

REGULATING PROSTITUTION

A follow-up review of the *Prostitution Act 1999*

June 2011

CRIME AND
MISCONDUCT
COMMISSION



QUEENSLAND

CMC vision:

That the CMC make a unique contribution to protecting Queenslanders from major crime, and promote a trustworthy public sector.

CMC mission:

To combat crime and improve public sector integrity.

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Crime and Misconduct Commission
Level 2, North Tower Green Square
515 St Pauls Terrace, Fortitude Valley, Australia 4006

GPO Box 3123
Brisbane Qld 4001

Tel: (07) 3360 6060
Fax: (07) 3360 6333
Email: mailbox@cmc.qld.gov.au

Note: This publication is accessible through the CMC website <www.cmc.qld.gov.au>.

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GPO Box 3123
Brisbane Qld 4001

Level 2
North Tower Green Square
515 St Pauls Terrace
Fortitude Valley Qld 4006

Tel: 07 3360 6060
Fax: 07 3360 6333

Toll-free:
1800 061 611

Email:
mailbox@cmc.qld.gov.au

www.cmc.qld.gov.au



The Honourable Reginald Mickel MP
Speaker of the Legislative Assembly
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Speaker

In accordance with section 141 of the *Prostitution Act 1999 (Qld)*, the Crime and Misconduct Commission hereby furnishes to each of you its report *Regulating prostitution: a follow-up review of the Prostitution Act 1999*.

The Commission has adopted the report.

Yours faithfully



Martin Moynihan AO QC
Chairperson

FOREWORD

The picture of prostitution in Queensland has changed significantly since the late 1980s when the Fitzgerald Inquiry found that organised crime and corruption were entrenched in the illegal prostitution industry in Queensland. Since 1999, prostitution has been regulated in the form of licensed brothels operating under strict conditions and with oversight by the Prostitution Licensing Authority and the Queensland Police Service.

In 2004, the Crime and Misconduct Commission (CMC) undertook an extensive review of the effectiveness of the *Prostitution Act 1999* (the Act) reporting that there was no evidence of corruption or organised crime within the legal industry. We stated that: 'Given the volatility of the sex industry worldwide, the CMC is of the view that the industry requires ongoing monitoring to ensure that the government can be responsive to problems as they arise'. We recommended that a further review be undertaken in three years' time. This current review has been undertaken accordingly.

Importantly, the findings of this review (while not purporting to be an exhaustive examination of prostitution worldwide or even of Queensland) do not disclose a particularly 'volatile' sex industry. On the contrary, our review has found the position in Queensland has remained relatively stable since our last report and the laudable legislative objectives are generally being achieved: licensed brothels have minimal impact on community amenity; show no evidence of corruption and organised crime (other than illegal prostitution); have access to exit and retraining programs for sex workers who may wish to leave the industry; and provide a healthy and safe environment in which prostitution takes place.

Overall, we found that the Act effectively regulates the licensed brothel sector. This is to the credit of the participants in the legal industry and the bodies responsible for its regulation. However, we note that the Act only regulates one sector of the prostitution industry in Queensland, the licensed brothel industry. Sole operators can operate legally within the parameters of the Act and the *Criminal Code Act 1899* (Qld). The illegal industry continues to exist but is targeted by advertising restrictions and criminal laws, including new criminal offences and evidentiary provisions which came into effect in September 2010. We are only now beginning to see charges being laid for these offences.

Our report highlights a number of issues which impact upon the whole of the prostitution industry and, in our view, require a whole-of-industry approach. This can only occur with a coordinated effort of key agencies, both government and non-government. I am confident, given the cooperation and experience demonstrated by participants to this review, that an inter-agency committee as we have recommended in this report, with a broad mandate and representation, will be able to address the ongoing issues facing the prostitution industry in Queensland.

Martin Moynihan AO QC
Chairperson

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ACKNOWLEDGMENTS

The Crime and Misconduct Commission (CMC) would like to acknowledge the valuable assistance provided to this review by a number of people from various government and non-government agencies, including the Queensland Police Service, Queensland Health, Respect Inc, the Local Government Association of Queensland and the Prostitution Licensing Authority. The review would not have been possible without their assistance in responding to the numerous requests for information and advice. We are also thankful to those brothel licensees and managers and sex workers who contributed their time for interviews.

The project team consisted of external consultant Susan Johnson and CMC Legal Research Officer Neelam Kumar. We were also assisted by Research support staff and Research Officer Denise Foster, who contributed to data analysis and presentation. The project was overseen by Wendy Harris, Acting Deputy Director, Research.

The report was prepared for publication by the CMC's Communications Unit.

