**Mr Brunello:** That is particularly in the context of a decriminalisation exercise—a recognition that it ought not now be wrong.

**Mr McDONALD:** Thank you for your submission. I appreciate the advice you just gave us. For clarification, was that the definition from the Northern Territory that you recommend?

**Mr Brunello:** As I am told, that is the definition in the Northern Territory of the term ‘sex work’.

**Mr McDONALD:** I was interested that you also supported the position of the Queensland Public Advocate in 216 about which we just had a conversation. Is there anything else you would like to add in that space?

**Ms Fogerty:** I do not think we could meaningfully add anything further. The issue was well ventilated by the witnesses appearing earlier. Obviously, the observations made by Her Honour Justice Holmes in the case that was referred to were quite some time ago—many years ago now—and nothing has been done really in that space.

**Mr Brunello:** That case is the R v Mrzljak [2004] QCA 420, and Her Honour really, in our submission, identifies the mischief of the overbroad definition.

**Mr McDONALD:** The other thing in your submission was in regards to accommodation and the recommendation of the repeal of the accommodation exemption under 106. Would you like to outline anything further in regards to that for the committee?

**Ms Fogerty:** We endorse the comments that were made by Ms Neroli Holmes in that regard. The concept of it being protective is the crux of the issue, and exactly what the Anti-Discrimination Act is seeking to protect.

**CHAIR:** There being no further questions, we thank you very much for appearing before us today. We will now break for lunch and resume this public hearing at 12.45 pm.

**Proceedings suspended from 12.18 pm to 12.47 pm.**

**CHAIR:** I welcome you back to the committee's public hearing for our inquiry into the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024.

**KING, Ms Jacqueline, General Secretary, Queensland Council of Unions**

**CHAIR:** I welcome from the Queensland Council of Unions, Jacqueline King. Would you like to make an opening statement and then we will have some questions for you?

**Ms King:** Thank you to the committee for the opportunity to appear here today. Before I start, I place on record the thanks of the Queensland Council of Unions to the former attorney-general and the current Attorney-General and their staff as well as numerous other ministers and their staff across portfolios who have been involved in bringing forward the bill. I acknowledge all of the work that they have done in this space. I acknowledge the traditional owners of the lands on which we gather, the Turrbal and Yagara peoples, and pay my respects to their elders past and present.

The Queensland Council of Unions is the peak council for unions in Queensland, representing about 400,000 workers. We have been involved in advocacy for the decriminalisation of sex work for at least the past two years alongside working industry advocates, particularly DecrimQLD, Respect Inc and Scarlet Alliance. Our executive has fully endorsed our approach to and our support for the decriminalisation of sex work on the basis that sex workers, like all other workers, deserve to have equal rights and safe workplaces.

I note that there are three principles that underlay the Queensland Law Reform Commission's report which has led to the drafting of this bill—that is, that sex workers deserve human rights, they deserve to have personal safety and they deserve the protection of work health and safety rights. I have put in our submission one of the statements from their summary document, which is—

... treat(s) sex work as work, not as a crime. It aims to regulate sex work as far as possible under the same general laws and in the same way as other work. Our review found that this is a better way to enhance safety, promote health and protect the human rights of people working in the industry

We would support that statement.

I particularly want to talk about work health and safety. Obviously, that is integral to the role of the Queensland Council of Unions. I want to provide some information to the committee. One of the issues is that, once decriminalisation of sex work occurs, sex work businesses and sex workers will be subject to the normal parameters of the legislative framework for the Work Health and Safety Act, as well as its ordinary codes of practice, the regulations et cetera. As soon as decriminalisation occurs, that will allow at least the 85 to 90 per cent of the industry that is currently operating in the shadow of the law to fully operate under work health and safety law.

The Queensland Council of Unions has been involved with the advocacy industry groups that I mentioned before. We have been working closely with the work health and safety regulator on the development of specific guidelines for the industry. It might surprise people to know that the existing codes of practice in areas like slips, trips and falls or manual tasks, the workplace environment and amenities, and things like the regulation for remote and isolated work are all matters that will continue to apply to sex workers and to sex work businesses. To date, we have found that the general rules and guidelines that apply in other industries will apply directly to these workplaces, but there is a commitment to develop standalone sex work guidelines across the different sectors of industry and that work is well underway and there will be further consultation with all industry stakeholders. I wanted to assure the committee that from our perspective there has been a fairly deep level of engagement in that process so that both the inspectorate and industry will have guidelines that they can operate under that are pretty similar, in most respects, to every other workplace that currently operates.

