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A decriminalised sex-work industry for Queensland

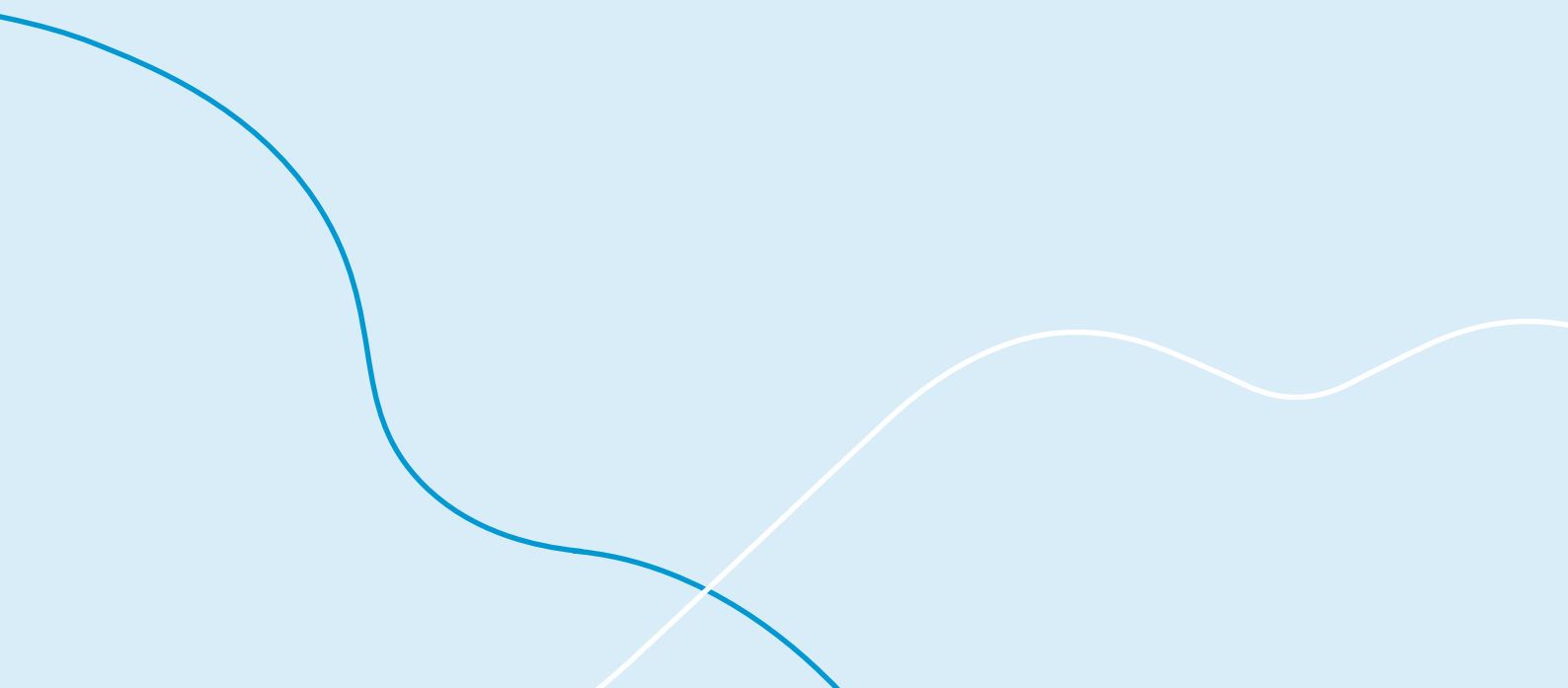
Report overview



Queensland
Law Reform Commission

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A decriminalised sex-work industry for Queensland

The Queensland Government has committed to decriminalising sex work.

In August 2021, the Attorney-General asked us – the Queensland Law Reform Commission – to conduct a review and recommend a framework for a decriminalised sex-work industry in Queensland.

Our recommended framework treats 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.