LIST OF ABBREVIATIONS

AFP	Australian Federal Police
CALD	Culturally and linguistically diverse
CBO	Community-based organisations
CMC	Crime and Misconduct Commission
DIAC	Department of Immigration and Citizenship
ECCQ	Ethnic Communities Council of Queensland
ICAC	Independent Commission Against Corruption
LGAQ	Local Government Association of Queensland
NESB	Non-English speaking background
PAC	Prostitution Advisory Council
PETF	Prostitution Enforcement Task Force
PLA	Prostitution Licensing Authority
QPS	Queensland Police Service
SQWISI	Self-Health for Queensland Workers in the Sex Industry
TCS	Tactical Crime Squad
USWNQ	United Sex Workers of North Queensland
WISI	Workers in the Sex Industry

SUMMARY

The Crime and Misconduct Commission (CMC) is required by s. 141 of the *Prostitution Act 1999* to conduct this review of the effectiveness of the Act. We carried out an earlier review of the Act which resulted in reports produced in 2004 (*Regulating prostitution: an evaluation of the Prostitution Act 1999*) and 2006 (*Regulating outcall prostitution*). Those reports concluded that Queensland had a safe and effective legal brothel industry but that some changes could be made to enhance the operation of the regulatory regime, and included 52 recommendations to address those findings.

This current review is not intended to be as far-reaching in scope as the previous one. Instead, it seeks to update the picture of the prostitution environment in Queensland, and aims to answer the following questions:

- Which recommendations from the CMC's last review have been implemented and what effect have they had?
- What changes, if any, have occurred in the achievement of the Act's underlying principles since the last review?
- What new and emerging issues are facing the industry in Queensland and in comparable jurisdictions which could affect the achievement of the underlying principles?

To find answers, we sought to gather as much information as we could, representing a broad cross-section of views from people in the prostitution industry and other key stakeholders and interest groups. The nature of the prostitution industry makes it difficult to access the views of those involved; many wish to keep their involvement hidden. We employed a variety of strategies to draw attention to the review and seek input from brothel licensees and sex workers. We received written submissions, conducted interviews with respondents, examined relevant literature and legislation and analysed data on offences, court outcomes and other relevant issues. In accordance with our legislative obligation, we also consulted with the Prostitution Licensing Authority (PLA) and the Minister for Police and Corrective Services.

Key findings and recommendations

Overall, this review finds that:

1. There has been a satisfactory implementation by the Queensland Government of the vast majority of recommendations from our previous evaluation, apart from in two respects.
2. The underlying principles of the Act are generally being achieved.
3. There have been no significant changes in the industry since our previous evaluation.

Implementation of previous recommendations

In relation to the implementation status of our earlier recommendations, we report that the government accepted all but two of our 52 recommendations. Of those recommendations accepted, the majority have been implemented. It is important to note however that some key recommendations from our 2006 report designed to target the illegal prostitution industry have only recently been implemented (in September 2010 and March 2011). It is therefore too early to assess their effect, which has hampered our ability in this review to deal with one of the most important issues to some stakeholders — namely, whether outcall services by licensed brothels or escort agencies should be legalised (see Chapter 4 for further discussion).

There are also two other recommendations that, although supported by the government, have not been fully implemented and that we think are worth pursuing. In our view, they would make the framework surrounding prostitution more effective in achieving the principles set out in the Act. These are:

- that s. 93 of the Act be amended to ensure that it covers all advertisements for prostitution, however prostitution is described (rec. 11/2006), thereby restricting illegal operators from attempting to legally market their services
- that a whole-of-government approach for addressing prostitution-related operational, inter-agency and emerging issues be formalised through the establishment of an inter-agency committee (rec. 25/2004).

We make the following recommendations in relation to each of these:

Recommendation 1

That s. 93 of the Act be amended as originally proposed in recommendation 11 of the CMC's 2006 report and as supported by government in its response to that recommendation: namely that s. 93 of the Act be amended to ensure that it covers all advertisements for prostitution, however prostitution is described in the advertisement.

Recommendation 2

That in light of the government's stated commitment to the inter-agency committee proposed in recommendation 25 of the CMC's 2004 report, an inter-agency committee:

- **be established as a Ministerial Advisory Committee under the Act, with a legislative obligation to report to the Minister**
- **as well as performing the functions proposed in rec. 25/2004, have a broader role to oversee, and report on, the prostitution industry as a whole.**

An inter-agency committee with a legislative basis has been recommended to ensure that it does not suffer the same fate as the earlier informal committee established to pursue recommendation 25/2004.

Achievement of underlying principles

Overall, we found that the Act, and the PLA acting under the Act, are achieving the underlying principles. Licensed brothels:

- have minimal impact on community amenity
- show no evidence of corruption and organised crime (other than illegal prostitution)
- facilitate access to exit and retraining programs for sex workers who may wish to leave the industry
- provide a healthy environment in which prostitution takes place
- provide a safe workplace.

We note that some sex worker representatives suggested that corruption risks were inherent in the current legal framework. These claims relate specifically to the policing practices applied in relation to sole operators (also known as private sex workers) and, at a more general level, to the fact that criminal laws remain in relation to prostitution. We examined the policing practices and reviewed the CMC complaints database for the past five years and found very little substantiated misconduct among the police and public sector officers. This confirms the view expressed by others that there is little evidence of corruption within the legal prostitution industry in Queensland and that it is well protected against the risk of corruption.