I would like to raise a few other issues. From our perspective, the human rights protections are really the improvements to changing the protected attribute under the Anti-Discrimination Act and the removal of section 106C that allows discrimination to occur against sex workers, even in their private accommodation. I think that is an important right to recognise. These are workers. They are people in our community. We should not be singling them out and allowing positive discrimination to occur against them as currently happens. Obviously, there is the issue of personal safety. It is important that the decriminalisation and the repeal of the prostitution licensing act occur so that sex workers are treated equally for every issue. If they are personally assaulted or if they withdraw consent in terms of a sex act, they are to be treated in the same way as every other person and not given a special treatment that is not to their advantage in that process. Those are the key areas that I wanted to address.

I also want to address some of the industrial relations issues, particularly a submission made to this committee by the Queensland Adult Business Association, QABA. On page 1 of their submission they say—

Please be aware that sex workers are not staff or subcontractors.

I would like to draw the committee's attention—and I am sure some of you with a legal background may be aware—to the employment control test. In terms of a lot of the brothels, as I am reliably informed, the owner sets the price for the base rate that is for and inclusive of a full service, and that will include a room rate. The owner sets a penalty for a sex worker for not showing up for a shift and does not allow for a sex worker to alternate with another sex worker, to swap out their shift essentially. The owner sets the start and end times for each of those shifts. The owner provides the PPE. The owner sets the minimum dress code and the owner sets the hours of work by location. The sex worker is required, in some cases, to pay a bond or to forfeit that bond if they choose not to continue for the period that they are booked in for a shift. For some overnight shifts, there are restrictions on engaging any further clients. For some cases, there is a provision to provide photos for websites. I am not going to give legal advice because I cannot, but my basic reading of that from an industrial perspective is that it pretty much satisfies the test of a control in terms of being an employment relationship. Notwithstanding that, I would draw the committee's attention to the fact that it is an offence under the Fair Work Act, section 357, for any person to misrepresent employment as an independent contracting arrangement as well.

I think that once we move into decriminalisation, a lot of people will actually be workers. Some will maintain their status as an independent contractor depending on the sector that they are working in. The matters in terms of how they are dealt with will be able to be dealt with in the proper jurisdictions for all other workers, so before the Fair Work Commission in that space to determine what their employment status is, to determine whether collective conditions can apply, to determine that national employment standards will apply for a variety of those and to allow workers to organise collectively, which they have not been able to do to date.

I wanted to draw the attention of the committee to that because I think we have talked a lot about personal safety and a lot about work health and safety. This is the area of industrial relations that will also now be regulated once we actually move into that decriminalisation model. I think those are minimum standards of employment and protections as well as the general protections from adverse action from exercising industrial rights that these workers will also have access to. I might finish there other than to say that the Queensland Council of Unions commends the bill before the committee. We look forward to it coming into place.

**CHAIR:** Contrary to what was in the submission from the business association, you have just outlined that by looking at that, yes, it is an employee-employer relationship and they are not a subcontractor so, therefore, all these protections come into play because they are workers and there is legislation and regulations about how they are protected.

**Ms King:** Absolutely. Being an employee or a worker, in terms of industrial law, will bring into play minimum standards of employment, minimum wages, people can contract above that, they can enter into collective agreements and they are protected from adverse action being taken against them because they choose to exercise an industrial right. These are normal rights and conditions that would exist under the Fair Work Act and will now apply to these workers.

In addition to that, there is the issue around workers compensation. Who is the employer and who is the worker is a broader concept but they will be entitled to be covered by the workers compensation system just like they will be treated as any other worker and any sex work business will be regulated like any other business under the work health and safety laws. We think that an important distinction to make is that, while 85 per cent of the industry is operating in the shadow of the law currently, the whole of the industry will be able to operate under the normal conditions and protections of any other worker and any other business.

**CHAIR:** What you have outlined is a paradigm shift where this activity is recognised as legitimate work and that entails a whole new world of protections for these people. That is contrary to the submission that says that this work is not like any other work. That has been the gist or the crux of what you have been saying: it is work that needs to be recognised and a full set of those workplace regulations and protections would now apply.