Why changes are needed

The current system regulates sex work as prostitution, under criminal laws and licensing laws. These laws stigmatise sex workers, increase their vulnerability to exploitation and violence, and fail to protect their human rights. They prevent sex workers from working together and adopting safe work practices. Sex workers should not have to choose between working lawfully and working safely.

The current laws are difficult to comply with and inhibit sex workers from accessing basic work rights. They isolate sex workers and create barriers to accessing health, safety and legal protections. Sex workers are reluctant to report crimes committed against them to police, because they fear being arrested or not being believed. We heard sex workers experience stigma and discrimination, in part because sex work is criminalised. The current licensing system for brothels has been taken up by only a small part of the industry. This has created a two-tiered industry where most sex workers are criminalised or working outside the licensed sector.

The law should respond to reality, not myths. Stereotypes about most sex workers being street workers, victims of exploitation or trafficking, or ‘vectors of disease’ are not supported by the evidence or reflected in the diversity of the sex-work industry. The assumption that decriminalising sex work will increase the size of the industry is also unsupported.

The reality is that sex workers already operate in suburbs, towns and commercial areas. Sex-worker organisations told us most sex workers value their privacy and operate discreetly. Most prefer not to work in the industrial zones in which licensed brothels mainly operate. Single operators work from their homes or other places in residential areas. Most sex work is arranged online or by phone, not by sex workers soliciting on the street. Research shows sex workers take care of their sexual health, have high levels of voluntary uptake of safer sex practices, and do not have rates of sexually transmissible infections (STIs) that are higher than the general population. Evidence from other jurisdictions suggests decriminalisation will not lead to an increase in the number of sex workers.

Any criminal elements in the industry are best targeted by police enforcing criminal laws, not by licensing laws that are ill-equipped for that task.

Research and evidence supports decriminalisation as the best way to safeguard sex workers' rights, health and safety.

The aims of decriminalisation

Decriminalisation recognises sex work as work, not as a crime. It does not mean no regulation. Our recommended framework aims to treat sex-work businesses the same as other lawful businesses, with the same general laws applying to all. Sex-work businesses should be neither unfairly disadvantaged nor unfairly privileged.

Special laws that single out sex work are not needed since laws of general application are fit for purpose. These general laws – including work, public health, advertising and public amenity laws – protect the rights of individuals and the public interest.

Decriminalisation aims to help reduce stigma and discrimination, and safeguard sex workers' rights, health and safety.

Safeguards against exploitation

Decriminalising sex work does not mean there should be no laws to protect the vulnerable. Sex work is between consenting adults. It is not the same as sexual exploitation, which is coercive or involves children. We recommend criminal laws with serious penalties for those who coerce individuals to provide commercial sexual services or who involve children in commercial sexual services. This is needed to protect human rights.

Our review process

We released a public consultation paper and consulted widely in our review. Our recommendations are based on research, evidence and careful deliberation. We looked at laws and experiences in other jurisdictions, including New Zealand and other states in Australia.

In making our recommendations, we were guided by the key principles of **safety, health and fairness**. All Queenslanders have the right to be safe and healthy at work, have a shared responsibility to protect public health, and should have equal access to justice and protection from discrimination.

Our recommended framework

No sex-work offences against consensual adult activity
 Can work alone or with others and use safety strategies
 Serious penalties for coercion or involving children

Planning laws treat sex work like other businesses
 No sex-work-specific local laws or prohibitions

General public nuisance and amenity rules apply

Licensing removed
 No sex-work licensing and Prostitution Licensing Authority abolished

Education and review
 Changes implemented with education and training, and reviewed after 4–5 years



General work laws and rights apply, with industry work health and safety guidelines

General public health laws apply

Stronger anti-discrimination protections for all sex workers

General advertising laws, codes and standards apply

What we recommend

Our recommended framework applies to sex work – the exchange of sexual services, which involve physical contact, between consenting adults.