The framework under the Act was originally designed to balance the strict regulation of the licensed brothel industry with addressing the social factors which contribute to involvement in the industry. We have found that this balance appears to have shifted since the demise of both the Prostitution Advisory Council (PAC) and the inter-agency committee which succeeded it. While some of the PAC responsibilities were transferred to the PLA, the diversionary aspects of the role continue to sit uncomfortably with the PLA's role as the industry regulator. The PLA acknowledges this and submits that its position is that it neither encourages nor discourages people from involvement in the industry (2010b, p. 23). If the government is still committed to a policy framework which maintains this balance, we consider that the responsibility for coordinating strategies to address the social factors surrounding prostitution be vested in an agency other than the PLA. We propose that the Ministerial Advisory Committee take up responsibility for this (see Chapters 2 and 5).

No significant changes within the industry

We note that the regulated licensed brothel sector remains relatively small (currently 23 licensed brothels) although it has increased in size since our last review. It continues to operate alongside the unregulated legal sole operator sector and the illegal prostitution industry. There is no consensus on the size and nature of the illegal industry except to say that: it is likely to be larger than the legal prostitution industry; illegal operations tend to be smaller in Queensland than in other states; many illegal operators masquerade as sole operators in their advertising; and there is an increasing number of migrant sex worker and migrant organisers operating in this sector. This emerging trend toward increasing involvement of migrant sex workers is also apparent in the licensed brothel sector. We found no evidence that migrant sex workers in Queensland were the subject of sex trafficking or debt bondage. However, the growth in the number of migrant sex workers means that we need to maintain a focus on ensuring the effective delivery of health, education and advisory services to these workers.

The way forward

We identify a range of prostitution-related issues extending beyond the regulated licensed brothel sector that require ongoing monitoring, with a whole-of-government approach. We suggest that the proposed Ministerial Advisory Committee undertake this monitoring role.

Key among the issues to be addressed will be the impact of our earlier recommendations on the illegal sector. Our review has found that the environment in which the illegal industry operates is not significantly different from that reported in 2006. Based on the available information at that time, the CMC took the view that the preferred approach to addressing the illegal industry was to enhance the police response and make other changes designed to reduce its size. As noted above, we are still waiting to see the impact of these changes.

We acknowledge that it is open to the Queensland Government to adopt a different approach and in Chapter 4 we outline various alternative strategies proposed by others. Ultimately, it is a matter for government policy to determine whether any changes should be made. However, we consider that the proposed committee could play a key role in assisting government by identifying and advising on further strategies to diminish the illegal industry, if considered necessary.

Creating effective strategies requires input from experienced people with good knowledge of the industry who can enlist the support of the legalised sectors in efforts to combat illegal prostitution. Accordingly, we propose that the Ministerial Advisory Committee be comprised of departmental officers with current, relevant operational experience from key agencies such as the PLA, Queensland Police Service, Queensland Health and other relevant bodies where required. The committee should also include representatives of sex workers, brothels and local councils. We recognise that cost issues played a role in the demise of the former Prostitution Advisory Council, and we are conscious of the need to integrate the functions of the committee within existing service delivery from government. The details of the proposed role, functions and membership of the committee, and its relationship with the PLA, are set out in Chapter 8.

PROSTITUTION REGULATION IN QUEENSLAND

Background issues

In 1999, after extensive review and community consultation over the course of a decade, the Queensland Government decided to legalise certain prostitution-related activities, namely legal brothels, within a strict regulatory framework. Community attitude surveys conducted in 1991 and 1997 showed consistently that:

- a majority of respondents agreed that there was nothing wrong with a person paying for sex with a prostitute
- an overwhelming majority believed that a prostitute should not be allowed to solicit in a public place
- respondents supported the view that a prostitute should be permitted to provide services from their own home
- respondents also supported the view that licensed brothels should be allowed providing there were restrictions on where the brothels could be located
- support was expressed for the view that there should be a register of sex workers
- respondents thought there should be restrictions on who can own and operate brothels (CMC 2004, p. 3).

The new regulatory framework was established with the introduction of the *Prostitution Act 1999* (the Act) effective from 1 July 2000. This framework largely reflects those community views.

The objectives of the Prostitution Act

The purpose of the Act is to regulate prostitution in Queensland (s. 3 of the Act). The government was well aware of the difficulties associated with the control of prostitution and developed the legislative framework with a view to controlling and minimising the harm, or potential harm, associated with prostitution, rather than assuming that it could be eliminated (Explanatory Notes, Prostitution Bill 1999, p. 2). To that end, the Act is underpinned by a set of five principles:

- to ensure quality of life for local communities
- to safeguard against corruption and organised crime
- to address social factors which contribute to involvement in the sex industry
- to ensure a healthy society
- to promote safety.

The legal and regulatory framework surrounding prostitution

The Act operates in conjunction with the *Criminal Code Act 1899* (the Criminal Code) to regulate prostitution in Queensland.

Legal licensed brothels are regulated under the Act and the Prostitution Licensing Authority (PLA) is the primary regulatory agency.