**Ms King:** Absolutely. We have always seen, I guess, a bit of argy-bargy around the edges of employment law. For instance, we have Uber with the gig economy. We have seen the Fair Work Act recently amended to pick up and provide for minimum standards orders for the gig economy. We are not saying that this is the gig. This actually looks even closer and more like an employment

relationship. As I say, if you go through the standard common law control test, the Fair Work Commission would be able to determine that and, for workers, it also gives them rights to collectively organise.

It is a huge paradigm shift to allow them to come in there. That will not just protect them; it will legitimise what they are doing in a day-to-day sense in terms of a whole range of things. They are covered by workers comp, there are tax arrangements, everything is clear. It is black and white, and the protections that are associated with that will flow through. I think it is going to take some time to educate a range of people on this. There is equalisation of work health and safety laws in particular to start with and the health and safety regulator here in Queensland is working very closely with the industry to develop those guidelines. We do not need to adopt the existing Red Book, or whatever it is called, from the PLA. The majority of the codes of practice and regulations that already exist for other businesses will apply automatically from the date of assent of the bill. Then there will be some guidelines, which are being worked through, which are the nuances of that to educate people.

The first part of coming under a legislative framework which requires compliance is education. If you are operating a business, the inspectorate from the regulator is ready to go with educating employers on their duties of care and informing workers of their rights, through to the industry itself taking some of that responsibility and leading. Over the next couple of years, like any introduction of any new code within the health and safety framework, it is always led by an educative process. I think that will also provide better rights and better conditions and make it a lot safer, including personal safety for sex workers.

**Mr McDONALD:** Thank you for your presentation. Was the QCU consulted through the development of the legislation?

**Ms King:** Yes, we were.

**Mr McDONALD:** And was your input taken on board?

**Ms King:** Yes, it was. I indicated earlier that we have been working very closely with the government and the key advocacy groups for sex work.

**Mr McDONALD:** In terms of collectively organising, you said that workers in the future would be able to collectively organise. Is there a union that is set up to accept sex workers now?

**Ms King:** I think there are a couple of them. They are registered unions, which is interesting; they are not non-registered unions.

**Mr McDONALD:** Which ones are those?

**Ms King:** It is a matter for the sex workers as to which they choose to join. I believe the United Workers Union has coverage and the Australian Workers' Union would also have coverage.

**Mr McDONALD:** You also mentioned a code of practice that could come from other industries that would apply for the sex work industry once the bill is passed. What are those other industries where you think the code of practice would come from?

**Ms King:** They are not codes of practice from other industries; they are just codes of practice. For instance, the Managing the risk of psychosocial hazards at work Code of Practice 2022 applies across all industries. That will automatically apply to sex workers and to the sex work industry because it applies right across-the-board. The hazardous manual tasks code and those sorts of things will apply. I am just saying that there are existing codes of practice and an existing framework that applies to a whole range of industries that will automatically apply. It does not need to be developed; it is there.

We have 'primary duty of care' for 'a person conducting a business or undertaking' under section 19 of the Work Health and Safety Act to ensure the health and safety of workers so far as is reasonably practicable. The act outlines that that is to be done first by eliminating risks of hazards and if that is not practicable to move to minimise those risks. How that is then done is outlined in some cases in regulation. The remote and isolated work code has requirements for communication, for instance, under the regulation, which applies as a matter of law. As I said, the codes of practice will also apply. The guidelines that we are working through at the moment will simply cross-reference those codes. Other codes that will apply are the generic code for managing the risks of hazards as well as the consultation and cooperation between parties and how that is actually done. They are quite comprehensive generic codes of practice but they apply in these particular cases.

**Mr BROWN:** Thank you for going into the control test. I started down that line of questioning on Friday and was hoping to get your response in regards to that. What I saw on the surface is the misuse of ABNs currently in the system, and the benefits of workers compensation and even super



for women is a massive issue, with some women missing out on all those years of having those contributions. We know the effect that has on older women later in their career. There was evidence given by the Prostitution Licensing Authority that there was not any confidence in the Workplace Health and Safety office in Queensland. Do you have confidence in Workplace Health and Safety to deal with the changes that are in this legislation?

**Ms King:** I have very great confidence in them. We have been working with them for a series of months. We engaged with them 18 or so months ago to talk through what some of this framework might look like. The industry is engaging with them. I have been involved personally in those processes and can attest that these are very highly competent and professional people who understand work health and safety. They are the regulator. They are the policymakers. There is no-one better placed to deal with these issues than those people.

