



Prostitution
Licensing Authority

Operational Standards Manual -Contents

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SECTION ONE – THE REGULATION OF LICENSED BROTHELS

1.1 THE PROSTITUTION LICENSING AUTHORITY (PLA)

The PLA is a statutory entity, responsible for the administration of the *Prostitution Act 1999* (the Act) and the regulation of prostitution in Queensland. The Board of the Authority is comprised of nine members and is supported by the staff of the Office of the PLA. Membership of the Board is comprised of:

- the chairperson, who is to be an independent, respected member of the community nominated by the Premier
- the commissioner, or a police officer of at least the rank of superintendent nominated by the commissioner
- the chairman, or the senior executive officer (crime), of the Crime and Corruption Commission
- a health practitioner who has at least five years' experience in his or her profession
- a lawyer who has been admitted for at least 5 years and has knowledge of or experience in administrative law, company law or criminal law
- a person who represents local government
- two persons who, in the Minister's opinion, are qualified to represent community interests.

Our mission

Our mission is to ensure that licensed brothels and prostitution advertising are regulated in accordance with statutory requirements and in the community interest.

Our operating principles

Our operating principles are to:

- act in the public interest
- prevent corruption and organised crime in licensed brothels
- promote and improve safety and health in the sex industry and the wider community
- consult to reach the objectives of the organisation

- provide a stimulating, satisfying and safe work environment free from discrimination
- ensure that all the PLA's activities are based on the best information and research available to it.

The purpose of the Act is to:

- regulate the practices and operations of licensed brothels
- limit the impact of brothels on community amenity
- limit the incidence of sexually transmitted infections
- ensure that sex workers are not exploited or coerced into prostitution
- safeguard the health and safety of sex workers and their clients
- combat the involvement of organised crime and the incidence of official corruption in the licensed sector of the sex industry.

The functions of the PLA are established by s. 101 of the Act. A critical function is to decide applications for brothel licences and approved manager's certificates (probity function).

The Act specifies who is ineligible to apply for a licence or certificate (e.g. the holder of a licence or permit under *the Liquor Act 1992*, or a person convicted of a disqualifying offence, or a person who is or becomes bankrupt). The Act also sets out the criteria to be considered in deciding whether an applicant is a suitable person to be granted a licence or certificate. Only a person given a brothel licence may legally operate a brothel. Likewise, only a person granted an approved manager's certificate may legally manage a licensed brothel.

Other important functions of the PLA are to:

- monitor the provision of prostitution through licensed brothels. The PLA has a compliance team to assist in this function. It conducts regular audits of licensed brothels as well as unannounced inspections.
- receive complaints about licensed brothels, which can be important in ensuring that licensed brothels are operating in accordance with the Act and the brothel licence conditions. Complaints may be received about brothel operations, advertising, or other matters about licensed brothels. Note: Complaints about

illegal prostitution activities should be referred directly to the QPS (via Policelink) or to Crime Stoppers.

- conduct disciplinary inquiries in relation to licensees and approved managers and to discipline them accordingly.

Other functions specified in the Act are to:

- liaise with the QPS and other agencies to help them carry out their functions in relation to prostitution
- collect fees
- inform relevant government departments and agencies about possible offences that are detected whilst the PLA is carrying out its functions
- raise awareness of issues about prostitution, in sex workers, judicial officers, police, community workers and the community.

The PLA website contains further information on the PLA and its functions: www.pla.qld.gov.au. The Act and Prostitution Regulation 2014 (the Regulation) can be downloaded from: www.legislation.qld.gov.au.

1.2 PROSTITUTION LEGISLATION

Relevant legislation:

- *Prostitution Act 1999*
- *Prostitution Regulation 2014*
- *Criminal Code Act 1899*.

There are additional lawful requirements which are administered by other government agencies. These exist for any business and include responsibilities relevant to:

- workplace health and safety, fair work, immigration, fire safety, development approvals, waste disposal, antidiscrimination and others.

A list of useful websites for some agencies can be found in Appendix One.

The legislation administered by the PLA covers a range of licensing and operational areas relevant to the legalised industry. These include:

- the licensing of suitable applicants and giving of certificates for approved managers

- declarations relating to prohibited brothels or general offences relating to prostitution
- advertising guidelines for licensed brothels and sole operators
- compliance
- brothel offences
- disciplinary powers, and others.

1.3 DISCIPLINARY POWERS

Licensees

The Act allows the PLA to conduct a disciplinary inquiry to determine if there are grounds for taking disciplinary action against brothel licensees. The grounds for taking disciplinary action are defined by the Act as follows:

S 27

- the licensee has been charged with or convicted of an offence in Queensland or elsewhere
- a person who has an interest in a licensee's brothel –
 - a) has been charged with or convicted of an offence against this Act or a corresponding law; or
 - b) has been charged with or convicted of an offence in Queensland or elsewhere for which the penalty may be a term of imprisonment.
- the provision of prostitution under the licensee's licence contravenes a condition or restriction to which the licence or the certificate of the approved manager of the brothel is subject.
- the licensed brothel is or has been managed in a way that makes it desirable that action should be taken against the licensee.

If the PLA is satisfied that there are grounds for taking disciplinary action, the PLA may do one or more of the following:

S 29 (2)

- reprimand the licensee
- add a condition or restriction to the licensee's licence
- require the licensee to enter into an undertaking to perform, or not to perform, particular tasks to be specified in the undertaking
- require the licensee to comply with a requirement specified by the Authority within or for a specified time

- order the licensee to pay into the fund an amount that is not more than the monetary value of 135 penalty units
- suspend the licensee's licence for a specified period of not more than one year
- cancel the licensee's licence
- order that the licensee be ineligible to apply for a licence or be an approved manager either permanently or for a specified period.

Example: not complying with a brothel licence condition.

Managers

Similarly, the PLA may undertake a disciplinary inquiry for an approved manager. The following are grounds for taking disciplinary action against a manager:

S 53

- the approved manager has been charged with or convicted of an offence in Queensland or elsewhere
- the provision of prostitution under the licence of the brothel that the manager manages contravenes a condition or restriction to which the licence or the manager's certificate is subject
- the brothel that the manager manages is or has been managed in a way that makes it desirable that action should be taken against the approved manager

Example: not personally supervising the brothel when on shift or unfairly penalising a sex worker in any way.

If the PLA decides that disciplinary action should be taken, the PLA has the power to do one or more of the following:

S 55

- the brothel that the manager manages is or has been managed in a way that makes it desirable that action should be taken against the approved manager
- reprimand the manager
- add a condition or restriction to the manager's certificate
- require the manager to enter into an undertaking to perform, or not to perform, particular tasks to be specified in the undertaking
- require the manager to comply with a requirement specified in the undertaking
- order the manager to pay into the fund an amount that is not more than the monetary value of 135 penalty units

- suspend the manager's certificate for a specified period of not more than 1 year
- cancel the manager's certificate
- order that the manager be ineligible to apply for a certificate or be a licensee either permanently or for a specified period.

The full form of the *Prostitution Act 1999* may be accessed at <https://www.legislation.qld.gov.au>

1.4 COMPLIANCE OFFICERS

Compliance officers conduct activities to assess the compliance of the operations of licensed brothels against relevant legislation and the brothel licence conditions. Compliance officers conduct audits, inspections, investigations, and research into matters relevant to operations of licensed brothels and prostitution. These officers are available for licensees and managers to discuss improvements to the operations of the brothel.

A licensee or manager must provide compliance officers access to all areas of the brothel and allow them to have private discussions with sex workers. A licensee or approved manager must also provide any report, document, or thing, which relates to the operation of the brothel when requested.

The compliance activity will require evidence of compliance which is assessed by review of documents and other things, at the brothel. These documents include records, policies, receipts, certificates, logbooks, induction records and so on. Verbal statements declaring a practice will not be accepted as evidence of compliance. Actual practices must be consistent with the documented evidence. Policies and procedures must be updated and reflect current activities undertaken by management of the brothel.

Compliance audit and inspection activities assess compliance not only to the conditions of a brothel licence but the overall lawful operations of a brothel. Licensees and managers should be aware of the requirements of the Act and the Regulation.

1.5 BROTHEL LICENCE CONDITIONS

Section 19 of the Act authorises the PLA to issue a licence subject to conditions or restrictions. These are determined by the PLA and may be applied to all licences or made specific to a particular licence. Licensees receive a copy of their licence conditions on the giving of their licence. If a licensee is unsure of ways to comply with the brothel licence conditions, they may seek advice from compliance officers.

The PLA may at any time:

- vary or revoke a condition or restriction to which the licence is subject
- add a new condition or restriction to a licence.

The licensee must provide a copy of the brothel licence conditions to approved managers to ensure that brothel licence conditions are met. An approved manager's certificate also has conditions. The conditions of a manager's certificate are not as comprehensive as those on the licence. When a manager is personally supervising the brothel in the absence of the licensee, it is the manager's lawful duty to comply with the brothel licence conditions.

1.6 PERSONAL SUPERVISION

An approved manager is required by law, when working at the brothel, to personally supervise the brothel when the licensee is not available. An approved manager must familiarise themselves with the conditions of the brothel licence.

The following instances do not meet this requirement:

When the manager is:

- signed on but absent from the brothel
- signed on but asleep
- not signed on in the sign-in register
- signed on as manager but "jumps the counter" to provide sexual services therefore leaving the brothel unsupervised.

Note: Some managers are also sex workers. It is acceptable for a person to be both a sex worker and a manager, but never at the same time. In other words, a manager must not provide prostitution services at the time that they are responsible for personally supervising the brothel.

Personal supervision of licensed brothel

If a licensee or an approved manager whose duty it was to personally supervise the brothel at the relevant time fails to personally supervise, the following offence applies under the Act:

S 80

- (1) A licensed brothel must at all times when open for business be personally supervised by the licensee or an approved manager.
Maximum penalty—60 penalty units or 6 months imprisonment.
- (2) For subsection (1), a licensee or approved manager who is not at the brothel at a particular time is not personally supervising the brothel at that time.
- (3) If subsection (1) is contravened in relation to a brothel, the following persons each commit an offence—
 - a) the licensee;
 - b) any approved manager whose duty it was to personally supervise the business at the relevant time.

1.7 BROTHEL OPERATIONS

The conduct of the business operations of a licensed brothel is the responsibility of the licensee and in their absence the approved manager. All relevant activities must be conducted lawfully. Operations include the following:

- roles and responsibility of management, employees, and workers
- advertising
- sexual health education for sex workers, their clients and management
- sexual health assessment for sex workers
- personal protective equipment management (for example, storage, handling of PPE, sex toys and other equipment; disinfecting equipment, storage, and handling of waste)
- reproductive health (for example, pregnant workers)
- work health and safety
- security and safety from violence
- accident reporting
- rehabilitation
- worker's compensation
- cleanliness

- the extent of the licensee's involvement in the day-to-day operation of the brothel
- staffing structure of the brothel and duties of staff
- recruitment strategies.

Procedures

Once a licensee has been given a licence and commences operations at a brothel the initial operational plan required for the licence application process is to be replaced with more detailed procedures. These become the day to day instructions for staff and others regarding the specific practices adopted by a particular brothel to ensure that lawful standards are met and to ensure that daily operational tasks are met.

Procedures should be accessible by everyone involved in the operation of the brothel, meet required compliance standards, conditions of licence and be regularly updated. At audits and inspections, the day to day instructions become a source document to assess the level of compliance achieved.

BLC 17.1 Policies and Procedures –

The licensee must:

- (a) record and keep policies for safety and security systems, operational plans, and their review schedules; and
- (b) document procedures specific to the day-to-day operations of the brothel, including:
 - (i) demonstrating how relevant statutory and regulatory obligations are met; and
 - (ii) how the licence conditions and other legal requirements under the Act (such as Division 2) and the Regulation are met.

Induction/training of approved managers

BLC 7.1 – Approved managers - The licensee must give approved managers an induction prior to commencing work at the brothel. A record of all induction information given to each approved manager must be kept, including the date of the induction, and the name and signature of the person who provided the induction.

BLC 7.2 - The induction must include information about:

- a) brothel procedures to comply with the Act, Regulation and the brothel licence conditions; and
- b) condition 5.1 (sex worker autonomy), including that approved managers must comply with the condition at all times.

BLC 7.3 - The licensee must give approved managers a copy of the brothel licence conditions.

BLC 7.4 - The licensee must ensure that an approved manager holds a current approved manager's certificate in respect of that brothel.

BLC 7.5 - The licensee must notify the PLA in writing, within 10 days of any changes to the employment of approved managers at the brothel. For example, approved manager commencing or ceasing employment.

1.8 BROTHEL OFFENCES

S78 to S 88 of the Act defines offences relating to the operation of a licensed brothel. These include but are not limited to the following issues:

S 78 Brothel offences

- (1) A person who is a licensee or an approved manager of a licensed brothel must not—
 - a) provide prostitution under the licence at a place other than the brothel; or
 - b) have more than 13 staff at the brothel at any 1 time; or
 - c) provide prostitution at the brothel in contravention of any condition or restriction of a licence or a certificate; or
 - d) provide prostitution at the brothel while the licensee's licence is suspended.

Maximum penalty—200 penalty units or 5 years imprisonment.

- (2) A person who is a licensee or an approved manager of a licensed brothel that is, under the development permit for the licensed brothel, permitted to have a total number of rooms stated in schedule 3, column 1, used for providing prostitution must not, at any 1 time, have at the licensed brothel more than the number of prostitutes set out opposite in schedule 3, column 2.

Maximum penalty—200 penalty units or 5 years imprisonment.

- (3) In this section—**staff** means the licensee, the approved manager, a person employed at the brothel, or a prostitute.

Schedule 3

Restrictions on numbers of prostitutes at licensed brothel

Column 1 - Number of rooms permitted at licensed brothel under development permit

Column 2 - Number of prostitutes at licensed brothel at any 1 time

1	2
2	3
3	4
4	6
5	8

S 80 Personal supervision of licensed brothel

- 1) A licensed brothel must at all times when open for business be personally supervised by the licensee or an approved manager.
Maximum penalty—60 penalty units or 6 months imprisonment.
- 2) For subsection (1), a licensee or approved manager who is not at the brothel at a particular time is not personally supervising the brothel at that time.
- 3) If subsection (1) is contravened in relation to a brothel, the following persons each commit an offence—
 - (a) the licensee;
 - (b) any approved manager whose duty it was to personally supervise the business at the relevant time.

S 81 Licensee not to operate brothel in partnership or in association with unlicensed person.

- 1) A licensee must not operate a licensed brothel in partnership with, or otherwise in association with, a person who is not also licensed to operate the brothel.
Maximum penalty—200 penalty units or 5 years imprisonment.