Sole operators or private sex workers — that is, sex workers who work alone and provide sexual services from their own premises (either in-house or outcall services) — are legal but are not subject to the regulatory or licensing role of the PLA under the Act.

The illegal prostitution industry is subject to the Criminal Code, which defines the range of prostitution-related activities that are illegal. The illegal industry is policed by the Prostitution Enforcement Task Force (PETF) within the Queensland Police Service (QPS).

The CMC's role in reviewing the Act

At the time the Act was passed, the Crime and Misconduct Commission (CMC) was given the responsibility of monitoring and reporting on how effectively the Act was achieving its objectives, including safeguarding against corruption and organised crime, after its first three years of operation. We conducted the first review over a number of years commencing in 2003 and produced two reports:

- *Regulating prostitution: an evaluation of the Prostitution Act 1999*, released in December 2004 (the 2004 report)
- *Regulating outcall prostitution*, released in October 2006 (the 2006 report).

Following the completion of the first review, the Act was amended in accordance with our recommendations and a further requirement for review was introduced. Section 141 of the Act now requires the CMC to review the effectiveness of the Act as soon as practicable after 12 August 2010.¹

This legislative requirement has created some difficulty for us in this current review. Significantly, some of the key recommendations from our 2006 report have only recently been implemented (on 1 September 2010 and 14 March 2011). This has affected our ability to deal with one of the most important issues to some stakeholders — namely, whether outcall services by licensed brothels or escort agencies should be legalised (see Chapter 4 for further discussion).

The scope of this review

Some respondents to this review submitted that there should be changes to the prostitution laws as they currently exist and to the underlying policy position which informs the current laws. For example, some submissions argued that prostitution should be decriminalised in Queensland. While we appreciate the importance of this issue to some respondents, it is beyond the scope of this review to revisit the fundamental policy underpinning this legislative model.

This review updates the picture of the prostitution environment in Queensland with particular emphasis upon the extent to which the underlying principles (set out above) have been achieved, compared to what was reported in the earlier review. It is not intended to be as widespread in approach as the first review.

In particular, our review aims to answer the following questions:

1. Which recommendations from the CMC's last review have been implemented and what effect have they had?
2. What changes, if any, have occurred in the achievement of the underlying principles since the last review?
3. What new and emerging issues are facing the industry in Queensland and in comparable jurisdictions which could affect the achievement of the underlying principles?

Sources of information for this review

We sought to gather as much information as we could from people in the prostitution industry as well as other key stakeholders and interest groups. The nature of the industry makes it difficult to access the views of people involved; many wish to keep their involvement hidden. However, we employed the following strategies to obtain information from sex workers:

1 Section 141 (1) states that the review must commence as soon as practicable after the end of three years after the commencement of s. 34 of the *Prostitution Amendment Act 2006*. That section commenced on 12 August 2007 requiring the CMC to commence this review as soon as practicable after 12 August 2010.

- distributing flyers to sex worker representative agencies (such as Respect Inc) and to each brothel licensee and manager (requesting that they be displayed in the workplace), and providing information in the PLA newsletter
- establishing a dedicated CMC email address for people to provide their views and publicising this on the CMC website, in the PLA newsletter and in the flyers distributed to sex workers
- offering all interested parties the opportunity to have a face-to-face or telephone interview with project staff instead of, or in addition to, providing written submissions.

Local councils have had a particular interest in prostitution issues and we enlisted the support of the Local Government Association of Queensland (LGAQ) to distribute a circular to all local councils inviting submissions to address some specific questions regarding development approvals and community amenity issues.

To ensure we received a broad cross-section of views, we wrote to all stakeholders and interested parties identified from earlier CMC reviews and through preliminary consultations with the PLA, key government agencies and representatives of brothel licensees, sex workers and family and community groups. We also invited submissions from relevant government Ministers and departments and from the Leader of the Opposition. (A list of those invited to participate is included in Appendix 1.)

We received 23 written submissions and conducted nine interviews² with stakeholders across Queensland, including five brothel licensees, four managers and two sex workers.³

In compliance with s. 141 of the Act, we also consulted with the PLA and the Minister for Police and Corrective Services.

We examined a wide range of literature and legislation from Queensland and other jurisdictions and collected and analysed the following:

- PLA data on the number of brothels, licences, and applications issued by and pending at the PLA
- QPS offence data on prostitution offences
- courts data on penalties imposed for prostitution offences
- data on the number of brothel development approval applications and the results of those applications.

Limitations of this review

This review does not attempt to replicate the extensive research undertaken for the last review. Rather, it aims to update the picture presented in our earlier reports and identify any new and emerging issues in the sector. Readers seeking more comprehensive background to Queensland's prostitution environment and related issues can read the earlier reports.

Many participants in the sex industry — clients and workers — are reluctant to disclose their involvement. Accordingly, it is not possible to obtain a fully representative sample of views from the various sectors of the industry and we have not attempted to do so. We have invited submissions from a variety of individuals and groups representing different interests and have supplemented this information with the results of surveys undertaken by others to ensure that various perspectives are presented.

