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The Commissioner  
Queensland Human Rights Commission  
Level 20  
53 Albert Street  
Brisbane

By email: [adareview@qhrc.qld.gov.au](mailto:adareview@qhrc.qld.gov.au)

Dear Commissioner

### **Queensland Anti-Discrimination Act (ADA) Review**

I welcome the opportunity to make a submission to the Queensland Anti-Discrimination Act (ADA) Review

The core of this submission addresses the systematic discrimination and inequality experienced by sex workers in Queensland. The opportunity to reform the *Anti-Discrimination Act 1991* is timely, especially given the state government is considering a decriminalised framework for the sex industry, so as to modernise current regulatory frameworks and improve the health, safety and human rights of sex workers. Some sections of the Act specifically allow for sex workers to be discriminated against. Any law that allows for discrimination against sex workers should be repealed.

I have researched the sex industry in Australia for over two decades, consulting industry groups and service providers around policy associated with the sex industry in various Australian states, including Queensland. I have published over 30 refereed paper and book chapters and several books drawing on empirical research I have conducted on the Australian sex industry. My research has included female, male and trans sex workers. This submission has been informed by discussions with sex workers and sex worker representative groups.

**Discussion question 28 (p. 98): Should there be a new definition of lawful sexual activity, and if so, what definition should be included in the Act? Should the name of the attribute be changed, and if so, what should it be?**

'Attributes' set out who or what is protected from discrimination. The attribute of 'lawful sexual activity', currently a euphemism in the Act for sex work, should change to 'sex work' and 'sex worker' to ensure this group is protected from discrimination in both status and practice. The attribute should include protections for 'someone assumed to be a sex worker', and 'associates, past, present and assumed'. The current attribute is problematic because not all lawful sexual activity is sex work and not all sex work is lawful. As it is, current Queensland laws make many sex worker safety strategies and work practices unlawful. As a result, the current attribute provides minimal protection for persons and groups deemed to be engaged in unlawful activities. It is



important that all sex workers be protected under a clearly defined attribute that covers both their status and practical engagement in sex work, and regardless of whether they have previously done or currently do sex work in a lawful manner.

**Discussion question 45 (p. 119): Are there reasons why the work with children exemption should not be repealed? No, the work with children exemption must be repealed.**

The current Act allows discrimination against sex workers (or intersex or transgender people) in 'work involving the care or instruction of minors'. This exemption is discriminatory and fuels inaccurate stereotypes. Queensland has a *Blue Card system* that screens people who work with minors, making this law also unnecessary. No other jurisdiction allows this type of discrimination.

**Discussion question 47 (p 121): Should the sex worker accommodation exemption be retained, changed or repealed?**

As a result of this amendment a large percentage of sex workers experience accommodation discrimination in Queensland, resulting in housing instability, excessive costs, and safety risks. An amendment to the anti-discrimination laws makes it lawful for accommodation providers to discriminate against sex workers. They can do this by refusing to supply accommodation, evicting, charging more or treating someone less favourably if the accommodation provider reasonably believes the other person is using, or intends to use, the accommodation in connection with that person's, or another person's, work as a sex worker. This applies to all types of accommodation including apartments, houses, hotels, motels and business premises. It is necessary therefore to repeal this amendment and that the attribute include both one's status as a sex worker and one's practice of sex work.

**Discussion question 16 (p 63): Should a representative body or a trade union be able to make a complaint on behalf of an affected person about discrimination? Why or why not? Should representative complaints be confined to the conciliation process, or should they be able to proceed to the tribunal?**

Organisation complaints would allow Queensland's sex worker organisations, such as Respect Inc., to make a complaint on behalf of a sex worker or group of sex workers. This would also assist in protecting the anonymity of sex workers wishing to lodge a complaint. Commercial sex is highly stigmatised, mostly resulting from its legal status, and there are numerous barriers to sex industry workers 'coming out' publicly. Further, doing so can have impacts of health and safety. As such, a representative body must be able to make a complaint on behalf of an affected person both in conciliation and the tribunal process and the anonymity of a sex worker must be protected at every stage of the process, instead of having to be applied for at each stage. This would make the process less intimidating and reduce the risk for sex workers.

**Discussion question 30 (p. 101): Is there a need to cover discrimination on the grounds of irrelevant criminal record, spent criminal record, or expunged homosexual conviction? How should any further attributes be framed?**

People who have criminal records relating to sex work should not be discriminated against. Sex workers have been denied appropriate treatment by authorities when presenting as victims of crime and seeking approval for taxi driver's licences, Blue Cards, etc. In the upcoming review of sex work laws in Queensland, sex workers will be calling for the expungement of criminal records for sex



workers who have been entrapped and charged by police, including during the pre-Fitzgerald period of police corruption. An attribute may be framed as an *irrelevant criminal record*. This would provide protection from discrimination on the basis of a criminal record, where the sex work criminal record is not of relevance.

**Discussion question 50 (p. 124): Should the insurance and superannuation exemptions be retained or changed?**

Currently sex workers in Queensland experience a high level of financial discrimination, including having banking accounts closed, being refused access to merchant facilities and being refused access to business accounts. Sex workers experience barriers in accessing superannuation, and income protection and other insurance policies. Insurance and superannuation companies regularly deny coverage to sex workers or offer policies at unreasonable cost. Sex workers should be protected against financial discrimination, and it should not be enabled by exemptions in state or federal law.

**Discussion question 55 (p. 128): Are any additional areas of activity required? Should any be repealed? Should the scope of any of the areas of activity be further refined?**

Sexual harassment is an important issue for sex workers. Sections 119-120 of the Act define the meaning of, and the relevant circumstances which deem eligibility for sexual harassment claims. These sections must include 'sex work' and 'sex workers' and also recognise that sex workers can, and do, experience sexual harassment, including in workplaces.

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