- 2) For subsection (1), a person operates a brothel in association with another person if the person directly receives income from the brothel.
- 3) Subsection (2) does not apply merely because a licensee is operating a licensed brothel in partnership with, or otherwise in association with, a corporation that receives income from the licensed brothel if—
 - a) the licensee is the sole director of the corporation; or
 - b) each director of the corporation is a licensee.

S 82 Person not to have interest in more than 1 licensed brothel

Subject to section 44(2), a person must not have, at any 1 time, an interest in more than 1 licensed brothel.

Maximum penalty—200 penalty units or 5 years imprisonment.

S 83 Possessing liquor in licensed brothel

- (1) A person must not possess liquor at a licensed brothel.

Maximum penalty—40 penalty units.

- (2) If liquor is found at a brothel, the licensee, and any approved manager whose duty it was to personally supervise the brothel at the relevant time each commit an offence.

Maximum penalty—40 penalty units.

- (3) This section applies despite anything to the contrary in the *Liquor Act 1992* or in any licence or permit granted or having effect under that Act.

Alcohol and illicit drugs are prohibited in licensed brothels. Controls for the prevention of alcohol or illicit drugs on the premises by staff or sex workers must be developed.

Premises may include any part of the building, outbuildings, car park or areas to the boundary of the property. Sex workers must not be under the influence of alcohol or drugs at any time when they are working at a brothel as the effects of alcohol and drugs may impair their ability to manage their interaction with clients and place themselves at risk.

1.9 ENTRY, ACCESS, AND PROVISION OF INFORMATION TO OFFICERS OF THE PLA

A licensee or manager must allow access by the PLA or an officer appointed by the PLA into the brothel premises or any part therein. Audits, inspections, or unannounced inspections occur and may include private interviews with sex workers or staff of the brothel.

BLC 2.1- Access and Records

The licensee must:

- (a) allow a member of staff of the Prostitution Licensing Authority (PLA) to enter, inspect, and search the brothel premises, or any part therein, at any time the brothel is open for business, whether the licensee is on the premises or not;
- (b) allow a member of staff of the PLA to speak privately with any person within the brothel premises, without impediment to or obstruction of the staff member, and if requested by the staff member, in the absence of the licensee or approved manager; and
- (c) not obstruct, hinder, impede, attempt to conceal any person or thing, or otherwise prevent or inhibit a member of staff of the PLA, in the course of that staff member's duties, from speaking to or attempting to speak to, any person within the brothel premises or otherwise frustrate or attempt to frustrate that staff member in the course of their duties.

BLC 2.2 – Access and Records - Any record required to be kept under these conditions must be made available to the PLA or a member of staff of the PLA, on request.

1.10 ENTRY BY THE QUEENSLAND POLICE SERVICE (QPS)

An officer of the QPS may enter a brothel for –

- an emergency
- a call for assistance
- as part of an investigation.

Entries made under these circumstances are permitted by the *Police Powers and Responsibilities Act 2000*. In these circumstances a Record of

Police Entry must be made. Written authority need not be provided by the officers for entries of this nature.

When the QPS enter a licensed brothel under the Act or for any other purpose a Record of Police Entry must be made, and information obtained relating to the officers' authority to enter. The entry must be authorised in writing by an Inspector or higher rank (unless entering a licensed brothel for an emergency, an investigation under another police power or in response to a call for assistance).

RECORD OF POLICE ENTRY

The licensee must:

Record and keep the following particulars of all entries onto licensed brothel premises by police officers:

- a) date and time of the entry
- b) if an approved manager was at the brothel at the time of the entry – the name of the approved manager
- c) whether the licensee was at the brothel at the time of the entry
- d) the name, rank and station of each police officer who entered the brothel
- e) purpose of the entry
- f) if possession of a thing was taken during the entry – a description of the thing.
- g) if a police officer authorised the entry – the name and rank of the police officer.

Further, authorised police officers, with the written authority of the PLA, have the right to:

- a) inspect, photograph, or copy anything required to be kept under the Act
- b) take possession of documents or things
- c) require the licensee or approved manager to produce a document or thing for inspection
- d) require the licensee or approved manager to provide police with reasonable help.

What to do -

1. Allow entry to the police officers.
2. Complete the Record of Police Entry for all police entries.

3. Request a copy of any authorisation and record the details as above.
4. Provide reasonable assistance. Officers of the PLA will request to see these records during audits or inspections and take details of all police entries. A proforma for keeping police records is available from the PLA.

Refer to appendix two for an example of a Queensland Police Entry Template.

1.11 RECORD OF ENTRY BY OTHER GOVERNMENT AGENCIES

Officers from government agencies other than the PLA and QPS may also attend the brothel. These include, but are not limited to, Australian Federal Police (AFP,) officers from the local government (“the Council”), Queensland Health, Work Health and Safety Queensland, Crime and Corruption Commission and the Australian Taxation Office.

The licensee must record and keep the following particulars of all official entries onto licensed brothel premises -

- date and time of the entry
- if an approved manager was at the brothel at the time of the entry – the name of the approved manager
- whether the licensee was at the brothel at the time of the entry
- the name and official position of each officer who entered the brothel
- purpose of the entry
- if possession of a thing was taken during the entry – a description of the thing.

What to do -

1. sign the government officials into the brothel and record the details as above
 2. provide reasonable assistance
 3. sign the officers out of the brothel on completion of the visit.
- Note: PLA compliance officers may request to see all entry records during audits or inspections.

Refer to Appendix Two for an example of an Entry Template for Agencies other than The Queensland Police.

1.12 COMPLIANCE AND COMPLIANCE AUDITS AND INSPECTIONS

There are legislative requirements specific to the licensed brothel industry in Queensland and these are administered by the PLA. Compliance is a term that refers to adherence to specified standards. The level of compliance of licensed brothels is routinely assessed through audits and inspections conducted by officers of the PLA. When accompanying compliance officers during an audit or inspection the licensee or approved manager must be able to demonstrate how the operations of the brothel comply with requirements. Failure to do so is reportable to the Board of the Authority.

BLC 17.1 Policies and Procedures, requires the development of policies and procedures to demonstrate how compliance is met at a particular brothel. Whilst individual brothels might have different systems and methodologies, lawful requirements must be met in all circumstances. Both licensees and approved managers must be aware of current lawful requirements and the relevant brothel policies to achieve compliance. Licensees or approved managers who are unsure about how to meet requirements should seek the assistance of PLA compliance staff or access the PLA's website at www.pla.qld.gov.au.

Compliance audits are conducted at an agreed time arranged for this purpose. The licensee should advise managers of the upcoming audit. Managers should have a copy of the brothel licence conditions and all relevant audit related documentation on hand to demonstrate how each relevant brothel licence condition and any other lawful requirement is met.

Where a manager is not able to demonstrate compliance or demonstrate this within a reasonable amount of time, this will be recorded as "unable to demonstrate" and therefore, "not compliant."

Compliance also includes adherence to other lawful aspects of operating a licensed brothel. For example, requirements identified in the Act, and the Regulation. Criminal offences associated with prostitution are also identified in Chapter 22A of the *Criminal Code Act 1899*, which is enforced by the QPS.

For example:

- obtaining prostitution from a person who is not an adult
- procuring engagement in prostitution
- knowingly participating in prostitution
- carrying on the business of providing unlawful prostitution
- having an interest in a premise used for prostitution
- permitting clients who are not adults (18yo)

Relevant Queensland legislation may be downloaded from www.legislation.qld.gov.au

1.13 THE RECORD THAT MUST BE KEPT

Commonly called “the sign in register,” this is an important formal record that must be kept. The Prostitution Regulation specifies those records which must be kept by licensees for each period the brothel is open for business:

Regulation 21

The licensee of a brothel must keep a record of the following for each period the brothel is open for business –

- a) the times at which the brothel was open for business;
- b) the licensee or approved manager who personally supervised the brothel during the period;
- c) the times during which the licensee or approved manager personally supervised the brothel;
- d) the name of each person who provided prostitution at the brothel during the period;
- e) the times during which each person who provided prostitution during the period was at the brothel during the period.

The licensee of a brothel must not –

- a) remove, or allow a person to remove, a part of the record; or
- b) erase or obliterate an entry in the record; or
- c) allow a person to erase or obliterate an entry in the record.

The licensee must keep the record for 7 years after the last entry was made in the record. As this is a lawful record it must be maintained accurately, and its entries monitored to avoid errors or misuse.

Note:

The total number of staff and sex workers permitted on the premises at any one time is 13. The restriction on the number of sex workers available for prostitution is 8 for a 5 room brothel and fewer sex workers are permitted where the number of working rooms is less than 5. Refer to Schedule 3 of the Act or to section 1.8 of this document.

1.14 DISPLAY LICENCE

The licence that is given to the licensee (or a copy thereof) must be displayed in a conspicuous place inside the front entrance. This is usually the reception area. This is to ensure that it is readily seen by any official visitor or client. Where a licensee is not comfortable to have their photograph and name on display it is acceptable to have a suitable notice which complies with s. 87 of the Act.

The offence under the Act is:

S 87 Display of licence

- (1) A licensee must keep either of the following displayed in a conspicuous place inside the front entrance to the licensee's brothel—
 - a) the licensee's licence for the brothel
 - b) a notice stating—
 - ii) the licensee's licence number; and
 - iii) the address of the brothel; and
 - iv) the date on which the licensee's licence expires.
- Maximum penalty—100 penalty units.

S 88 Production of licence or certificate

A licensee or approved manager must not, without reasonable excuse, fail to produce his or her licence or certificate to a police officer or the Authority if the police officer or Authority asks the licensee or approved manager to do so.

Maximum penalty—10 penalty units.

SECTION TWO – WORKPLACE ARRANGEMENTS

2.1 ROLES AND RESPONSIBILITIES OF MANAGEMENT

A manager's certificate permits a person to be employed to manage the brothel on behalf of the licensee. Personal supervision requires that an approved manager's certificate is current at all times. If an approved manager's certificate has expired, been suspended, or cancelled, the holder ceases to be an approved manager and cannot personally supervise the brothel. Personal supervision without a current certificate is a serious offence.

Lodgement of annual returns/renewal applications for both licences and certificates requires completed applications and correct fees are lodged with the office of the PLA. Failure to lodge by the due date or failure to provide the exact fees may result in suspension/ cancellation of a licence or certificate. Contact the PLA if you are unsure.

Licensees should develop a procedure to ensure that the persons employed as approved manager continues to hold a certificate which has not expired, suspended, or cancelled. These procedures should also include a requirement that managers immediately notify the licensee if their certificate is suspended and/or cancelled.

An approved manager must ensure that the brothel is operated lawfully. Licensees are ultimately responsible to ensure that the induction and training of approved managers fully equip a manager to meet lawful requirements.

For example:

- ensuring that the records of sex workers are lawfully obtained, recorded, and maintained.
- an approved manager must be prepared to immediately respond to any matter requiring attention when the brothel is open for business. Therefore, being asleep or otherwise not available for duties means this requirement is not met. If there is any reason why a manager cannot properly fulfil this responsibility, e.g. is too tired on grave shift, then the manager should discuss this with the licensee who can arrange assistance.

- the approved manager and other employees must appropriately co-operate with licensees to ensure that the licensee's obligations are met.

Sex workers are not employees. Sex workers are independent parties. A licensee or an approved manager cannot treat a sex worker as an employee. As a consequence, licensees and approved managers must not:

- unfairly penalise any sex workers, by any means
- either directly or indirectly compel a sex worker to service a client or compel a sex worker to provide a particular service
- direct or treat a sex worker as an employee. Sex workers are independent contractors and have greater levels of independence and different rights to that of an employee. All approved managers must be made aware of this at their induction.

2.2 ENGAGEMENT OF STAFF

The Fair Work ombudsman website provides information for the employment of staff/employees. Staff, such as receptionists and managers have workplace conditions regulated by Fair Work Australia. For information go to www.fairwork.gov.au

BLC 7.5 - Approved managers – requires, the licensee must notify the PLA in writing, within 10 days of any changes to the employment of approved managers at the brothel. For example, approved managers commencing or ceasing employment.

2.3 ENGAGEMENT OF SEX WORKERS

Licensees usually enter into a contractual agreement with sex workers via a deed of licence. These must be negotiated between the licensee and the individual sex worker. Such agreements are to identify mutual expectations and negotiated terms. This agreement must be diligently negotiated with both parties freely accepting the terms.

Such agreements are to be entered into with fairness, transparency, and clear mutual benefit. They should not be used to prejudice the entitlements of sex workers as contractors or to apply unfair conditions.

The agreements should clearly define the agreed workplace arrangements and once signed, cannot be changed unless a new agreement is negotiated, agreed to, and signed.

Both parties should receive a copy of the agreement. Where there is a change of licensee, a new deed of licence must be in place.

Further information about the difference between an employee and a contractor can be found in appendix three.

2.4 IDENTIFICATION OF PROOF OF AGE OF SEX WORKERS & OTHERS ENTERING THE BROTHEL

Any person who enters a licensed brothel must be 18 years of age or older. This applies to sex workers, clients, visitors, and brothel staff. The PLA requires that the licensee establish a process to ensure that persons engaged as sex workers are 18 years of age or older.

Staff should be aware of the brothel's policy in relation to establishing proof of age, for sex workers and clients. Licensees should choose to only accept legal forms of identification (e.g. driver's licence).

To comply with the brothel licence condition, the original identification for proof of age for a sex worker must be sighted by a licensee or approved manager. The licensee or approved manager should specifically sign the sex worker's record indicating that this has occurred. Compliance officers will ask to see these records. The PLA does not require copies of proof of age documents to be kept on file. Should a sex worker agree to a copy being held on file then it should be returned to the sex worker upon their later request. For example, when a sex worker leaves the brothel or at any other time. If a photocopy of the sex worker's ID is kept on file it should be destroyed upon cessation of the worker's engagement at the brothel.

PROOF OF AGE OF SEX WORKERS BLC

- 3.1 All sex workers must be aged 18 years or over and the licensee or an approved manager must sight the original of an acceptable form of identification as proof of this.
- 3.2 Each sex worker record must include the:
 - (a) name of the sex worker (working name is sufficient)

- (b) type of acceptable form of identification sighted
- (c) date of birth of the sex worker; and
- (d) name and signature of the licensee or approved manager who sighted the identification.

It is the responsibility of the approved manager signing the proof of age to ensure the document is valid and accurate.