**Mr BROWN:** Is the demarcation the Gin Gin line for the prostitution between the AWU and—

**Ms King:** I think it is about hospitality so, yes, it possibly is the Gin Gin line.

**Mr BROWN:** I know it well.

**Ms LEAHY:** You mentioned two unions that potentially have sex workers as members at the moment. From your knowledge of unions and their membership, do you see the density of membership of sex workers increasing under the changes in the bill?

**Ms King:** As I said earlier, it is bringing people in from the shadow of the law and allowing them to operate under the legal frameworks that affect every other worker—so work health and safety, industrial law, workers compensation. The Fair Work Act provides for collective rights to organise and it does so recognising also, funnily enough, registered unions. Yes, I would see that there would be some activity in that space. I know the industry is fairly well organised as it operates currently for sex workers themselves, and I would not see that that would be any impediment for them to collectively organise to advance their industrial rights in particular as well as their health and safety rights.

**Ms BUSH:** Thank you for coming in today. I know you have mentioned this and it is in your submission, but I just wanted to revisit it for the purposes of getting it on the record. In terms of the workplace and industrial rights and benefits that will come from that, for individuals as well as the community and the economy, can you touch on what you anticipate will be the immediate and long-term outcomes for workers and the broader economic interest?

**Ms King:** Having safe workplaces generally means they are more productive, and I am going to talk generically here. If employers are operating in that space with a sense of goodwill and they are looking after their workers, they generally will ensure that there are better outcomes. In terms of this industry, bringing it into I guess the existing legislative framework will not only raise the protections but definitely give protections which have not been there today. It is definitely going to raise levels of safety and allow businesses to operate in a fair and safe manner.

We know that those workplaces where workers collectively organise and engage are safer than non-unionised workplaces—that is, workplaces that belong to registered unions. We certainly know that in union workplaces the average weekly earnings of a union member sits at just under 21 per cent—which is the latest ABS statistic from December 2022—so they are likely to have better wages. We know that their safety is likely to be better. We know that in non-union workplaces they are less likely to raise their hand. It is the same for workers who are in insecure forms of work, and I think that principle applies particularly here. For those who are in insecure forms of work, there is a whole range of data and research—including ABS data—that says they are less likely to put their hand up to raise a safety concern and are therefore likely to suffer more injuries at work. The stats are there. Organised workplaces are better and safer for people. From an industry perspective, we see that, where you have stronger unionised sectors, the safety is there and the outcomes for the public and the community are also evidenced.

**CHAIR:** Thank you for appearing before us today.

**FAWKES, Ms Janelle, Campaign Leader, DecrimQld**

**FORREST, Ms Candi, Committee Member, DecrimQld**

**CHAIR:** Welcome. Would you like to make an opening statement, after which we will have some questions for you?

**Ms Fawkes:** I would like to acknowledge the traditional owners of the lands that we meet on today, the lands of the Turrbal and Yagara people, lands that were never ceded. DecrimQld is a committee of sex workers spread across Queensland who have joined with Respect Inc to progress the removal of harmful and discriminatory sex work laws and achieve decriminalisation in Queensland. We have been active for seven years now, but we would like to recognise the many sex workers who have been raising the harmful nature of these current laws for well over two decades.

In addition to our committee, more than 30 organisations have signed up to formally support decriminalisation of sex work in Queensland. Unfortunately, what has often happened around sex work policy is a misguided focus that the community needs to be protected from sex workers. That underpins many discussions, many media articles and much policy developed around sex work. Of course there is literally no evidence to indicate that there are harms caused by sex workers or our clients to the rest of the community.

What has been missed is the clear evidence that a decriminalisation model that does not prevent compliance—one that is not overregulated—actually delivers a great number of benefits to the broader community through public health and greater social cohesion, allowing sex workers to be participants in the community. We have suffered in Queensland with decades of extreme overregulation and criminalisation. The harms to our community, sex workers, in Queensland and also to our family and our friends are extreme.

I am sure you have seen our submission. We would like to do two things today. We would like to table a set of papers. There is one set for each of the committee members. It includes a paper from Tiffany Phillips from Monash University in Victoria. That paper outlines a study that demonstrates that, between when the mandatory testing and other public health laws were repealed in Victoria and now, there have in fact been no negative outcomes of that approach at all. In fact there has been an improved engagement by sex workers with their healthcare providers about outing themselves as sex workers and therefore receiving better care. Within that set, we have also included some of the synopses that are papers that outline the outcome of a survey of sex workers undertaken by DecrimQld in 2022. We wanted to point out to you that licensed brothels are only 10 per cent of the industry, and I know you have heard that stat many times over this period.