² The interview questions and the flyers seeking information are included at Appendixes 5 and 6.

³ One of these sex workers was a brothel licensee who also worked as a sole operator.

The invitation for submissions to this review was initially made in early December 2010 with a closing date for submissions of 14 January 2011. In our follow-up with agencies and industry participants, it became apparent that the natural disasters which occurred throughout Queensland in December 2010 and January 2011 impacted on the capacity of a number of individuals, agencies, businesses and local councils to contribute to this review.

Overview of the report

This chapter set out the underlying principles of the Act, background issues to our evaluation and explained the methods we used to conduct it.

Chapter 2 outlines the outcomes of our previous review, the government response to our recommendations and the implementation status of those recommendations.

Chapters 3 to 7 report the findings of our current review; namely, the extent to which the Act's key principles are being achieved.

Chapter 8 gives an overall assessment of the review, and suggests the way forward with proposed enhancements to the regulation of the industry.

ASSESSMENT OF THE OUTCOMES OF THE CMC'S EARLIER REVIEW

The CMC's previous review

Our earlier review (and two resulting reports) concluded that Queensland had a safe and effective legal brothel industry with no evidence of corruption or organised crime but that some changes could be made to enhance the operation of the regulatory regime. Fifty-two recommendations were made across the two reports to address those findings. These are set out in Appendix 2.

Recommendations made in the 2004 report included some aimed at:

- better functioning of the PLA through streamlining processes for licensing and reducing administrative burdens
- assisting the police in their regulatory role with access to information
- reducing the regulatory burden for licensees and improving their business operations
- improving the health and safety of sex workers.

Recommendations from the 2006 report focused on making changes to ensure the legal sex industry's continued viability and to reduce incentives for an illegal industry by:

- regulating social escort providers
- tightening the existing advertising policies of the PLA
- improving police enforcement measures
- improving the safety of sole operators.

Governmental response to the recommendations

The Queensland Government supported all but two of the recommendations.⁴

The recommendations were implemented in stages as follows:

- the *Prostitution Amendment Act 2006* took effect on 12 August 2007 and implemented many of the recommendations in the 2004 report
- the *Prostitution And Other Acts Amendment Act 2010* implemented many of the recommendations from the 2006 report with Parts 1 and 3 taking effect from 1 September 2010 and the remaining parts taking effect from 14 March 2011
- most of the remaining recommendations from both reports, which did not require a legislative response, were implemented at various stages throughout the period.

Appendix 2 describes the relevant legislation which implements each recommendation, where applicable.

Overall, we are satisfied that the majority of the recommendations have been implemented as proposed and they appear to be having the intended effect.

⁴ See *Queensland Government Response to Recommendations of the Crime and Misconduct Commission's Evaluation of the Prostitution Act 1999 Regulating Prostitution*, tabled in the Queensland Parliament on 8 November 2005 and closing speech on the debate of the *Prostitution and Other Acts Amendment Act 2010*, Minister for Police and Corrective Services, the Hon. N. Roberts, Hansard, Tuesday 17 August 2010, p. 2596.

Recommendations requiring further monitoring

Key recommendations from the 2006 report have only recently been implemented (in September 2010 and March 2011) so there has been little time to assess their effect. These recommendations were mainly directed toward targeting the illegal prostitution industry by enhancing police enforcement measures and restricting the advertising options available to illegal operators. These are discussed in more detail in Chapter 4 of this report.

Recommendations not implemented

There are three recommendations that have not been implemented or fully implemented, despite the government supporting the recommendations.

One of these — rec. 26/2004 (the inclusion of the Queensland Adult Business Association in the regulation listing of agencies that the PLA is required to consult with) — is no longer considered to be useful or relevant in the changed environment, so no further action is proposed.

Recommendations requiring further action

Two other recommendations which the government supported and which have not been implemented or fully implemented are:

- amending the advertising offence under the Act (rec. 11/2006)
- developing a whole-of-government approach for addressing prostitution-related issues through an inter-agency committee (rec. 25/2004).

The CMC considers that both of these recommendations are important and should be pursued. In particular, we regard the development of a whole-of-government approach to be a necessary element of an effective regulatory framework and we discuss this further below.

Amending the advertising offence under the Act (rec. 11/2006)

At the time of making the recommendations in our 2006 report, we were aware of the fact that the illegal prostitution industry was adaptable in its advertising, changing quickly in response to new regulations to avoid prosecution. We recommended that s. 93 of the Act be amended to ensure that it covers all advertisements for prostitution ‘however prostitution is described’ in the advertisement. The purpose of this amendment was to establish a flexible means by which the PLA could respond to the ever-changing nature of advertisements for prostitution, amend its guidelines accordingly and have the offence provision reflect those changes.

The government reportedly accepted this recommendation. The Explanatory Notes to the Prostitution and Other Acts Amendment Bill 2009 state that the amendments to the Prostitution Act ‘clarify that the advertising restrictions apply to a prostitution advertisement “however described”’ (Explanatory Notes, Prostitution and Other Acts Amendment Bill 2009, p. 3). However, neither the 2009 Bill nor the subsequent *Prostitution and Other Acts Amendment Act 2010* contain this amendment. From our inquiries, it appears that this was an oversight. We therefore recommend that the amendment to s. 93 of the Act, as originally proposed, be made.