2.5 INDUCTION OF SEX WORKERS EXISTING/NEW TO THE INDUSTRY

Sex workers and staff have varying levels of experience in the sex industry. It is therefore important that sex workers, prior to commencing work at a licensed brothel, are appropriately inducted. This induction should provide relevant information and orientation to the operations of the brothel to assist them in their work and an understanding of their rights.

Workers new to the sex industry

It is important to provide sex workers who identify as new to the industry with comprehensive information. Some licensees may feel that their existing general induction process covers the needs of sex workers new to sex work however, the induction of new sex workers requires a greater level of sensitivity, support and information not always found in a general induction process.

Referral of new sex workers to Respect Inc will assist sex workers in mastering the self-confidence and skills required to control situations when dealing with clients. A brothel may implement other strategies to support a person new to the sex industry, such as a buddy system with an experienced sex worker. Consideration also needs to be given to those sex workers who are non-English speaking. The development of multilingual induction information will assist to demonstrate that BLCs 6.1, 6.2 and 6.3 are met.

Licensees should establish a policy and procedure to induct sex workers. This induction should include, but not be limited to, information about:

- brothel policies and procedures
- the layout and facilities at the brothel

- workplace health and safety considerations
- emergency evacuation
- sexual health education and information
- rights, responsibilities, contractual arrangements.

In addition:

Provide documentary evidence of the specific induction information being provided to sex workers. This should be provided prior to commencement of work at the brothel. This must include detailed information about:

- Sexual health - E.g. STIs, condom use and what to do in the event of a condom breakage, post exposure prophylaxis, location of sexual health clinics, how to assess a client for STIs, latex sensitivity, cleaning of vibrators, access to other information such as Respect Inc brochures or the “little red book” and so on.
- Dealing with difficult or violent clients or situations - E.g. violence in the working room, drug affected clients, management actions in the event of a difficult client, refusal to wear a condom, culturally based abuse, and so on.
- The right to refuse a client before introduction -Including management support for the right of a sex worker to refuse under any circumstances.
- The right to refuse to provide services - Including management support for the right of a sex worker to refuse under any circumstances.
- Specific relevant information relating to policies at the brothel. E.g. laundry practice, location of supplies, security arrangements, client booking procedures, and so on.
- Fire safety - fire evacuation, evacuation of clients, location of fire equipment, responsible persons, fire exits, and so on.
- Security procedures - security camera locations, secure client’s movement, security of doors, hidden client cameras, hidden weapons, general emergency procedures, safety entering and leaving the brothel, how to seek assistance in an emergency, interpersonal violence and so on.

Contact number must be provided or available to all sex workers for:

Respect Inc

- Sexual Health Clinics
- PETF
- PLA
- Translator services if English is not spoken
- Transport e.g. local taxi and bus services
- Domestic violence support agencies such as:
- DV Connect women line on 1800 811 811 or the
- National Domestic Violence Hotline on 1800 737 732 or 1800RESPECT.

SEXUAL HEALTH EDUCATION

Educating sex workers about sexual health is more than providing information about STIs. Sexual health covers many topics. Although providing sex workers with information about STIs is important it is also important to ensure that sex workers are informed of other relevant matters. Therefore, at induction and after, information should be provided about:

- what to do if a condom breaks
- latex sensitivity
- correct use of a condom (for a new sex worker)
- general health and adequate rest breaks
- post Exposure Prophylaxis (PEP) (see section 5.6)
- cleaning of sex toys
- and so on.

Such information must be provided on induction prior to commencing of work at the brothel.

Licensees should ensure that information for sex workers and clients about sexual health and STIs is readily available and provided in a variety of languages.

Induction documentation must be signed by the sex worker and the approved manager or licensee who provided the induction. The information provided at induction must be documented in detail. A checklist is not sufficient to prove that correct information was provided.

Other resource information can support an induction. This may include information brochures from Respect Inc, “the little red book” or other suitable information such as posters or online resources.

Documentary evidence of the specific information provided to sex workers and the evidence that the sex worker has received this information will be assessed at audits.

2.6 RECRUITMENT OF SEX WORKERS

Section 94 of the Act, states that “a person must not publish a statement intended or likely to induce a person to seek employment as a prostitute”.

Recruitment strategies must not contravene the Act and may be developed in consultation with Respect Inc.

2.7 PENALTIES, HARASSMENT, COERCION OF SEX WORKERS

The issues of harassment, coercion, or penalties of sex workers in licensed brothels are extremely important. Licensees and managers have an explicit obligation under both the brothel licence conditions and the conditions of a manager’s certificate as follows:

BLC 5.1 Sex Worker Autonomy - Sex workers must not, either expressly or impliedly, be:

- a) coerced, directed, bullied, threatened, or unfairly penalised by whatever means; or
- b) compelled to provide an introduction, to see a client, or to provide a particular service

Further BLC 7.2 (b) requires that the induction of managers includes information to ensure that managers comply with BLC 5.1 at all times.

The PLA treats these matters very seriously. It is unacceptable not to observe a sex worker’s legitimate rights and it is unacceptable for any licensee, manager, receptionist, or other person to exercise undue influence, control, or power over a sex worker.

Licensees must ensure that they, their managers, and other staff, are aware of the seriousness with which the PLA regards this matter.

An allegation made against a manager or licensee for unfair penalties, harassment or bullying may be dealt with by disciplinary inquiry by the Board of the Authority. Refer to section nine for more information about this process.

The *Work Health and Safety Act 2011* also requires persons in control of workplaces to ensure the health and safety of all workers, contractors, and visitors to the brothel.

Workplace harassment may harm the health and safety of workers, therefore the obligations under the *Work Health and Safety Act 2011* extend to ensuring that workplace harassment is prevented or stopped. Licensees or managers are responsible for the elimination of abusive situations or violence from whatever source towards sex workers and staff who may be adversely affected by abuse or intimidation from other staff members.

The Act clearly prohibits acts, which, either directly or indirectly, are used to make another person continue to provide prostitution. This is known as duress and includes:

- cause or threaten wilful injury to the person or anyone else
- cause or threaten wilful damage to property of the person or anyone else
- intimidate or harass the person or anyone else
- make a false representation or use any false pretence or other fraudulent means.

S 77 Duress

A person must not do any of the following acts, either directly or indirectly, to make another person continue to provide prostitution—

- a) cause or threaten wilful injury to the person or anyone else;
- b) cause or threaten wilful damage to property of the person or anyone else;
- c) intimidate or harass the person or anyone else;
- d) make a false representation or use any false pretence or other fraudulent means.

Maximum penalty—200 penalty units or 7 years imprisonment

SECTION THREE – STRUCTURE AND AMENITY

3.1 WORKING ROOMS

The number of working rooms permitted under the Act is a maximum of five (5). The licence may allow for less than 5 rooms. At all times only, the number of rooms permitted by the licence may be used. For those circumstances where a licensee chooses to pay a fee for less than 5 rooms, the rooms in excess of the permitted number of rooms must be decommissioned. That is, the bed and other practical facilities removed so that the room is clearly unable to be used for the provision of prostitution in any way. For example, the bed is removed and any other thing that compliance officers consider may be evidence that the room is capable of being used for the purpose of prostitution services.

3.2 BATHROOM FACILITIES

Working rooms are to be provided with the following minimum facilities:

- wash hand basin
- toilet
- shower

These facilities are to be within the working room or an ensuite to the working room.

3.3 WASHING FACILITIES

The *Work Health and Safety Regulation 2011* requires all workplaces to have washing facilities. Within licensed brothels, brothel licensees should ensure that hand washing facilities are located in:

- staff or client toilets
- the working rooms
- other areas used by staff or sex workers for cleaning.

All hand basins should have an adequate supply of hot and cold water suitable for washing hands, soap, and disposable paper hand towels.

3.4 STAFF/SEX WORKER FACILITIES

In addition to the working rooms a separate shower, toilet and change facilities are to be provided and separate to those used by clients. A sharps container must also be provided within these amenities.

3.5 CLINICAL WASTE BINS

Clinical waste includes condom waste generated from the working rooms. This is due to the possible transmission of infectious diseases via body fluids. Best practice is required for the disposal of such waste. The conditions of licence require clinical waste be disposed into a clinical waste bin provided in the working room for direct and immediate disposal of this waste.

Increased odour problems are often found in brothels in warmer areas and where the air conditioning system may not operate when the business is closed. Licensees of such brothels may need to take additional care in ensuring that bins are exchanged more frequently to prevent the nuisance created from odour. Approved contractors must be used for the transportation of the clinical waste from the brothel. See also section 6.4 – Disposal of PPE.

BLC 16.1 Management of Clinic Waste -The licensee must ensure the proper management of brothel clinical waste, including:

- (a) used PPE and other disposable items that have come into contact with bodily fluids arising from a sexual service must be placed in clinical waste bins.
- (b) clinical waste bins must be appropriate yellow rigid walled containers, with close fitting lids, and a black biohazard symbol;
and
- (c) removal of clinical waste bins by an appropriate contractor.

Proper management of clinical waste includes that contents of the bins are not improperly handled by any person (e.g. the contents pushed down by hand). The contents are to be treated as infectious. There is also the risk that a sharp (i.e. needle) may have been disposed of into the bin which may cause a needle stick injury.

3.6 LAUNDRY MANAGEMENT

Brothel licensees are responsible for laundry management either within the brothel or a service provided by an external laundry company. If laundered in house, towelling and bedding must be disinfected through either appropriate chemical treatment or sufficient heat treatment.

BLC 22.1 Maintenance and Cleaning – Part (e), (f) and (g) refer to laundry standards.

The licensee must ensure:

- e) all towelling and bedding is treated by thermal or chemical means to satisfy disinfection practices as identified in the Australian/New Zealand Standard for Laundry Practice AS 4146:2000;
 - f) all linen and towels that come into contact with clients or sex workers are replaced with clean linen and towels immediately after each service; and
 - g) where coversheets are used, they must be of sufficient thickness and size to cover and protect the entire bed surface.
-
- All linen and towels that comes into contact with clients or Sex workers must be replaced with clean linen and towels immediately after each client and removed to the laundry area.
 - Where drop sheets are used, they must cover all surfaces of the bed. They must be thick enough to absorb any fluid otherwise the entire bed must be stripped. Where drop sheets are used that do not meet this standard all bedding must be removed after each client.
 - Disinfection is usually achieved in brothels by exposure of washed linen to high temperature drying with a long contact time. Chemical disinfection can be provided through commercial grade chemicals delivered through an automatic dosing system. Therefore, standard laundry detergent with additives such as napsan or liquid bleach added to the wash cycle is not sufficient.
 - Clean linen and towelling are to be stored separately to soiled linen and towelling.
 - Laundry baskets can be lined (e.g. with a plastic liner) and regularly cleaned using warm water and detergent.
 - Linen and towelling that is significantly soiled with blood and/or body fluids should be soaked in a disinfectant or bleach prior to washing. Gloves should be worn as a standard precaution in the handling of significantly soiled linen and towelling.

Further information

Licensed brothels with their own laundries should:

- Use and maintain washing machines according to the manufacturer's specifications
- Avoid overloading machines as this can affect the efficiency of the washing cycle
- Use appropriate manual handling techniques when moving heavy linen bags, transferring wet linen from the washing machine to the dryer, and when folding linen.

OUTSOURCING LAUNDRY SERVICES

A commercial contractor may be engaged to provide a cleaning service for laundry items. Commercial cleaning will ensure that laundry is cleaned and sanitised to an appropriate standard. Receipts for this cleaning service should be retained as officers of the PLA may request to review them during compliance audits or inspections.

3.7 ROUTINE CLEANING

Appropriate workplace design can promote hygiene and reduce infectious disease risks. Brothel licensees should install fixtures, furnishings and fittings that can be readily cleaned. For example, waterproof mattress protectors may be used to prevent body fluid spills soaking into mattresses. Easily cleaned and durable materials such as tiles or melamine should be used for surfaces where appropriate to assist in the ease of cleaning.

Brothel licensees should develop a cleaning program for their workplaces that documents methods and frequency of cleaning. This should include the following:

- protective equipment, such as rubber gloves or disposable latex or vinyl gloves and a plastic apron should be used when cleaning the workplace
- all surfaces within the workplace should be cleaned regularly to maintain a safe and hygienic working environment
- all surfaces that may have been contaminated by blood or body fluids should be disinfected/sanitised after cleaning
- carpets should be vacuumed regularly

- cleaning equipment such as mops, buckets and general purpose cleaning gloves should be cleaned after use, using warm water and detergent, and then stored dry. It is preferable to use disposable cleaning cloths, however if reusable cloths are used, they should be laundered after use particular care should be taken in cleaning surfaces where equipment such as sex toys are placed.

3.8 SHARPS DISPOSAL

Discarded sharps, which include used needles and syringes, are a cause of skin penetrating injuries. Generally, a sharp is any object that can cut, penetrate, or otherwise break the skin.

Within the sex industry, sharps include needles used for penile injections and razors. Skin penetrating injuries from sharps may expose sex workers, other workers and/or clients to blood-borne diseases such as hepatitis B, hepatitis C, and HIV.

Sharps must be disposed of in a container that complies with the Australian Standards and those containers provided in each working room and in the staff (sex worker) facilities area.

Licensees should ensure that:

- sharps disposal containers are not overfilled
- items are not forcefully inserted into sharps containers
- sharps are not recapped, broken, or bent
- sharps disposal bins are readily accessible
- sex workers and staff are instructed in their locations and use.

An appropriate contractor must exchange sharps containers.

Brothel licensees should ensure that sex workers and staff receive appropriate induction and access to training about skin penetration injury risks. This should include:

- information about infectious disease risks from skin penetration injuries
- safe handling and disposal of sharps
- management of accidental skin penetration injuries.

Brothel licensees should also ensure that sex workers and staff who receive a skin penetration injury receive appropriate first aid treatment and prompt medical referral. Post exposure prophylaxis where indicated is most effective if commenced within 1–2 hours and not more than 72 hours.

A skin penetration injury is often a stressful event for the injured person, and counselling should be made available, if required.

Contact the Queensland Health Clean Needle Help Line (1800 633 353) for more information on sharps management.

3.9 SWIMMING POOLS AND SPAS

Swimming pools and spa pools can be a source of infection risk for people who use them. The following infections may be transmitted by inadequately treated water or surfaces in pools and spas:

- gastro-intestinal infections
- yeast and fungal infections
- skin, ear, and eye infections
- genito-urinary infections.

Spa baths can harbor bacteria such as *Pseudomonas* and *Staphylococcus* which are associated with ear, eye, and wound infections. Brothel licensees should ensure that single use spa baths are emptied after each use and cleaned, degreased, and disinfected using appropriate chemicals that are compatible with the manufacturer's specifications.

There are two types of spa operation and two approaches for disinfection.

