

## Executive summary

Regulation of Queensland's sex industry was first suggested following the Fitzgerald Inquiry into official corruption which found entrenched links between corrupt police, illegal prostitution and other forms of organised crime. The initial impetus for regulating prostitution was to aid efforts to sever these links. The Criminal Justice Commission's 1991 *Regulating Morality* recommended a regulatory framework based on additional principles, including the protection of children from exploitation and coercion, the protection of sex workers and their clients (and thereby the community) against health risks, the prevention of exploitation of sex workers and cost-effectiveness. Almost a decade later the Prostitution Act 1999 was passed without specific reference to these principles. The Act has only one objective, to regulate prostitution.

In other jurisdictions which have sought to regulate prostitution, principles such as those set out in *Regulating Morality* underpin legislation. In New Zealand, for instance, decriminalisation is based on the principle that sex work is like any other work. A Prostitution Law Review Committee has been tasked with evaluating reforms and has a clear set of objectives to report against. In Sweden, seeking the services of a prostitute is criminalised, based on the underpinning principle that sex work exploits women. There are no such principles in Queensland and this has made evaluation of prostitution reform difficult. In the context of the current project, it can only frustrate sensible discussion about ways forward for prostitution regulation.

The regulatory framework currently in place is successful to the extent that it regulates licensed brothels. In a number of other ways, the framework is not working. Sex workers may be in a more precarious position now than they were when legislation was first passed. Sex workers face particular occupational health and safety hazards. In Queensland, they cannot work in small groups to provide safety backup for one another unless they seek to register as a brothel. The Prostitution Advisory Council, originally established under the Act, was disbanded in 2002. The Council may not have been functioning effectively but one of its key roles was to promote the health and safety of sex workers. In 2007, the management board of the key support organisation Self-Health for Queensland Workers in the Sex Industry, which had been funded by the Queensland Government

since 1988 to provide health and advocacy services for sex workers, voted to shut the organisation down in a climate of irreconcilable differences. It is yet to be replaced.

In Queensland now a small brothel industry is being regulated, but it operates in a context of a much larger industry comprising both legal sole operators, who remain unregulated, and brothels and escort agencies which continue to operate illegally and outside legislation. Outcall prostitution remains illegal, except from sole operators. Many of the legal brothel operators are dissatisfied with the restrictive regulatory regime and the fact that they are competing with a large, illegal sector. They are disgruntled too about the fact that sole operator sex workers operate without regulation. Attempts to address the imbalance in the current industry, most recently in 2006 when the Crime and Misconduct Commission inquired specifically into the issue of outcall prostitution, have been unable to reach an outcome satisfactory to stakeholders.

Interviews with clients and sex workers suggest there may be a lack of understanding of the current regulatory framework in Queensland and what is legal and illegal. This has the potential to place sex workers at risk of criminal prosecution, and means that many clients may be unwittingly using the services of the illegal sex industry. A more knowledgeable consumer base may well have an impact on the market for illegal prostitution.

Prostitution is a corner of public policy that was driven into the spotlight by the Fitzgerald reforms, that subsequently found its way into legislation, albeit substantially weaker than what was originally intended, and that now has been left to languish. Many stakeholders – including some within Government – feel Government simply wants prostitution to fade from public view. This report recommends the opposite, that Government act to confirm the original principles upon which prostitution regulation was to be based, or change them, so that future decisions about regulation can be made in an established policy framework.

### The report recommends:

That, as a matter of priority, Government establish and adequately resource an independent organisation which

can provide sex workers with advice, counselling and advocacy.

That Government reaffirm the following original principles on which prostitution regulation was to be based, or change them, and affirm new principles to guide regulation and include them in the objectives of the Prostitution Act:

- protection of children from exploitation and coercion;
- protection of sex workers and their clients (and thereby the community) against health risks;
- prevention of criminal involvement and corruption;
- prevention of exploitation of sex workers; and
- cost-effectiveness.

That, based on the principles adopted by Government, the Department of Premier and Cabinet be asked to undertake a review of the current regulatory framework to decide what

changes might better serve the principles and the overall objective of the Prostitution Act to regulate prostitution, with particular attention to:

- the Crime and Misconduct Commission estimate that only 10 per cent of prostitution in Queensland is currently regulated;
- the views of stakeholders expressed in this and other reports;
- the potential tensions for the Prostitution Licensing Authority as the body with responsibility for regulating prostitution and the body with responsibility for advising the Minister about programs designed to help sex workers leave the sex industry;
- the most appropriate agency location within Government for the regulation of prostitution, given the principles upon which regulation is based; and
- the need to educate the community about what is legal and illegal in Queensland.