The problem it was designed to address continues to confront the industry (see Chapter 4 for further discussion of the advertising restrictions). In fact, the increasing use of the internet over print media means that it is now even easier for illegal operators to quickly adapt to different formats for advertising and promoting their services. While we believe that these changes will go some way in addressing advertising by illegal operators, we acknowledge that the PETF will continue to face challenges in distinguishing the promotion of services by illegal and legal operators.

Recommendation 1

That s. 93 of the Act be amended as originally proposed in recommendation 11 of the CMC's 2006 report and as supported by government in its response to that recommendation: namely that s. 93 of the Act be amended to ensure that it covers all advertisements for prostitution, however prostitution is described in the advertisement.

Developing a whole-of-government approach through an inter-agency committee (rec. 25/2004)

In our 2004 report we recommended:

That a whole-of-government approach for addressing prostitution-related operational, inter-agency and emerging issues be formalised, and that the inter-agency committee receive continuing support from all of the government agencies involved, to ensure that there is effective cooperation and open communication between them. The operations of the inter-agency committee should also be monitored with a view to maintaining its effectiveness (rec. 25/2004).

The rationale for the establishment of this committee included that:

- while the PLA played the lead role in the regulation of the licensed brothel industry, there was a need for a mechanism whereby representatives from all relevant government agencies (and organisations like the LGAQ) could provide input on an operational level into the ongoing decisions being made about the regulation of the industry, especially where their expertise was particularly relevant (CMC 2004, p. 122)
- given the volatility of the industry, the government needs to be in a position to respond to emerging issues and it is likely that a whole-of-government approach will be the most effective in this regard (CMC 2004, p. 122)
- since the demise in 2003 of the former Prostitution Advisory Council (PAC), which was initially responsible for implementing the key underlying principle 'to address social factors that contribute to involvement in the sex industry', there has been limited emphasis on this principle (see further discussion in Chapter 5). Although some of the PAC's functions were transferred to the PLA, the role of discouraging people from entering the industry and encouraging them to exit the industry sits uncomfortably with their role as the regulator of the licensed brothel industry. At the time, several submissions had recommended that a modified version of the Council be reformed to undertake the role. The PLA suggested then that the functions of the former Council could be exercised by an interdepartmental/agency working group responsible to the Minister, which could assist the PLA with matters including community sexual health, workplace health and safety, workplace relations as well as facilitating liaison with Queensland Health about its exit and retraining program (CMC 2004, p. 57).

The government supported this recommendation and said in its response that an inter-agency committee had already been established within the PLA and, to give effect to the CMC's recommendations, it would report regularly to the Minister (Queensland Government 2005, p. 12).

However, in 2009 Edwards reported that the committee was no longer operative:

Stakeholder consultations undertaken as part of this project indicate that the inter-agency committee had been a useful body but had only been convened on an 'as needs' basis, and hadn't met in recent times. The Committee had been convened initially in response to Queensland Health's concerns about the operation of sexual health certificates. Having worked through this issue and having provided advice to the relevant ministers about how to resolve specific operational problems, some interviewees speculated that there was simply no further need for the Committee to meet. One interviewee commented that the group lost momentum because, despite further follow-up of their recommendations about sexual health certificates, no action was ever taken (2009, p. 11).

The PLA have confirmed that this remains the current status. Since the demise of both the PAC and of the inter-agency committee, there appears to be no body with the broad focus on coordinating strategies and programs to address factors leading to people's involvement in the industry. Nor is there a mechanism to facilitate a whole-of-government approach to operational and emerging issues in the prostitution industry in Queensland.

The benefits of an inter-agency committee

We have identified the need for such a committee to ensure that the Act continues to address the factors leading to people's involvement in prostitution, as discussed above and explained in more detail in Chapter 5. We have found that the PLA remains the key agency responsible for providing advice on the industry and on strategies to divert people from prostitution. This latter role continues to sit uncomfortably with the PLA's function as the regulatory and licensing body for the legal brothel industry. Members of the PLA have reported that the conflict of roles identified in 2004 is still felt by the PLA today (Meeting with PLA members, 7 March 2011). If the government is still committed to its policy framework of maintaining the balance between addressing the underlying social factors leading to involvement in prostitution and the strict regulation of the legal industry, we think this responsibility needs to be vested in an agency other than the PLA.

We have also identified throughout this report an ongoing need for an inter-agency committee to monitor the prostitution industry (not just the licensed brothel sector), to provide advice (including to the PLA) on operational issues and to assist the government to respond to emerging issues concerning the industry.

Queensland Health supports the re-establishment of the inter-agency working group 'that so effectively assisted in the early days of the introduction of the [Act]' (confidential Queensland Health communication). The PLA also noted the value of a whole-of-government approach, especially in responding to issues leading to youth involvement in prostitution, submitting that: 'A whole-of government approach is required to ensure a coordinated and sustained response to the issue' (2010b, p. 31).