Single Use Spas

The most commonly found spa in brothels is those which are filled and emptied after each booking. This is suitable for an individual service between a service provider and a client. After emptying, the spa should be rinsed and sanitised with a suitable sanitiser recommended by the manufacturer of the spa.

Using products such as strong chlorine-based sanitisers may corrode plumbing fittings. Seek advice from the manufacturer for suitable sanitisers for the spa.

A degreaser should be reticulated through the system on a regular basis to remove accumulated fat deposits (refer to specific advice for the spa system).

Chemically Treated Spas

These are designed to retain water for multiple users. These generally are equipped with an effective water circulation system, a filtration system, and should have a continuous chemical dosing control system to achieve continuous disinfection. Floating chemical dispensers do not meet this requirement. A logbook of maintenance is to be kept and made available to compliance officers on request.

Maintenance and operation of swimming and spa pools should comply with the Queensland Health Swimming and Spa Pool Water Quality and Operational Guidelines 2004. These guidelines are located at the Queensland Health website at www.health.qld.gov.au

BLC 22.1 Maintenance and Cleaning – Single use Spa baths

The licensee must ensure:

- (d) single use spa baths are drained and cleaned with appropriate sanitising agents after each use. Ongoing maintenance cleaning must include the use of an appropriate degreaser at regular intervals or otherwise as recommended by the manufacturer.

3.10 GUIDELINES FOR BROTHELS THAT PROVIDE ACCOMMODATION

Accommodation for sex workers can only be provided at a brothel where there is **council approval** to do so. Some brothels have been purpose built with accommodation facilities and meet council requirements e.g. structural and fire safety requirements. Contact the relevant local government area office for information about requirements or restrictions on the use of the brothel for accommodation purposes.

For brothels where accommodation of sex workers is permitted by the relevant local government the guidelines for brothels that provide accommodation must be met. The guidelines are provided by the PLA. The guidelines are intended to ensure appropriate accommodation standards. Additional requirements include the provision of particular contact

information that a sex worker may need in an unfamiliar city. A copy of the guidelines is available from the PLA.

BLC 13.1 Accommodation on Brothel Premises- In addition to any relevant requirements of Local Government or Queensland Fire and Emergency Services, where accommodation is provided for sex workers, the [Guidelines for Brothels that Provide Accommodation](#), issued by the PLA, must be complied with.

3.11 PURPOSE OF THE BROTHEL

The giving of a licence to an individual is a regulated matter. The licence itself permits only the activity of prostitution at a brothel. Other activities are not permitted at the premises. Activities that are not permitted may include commercial and private activities such as parties, tours, film making, and so on. It is possible to seek approval from the Board of the Authority for other activities.

In all cases prior approval must be sought in writing from the Board of the Authority. In all circumstances the brothel licence conditions and other lawful controls for age, alcohol, drugs, safety etc. must be met.

BLC 19.1 Purpose of Brothel

The licensee must not use the premises referred to in the licence, or make it available for use, whether for payment or otherwise, for any purpose other than as a licensed brothel as defined in Schedule 4 of the Act, without the prior approval of the PLA.

3.12 SMOKING IN THE WORKPLACE

Environmental Tobacco Smoke (ETS) is the complex mixture of chemicals and particles that are released into the air whenever someone smokes a cigarette, cigar, or pipe. ETS is a significant hazard to the health of non-smokers and is a recognised workplace health and safety hazard. It contains over 4000 chemical compounds, including 60 known carcinogens, or cancer-causing agents.

Queensland tobacco legislation bans smoking from many enclosed places in the workplace.

Smoking Control Measures within Licensed Brothels

Brothel licensees, in conjunction with sex workers and workers, should develop a policy for smoking in the workplace. This policy should state that:

- all enclosed places within the licensed brothel are strictly non-smoking
- sex workers and staff are only permitted to smoke in secure outdoor areas within the workplace.

Non-smoking signs should be displayed within the enclosed spaces of the workplace to ensure clients, sex workers and other workers follow the smoking policy.

SECTION FOUR – WORK HEALTH AND SAFETY

4.1 WORK HEALTH AND SAFETY OBLIGATIONS

The Work Health and Safety Act 2011 (the WHS Act) provides a framework to protect the health, safety, and welfare of all workers at work. It also protects the health and safety of all other people who might be affected by a work activity or within the workplace environment.

All workers are protected by the WHS Act, including:

- employees
- contractors
- subcontractors
- clients
- visitors to the brothel

The WHS Act also provides protection for the general public so that their health and safety is not placed at risk by work activities.

The WHS Act places the primary health and safety duty on a person conducting a business or undertaking (PCBU). The PCBU must ensure, so far as is reasonably practicable, the health and safety of workers at the workplace. Duties are also placed on workers and other persons at a workplace.

All duties under the WHS Act are qualified by the term 'reasonably practicable'.

The WHS Act also sets out the requirements for the following:

- incident notification
- consultation with workers
- issue resolution
- inspector powers and functions
- offences and penalties.

4.2 RISK MANAGEMENT

There are five basic steps in the workplace health and safety risk management process, as contained in the *Work Health and Safety Act 2011*.

These include:

- identifying hazards
- assessing risks that may result because of the hazards
- deciding on control measures to prevent or minimise the level of the risks
- implementing control measures, and
- monitoring and reviewing the effectiveness of measures

It is important to remember that risk management is an ongoing process. It should be undertaken at various times including:

- when a change in the workplace occurs; or
- after an incident; or
- at least once every 12 months

There may be risks at the workplace that have not been addressed in the document. You are required under the *Work Health and Safety Act 2011* to identify and assess all risks and ensure that control measures are implemented and reviewed to prevent or minimise exposure to these risks.

The Workplace Health and Safety Risk Management Advisory Standard provides the process to help meet workplace health and safety obligations. This standard can also be obtained at www.worksafe.qld.gov.au.

There are four major headings for identifying hazards common to all workplaces:

Physical hazards - the most common hazards and are present in most workplaces at some time. Examples include, frayed electrical cords, slips, falls, constant loud noise, working from ladders, spills, tripping hazards.

Ergonomic hazards - occur when your body position and/or your working conditions put a strain on your body. They are difficult to identify because you don't immediately recognise the harm they are doing to your health. Examples include, poor lighting, improperly adjusted workstations and chairs, frequent lifting, repetitive or awkward movements.

Chemical hazards - are present when you are exposed to any chemical preparation (solid, liquid or gas) in the workplace.

Examples include, cleaning products and solvents, vapours and fumes, carbon monoxide or flammable materials.

Biological hazards - come from working with people, animals, or infectious plant material. Examples include, blood or other bodily fluids, bacteria and viruses, insect bites, animal, and bird droppings.

A workplace risk assessment should be conducted to identify risks and how these risks can be avoided (or controlled). Licensees must use a variety of measures to provide a safe environment for staff, sex workers and visitors including controls for communication and consultation for the management of WHS.

Some hazards specific to the sex industry workplaces may include:

PHYSICAL

- trips and falls in high heels due to torn carpets, or polished floors
- electrical hazards such as frayed or badly placed electrical cords
- condom breakages and slippage
- poor lighting for checking clients
- poorly lit hallways
- poorly lit carparks
- malfunctioning duress alarms
- condoms stored in unsuitable conditions
- physical or psychological assault
- weapons
- handheld cameras/cameras secreted in pens and other non-identifiable items
- fire
- poor heating, cooling, or ventilation
- slippery (i.e. wet) floor surfaces

ERGONOMIC

- unsafe beds
- staff and sex workers wearing high heels
- heavy laundry
- prolonged working hours causing physical discomfort

CHEMICAL/HAZARDOUS SUBSTANCES

- clients affected by drugs or alcohol
- laundry chemicals
- cleaning chemicals
- latex sensitivity

BIOLOGICAL

- clinical waste
- needle stick injury
- STIs
- Bed bugs

Hazards referred to above may be controlled with appropriate measures. Each identified risk may have its own control measure or a number of relevant control measures. Examples of some controls are:

- secure and well-lit car parking and monitoring of sex workers and staff entering and leaving the brothel
- appropriate training of management and staff
- procedures to communicate responsibilities or actions in the event of a violent or difficult client
- surveillance measures such as multiple point security cameras
- easy to reach duress alarms fixed in working rooms, lounge areas and bathroom facilities
- routine and regular testing of fixed duress alarms and personal alarm systems
- doors activated by swipe cards or combination lock to prohibit unauthorised entry of persons into private areas of the brothel frequented by sex workers or staff
- assessment of client behaviour via video and/or intercom prior to entry of clients into the brothel
- assessment of client's demeanour/behaviour at reception
- using clinical waste contractors
- availability of sharps containers
- replacement of worn mattresses

- brothel licensees should ensure that the design of any equipment provided meets ergonomic principles. For example, licensees should ensure that all beds/mattresses support the back and allow for a variety of services to be performed without strain or discomfort. Where present, massage tables should be adjustable to meet the individual needs of each sex workers so that the table can be used safely
- brothel licensees should ensure that information, supervision, and instruction is available for staff and sex workers with regard to reducing the risk of injuries associated with manual tasks
- the need to vary posture occasionally if performing tasks that involve static body positions for long periods of time (e.g. sitting, standing, crouching etc.) or safe methods to lift weights such as baskets of wet laundry
- documented management procedures for identified risks

Further information is available at www.worksafe.qld.gov.au. for useful advisory standards. Information can also be obtained about conducting a risk assessment for the brothel.

FURTHER SPECIFIC INFORMATION FOR SOME HAZARDS.

4.3 HAZARDOUS SUBSTANCES

Hazardous substances are found in most workplaces and can cause occupational health issues. They can have serious effects in some industries such as those dealing with harmful chemicals requiring special handling or protective equipment such as respirators. Hazardous substances may be found in many workplaces and may be:

- toxic
- harmful
- corrosive
- irritant
- sensitising (i.e. cause allergies)
- carcinogenic (i.e. cause cancer)
- mutagenic (i.e. cause genetic damage), or
- teratogenic (i.e. cause abnormalities of the foetus).

Hazardous substances may include detergents, disinfectants, or any other substance that is used in a work activity.

Brothel licensees and managers must assess the risk to health from hazardous substances that are used within the workplace as soon as practicable. This assessment should be updated and reviewed as required.

A risk assessment must include:

- identification of hazardous substances
- an assessment of the risk created by the hazardous substance, the working environment, and the work processes
- a decision on the likelihood of persons being exposed to hazardous substances
- a decision on the control measures (including health surveillance and monitoring if applicable) needed in relation to the hazardous substances
- a review of the information on the Material Safety Data Sheet (MSDS) and the container label.

MSDS (Material Safety Data Sheets) provide useful information for businesses. They are information sheets that provide chemical, handling, storage, and health effect information for chemicals.

Ensure that the MSDS is kept close to where hazardous substances are used and must be available to all staff and sex workers.

4.4 EMERGENCY EVACUATION AND FIRE SAFETY

Licensees should develop emergency procedures for use in the event of fire or other emergency situations.

It should be noted that most working rooms in brothels do not have windows available as an emergency exit. Licensees are advised to provide plans of emergency evacuation paths in working rooms to assist both clients and sex workers in the event of a fire. All fire equipment installed should meet building requirements and be tested and maintained by a competent person.

The local building authority and the Queensland Fire and Emergency Services can be contacted for advice or information at www.qfes.qld.gov.au

General considerations:

- have a qualified person check firefighting equipment at the appropriate intervals
- monitor passages and exits to ensure that they are kept clear and that exit doors are kept in good working order
- make sure that sex workers and staff are aware of the location of fire extinguishers and provide training where appropriate for their use
- sign exits and provide fire evacuation plans within the working rooms to assist exiting in the event of fire,
- remembering that clients may be unfamiliar with the general layout of the premises.

4.5 WORKPLACE VIOLENCE

Workplace violence may be defined as any incident where a worker is physically attacked or threatened within the workplace.

- a physical attack means applying direct or indirect force of any kind (i.e. strike, touch, move, etc.) to another person that creates a risk to health and safety
- a threat means a statement or behaviour that causes a reasonable person to believe that they are in danger of being physically attacked. The level of fear that an individual experiences, and how an individual responds both during and after a violent incident, will differ from person to person. A person who witnesses a violent incident directed towards another person may also be affected by the incident.

Brothel licensees are responsible for eliminating potentially abusive situations, including violence and/or intimidation, from their workplace – regardless of the source.

It is recommended that brothel licensees, staff and sex workers take a pre-emptive approach to incidents or threats. To create a workplace where the risk of violence and intimidation is minimised, brothel licensees, staff and managers should:

- identify areas of the workplace and procedures that may contribute to the likelihood of violence

- assess the likelihood of a violent incident occurring and the potential for injury and/or damage
- develop strategies to reduce the likelihood of violent incidences occurring
- monitor the effectiveness of these strategies and improve upon them if they are not effective in reducing incidences of workplace violence.

The above process is best achieved by consultation with staff, and by providing training in safe procedures to everyone.

Workplace violence is a risk in many industries. Brothel licensees are responsible for ensuring that licensed brothels are a safe place to work, particularly for persons directly involved in providing sexual services.

Brothel licensees should consider the following:

- back to base alarm systems located in each room and at other locations on the premises
- audible personal alarms that are readily accessible but not easily noticed by clients
- developing and communicating a policy regarding the rights and responsibilities of clients
- an EFTPOS or ATM facility within the licensed brothel to reduce large amounts of cash being available on the premises
- electronic surveillance at the entrance to and from the premises
- doors to each working room should not be lockable
- doors into private lounge or other areas used solely by sex workers should be secured via a lock, swipe card, keypad, or similar method.

It is recommended that brothel licensees also:

- develop procedures for responding to threats, and instruct staff and sex workers and workers in these procedures
- encourage staff and sex workers to seek counselling and support services following experiences involving violence
- encourage staff and sex workers to report all incidents of violence
- control clients who are verbally or physically abusive

The most important tool for the prevention and response to harassment, threats, and violence, is a workplace culture that is supportive of staff and sex workers and intolerant of any threatening or violent behaviour.

Brothel licensees should:

- develop a trusting relationship with sex workers and workers and maintain open communications with them to ensure that all incidents of harassment, threats and violent behaviour are reported to the licensee or an approved manager.
- implement procedures for the use and maintenance of security and surveillance facilities, including closed-circuit television, and implement procedures governing the use of security personnel within the licensed brothel
- not allow entry onto premises or accept bookings from clients who appear to be intoxicated, as they could increase the risk of violence occurring
- prohibit any weapons and covert photography on the premises
- provide adequate security for staff and sex workers arriving at, or leaving, the premises
- ensure secure and well-lit car parking is available for sex workers and workers
- conduct at a minimum, fortnightly testing of alarms, communication devices and other safety equipment. If any of these devices are not working, they should be replaced promptly. Records should be maintained of the tests conducted.