To decriminalise sex work in Queensland, we recommend:

- removing criminal laws that stop sex workers from working together or hiring others to help them in their work
- removing specific laws against public soliciting for sex work
- removing special sex-work advertising laws
- removing extra police powers for sex-work offences.

Under these changes, sex work will not be a crime. Subject to compliance with laws of general application, it will be lawful for sex workers to work alone or for 2 or more sex workers to work together. It will be lawful to operate sex-work businesses, for sex workers to work at them, and for clients to obtain services from them.

Sex workers will not be singled out by special criminal laws. The same general public nuisance laws and police move-on powers apply to everyone, including sex workers. The same general laws, standards and codes that regulate all advertising apply to sex-work advertising. Police will not have extra powers, like posing as clients, to gather evidence of sex-work-specific offences, which will be removed.

As part of our framework, we also recommend:

- removing the brothel licensing system
- abolishing the Prostitution Licensing Authority (PLA).

There should be no sex-work licensing or certification system. The aim of the current licensing system to ensure the health and safety of sex workers is better achieved by work health and safety laws. We recommend:

- developing work health and safety guidelines for the sex-work industry
- removing sex-work-specific health offences
- amending the Anti-Discrimination Act to strengthen protection for all sex workers from unfair discrimination.

Sex workers will not be singled out by special health laws. The same work health and safety laws apply to everyone. They protect the health and safety of sex workers and clients at work, including by adopting safer sex practices. Guidelines will help the sex-work industry understand and implement their work health and safety rights and duties. The same public health laws also apply to everyone, to protect public health and promote the health of all Queenslanders including sex workers and their clients.

Decriminalisation will not quickly end stigma or unfair discrimination against sex workers. Therefore, laws that protect against unfair discrimination on the grounds of lawful sexual activity (including being a sex worker or engaging in sex work) are needed.

The recommended framework includes changes to planning and local government laws to integrate all sex-work businesses in the planning framework. We recommend:

- applying planning frameworks to ‘sex work services’, not ‘brothels’, to better reflect the variety of sex-work businesses
- removing sex-work-specific planning prohibitions and preventing sex-work-specific local laws
- treating sex-work businesses like other businesses, with similar size and location requirements and no separation distances

- allowing sex-work businesses to operate in centre (commercial) and mixed-use zones, not just in industrial zones
- keeping the same rules for home-based sex work as other home-based businesses.

Concerns about the potential effect of sex work on public amenity do not need sex-work-specific laws. Amenity impacts can be addressed in the same way as other businesses under general laws, including public nuisance laws, move-on powers and planning rules. Local laws should not undo the benefits of decriminalisation by re-establishing sex-work offences or licensing.

Our recommended framework decriminalises activities between consenting adults only. We recommend criminal offences should still apply to protect people from coercion and to protect children.

We also recommend education and other measures to support the change to a decriminalised industry. Implementing the framework will require cooperation between government agencies and the sex-work industry to develop rules, guidelines and practices. Positive relationships should be built between police and sex workers, many of whom currently perceive police as persecutors rather than protectors against violence and exploitation. Implementation will require public education to challenge myths and explain the aims of decriminalisation.

What lies ahead

We delivered our report and recommendations to the Attorney-General on 31 March 2023. It is up to the Queensland Government to consider our recommendations, do its own consultation and decide its response.

It is also a matter for the government to consider if any changes should be made to other areas of regulation – which were not the focus of our review – as a result of decriminalising sex work. This includes any changes to the regulation of adult entertainment in the liquor industry.