In real terms, that means that it is a very small percentage of the industry overall. For most of us as sex workers, we have worked in those licensed brothels at one time or another and recognised the problems with some of the working conditions. We have outlined those in our submission to you, and that includes studies which show that in 2017 only 50 per cent of licensed brothel workers would report a crime to police and in the 2022 study 73.5 per cent of sex workers said that they would not report a crime to police. Also, other studies show that 45 per cent of respondents indicated that they were penalised if they refused to see clients and 54 per cent of brothel workers also reported that the brothel they work in does not allow workers to do private work on the side.

For decriminalisation overall, that sector of the industry is a very tiny sector, but we certainly want to make it clear to you that our membership includes sex workers from every sector of the industry, as does engagement with Respect Inc, the funded sex worker organisation. We want to make sure that you understand that we are not talking about the 90 per cent of the industry having problems and the 10 per cent being great with no problems. We actually see that decriminalisation, the repeal of the licensing framework that has created many of these problems and the repeal of the Criminal Code laws will mean benefits for sex workers across the board—all sex workers.

With regard to other jurisdictions, I know there have been some indications in submissions that sex workers find Queensland the best model and I want to refute that claim. That is absolutely not our experience as sex workers. In fact, sex workers have for many years been documenting the very harmful and negative impacts on our health, safety, mental health, social inclusion et cetera.

**Ms Forrest:** And that came out in our 2022 survey.

**Ms Fawkes:** Absolutely. We have also heard a lot about organised crime and the fact that, if decriminalised, organised crime would take over, and we want to refute that as well. In reality, we have heard conversations about pimps and other parties connected to sex work. That is not a feature of the Australian sex industry. Regardless of the type of legal framework, those people are not a

feature of our industry here and that is because to a very high degree we are empowered as sex workers to take action when things go wrong. As other people described just before, we do believe that decriminalisation will deliver a much stronger opportunity for sex workers to report crime. We have included a paper on access to justice, and that has been a key driver for decriminalisation because right now no sex worker—just about no sex worker—would report a crime to police and that is because of a historic very bad relationship with police and how we have been treated. That will absolutely shift with decriminalisation. In New Zealand 70 per cent of sex workers indicated that after decriminalisation they were willing to report crime to police, so it is also demonstrated in evidence.

We have also heard a lot about planning and we just wanted to make a short statement on planning if we could. We support the amendments to the City of Brisbane Act and Local Government Act. The intention of the amendments is to prevent local government from creating sex work specific local laws that prohibit or regulate sex work. These amendments do not prevent the council from using local laws that apply to all businesses or other industries and applying those to the sex industry. It is not preventing local laws from regulating the sex industry, only preventing sex work specific local laws.

It needs to be recognised that throughout Australia, including in Queensland, councils have demonstrated that when they are given the opportunity they will seek to prohibit the sex industry or put in place restrictions that single out sex workers or the sex industry for extraordinary laws which are out of step with the actual amenity impact and are in fact discriminatory. In early PLA annual reports Bill Carter, then chair of the PLA, had this to say—

The major concern in relation to the operation of the legislation has really been the attitude of local authorities. The approach of [councils] has been extremely negative. It has been said that local authorities have sought to hijack the legislation and they've made it extremely difficult for applicants to get approval in respect of development applications made for premises.

For example, only 12 of 77 councils have ever approved a brothel licence in Queensland. When licensing was introduced, towns were permitted to apply to the minister to outright ban brothels and 200 did, so we see in Queensland even a historic approach that is discriminatory towards the sex industry and when given the chance to apply sex work specific laws and regulation councils will and will seek to ban. Of course I am not talking about all councils, but the history speaks for itself. It demonstrates a high level of discriminatory approach to the sex industry when councils can do that.

The same can be said for New South Wales when the legislation was initially introduced where many councils acted to ban—and I think you heard other people talk about this earlier—the sex industry outright and it ended up in the Land and Environment Court costing a lot of money for everyone involved. Most of those sex industry businesses now have council approval, but we do not want that for Queensland. We need a system where sex workers are able to work together for our safety and Victoria allows three home-based businesses without requiring council approval.

I will just finish by pointing to the fact that that issue of not being able to apply for council approval speaks to the high level of stigma and discrimination that you have heard from many speakers today and in many submissions. It is not minor inconvenience; it is extreme safety concerns that sex workers are subject to if somebody, other than clients and our friends and families, know our address. Thank you.