Stalking is another form of workplace violence. Within the sex industry, clients may become infatuated with sex workers and brothel staff and harass and/or stalk them. It is recommended that brothel licensees and sex workers report all incidents of stalking to the police.

Controls for safety are widespread in activities managed by general policies and procedures as well as brothel licence conditions. The brothel licence conditions specify some lawful requirements however obligations for a licensee and the responsibilities of staff under the Work health and Safety Act do not limit the number or type of controls required. An assessment of the workplace will determine the controls that are required. Refer to www.worksafe.qld.gov.au. General and specific advisory standards for specific hazard controls are available online.

4.6 WORKPLACE HARASSMENT

Workplace harassment is an undesirable issue for any workplace, irrespective of its size.

Workplace harassment may be defined as repeated behaviour, other than behaviour that is sexual harassment, that is:

- directed at an individual worker or a group of workers
- offensive, intimidating, humiliating, or threatening
- unwelcome and unsolicited
- which a reasonable person would consider being offensive, intimidating, humiliating, or threatening for the individual worker or group of workers.

The health and safety obligations of brothel licensees extend to ensuring that workplace harassment is prevented or managed within licensed brothels. Brothel licensees should be aware of their own obligations in this regard and should consult with staff and sex workers and develop a written policy on workplace harassment. This policy should:

- state that workplace harassment is inappropriate and will not be tolerated
- define workplace harassment and the types of behaviour that constitute workplace harassment
- encourage sex workers and workers who experience or witness workplace harassment to report it
- ensure prompt action when workplace harassment occurs
- promote a respectful work environment; and
- ensure that brothel operations themselves do not contribute to a culture of harassment or intimidation.

Within licensed brothels, brothel licensees should nominate an appropriate contact person for workplace harassment, and ensure all workers are aware of whom that person is. This contact person could be:

- a sex worker
- a staff member or
- an outside agent

Brothel licensees should ensure all workers and sex workers are aware of the procedures to deal with workplace harassment. Brothel licensees

should also provide all staff and sex workers (and the nominated contact person if this person does not work within the licensed brothel) with training in the brothel's policies and procedures on prevention of workplace harassment.

Staff or sex workers who experience workplace harassment are encouraged to keep a diary of the alleged harassment. This diary should include:

- Incidents in as much detail as possible; and
- The names and addresses of people willing to support the claims.

This information can then be referred to Fair Work.

For more information on workplace harassment, brothel licensees are encouraged to refer to www.worksafe.qld.gov.au

4.7 FATIGUE MANAGEMENT

The extension of working hours, particularly for shift workers, adversely affects the amount of time available for sleep and social activities. As work hours increase, the individual compensates for the increased time spent at work by reducing the amount of time allocated to sleep and other activities. Once a person works more than 48 hours within a week, the increased competition between sleep and other activities results in sleep of a limited quality and length. As hours of sleep are reduced, the individual begins to accumulate a sleep debt. This causes fatigue levels to rise, which can affect workplace health and safety.

High levels of fatigue are associated with reduced performance and productivity in the workplace and an increased risk of accidents and injuries occurring. Fatigue has also been linked with a number of health effects including:

- cardiovascular disease
- gastrointestinal disorders
- psychological wellbeing; and
- impacts of women's reproductive health.

For more information on fatigue management, refer to www.worksafe.qld.gov.au

Fatigue management is a shared responsibility between brothel licensees, staff, and sex workers, as it involves factors both inside and outside of work.

Staff and sex workers should make appropriate use of their rest days or time off between shifts to be fit for their next rostered shift.

The key to managing fatigue successfully is to ensure that staff and sex workers are given sufficient time for recuperative sleep between shifts.

Brothel licensees are responsible for providing a shift system that provides staff and sex workers with sufficient opportunity to rest and recover between shifts.

4.8 APPLY FIRST AID AND CPR

At all times when a brothel is open for business the person who is responsible for personal supervision of the brothel must have a current Apply First Aid Certificate and a current Cardiopulmonary Resuscitation (CPR) component. CPR is required to be renewed annually. If an approved manager or licensee's CPR has expired, another person must be signed in to personally supervise the brothel.

BLC 21.1 – Apply First Aid and CPR - The licensee must not personally supervise a brothel without holding a current Apply First Aid Certificate and relevant CPR component

4.9 CONTROLS FOR SAFETY

Although there are specific brothel licence conditions for controls of safety, licensees and managers should be aware that controls for safety are wider than those specifically mentioned. In respect of Workplace Health and Safety risks, there are many controls for safety to be considered. The *Prostitution Regulation 2014* is also required to be met:

s 23 Licensee's duty about alarm, lighting, and sign

A licensee of a brothel must ensure—

- (a) each room in the brothel has a concealed alarm button, or equivalent communication device, that is in working order; and
- (b) each room in the brothel has enough lighting to enable prostitutes to check for clearly visible signs of sexually transmissible disease; and

(c) a sign stating 'only safe sexual activities are practised on these premises' is prominently displayed in the brothel's reception area.

Maximum penalty—40 penalty units.

BLC 15.1 – Electronic Surveillance

The licensee must provide sufficient electronic surveillance of the brothel for the safety and security of sex workers, staff and clients. This includes, but is not limited to:

- a) external areas of the brothel allowing parties to be viewed entering and leaving the brothel;
- b) all car parking areas; and
- c) internal areas, particularly where clients have or may gain access.

This requirement does not include working rooms, designated change areas or other areas agreed to by the PLA to require reasonable privacy.

Further controls for safety included by way of brothel licence condition include:

BLC 12.3 – Facilities in Brothel Premises - Each room at the brothel, as well as the staff bathroom facilities, must have a non-reusable sharps container that complies with AS4031.

BLC 4.1 - Sexual Health - The licensee must take all reasonable steps to ensure that personal protective equipment (PPE) is used for sexual intercourse, oral sex and 'hand relief'.

SECTION FIVE - SEXUAL HEALTH MANAGEMENT

5.1 SEXUAL HEALTH ASSESSMENT

Sex workers should undertake a check of prospective clients to determine if there are any visible indications of an STI. Adequate training should be provided to sex workers to facilitate the identification of STIs.

The examination of clients must not be seen as an alternative to, or lessening the need for, observing safe sex practices. Examination should be conducted in a well-lit area, using an appropriate form of illumination such as a multi-positional 100-watt lamp.

Brothel licensees should create and maintain a working environment conducive to and supportive of safe sexual practices. A sex worker must be supported when refusing to provide services to a client on the basis of an unacceptable STI examination.

A sex worker may ask another person for a second opinion about possible symptoms of an STI of a prospective client. This should be conducted by a person who the sex worker trusts such as an experienced sex worker or a person with a clinical background. Approved managers who do not have this experience should not be promoted as a suitable person to provide an opinion.

In all circumstances if the sex worker has any doubts and is not comfortable to continue with the booking it is the right of the sex worker to either refuse the client or to offer to provide alternate services. Under no circumstances must the sex worker be compelled to continue the booking.

BLC 5.1 – Sex Worker Autonomy - Sex workers must not, either expressly or impliedly, be:

- (a) coerced, directed, bullied, threatened, or unfairly penalised by whatever means; or
- (b) compelled to provide an introduction, to see a client, or to provide a particular service.

5.2 SEXUAL HEALTH CERTIFICATES OF ATTENDANCE (SHC)

It is not the role of a licensee or an approved manager to assess the suitability of a sex worker's sexual health status to work in a licensed brothel. However, the responsibility is on the licensee or approved manager to obtain and assess a sexual health certificate of attendance, or its equivalent, from a sex worker as evidence that the sex worker has been medically examined and is able to work.

Under certain circumstances, the SHC protects sex workers, licensees, and managers from serious offences. The PLA requires through brothel licence condition that a licensee or manager must obtain suitable documentary evidence that a sex worker has been medically examined.

The documentary evidence may be a sexual health check certificate of attendance provided by a Queensland sexual health clinic or the 'z card' distributed by the PLA, which can be photocopied and filled out by a GP. Other documentary evidence is a document that is on GP clinic letterhead or from a sexual health clinic in another jurisdiction.

BLC 4.4 – Sexual Health - The licensee or an approved manager must obtain proof, in the form of a current document of medical examination from a clinician (e.g. sexual health check certificate of attendance), that a sex worker had been medically examined or tested to ascertain if the worker was infective with a sexually transmissible infection (STI). The document of medical examination must establish that the examination or test was about sexual health status.

Where medical certificates are issued outside of Queensland the Queensland standard must still be met. The decision to accept an alternative document in lieu of a Queensland certificate is made because the person accepts the document as the equivalent to a Queensland SHC.

INTERVALS FOR TESTING

The interval between medical testing for sexual health status cannot be longer than 3mths. However, it must not be assumed that a SHC is valid for 3 months. A clinician may have a number of reasons not to give a certificate for the full three months. The "valid to" date must be checked, and the corresponding date entered into any computer-based record.

This is particularly relevant if a computer-based system automatically generates a 3-month expiry date which will result in a sex worker working past the date nominated on the SHC. Similarly, in the event that an interstate certificate indicates a date beyond 3mths, brothel records should be made to ensure its validity is only for the maximum 3-month period.

For audit purposes the computer record is not recognised as evidence of a SHC. The endorsed copy or the original SHC is the evidence.

5.3 WORKING WHILST KNOWINGLY INFECTIVE WITH A SEXUALLY TRANSMISSIBLE INFECTION

S 90 of the Act states the offence for a sex worker to provide prostitution at a licensed brothel during any period in which they know they are infective with an STI.

Also, under s. 89 of the Act, a brothel licensee or approved manager must not permit a sex worker to work at a brothel during any period in which they know the sex worker is infective with an STI.

It will not always be obvious that a person has an STI because whilst a person may be infected, they may not have any symptoms (be asymptomatic). This may be the case with many STIs including chlamydia, gonorrhoea, syphilis, and HIV. In cases where a person is asymptomatic, the STI will only be discovered if the person sees a clinician (at a sexual health clinic or a GP) for a sexual health examination.

Under the Act a brothel licensee and an approved manager will be taken to have known that a sex worker is infective, unless they can prove that at the time of the offence, they believed on reasonable grounds that the sex worker had been medically examined or tested to ascertain if the sex worker was infective with a transmissible disease; and that the worker was not infective with an STI.

S 89 Permitting prostitute infective with a disease to work in a licensed brothel

- 1) A person who is a licensee or an approved manager of a licensed brothel must not permit a person to work as a prostitute at the brothel

during any period in which the person knows the prostitute is infective with a sexually transmissible disease.

Maximum penalty—120 penalty units.

- 2) For subsection (1), it does not matter whether the prostitute works under a contract of service or a contract for service.
- 3) For subsection (1), the licensee or manager is taken to have known that the prostitute was infective with a sexually transmissible disease, unless the licensee or manager proves that, at the time the offence is alleged to have been committed, the licensee or manager believed on reasonable grounds that the prostitute—
 - (a) had been medically examined or tested at intervals prescribed under a regulation to ascertain whether the prostitute was infective with a sexually transmissible disease; and
 - (b) was not infective with a sexually transmissible disease.
- 4) A person who is a licensee or an approved manager of a licensed brothel must take reasonable steps to prevent the fact that a prostitute has been medically examined or tested, or the results of the examination or test, from being used to induce a client of the prostitute to believe that the prostitute is not infective with a sexually transmissible disease.
Maximum penalty—40 penalty units.
- 5) For subsection (4), it does not matter whether the prostitute is or is not infective with a sexually transmissible disease.

S 90 Prostitute working while infective with a disease

(1) A person must not work as a prostitute at a licensed brothel during any period in which the person knows he or she is infective with a sexually transmissible disease.

Maximum penalty—100 penalty units.

- (2) For subsection (1), it does not matter whether the prostitute works under a contract of service or a contract for service.
- (3) For subsection (1), the prostitute is taken to have known that he or she was infective with a sexually transmissible disease, unless the prostitute proves that, at the time the offence is alleged to have been committed, he or she—

- (a) had been medically examined or tested at intervals prescribed under a regulation to ascertain whether he or she was infective with a sexually transmissible disease; and
 - (b) believed on reasonable grounds that he or she was not infective with a sexually transmissible disease.
- (4) A prostitute must not, for the purpose of prostitution, use the fact that the prostitute has been medically examined or tested, or the results of the examination or test, to induce a client of the prostitute to believe that the prostitute is not infective with a sexually transmissible disease.
Maximum penalty—40 penalty units.
- (5) For subsection (4), it does not matter whether the prostitute is or is not infective with a sexually transmissible disease.

5.4 RECORDS OF SEXUAL HEALTH CERTIFICATES

Obtaining and assessing SHC's is a critical step for licensees and approved managers. The procedures for assessment of SHC's and storage of these as records must be rigorous. Procedures should be implemented for:

- how to assess the authenticity of a certificate
- managing and tracking name changes for sex workers. i.e. there must be a record of the name change and the date of the name change
- storage and timely retrieval of records that are to be produced on request. SHC's must be kept for a minimum of 12 months. Any certificate within this timeframe may be requested by the PLA or QPS.

BLC 4.5 Sexual health - The licensee or an approved manager must sight the original document of medical examination and retain, for a period of one year, a copy of the original document endorsed with the date, name and signature of the person who sighted the original. Demonstration that this condition is met includes:

- a) keeping relevant records to comply with condition 4.4.
- b) the application of procedures to assess documentation against standards.
- c) systems to manage records and retrieval of documentation; and

- d) recording sex worker name changes and the date of the name changes so that the name accords with the sign-in register.

Demonstration that this BLC is met may include:

- due diligence
- application of procedures to assess documentation against standards, systems to manage records and retrieval of documentation, record sex worker name changes and the date of the name change to demonstrate accordance with records that must be kept (the sign in register).

The sex worker name in the record that must be kept (the sign in register) should be the same as the certificate for that day. In the case that a sex worker wishes to work under a different name the new name and date of the change of working name should be recorded in the sex workers file. The certificate itself should not be altered in any way.

Copies of the SHC's or their equivalents must be retained for a period of 12 months.

5.5 SAFER SEX

Safer sex has the general meaning of using a condom or other device during sex to prevent pregnancy or the transmission of an STI.

Condoms and dams when correctly used provide an effective barrier to reduce the transmission of STIs, including HIV. However, some diseases such as herpes simplex and the wart virus may still be contracted through contact with infected areas not covered by a condom.

Also, while urine, faeces and saliva do not carry a risk of transmitting HIV they may transmit other diseases such as Hepatitis A.