In light of the ongoing need, and support, for the creation of a whole-of-government approach to the industry, we recommend that the Queensland Government establish an inter-agency committee as proposed in recommendation 25/2004 with the enhanced role and functions described below.

Recommendation 2

That in light of the government's stated commitment to the inter-agency committee proposed in recommendation 25 of the CMC's 2004 report, an inter-agency committee:

- **be established as a Ministerial Advisory Committee under the Act, with a legislative obligation to report to the Minister**
- **as well as performing the functions proposed in rec. 25/2004, have a broader role to oversee, and report on, the prostitution industry as a whole.**

Proposed enhancements to the role and functions of the inter-agency committee

We are concerned to ensure that the proposed inter-agency committee does not suffer the same fate as the informal committee that was established before our 2004 report but which, despite government's stated support, was no longer operative by 2009. To avoid this risk, we propose that the committee be established under the Act. We also propose that it be given a legislative obligation to report to the Minister.

The earlier committee was established under the PLA and chaired by the PLA. We think that the committee should have a broader mandate that extends beyond that part of the legal industry that is regulated by the PLA. We report later that the PLA is very effective in its regulatory role for the licensed brothel sector. However, we see this committee as playing a broader role in overseeing the whole industry (licensed brothels, sole operators and the illegal sector). Obviously the PLA will be an integral part of the committee alongside other representatives of government and non-government agencies with good knowledge of the workings of the prostitution industry.

Throughout this report we identify some broad and specific functions that we consider this proposed committee could perform. Chapter 8 of this report draws the information together and describes the proposed role, functions and membership of the committee in more detail.

Conclusion

The Queensland Government accepted all but two of the recommendations from our previous review. Of those accepted, the majority have been implemented, although key recommendations designed to target the illegal prostitution industry have only recently been implemented and it is too early to assess their impact.

There are two recommendations in particular which, although supported, do not appear to have been effectively implemented, and which we think are worth pursuing. These are:

- that s. 93 of the Act be amended to ensure that it covers all advertisements for prostitution, however prostitution is described (rec. 11/2006)
- that a whole-of-government approach for addressing prostitution-related operational, inter-agency and emerging issues be formalised through the establishment of an inter-agency committee (rec. 25/2004).

We make recommendations that s. 93 of the Act be amended as proposed. Further, we note the government's commitment to the establishment of an inter-agency committee as proposed in rec. 25/2004 to facilitate a whole-of-government approach to the prostitution industry. We recommend the establishment of an inter-agency committee with enhancements to ensure its continuity and to give it a broader role than that originally proposed in our 2004 report. The proposed role and functions of this committee are set out in Chapter 8.

The immediately following chapters examine the extent to which the underlying principles of the Act are being achieved and describe any emerging issues that may affect the achievement of those principles.

ACHIEVING PRINCIPLE 1: ENSURING QUALITY OF LIFE FOR LOCAL COMMUNITIES

One of the reasons given for the introduction of the Act was that the operation of brothels should not be an intrusion into the day-to-day lives of members of the community who do not want to be exposed to the nuisance of brothel activity or advertising:

For this reason, the prostitution legislation reform proposal seeks to legalise brothels within strict planning and licensing parameters. The proposed legal brothels will be limited in size and will not be permitted in residential areas, or close to other amenities such as places of worship, hospitals, schools, kindergartens and other places frequented by children. The quality of life for affected local residents, and the amenity of local communities, will be improved by removing this activity from the suburban streets. Street prostitution will be discouraged by expanding the range of legal alternatives for sex workers and their clients, while increasing penalties and enforcement in respect of street soliciting which remains illegal (Explanatory Notes, Prostitution Bill 1999, p. 1).

The CMC reported in 2004 that the impact of licensed brothels on the community had been minimal and that:

- all legal brothels had undertaken extensive community consultation with their industrial neighbours
- only one brothel had been subjected to a community protest
- some local businesses had benefited from the co-location of brothels in their area (e.g. increased work for laundries)
- brothels provided a healthier and safer environment for brothel clients compared with their illegal counterparts (2004, p. xiii).

The impact of work undertaken by sole operators in their own homes was reportedly minimal but concerns about the impact on the community of street-based sex work remained high.