**CHAIR:** Thank you very much, Janelle. You talked about things not being a feature of sex work here in Australia—for example, pimping or broadscale criminal backing. There seems to be a lot of opinion and anecdote and research that has been done into that area that has not been perhaps universally embraced, shall we say, or utilised fully. The best information and the knowledge comes from partnerships between, say, sex worker organisations, the health department and business owners. It is that sense of partnership that produces the information where we need to precisely know what is going on. Do I have that right?

**Ms Fawkes:** Yes, absolutely.

**CHAIR:** I have not had a look at it yet, but you have a paper from Monash University?

**Ms Fawkes:** That is right.

**CHAIR:** I will have a quick look at that, but did you want to outline perhaps if that was the one you were talking about with those figures?

**Ms Fawkes:** Yes, absolutely. That paper is by Tiffany Phillips. She would be happy to speak to any of you about the study, but really it looks at the changes since these same public health laws were repealed in Victoria and it demonstrates no negative changes to sex workers' testing approaches, but it does show that sex workers are more able to be open with health professionals about the work that they do and that as a sex worker obviously that means a better level of health care.

**Mr McDONALD:** Thanks, ladies, for being here and thanks for your presentation and your submission. When was the New South Wales legislation changed to decriminalise?

**Ms Fawkes:** '95.

**Mr McDONALD:** '95?

**Ms Fawkes:** Yes.

**Mr McDONALD:** Are you aware of the 2015 report from the select committee at all? Are you aware of that?

**Ms Fawkes:** Yes.

**Mr McDONALD:** In that report it talks about 40 brothels having association with outlaw motorcycle gangs and also Asian organised crime and the government response did not refute those calls. I am really interested to see how we can make sure OMCGs and Asian gangs or other organised crime do not get involved again with prostitution here in Queensland. Do you have any suggestions for us?

**Ms Fawkes:** Yes. I think we will both have a comment on that. The first thing is that we are currently in a situation where we cannot report crime. We want safety. We go to the police, but we are not treated well and therefore our reports go nowhere. We want that to change, and that will change with decriminalisation. They will have to take our reports seriously, so there will be more information provided about crime to police. It will be more transparent. That is the first part. I am very familiar with that 2015 piece and that was when the government was considering changing the legislation. They did not go ahead. The comments that you are talking about were made by the deputy police commissioner at the time, I believe, and they were refuted by other members of the committee, and they are publicly available. A number of members of that committee spoke out to say that those comments were never substantiated. I believe there was a letter sent asking for information of evidence to support those claims, but that was never provided.

**Ms Forrest:** There is often a lot of hype. Just to introduce myself, my name is Candi Forrest and I am a sex worker. I have been a sex worker in Queensland since the 1980s before Fitzgerald, during Fitzgerald and post Fitzgerald. I have been involved with the DecrimQLD committee for over five years because I have seen a lot of the harms that the licensing system has created. In fact, I feel like in some ways it was better pre Fitzgerald when sex work was illegal and we were subjected to corrupt police. What has happened since then is that with the onset of the new laws with the licensing system in 2000 police became more proactive in their policing of what we would call illegal sex workers, so a lot of those are sex workers working together, working in little escort agencies or small—

**Ms Fawkes:** What they refer to when they say 'organised crime'.

**Ms Forrest:**—unlicensed brothels, and that is what they are referring to when they say 'organised crime'. Whenever I start to hear terms like 'outlaw motorcycle or Asian gangs' it is like a red flag to me because it is the hype that you get in the media portrayals of sex work. My experience is that that does not occur in the way that people imagine that it does. Most sex work businesses are quite small—cottage style businesses—and when you are able to go to the police and say, 'This is what's been happening to me,' it takes away the power from those perhaps criminal elements who would like to perhaps exploit you, so the only option really is decriminalisation so that sex workers have the power.

The problem at the moment is that there is a very fractured relationship between sex workers and police because we have been subjected to quite intense policing, often through the pushing of the licensed brothel industry that are trying to get rid of their competition, so every few years there will be a new media story that will come out and say that the police need to crack down on the illegal operators. Ten or 15 years ago it was escort agencies that were the big problem; now it is massage parlours. You just have to, I guess, consider what the motivation is to be hyping this up. My experience is that sex workers, if they can, will look after themselves and empower themselves with their rights, and we talk to each other and we tell each other, 'This is a good place to work. That's not a good place to work. Get away from there and come and work where I am.' That type of thing happens, but that is currently illegal at the moment too, though.