The use of condoms or dams for all contact sexual services, ensure that safer sex is observed where there is a risk of transmissible infection. A licensee or an approved manager must take all reasonable steps to ensure that a person does not obtain or provide prostitution involving sexual intercourse, oral sex or hand relief unless a prophylactic is used.

There is no circumstance where it is justifiable to engage in unprotected sex.

Where there is any risk to the sex worker of exposure to body fluids, condoms and dams must be used. It is highly recommended therefore that condoms are also used for activities such as Spanish and trick sex.

There are specific offences for providing sexual intercourse or oral sex without a prophylactic.

Within licensed brothels prophylactics must also be used for hand relief.

BLC 4.1 - Sexual Health - The licensee must take all reasonable steps to ensure that personal protective equipment (PPE) is used for sexual intercourse, oral sex and 'hand relief'.

BLC 4.2 – Sexual Health - Sex workers and staff must be made aware by the licensee or approved manager at induction, that PPE must be used for sexual intercourse, oral sex and 'hand relief'.

S 77A Prostitute providing sexual intercourse or oral sex without a prophylactic –

- (1) A prostitute must not provide prostitution involving sexual intercourse or oral sex unless a prophylactic is used.
Maximum penalty—100 penalty units.
- (2) A prostitute must not offer to provide prostitution involving sexual intercourse or oral sex without a prophylactic being used.
Maximum penalty—100 penalty units.
- (3) A person must not—
 - a) ask a prostitute to provide prostitution involving sexual intercourse or oral sex without a prophylactic being used; or
 - b) accept an offer from a prostitute to provide prostitution involving sexual intercourse or oral sex without a prophylactic being used; or

- c) obtain prostitution involving sexual intercourse or oral sex unless a prophylactic is used.

Maximum penalty—100 penalty units.

- (4) A person obtaining prostitution involving sexual intercourse or oral sex must not—

- a) interfere with the efficacy of a prophylactic used by the person; or

- b) use, or continue to use, a prophylactic that the person knows, or could reasonably be expected to know, is damaged.

Maximum penalty—100 penalty units.

- (5) A person who is a licensee or an approved manager of a licensed brothel must, for any period the licensed brothel is being used to provide prostitution, take reasonable steps to ensure that—

- a) a person does not provide or obtain prostitution involving sexual intercourse or oral sex at the licensed brothel unless a prophylactic is used; or

- b) a person does not offer to provide, or ask a prostitute to provide, prostitution involving sexual intercourse or oral sex at the licensed brothel without a prophylactic being used.

Maximum penalty—120 penalty units.

- (6) A person who is a licensee or an approved manager of a licensed brothel must not discourage the use of prophylactics at the brothel.

Maximum penalty—120 penalty units.

- (7) In this section—

interfere with includes the following—

- a) misuse

- b) damage

5.6 POST-EXPOSURE MANAGEMENT/PROPHYLAXIS (PEP)

PEP is available following exposure to Hepatitis B and HIV to decrease the risk of infection. For HIV antiviral drugs should be administered as soon as possible for maximum effect.

Brothel licensees and managers should have a documented procedure for managing accidental blood and/or body fluid exposure (for example, if a client's body fluids come into contact with a sex worker eyes or mouth) and condom or dam breakage. This documented procedure should include

measures for first aid treatment and prompt medical referral to assess the person's need for PEP.

Brothel licensees and managers should ensure that records are made and maintained, of all incidents involving blood and body fluid exposures, including skin penetrating injuries (e.g. needle stick). Blood and body fluid exposures can be a traumatic experience for the exposed person and counselling interventions should be made available to prevent stress-related illness.

5.7 SEXUALLY TRANSMISSIBLE INFECTIONS (STIs)

Sex workers are at risk of exposure to STIs, such as gastro-intestinal diseases including Hepatitis A.

Infectious diseases in the sex industry can be transmitted by:

- contact with blood and body fluids, for example sexual services that involve the transmission of body fluids or the handling of contaminated sex toys, waste, or linen
- skin penetrating injuries, for example from handling used needles or syringes
- contamination of hands with faeces and subsequent accidental ingestion, for example following anal stimulation and/or anal sex and cleaning of spills of faeces
- direct and indirect contact with another person, for example from providing a sexual service to a person with cold sores, skin infections and infestations such as human papilloma virus (i.e. warts), tinea, scabies and so on.

5.8 SEX WORKERS WHO ARE INFECTIVE

Sex workers who are or believe that they are infective should immediately cease working. Their documentary proof of medical examination is no longer valid. They must not return to work until they have completed a full course of treatment as advised by their treating clinician and observed the recommended period of abstinence from sexual contact until they are no longer considered infectious. A new sexual health certificate must be obtained and provided to the brothel.

5.9 SEX WORKERS WHO ARE PREGNANT

It is the moral and statutory responsibility of all licensees to provide as reasonably possible a safe and healthy workplace for women who are pregnant.

Women can continue to be in the workplace during a substantial portion of pregnancy without adverse effect providing those responsible, including the woman herself, take reasonable care. Pregnant women have particular needs that should be addressed to minimise potential harm to themselves and their unborn baby.

The licensee should develop a policy for pregnant workers to manage risks at the workplace that includes:

- change in the nature of the work, e.g. change from heavy lifting or work that requires long periods of standing
- change in working hours e.g. reduction in hours or alteration to shift work
- provision of rest breaks and facilities such as a couch to lie down
- longer breaks between clients.

Refusing a woman employment because of pregnancy, contravenes equal opportunity laws except in specific circumstances where pregnant females may be prohibited by law.

It is the sex worker's responsibility to seek antenatal care and advice regarding any particular risk to herself or to her foetus. Some conditions in pregnancy may preclude some sexual activities.

Some STIs may be transmitted from pregnant mothers to their unborn babies, including:

- Gonorrhoea
- Human Immunodeficiency Virus (HIV)
- Chlamydia
- Hepatitis B
- Syphilis

5.10 PREVENTING PREGNANCY AFTER CONDOM BREAKAGE OR SLIPPAGE

Unlike any other occupation sex workers face pregnancy as an occupational hazard. Unless they have another form of contraception, or are infertile, sex workers may require emergency contraception.

In the event of a condom breakage or slippage, and where there is a possibility of an unwanted pregnancy, sex workers should attend a sexual health clinic, family planning clinic, a pharmacy or their GP within 72 hours of the condom breakage or slippage. They can obtain the “morning after pill” to reduce the risk of pregnancy and receive relevant medical advice relating to the incident.

Condom breakages and slippages should be recorded in the incident report records for the brothel.

SECTION SIX – INFECTION CONTROL MEASURES

6.1 INFECTION CONTROL AND BIOLOGICAL HAZARDS

Safe Work Australia defines biological hazard as: “organic substances that pose a threat to the health of humans and other living organisms. Biological hazards include viruses e.g. HIV, Hepatitis, Avian influenza, pathogenic micro-organisms, toxins, spores, fungi, and bio-active substances. Biological hazards can also be considered to include biological vectors or transmitters of disease e.g. human blood or tissue, live animals”.

The risks associated with biological hazards must be effectively managed when providing sexual services. Brothel licensees and approved managers should develop infection control policies and procedures. Brothel licensees should ensure that all staff and sex workers on their premises receive instruction and training in infectious disease risks and appropriate safe work practices. The infection control policies should include procedures for:

- use of clinical waste bins for the disposal of condom waste
- personal hygiene and hand washing
- cleaning blood and body fluid spills
- decontaminating sex toys and other equipment
- health assessments and vaccinations for sex workers and at-risk workers (e.g. cleaners)
- laundry management
- management of accidental blood and body fluid exposures and
- skin penetrating injuries (e.g. following condom breakage or slippage)
- routine cleaning programs, including methods and frequency of cleaning
- use of personal protective equipment, including condoms, dams, and water-based lubricants
- waste management, including the management of sharps and clinical waste.

There are a number of specific brothel licence conditions to assist licensees to manage the risk from biological hazards. These include requirements for:

- cleaning products, spa infection control, sharps containers, personal protective supplies (condoms, dams, lube, and rubber gloves) for sex workers, clinical waste disposal, disinfection of linen, sexual health certificates and so on. Policies and procedures for these brothel licence conditions should be developed with the intent and awareness to reduce the risks associated with infectious disease transmission.

6.2 SUPPLY OF PERSONAL PROTECTIVE EQUIPMENT (PPE)

It is a condition of licence that PPE is supplied to sex workers as follows:

- licensees provide adequate supplies of PPE
- that these supplies be free of charge
- that these supplies are in sufficient quantities and varieties to meet the needs of sex workers while working at the brothel
- that this supply may be through supplies maintained within the room or through a well-stocked kit allocated to the sex worker
- that a licensee must not impede or otherwise discourage immediate access to PPE supplies, whether physical, verbal, written or otherwise.

PPE includes:

- condoms
- dams
- rubber gloves
- water-based lubricants.

Brothel licensees should ensure that:

- all PPE complies with the relevant Australian Standard
- all staff and sex workers within a licensed brothel are appropriately trained in the use of supplied PPE. Training should also specify the appropriate PPE to be used for each task (e.g. gloves should be used when cleaning blood and body fluids)
- appropriate disposable latex or similar gloves are used when contact with blood and/or body fluids may occur, such as when cleaning body fluid spills

- a variety of sizes of condoms are available, and that the appropriate size is used.

BLC 4.3 Sexual health - A sex worker who provides prostitution of any description, including sexual intercourse or oral sex, must be provided with personal protective equipment (PPE). All PPE must be stored in accordance with the manufacturer's specifications.

6.3 STORAGE AND HANDLING OF PPE

To prevent the deterioration of condoms and dams these should be stored in accordance to the manufacturer's instructions. Generally, this requires that they be stored away from light and heat. Store condoms and dams in a cool dark storeroom or areas where the temperature does not exceed 22° Celsius.

Condoms and dams must be regularly checked to ensure that they have not passed their expiry date. Therefore, PPE supplied in a working room should be monitored to ensure that there is "stock rotation" of the PPE, i.e. with existing condoms being used before any new supplies are used.

It is preferable that lubricant is provided in single-use sachets. Where lube is provided through a pump bottle there is a risk of cross contamination from unclean nozzles. This can be hazardous for both sex workers and clients. Where pump bottles are used, ensure that they are cleaned, and the nozzle wiped with an alcohol wipe between clients.

6.4 DISPOSAL OF PPE

Used condoms are considered clinical waste as they contain free flowing body fluids. Appropriate waste management practice involves minimising the exposure to the waste so that:

- internal movement of clinical waste should be containerised from its source to the storage, treatment, or collection point
- clinical waste bins are provided within each working room for the disposal of PPE. These are to be exchanged at least once a week or sooner as required, to prevent any nuisance created by odour. Clinical waste must be transported from the premises by an approved contractor.

BLC 16.1 Management of Clinic Waste - The licensee must ensure the proper management of brothel clinical waste, including:

- (a) used PPE and other disposable items that have come into contact with bodily fluids arising from a sexual service must be placed in clinical waste bins;
- (b) clinical waste bins must be appropriate yellow rigid walled containers, with close fitting lids, and a black biohazard symbol; and
- (c) removal of clinical waste bins by an appropriate contractor.

6.5 LATEX EXPOSURE

Disposable latex gloves are used within the sex industry to protect against exposure to blood and/or body fluids. Latex products are increasingly being associated with adverse health effects such as latex allergy, which can occasionally be life-threatening. Latex exposure can cause the following health problems:

Irritant contact dermatitis - is a non-allergic skin irritation that causes dry, itchy skin in areas exposed to latex. It has a number of causes including:

- skin chafing and rubbing from glove use
- powdered gloves absorbing skin oils and drying the skin
- skin dampness from sweating under gloves
- incomplete handwashing before wearing gloves, resulting in water becoming trapped under the gloves
- incomplete hand washing after contact with detergents and disinfectants, resulting in the chemicals becoming trapped under the gloves.

Allergic contact dermatitis (also known as rubber allergy or a type IV reaction) is usually caused by an allergy to the chemicals that are added to gloves during manufacture. It causes redness, itching and blisters of the skin, and symptoms can extend beyond the area of contact.

Latex allergy- (also known as an immediate hypersensitivity reaction or type I reaction) is caused by an allergic reaction to latex proteins in natural rubber. It causes hives, itchy eyes, running nose and asthma-like symptoms. Occasionally it can cause anaphylaxis, which is a severe allergic reaction that requires emergency medical treatment.

Powdered latex gloves increase the risk of latex allergy because latex proteins attach to glove powder and become air-borne when gloves are removed.

6.6 EXAMINATION OF CLIENTS

Sex workers have the right to refuse any client for any reason. This includes the right to refuse a client who is identified as having signs or symptoms of STIs. Visible signs may not be present when an STI is present. STIs are caused by micro-organisms that are transferable on contact. Visible signs may not appear until the infection is advanced. Examination of clients for STIs should not occur within 20 minutes of the client passing urine as this allows for symptoms such as discharge, to be temporarily cleared. The client should be asked not to visit the toilet prior to examination or if this is not possible, the client should be made to wait for 20 minutes before the STI examination occurs.

Sex workers should examine clients under a strong light for the symptoms of STIs.

The sort of signs that may be seen include:

- discharge from the genital or anal area
- reddening of the skin, rashes, or signs of itching in the genital or anal area
- blisters, lumps, warts or sores on the genitals, anus, or surrounding areas
- pubic lice (crabs) or their eggs on the pubic hair
- cold sores on the mouth area
- unpleasant odour from the genital area.

A sex worker should refuse to service any client with any signs of an STI and suggest that the client seek a medical opinion. For further information on STIs contact the local sexual health clinic. The sex workers choice in this matter overrides any conflicting opinion of a licensee, manager, or other sex worker.

6.7 SECOND OPINIONS FOR SEXUAL HEALTH CHECKS OF CLIENTS

It is common practice for a sex worker to request another 'opinion' in relation to whether a client has symptoms of an STI. This is commonly

known as a 'second opinion'. The second opinion should be obtained from a suitably experienced person whom the sex worker trusts and who is of their choice. Managers and licensees should not automatically assume the role of doing second health checks unless the sex worker is comfortable and agrees to this arrangement.

Any sex worker has the right to refuse a client or a service with or without the second opinion. A licensee or manager must not coerce a sex worker to continue a booking. A licensee or manager must not insist that a second opinion be undertaken if a sex worker has already refused a client.

This would be seen to be in breach of brothel licence conditions in that the sex worker may be compelled, indirectly, to service the client.