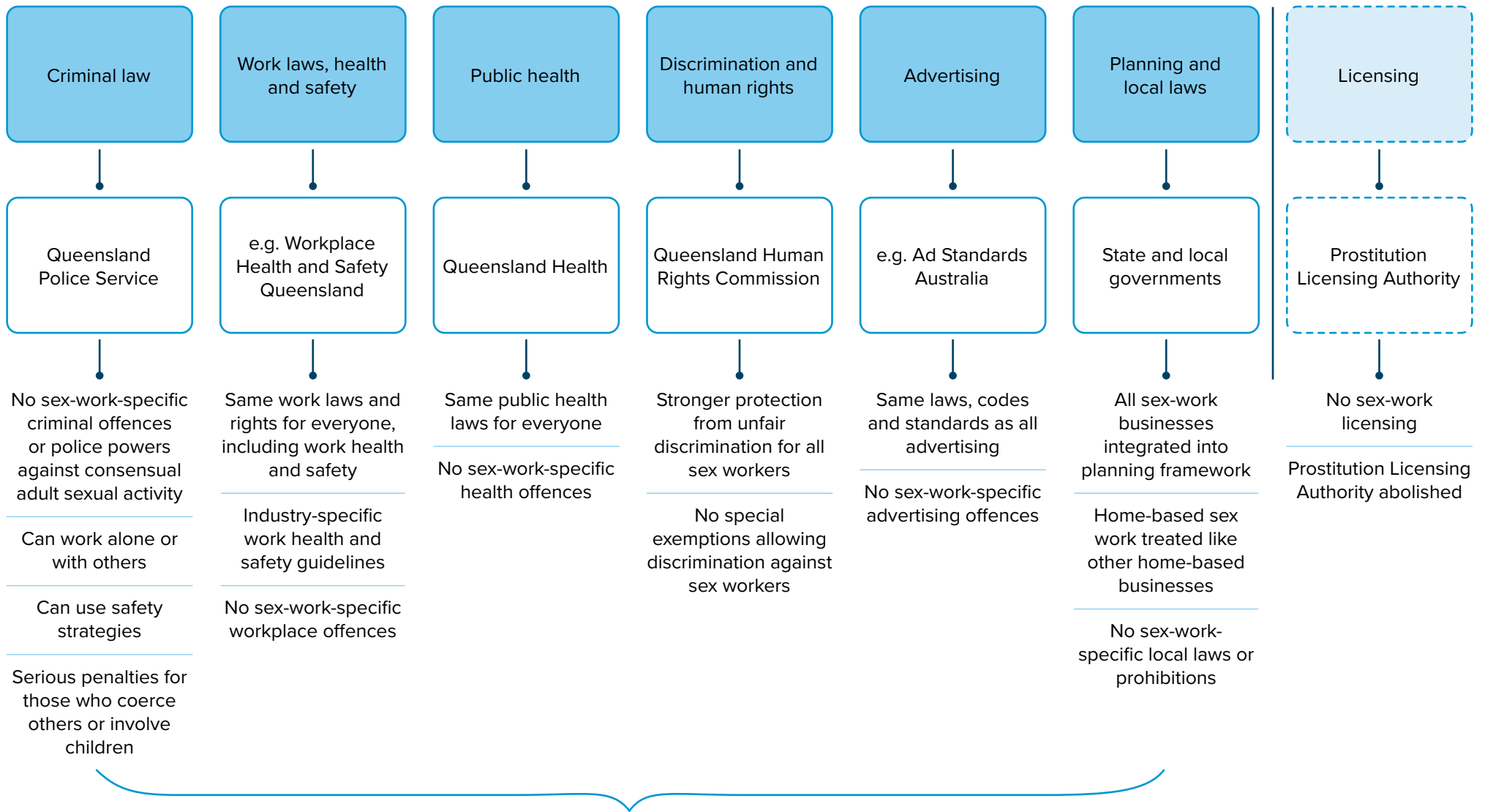
We recommend that the decriminalisation laws, if enacted, should be reviewed between 4 and 5 years – no earlier and no later – after they take effect.

More information

For more information about our review, see the following:

- our report
- our report summary
- our [consultation paper](#)
- our [terms of reference](#).

Legal framework for a decriminalised sex-work industry based on safety, health and fairness



New framework supported by education, training and other measures
 Decriminalisation laws reviewed between 4 and 5 years (no earlier and no later) after taking effect