**Ms Fawkes:** We hope that decriminalisation will mean that police are sent a very a clear message that this is not the area that they need to be targeting but that they absolutely need to change their relationship with the industry and instead recognise that when we come forward to report crime they need to take that seriously. That relationship will build over time.

**Mr BROWN:** I want to explore further licensed brothels in regard to the evidence given by the QCU around exploitation of ABNs and the ability to make a complaint to what should be your employer. I imagine there is also age discrimination in those licensed establishments. Do you have any experience of that?

**Ms Fawkes:** I think there was a presenter earlier who had that study relating to older sex workers and their experiences of discrimination and being able to get work at brothels. That is what happens in every industry when you only have 17 licensed businesses across the entire state. Then those people set the rules and set the conditions. There is no competition, so there is nothing to push that change. There are many more than 17 sex industry businesses in Queensland. It is just that all of those other businesses are currently operating—we are working in those places—but we do not have the same access to workplace health and safety and industrial rights.

**Mr BROWN:** There is the ability of the industry itself to say, 'We have 10 per cent, but there is a pool of 90 per cent of people to tap into.' That is probably held over the head of employees in those organisations all the time.

**Ms Fawkes:** Absolutely. There is an approach of 'If you don't like it here, off you go.'

**Ms Forrest:** There tends to be this split—this two-tier system that Professor Donovan was talking about earlier. There is this culture of 'We're doing it right here in the licensed brothel. All of those private workers out there are not doing it right. They're going to be damaging our business just by existing.' If you remove that two-tier system then it is better for sex workers to be able to come together and say, 'We are all sex workers. We all want the same thing. We all want to have good sexual health. We all want to be safe when we are working. Let's get together and support each other.' Let's get involved with the unions, and the funded sex work organisation can do all the peer education and help sex workers do peer education for each other.

**Ms LEAHY:** I want to come back to the question of home-based sex workers. They are going to operate a cash business. What motivation would they have to do superannuation and all of those sorts of things?

**Ms Forrest:** They are not all doing a cash business. In fact, that has pretty much gone by the wayside now.

**Ms LEAHY:** Do we have any evidence of that?

**Ms Fawkes:** That is the work that we all do, so yes. Many people require clients to pay in advance or pay a deposit in advance. We want to see people's ID. We want to screen them. We want to know who they are. That means engagement beforehand. Many people do not want to use cash anymore.

**Ms LEAHY:** The question is that this legislation enables home-based business for a sex worker.

**Ms Forrest:** Yes.

**Ms Fawkes:** That are already operating.

**Ms LEAHY:** Yes, but there will be new people who will come into the industry.

**Ms Fawkes:** In New Zealand there was no expansion in the size of the industry after decriminalisation. There are very clear statistics on that. They had baseline figures at the beginning and they had figures 10 years in, and there was no increase in the size of the industry.

**Ms Forrest:** They work from home in the same way that lots of other professionals work from home. I went to see a psychologist the other day who is working from home. Sex workers prefer to have other sex workers there because they know it will help them to debrief after a booking. They can talk to other sex workers to help them to stay safe: 'I have a booking now. Can you check on me in an hour or two hours or whatever?'

**Ms LEAHY:** On that theme, would you expect that they would work more as collectives after decriminalisation? It would not be as individuals. There would be more collectives?

**Ms Forrest:** There would still be a lot of sex workers who would work by themselves because that is what they prefer, but there are a lot of sex workers who do prefer to work with other sex workers. Sometimes it is good because they can share costs as well. Advertising is expensive. Rents are expensive. The usual expenses that everybody has are going up for sex workers as well.

**Ms Fawkes:** The important thing to recognise is that one of the unique aspects to Queensland right now is that we are shifting legislation and policy but the industry exists right now. People are working in pairs and small collectives with no impact on their neighbours and nobody knows it is happening because discretion is the business style that clients are seeking and that as sex workers,

in order to protect our privacy, we provide. The idea that there is going to be this massive growth in the industry or major change in how the industry is formed—I am not sure where that is coming from. It has not been the evidence in other states and territories where decriminalisation has been introduced. That is certainly not what other sex workers are saying to us. They are not saying, 'Great. I can't wait for decrim because I'm going to do X.' What people are saying is, 'Great. I can't wait for decrim because then I don't have to worry if it is a police officer calling me,' or 'I can work legitimately with the person I'm already working with without fear of criminal charges.' That is the really big thing hanging over all of our heads—criminalisation.