A licensee, manager or sex worker who performs a second opinion should be aware that:

- the client has already been examined once and may not be comfortable having another person examine them. Make sure that the sex worker has advised the client that they are obtaining a second 'opinion'.
- the examination should be conducted in sufficient light using a strong bedside lamp (i.e. at least 100 watt) or other strong light source.
- an opinion, second to the sex worker, should not be given in front of the client. This is important, as the sex worker may feel compelled to service the client. Should the person providing the second opinion believe that there are no symptoms of an STI they must understand that the decision to provide a service continues to remain with the sex worker, regardless of the second opinion.

6.8 STI INFORMATION FOR CLIENTS

Licensees and sex workers are uniquely placed to promote community sexual health and to provide relevant information on STIs to the public.

As a result of an examination by a sex worker, clients may be made aware for the first time that they may have an STI. Referral of clients to sexual health clinics and the provision of STI brochures or other information encourages medical intervention.

Clients may read information at the brothel that improves their understanding and therefore assists in the general prevention of STIs in the community.

Licensees must provide a suite of written information about STIs accessible to clients if required and ensure that written information about STIs is available to all staff and sex workers. This information should be provided in a variety of languages and include notification that only safe sex practices will be provided at the brothel. A variety of information is available through Queensland Health for this purpose.

6.9 HANDWASHING

Hand washing is an important control measure for preventing the spread of infectious diseases. Wearing gloves does not replace the need for hand washing, as gloves may have defects that are not apparent, or gloves may become damaged during use.

Hands should be washed in any circumstances when infectious disease risks are apparent. Some examples include:

- after removing gloves
- after contact with blood and body fluids
- after contact with used sex toys and other equipment or surfaces contaminated with blood and body fluids
- after handling contaminated linen and waste
- after using the toilet
- before and after performing a sexual service
- before contact with instruments that penetrate the skin, for example needles
- before smoking, food preparation, eating and drinking
- whenever a sex worker leaves a client during a service and returns to resume the service
- whenever hands are visibly soiled

6.10 CLEANING OF BLOOD AND BODY FLUID SPILLS

Body fluid spills are those that involve semen, vomit, urine, faeces, or blood. They are potentially infectious with organisms that may cause Hepatitis A, B or C, HIV, and others. Body fluid spills should be cleaned immediately. Precautions should be taken by anyone involved in the cleaning of a body fluid spill. It is important to ensure that:

- the person cleaning the spill covers any cuts, grazes, dermatitis or other breaks in the skin
- the person should not touch themselves or anyone else where there may be broken skin and avoid contact with the mouth, eyes, or genitals
- where any fluids come into contact with a person's skin, they should be wash the area immediately with warm water and soap
- each working room provided for prostitution should have access to a supply of cleaning equipment and chemicals to immediately deal with general cleaning and body fluid spills. Where this is not practical for whatever reason e.g. it is not practical to have all chemicals in each room, ensure that these materials are readily available at the brothel at all times.

Brothel licensees should develop a written procedure for managing blood and body fluid spills, and all workers should be instructed in its use. The procedure should also contain the following recommendations:

- absorb the spill using absorbent material such as paper towels clean the area with warm water and detergent.
- where there is a possibility of bare skin contact with the surface (e.g. in a sexual service area) or if some of the spill remains on the surface e.g. between tiles, disinfect the area after cleaning with a hospital grade disinfectant.
- use a sanitiser such as a 1:50 dilution of household bleach (sodium hypochlorite). Bleach solutions can deteriorate over time, so a fresh solution should be prepared daily, or as required to clean a spill.
- place waste and disposable cleaning equipment in a plastic bag and seal securely before disposing; and
- clean non-disposable cleaning equipment (such as buckets and mops) with warm water and detergent, then rinse and store dry.

If spills occur in a 'wet' area such as a bathroom or toilet, wash the spill into the drain taking care not to spread the spill or generate aerosols. Clean the area with warm water and detergent and then disinfect the area with bleach, as above.

BLC 22.1 – Maintenance and Cleaning.

The licensee must ensure:

- (a) all surfaces are cleaned to a professional standard;
- (b) maintenance and repair of interior fixtures and surfaces throughout the brothel, such as walls, ceilings, and benches, so they can be readily cleaned;
- (c) access to sufficient quantities and varieties of cleaning products, including bleach-based disinfectants, gloves, and associated products to assist in the immediate cleaning of body fluid incidents within a room;
- (d) single use spa baths are drained and cleaned with appropriate sanitising agents after each use. Ongoing maintenance cleaning must include the use of an appropriate degreaser at regular intervals or otherwise as recommended by the manufacturer;
- (e) all towelling and bedding is treated by the thermal or chemical means to satisfy disinfection practices as identified in the Australian/New Zealand Standard for Laundry Practice AS 4146:2000
- (f) all linen and towels that come into contact with clients or sex workers are replaced with clean linen and towels immediately after each service; and
- (g) Where coversheets are used, they must be of sufficient thickness and size to cover and protect the entire bed surface.

6.11 DECONTAMINATION, STORAGE HANDLING OF SEX TOYS

Brothel licensees should encourage sex workers to ensure that sex toys and other equipment are cleaned and disinfected after each use. Sex workers should ensure sex aids such as dildos and vibrators are covered with a new condom for each new user. These must be cleaned and disinfected after each use, regardless of whether they appear to be soiled. It is also recommended that sex workers:

- use their own sex toys and equipment rather than those belonging to a client, as these items may not have been adequately cleaned and disinfected
- only use sex toys and other equipment that can be easily cleaned
- do not share sex toys with other sex workers, as this can spread infectious diseases.

Instruments that cannot be immersed in water, such as vibrators, should be cleaned with disposable paper towel that has been moistened with warm water and detergent followed by a 70% alcohol wipe and then allowed to dry.

Some disinfectants are unable to penetrate blood or body fluids. Therefore, it is critical to thoroughly clean contaminated items prior to disinfection.

Sex toys and similar equipment should be handled, decontaminated, and stored appropriately to reduce the spread of infection. Single-use items should be used where possible and disposed of after use.

SECTION SEVEN – ADVERTISING

7.1 THE PLA ADVERTISING GUIDELINES

- Section 93(4) of the Act refers to the approved form. It is an offence to advertise or publish an advertisement for prostitution if it is not in the approved form. The approved form of advertising must adhere to guidelines issued by the PLA. The advertising guidelines may be used by an advertiser or publisher to self-assess the suitability of the advertisement.

WHAT TO DO:

Any form of prostitution advertising (which includes brothel advertising) must comply with the *Guidelines about the Approved Form for advertisements for Prostitution*. The Guidelines can be found on the PLA website www.pla.qld.gov.au. The PLA are available to provide guidance about the guidelines and how they apply. The PLA will not provide advice on whether the proposed advertising meets the guidelines unless required to do so by the guidelines.

7.2 ADVERTISING OFFENCES UNDER THE ACT

S 92 Definitions for div 4

In this division—

advertisement includes the following—

- a) notice;
- b) sign;
- c) circular;
- d) matter that is not in writing, but which conveys a message because of the form or context in which it appears.

approved form means—

- a) if the Authority has, for a particular advertisement mentioned in section 93(2) or 96A(2), consented to a form - that form; or
- b) if guidelines under section 139A or a regulation provides for the form of an advertisement mentioned in section 93(2) or 96A(2), including matters that may or may not be included in an advertisement mentioned in section 93(2) or 96A(2)—a form that complies with the guidelines or regulation; or
- c) otherwise - the approved form under section 139(2).

publish an advertisement or statement means publish, or cause to be published, in any way including by newspaper, periodical, notice, sign or circular or through radio or television or by film or video recording or on the internet, even if—

- a) the act done to publish the advertisement or statement in Queensland is done outside Queensland; or
- b) if the advertisement or statement is published on an internet site— the site is located outside Queensland.

For any business, advertising is a primary method of promoting business and profitability. Division four of the Act relates to the approved form of advertising and identifies offences related to advertising.

The PLA guidelines about the approved form of advertising for prostitution can be located on the PLA website www.pla.qld.gov.au

S 93 Advertising prostitution

- (1) A person must not publish an advertisement for prostitution that describes the services offered.
- (2) A person must not publish an advertisement for prostitution that is not in the approved form.
- (3) A person must not publish any advertisement for prostitution through radio or television or by film or video recording.

Maximum penalty for subsections (1) to (3)—

- (a) if an internet website has been established for the advertisement
 - (i) if the cost of establishing the website is \$1000 or less—70 penalty units; and
 - (ii) if the cost of establishing the website is more than \$1000—an amount that is 10 times the commercial cost of establishing the website; or
- (b) otherwise—
 - (i) if the cost of publishing the advertisement is \$1000 or less—70 penalty units; or
 - (ii) if the cost of publishing the advertisement is more than \$1000— an amount that is 10 times the cost of publishing the advertisement.

S 94 Statements inducing persons to become prostitutes

A person must not publish a statement intended or likely to induce a person to seek employment as a prostitute.

Maximum penalty—100 penalty units.

S 95 Advertising prostitution as massage services

- 1) A person providing prostitution must not hold out or publish an advertisement that states, directly or indirectly, that the person's business provides or is connected with massage services.

Maximum penalty—40 penalty units.

- 2) In this section—business of a person means the business of a licensed brothel or of an individual prostitute.

SECTION EIGHT – COMPLAINTS

8.1 MANAGING COMPLAINTS AT THE BROTHEL

Complaints may be made about anything to do with the brothel. These complaints may be made directly to the licensee, manager or the PLA. As with any complaint management system it is important to record all relevant details and to record the steps taken in managing the complaint as well as the outcome.

The procedure for managing complaints should be documented in the brothel's policies and procedures to ensure that all staff and sex workers are aware of how complaints are dealt with.

BLC 18.1- Complaints and Communications - The licensee must ensure that all complaints or incidents are recorded and responded to in a timely manner and that the actions and resolution are documented.

Complaints may be made by:

- sex workers
- staff
- clients
- the public

In assessing the complaint, it is important to treat the complaint seriously. Often the opportunity to be heard by a party, and having validation of the persons concerns, may be sufficient to resolve the complaint. Complaints of a serious nature should be actioned as soon as possible with the response recorded.

Legitimate complaints are a useful mechanism to identify problems that may be occurring within the brothel or the effectiveness of staff.

The following issues can be considered:

- if the matter is related to safety or logistical matters, is the input appreciated as positive improvement of the work environment and the necessary changes made?

- have problems been identified about a particular manager or licensee indicating that training or better supervision is required for staff? Working in a brothel will present a variety of personalities and issues. Inexperienced staff should be trained adequately and supervised for an adequate period of time, to ensure that sex workers, clients, and other people attending the brothel, such as government officials, are dealt with professionally.
- are there complaints relating to health and safety that must be addressed?
- not all complaints mean trouble. Are there complaints made that, if managed, would contribute to improvements or even just improved comfort levels within the brothel? (Comfort levels may be both physical and mental).
- is feedback invited from sex workers and staff?
- is a fair opportunity promoted so that everyone has their opinion heard?

If dissatisfied with the response/outcome, a complainant may be referred to the PLA. Depending on the nature of the complaint the PLA may investigate the complaint or may refer it to another government agency such as Queensland Health, Work Health and Safety Queensland, Queensland Police Service or to the Local Government Authority.

Complaints to the PLA may be made confidentially and the name of the complainant withheld if requested. However, there may come a time when the PLA will seek the permission of the complainant to reveal their name in order for the complaint to be properly investigated.

Records of complaints should be kept on file in a way that can be audited by the PLA.

Complaints about sex workers need to be dealt with sensitively and appropriately as:

- they are contractors responsible for their own activities
- obligations exist through conditions of licence not to penalise harass or bully sex workers by whatever means
- a person in control of a workplace has obligations to ensure the health and safety of all parties in the workplace

8.2 MAKING A COMPLAINT TO THE PLA

Anyone may make a complaint to the PLA about any aspect of brothel operations. These complaints may be:

Anonymous – the person making the complaint does not have to identify themselves.

Confidential – the identity of the complainant will be held in confidence as far as is practicable.

The PLA has a specific brochure to provide information on how to make a complaint. PLA compliance officers can be contacted on ph. 3858 9500. The PLA Complaints Policy is located on the PLA website at www.pla.qld.gov.au

Complaints made to the PLA should generally be made in writing detailing the complaint and be accompanied by any evidence to support the complaint.

8.3 MAKING A COMPLAINT ABOUT ILLEGAL PROSTITUTION

Sex workers and staff working at licensed brothels may become aware of information that indicates that illegal prostitution is occurring. Illegal prostitution includes:

- two sex workers operating from a single premise
- sex provided without a condom
- participation by another party in the provision of prostitution
- escort services (other than that provided by a sole operator)
- underage sex workers
- underage clients of sex workers
- procuring persons for the provision of prostitution.

Illegal prostitution is a matter for the Queensland Police Service. To report information on a suspected crime a person can fill out an online form at www.crimestoppersqld.com.au or call Crime Stoppers on 1800 333 000. If the situation is urgent and requires police attendance, they should call 000. For all non-urgent assistance phone Policelink on 131 444

SECTION 9 – ENFORCEMENT

9.1 DISCIPLINARY INQUIRIES

The PLA may conduct a disciplinary inquiry against a licensee or an approved manager. This is a formal process upon which the licensee or approved manager may make representation about the circumstances to the Board of the Authority for its consideration. Should it be found that there are grounds to take disciplinary action the following actions may occur.

For a Licensee:

The Authority may, if satisfied there are grounds for taking disciplinary action against a licensee, by notice given to the licensee, do one or more of the following—

- a) reprimand the licensee;
- b) add a condition or restriction to the licensee's licence;
- c) require the licensee to enter into an undertaking to perform, or not to perform, particular tasks to be specified in the undertaking;
- d) require the licensee to comply with a requirement specified by the Authority within or for a specified time;
- e) order the licensee to pay into the fund an amount that is not more than the monetary value of 135 penalty units;
- f) suspend the licensee's licence for a specified period of not more than 1 year;
- g) cancel the licensee's licence;
- h) order that the licensee be ineligible to apply for a licence or be an approved manager either permanently or for a specified period.

For an Approved Manager:

The Authority may, if satisfied there are grounds for taking disciplinary action against an approved manager, by notice given to the manager, do one or more of the following—

- a) reprimand the manager;
- b) add a condition or restriction to the manager's certificate;
- c) require the manager to enter into an undertaking to perform, or not to perform, particular tasks to be specified in the undertaking;
- d) require the manager to comply with a requirement specified by the Authority within or for a specified time;

- e) order the manager to pay into the fund an amount that is not more than the monetary value of 135 penalty units;
- f) suspend the manager's certificate for a specified period of not more than 1 year;
- g) cancel the manager's certificate;
- h) order that the manager be ineligible to apply for a certificate or be a licensee either permanently or for a specified period.

9.2 PENALTY INFRINGEMENT NOTICES (PINS)

The *State Penalties Enforcement Act 1999* provides the framework for the use of infringement notices to enforce selected Queensland laws. Following an amendment to Schedule 1 of the State Penalties Enforcement Regulation 2014, penalty infringement notices (PINs) can now be issued for a range of offences under the Act and the Prostitution Regulation. PINs are sometimes referred to as 'on the spot' fines. PINs can only be issued by authorised PLA staff or police officers.

The value of the fine attached to a PIN will vary for each offence. For example, breach of s. 87(1) of the Prostitution Act (display of brothel licence or notice) carries a fine of two penalty units, whereas breach of s. 77A(6) of the Prostitution Act (licensee or manager discouraging the use of prophylactics at the brothel) carries a fine of 12 penalty units.

The issue of a PIN provides a less expensive alternative to pursuing an offence through a costly court process and legal costs associated with attending court are also avoided.

If a fine is not paid the debt is registered with SPER for recovery. Any PIN referred to SPER and/or registered with SPER generally attracts further administrative and/or penalty fees which are added to the original fine. The PLA does not retain any fees or fines collected through the PIN process. PIN revenue forms part of the Queensland Government consolidated revenue fund.

APPENDIX ONE

Useful Contacts

Prostitution Licensing Authority

Level 20, 50 Ann Street
Brisbane QLD 4000

Postal address

GPO Box 3196
BRISBANE QLD 4001

Phone: 07 3858 9500

Fax: 07 3876 3641

[E-mail: plaadmin@iprimus.com.au](mailto:plaadmin@iprimus.com.au)

Website: www.pla.qld.gov.au

Workplace Health and Safety Queensland (WHSQ)	www.worksafe.qld.gov.au
Work Cover Queensland	www.worksafe.qld.gov.au
Fair Work Australia	www.fairwork.gov.au
Crime Stoppers	www.crimestoppersqld.com.au
Anti-Discrimination Commission	www.adcq.qld.gov.au
Queensland Health	www.health.qld.gov.au
Department of Immigration and Border Protection	www.immi.gov.au
Australian Federal Police	www.afp.gov.au
Respect Inc	www.respectqld.org.au

APPENDIX TWO

Queensland Police Service Entry Record

Date			
Time			
Approved manager/s present			
Licensee if present			
Particulars of QPS Officers entering	Name	Rank	Station
Purpose of Entry			
Description of anything taken			
If authorised by Inspector or above, the name of the Inspector:			

Details that must be obtained and recorded by Regulation.

- date and time of the entry;
- if an approved manager was at the brothel at the time of the entry – the name of the approved manager;
- whether the licensee was at the brothel at the time of the entry;
- the name, rank and station of each police officer who entered the brothel;
- purpose of the entry;
- if possession of a thing was taken during the entry – a description of the thing;
- if a police officer authorised the entry – the name and rank of the police officer.

Non-QPS Government Entry Record

Date			
Time			
Approved manager/s present			
Licensee if present			
Particulars of Government Official/s entering	Name	Position	Organisation
Purpose of Entry			
Description of thing/s taken			

Details to be recorded

- date and time of the entry;
- if an approved manager was at the brothel at the time of the entry – the name of the approved manager;
- whether the licensee was at the brothel at the time of the entry;
- the name and official position of each officer who entered the brothel; purpose of the entry;
- if possession of a thing was taken during the entry – a description of the thing.

APPENDIX THREE

Who is an employee? Who is an independent contractor?

Fair Work Infoline: 13 13 94 www.fairwork.gov.au

There are a number of factors which may contribute to determining the difference between an employee and an independent contractor. However, it is important to note that no single indicator can determine if a person is a contractor or an employee. Each determination is based on the individual merits of the work arrangement in place. Courts always look at the totality of the relationship between the parties when determining the status of a person's employment.

There are some common indicators that may contribute to determining whether a person is an employee or independent contractor:

Indicator	Employee	Independent Contractor
Degree of control over how work is performed	Performs work, under the direction and control of their employer, on an ongoing basis.	Has a high level of control in how the work is done.
Hours of work	Generally, works standard or set hours (note: a casual employee's hours may vary from week to week).	Under agreement, decides what hours to work to complete the specific task.
Expectation of work	Usually has an ongoing expectation of work (note: some employees may be engaged for a specific task or specific period).	Usually engaged for a specific task.
Risk	Bears no financial risk (this is the responsibility of their employer).	Bears the risk for making a profit or loss on each task. Usually bears responsibility and liability for poor work or injury sustained while performing the task. As such, contractors generally have their own insurance policy.

Superannuation	Entitled to have superannuation contributions paid into a nominated superannuation fund by their employer.	Pays their own superannuation (note: in some circumstances independent contractors may be entitled to be paid superannuation contributions).
Tools and equipment	Tools and equipment are generally provided by the employer, or a tool allowance is provided.	Uses their own tools and equipment (note: alternative arrangements may be made within a contract for services).
Tax	Has income tax deducted by their employer	Pays their own tax and GST to the Australian Tax Office.
Method of payment	Paid regularly (for example, weekly, fortnightly/monthly)	Has obtained an ABN and submits an invoice for work completed or is paid at the end of the contract period.
Leave	Entitled to receive paid leave (for example, annual leave, personal/carer's leave, long service leave) or receive a loading in lieu of leave.	Does not receive paid leave.

APPENDIX FOUR

Relevant sections of the Prostitution Act to be noted.

However applicable legislation is not limited to the following:

78 Brothel Offences

- (1) A person who is a licensee or an approved manager of a licensed brothel must not—
- a) provide prostitution under the licence at a place other than the brothel; or
 - b) have more than 13 staff at the brothel at any 1 time; or
 - c) provide prostitution at the brothel in contravention of any condition or restriction of a licence or a certificate;
- Maximum penalty—200 penalty units or 5 years imprisonment.

(2) A person who is a licensee or an approved manager of a licensed brothel that is, under the development permit for the licensed brothel, permitted to have a total number of rooms stated in schedule 3, column 1, used for providing prostitution must not, at any 1 time, have at the licensed brothel more than the number of prostitutes set out opposite in schedule 3, column 2.

Maximum penalty—200 penalty units or 5 years imprisonment.

(3) In this section—

staff means the licensee, the approved manager, a person employed at the brothel, or a prostitute.

Schedule 3 Restrictions on numbers of Prostitutes at licensed brothel

Column 1	Column 2
Number of rooms permitted at licensed brothel under development permit	Number of prostitutes at licensed brothel at any 1 time
1	2
2	3
3	4
4	6
5	8

80 Personal supervision of licensed brothel

- 1) A licensed brothel must at all times when open for business be personally supervised by the licensee or an approved manager.

83 Possessing liquor in licensed brothel

- 1) A person must not possess liquor at a licensed brothel.
Maximum penalty – 40 penalty units.
- 2) If liquor is found at a brothel, the licensee, and any approved manager whose duty it was to personally supervise the brothel at the relevant time each commit an offence.
Maximum penalty – 40 penalty units.
- 3) This section applies despite anything to the contrary in the *Liquor Act 1992* or in any licence or permit granted or having effect under that Act.

Further legislative information about licences and certificates

The Licence

s 19 The licence

- 1) A licence authorises the holder of the licence to operate a brothel only at the premises stated in the licence, subject to the Planning Act.
- 2) A licence may not authorise the holder to operate a brothel at more than 1 premises.
- 3) Any act of prostitution authorised under a licensee's licence may take place only at the premises stated in the licence.
- 4) A licence is for the term of 3 years unless it is sooner surrendered, suspended, or cancelled.
- 5) A licence—
 - a) is personal to the licensee; and
 - b) is not transferable to any other person; and
 - c) does not vest by operation of law in any other person; and
 - d) is subject to the following conditions or restrictions—
 - (i) the licensee must pay, by the day prescribed under a regulation, the annual licence fee and the annual licence return fee prescribed under the regulation;
 - ii) the licensee must, by the day prescribed under a regulation, give the Authority an annual return, in the approved form, about the information given for the application for the licence;

- iii) any other conditions or restrictions set out in the licence or prescribed under a regulation.

- (6) Section 14, with necessary changes, applies to an annual return as if—
- a) the annual return were an application for a licence; and
 - b) the licensee were an applicant for a licence.

S 20 Requirement to notify changes in information given

- 1) This section applies if a licensee becomes aware of a change in the information given at any time by the licensee for the application for the licence.
- 2) The licensee must, within 10 days after becoming aware of the change, give particulars of the change to the Authority by signed notice.

Example of change—

Change in owner of premises

Maximum penalty for subsection (2)—60 penalty units.

Brothel Licence Conditions

s 21 Amendment of licence conditions or restrictions

- (1) The Authority may at any time—
 - a) vary or revoke a condition or restriction to which a licence is subject; or
 - b) add a new condition or restriction to a licence.
- (2) The Authority may act under subsection (1)—
 - a) on its own initiative; or
 - b) on the application of the licensee; or
 - c) on the application of a police officer
- (3) Subsection (1) does not apply to a condition or restriction prescribed under a regulation.
- (4) If a condition or restriction prescribed under a regulation is amended, the Authority must promptly give each licensee affected by the amendment notice of the amendment.

s 23 Renewal of licence

- 1) A licensee may apply to the Authority for the renewal of the licensee's licence at least 3 months before the licence ends.
- 2) The application for renewal must—
 - a) be in the approved form; and
 - b) be accompanied by the renewal fee prescribed under a regulation.

s 24B Automatic suspension of licence

- (1) This section applies if a licensee—
 - a) has failed to pay the annual licence fee or the annual licence return fee for the licence
 - b) by the prescribed day; and
 - c) has not entered into a payment plan decided by the Authority under section 24A.
- (2) The licensee's licence is automatically suspended for 28 days (the suspension period) starting the day after the prescribed day.
- (3) The suspension of the licence ends if—
 - a) the annual licence fee or the annual licence return fee for the licence is paid during the suspension period; or
 - b) the licensee enters into a payment plan decided by the Authority under section 24A.

s 25 Automatic cancellation of licence

A licence is automatically cancelled if the licensee—

- a) is convicted of—
 - (i) a disqualifying offence; or
 - (ii) an offence against the Criminal Code, chapter 22A; or
 - (iii) an offence of giving false or misleading information or documents under this Act; or
- b) becomes an insolvent under administration; or
- (c) fails to pay the annual licence fee or the annual licence return fee for the licensee's licence during the suspension period for the licence; or
- (d) if the licensee has entered into a payment plan decided by the Authority under section 24A—fails to pay the annual licence fee or the annual licence return fee for the licence under the payment plan.

S 31 Surrender of licence

- 1) A licensee may surrender the licensee's licence by signed notice given to the Authority.
- 2) The surrender of the licence takes effect on the day the notice of surrender is given to the Authority or, if a later day of effect is stated in the notice, the later day.
- 3) However, if the Authority has decided to conduct a disciplinary inquiry in relation to a licensee, the Authority may, subject to section 30(4), exercise its disciplinary powers in relation to the licensee despite the surrender of the licence.

s 32 Surrendered, suspended, or cancelled licence must be returned

- 1) This section applies if a licensee surrenders the licensee's licence or the Authority suspends or cancels a licensee's licence under this Act.
- 2) The person to whom the licence was granted must return the licence to the Authority within 7 days after the person surrenders the licence or becomes aware of the suspension or cancellation.

The Approved Manager Certificate

s 45 Requirement to notify changes in information given

- (1) This section applies if an approved manager of a licensed brothel or the brothel's licensee becomes aware of a change in the information given at any time by the manager or the licensee for the application for a certificate.
- (2) The approved manager or the licensee must, within 10 days after becoming aware of the change, give particulars of the change to the Authority by signed notice.

Example of change—

Change in owner of premises

Maximum penalty for subsection (2)—60 penalty units.

s 46 Variation of certificate

- 1) An approved manager may at any time apply to the Authority to vary the certificate by altering or adding to the premises stated in the certificate for which the manager is approved.

- 2) The application for variation must—
 - a) be in the approved form; and
 - b) be accompanied by the variation fee prescribed under a regulation.

s 49 Renewal of certificate

- 1) An approved manager may apply to the Authority for the renewal of the manager's certificate at least 1 month before the certificate ends.
- 2) The application for renewal must—
 - a) be in the approved form; and
 - b) be accompanied by the renewal fee prescribed under a regulation.

s 50B Automatic suspension of certificate

- 1) This section applies if an approved manager—
 - a) has failed to pay the annual certificate fee or the annual return fee for the certificate by the prescribed day; and
 - b) has not entered into a payment plan decided by the Authority under section 50A.
- 2) The approved manager's certificate is automatically suspended for 28 days (the suspension period) starting the day after the prescribed day.
- 3) The suspension of the certificate ends if—
 - a) the annual certificate fee or the annual return fee for the certificate is paid during the suspension period; or
 - b) the approved manager enters into a payment plan decided by the Authority under section 50A.

s51 Automatic cancellation of certificate

A certificate is automatically cancelled if the approved manager –

- a) is convicted of –
 - (i) a disqualifying offence; or
 - (ii) an offence against the Criminal Code, chapter 22A (other than section 229M); or
 - (iii) an offence of giving false or misleading information or documents under this Act; or
- b) becomes and insolvent under administration; or
- c) fails to pay the annual certificate fee or the annual return fee for the certificate during the suspension period for the certificate; or

- d) if the approved manager has entered into a payment plan decided by the Authority under section 50A – fails to pay the annual certificate fee or the annual fee for the certificate under the payment plan.

s 58 Surrendered, suspended, or cancelled certificate must be returned

- 1) This section applies if an approved manager surrenders the manager's certificate or the Authority suspends or cancels the manager's certificate under this Act.
- 2) The person to whom the certificate was granted must return the certificate to the Authority within 7 days after the person surrenders the certificate or becomes aware of the suspension or cancellation.
Maximum penalty for subsection (2)—10 penalty units.

s 97 False or misleading statements

A person must not, in connection with this Act, state anything to the Authority that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

S 98 False or misleading documents

- 1) A person must not, in connection with this Act, give to the Authority a document containing information the person knows is false or misleading in a material particular.
Maximum penalty—100 penalty units.
- 2) Subsection (1) does not apply to a person if the person, when giving the document—
 - a) tells the Authority, to the best of the person's ability, how it is false or misleading; and
 - b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

The full form of the *Prostitution Act 1999* may be accessed at <https://www.legislation.qld.gov.au>

REFERENCES AND ACKNOWLEDGEMENTS

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