**Ms Forrest:** It came out really strongly in our survey that there were deep mental health impacts of this potential police entrapment hanging over the heads of sex workers, particularly those who were working alone. They do not know. They are already a little bit on tenterhooks because you have to keep your wits about you. You have a new client coming. At the same time they are wondering, 'Could this be a police officer?' Some of the sex workers in that survey were saying, 'I got entrapped by a police officer. He touched me on my body. I felt violated.' A lot of really serious things came out of that 2022 survey about the way that criminalisation was impacting the mental health of sex workers.

**Ms BUSH:** Thank you, Janelle and Candi, for coming along today. It was a really great submission. In sitting in on this committee hearing today and from some of the submissions I have read and heard, there seems to be this 'othering' of people who are involved in sex work. We have forgotten that people involved in that sector want to stay safe, want to stay healthy, want their dignity of work, want to have children—

**Ms Forrest:** Generally want to stay invisible.

**Ms BUSH:** Yes. They want to volunteer at the P&C—all those things that we have the benefit of enjoying. Decriminalisation is one step. There is a next step which is around stigma. Has Decrim turned its mind to the education that needs to take place after this?

**Ms Fawkes:** Yes, absolutely. We have had some conversations with the Queensland Human Rights Commission about sexual harassment, for example—and what might be the educative tools in relation to that. The QLRC was very clear there was an education component in relation to stigma. In our submission we certainly recommended that Respect Inc is the group that should be resourced in order to do that work as the sex worker organisation in Queensland. In our submission we also added reference to a couple of different international campaigns about addressing stigma. They were just breaking down some of those stereotypes and myths—and there are many that exist about sex work. The first thing decriminalisation does is it sends a very powerful message to government agencies and many people that it is no longer a crime and you can no longer treat sex workers—and the anti-discrimination legislation says that can no longer treat sex workers—less favourably. That is the starting point. Absolutely, we look forward to further education.

**Ms BUSH:** Is there time for any more questions, Chair?

**CHAIR:** No, not really but did you have a final comment or question?

**Ms BUSH:** I have a couple. I am not sure which one to go with. A few submitters have made recommendations around expunging of crimes and around section 216 and the removal of the word 'adult'. Do you have any broad views on any of those other recommendations you have heard here today?

**Ms Fawkes:** Absolutely. We, of course, support the bill going forward and hope that you as a committee will. We have suggested some tiny amendments—one is removing 'adult' from the anti-discrimination protections. One is the removal of 'social escort' from the Child Employment Act. It has been removed from all of the other acts. It seems to be an omission, but it could be used against sex workers.

We also wanted to point out to you that as sex workers we are a very broad community, and it includes strippers and sex work that takes place in that sector. They were left out of this review because of the QLRC's own decision. We have made a recommendation—and ask you to as well—for the further review of the adult entertainment laws so that those sex workers are not left behind.

A part of this bill will remove the Police Commissioner and their role from the Adult Entertainment Code's development, but there needs to be a further piece of work to remove police completely from an enforcement role in relation to the work of strippers and in the Adult Entertainment Code. The last one is in relation to sections 217A and C—I believe that the Law Society also mentioned these provisions.

**CHAIR:** They did.

**Ms Fawkes:** We would be very interested in seeing some clarification in the form of an example or explanatory note to demonstrate that the intent of subsection 217C(1)(c) is not to target the friends and family members of sex workers, because that is certainly the outcome of that same legislation when it has been in place at other times. Also, in relation to section 217A, we would like to see an inclusion of an example or an explanatory note to demonstrate that the intent is not to allow police surveillance of young people engaging in sex work. We understand the purpose of that section, but the outcome is sometimes that police, in order to target other people around those people, will surveil the person and it results in that person experiencing further criminality.

**Ms Forrest:** That is our experience with police. If there are laws available to target sex workers, they will often use them for their own reasons. They tend to be conservative people.

**CHAIR:** Thank you, Candi and Janelle. That concludes our public hearing. Thank you to everyone who participated today. Thank you to Hansard. Thank you to our secretariat. A transcript of these proceedings will be available on the committee's webpage in due course. Answers to questions on notice will be due by Tuesday, 2 April. I declare the hearing closed.

**The committee adjourned at 1.44 pm.**