Impact on community amenity

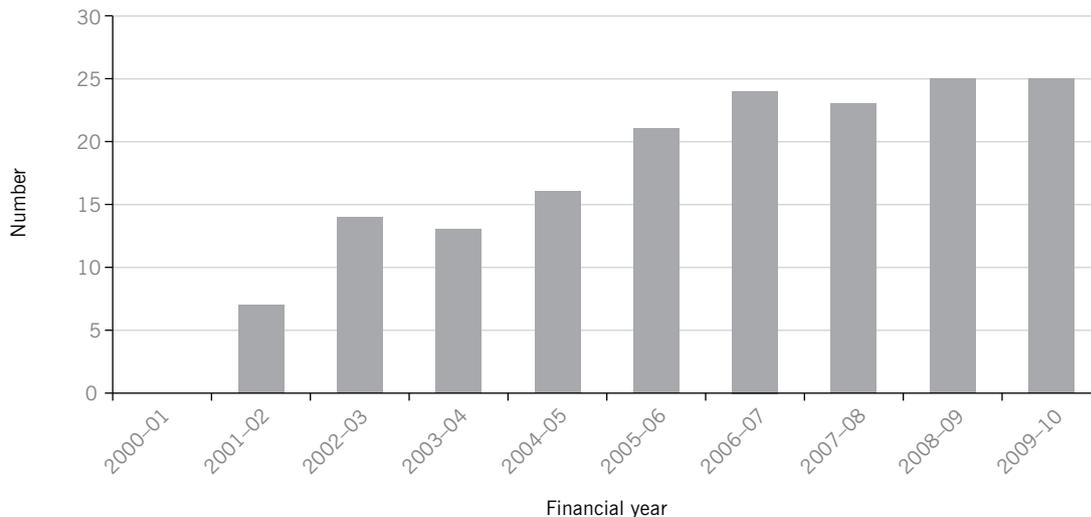
We examine below whether there has been any change to the impact of prostitution on community amenity.

The size and nature of the licensed brothel sector

The licensed brothel sector has grown since our last review but the growth has been slow. The industry has been steady with 23 to 25 licensed brothels over the past five years.

Figure 3.1 shows the increase in the number of licensed brothels since regulation.

Figure 3.1: Number of licensed brothels in Queensland, 30 June 2010



Source: Data for the years 2000–01 to 2009–10 was taken from the Prostitution Licensing Authority Annual Report 2009–10 (2010a).

Since those figures were produced in 2010, we have seen the number of licensed brothels fall from 25 to 23 in Queensland. The PLA have reported that 19 of those brothels have been operating since 2005–06 or earlier (although some may have traded under different names), with relatively few starting up over the past five years (2010a, p. 27). The PLA reports that it was not considering any brothel licence applications in respect of new brothels at the end of November 2010 (2010b, p. 1). However, it did advise that there were 10 premises in Queensland that had local government development approval for a brothel but which did not currently have an operational brothel (2010a, p. 29).

Appendix 3 lists the licensed brothels as at December 2010 and plots them on the map of Queensland.

Emerging trends in the licensed brothel industry: growth in the number of Asian brothels

Since our last review, there has been an increasing trend toward specialist Asian brothels in Queensland — that is, brothels staffed only by Asian service providers. In November 2010 the PLA reported there were five such brothels, four of them in Brisbane (2010b, p. 21).

This trend is not unique to Queensland. A recent study of women in brothels undertaken by Donovan et al. found that a quarter of the sex workers in Perth and Melbourne and more than half of those in Sydney were Asian born (2010b, p. 37).

This growth in the number of migrant, mainly Asian, sex workers is also evident in the illegal prostitution sector.

The change in the demographics of the industry raises the risk that assumptions will be made that all migrant sex workers are the victims of sex trafficking or debt bondage. As one licensee from a specialist Asian brothel said in an interview:

People (particularly clients) sometimes make the assumption that all Asian workers are trafficked. Assuming all Asian workers are trafficked is discriminatory ... In order to verify if they are legally able to work in Australia we check their passports, date of birth, visa (to see if they have the right work permit), and sexual health certificates (interview with brothel licensee, 4 February 2011).

In Chapter 4 we examine the issue of sex trafficking and whether there is any evidence of this within both the legal and illegal prostitution industries in Queensland.

Licensed brothels and their local communities

Brothel licensees report good relationships with their local communities. When asked what their relationships were like with the local community, the following responses were made:

Pretty fine. All businesses around here are fine. [The former owner] got approval previously, and people had put up a real stink. We have never heard from them since then (interview with brothel licensee, 21 December 2010).

Our relationship with our neighbours is fine — we have had no complaints (interview with brothel licensee, 21 December 2010).

Fine. We are in a complex of buildings. We don't hassle them and they don't hassle us (interview with brothel manager, 7 February 2011).

Where there has been community disquiet expressed about the opening of a new brothel, it has generally been short-lived. For example, the open day of a new brothel in Toowoomba was reportedly without protest despite huge public interest and strong objections preceding the brothel's opening. The developer was reported as saying that:

The opening of Mackay's first brothel attracted heavier protest than Deviations here in Toowoomba, but within a month of opening interest died down. It's just become an accepted part of the landscape there and I think in a month's time no-one here will care (*Chronicle* 2009).

The manager of that brothel reports that the relationship with the local community is currently good (interview with brothel manager, 7 Feb 2011).

The PLA submits that experience has shown that licensed brothels have no appreciable impact on community amenity and that in the decade-long history of the licensed sex industry there has not been a single complaint from any person regarding the impact on amenity of any operating brothel in the state (2010b, p. 14).

Local councils also report few or no adverse effects of licensed brothels on community amenity (Cairns Regional Council 2010, p. 2; confidential submission A 2010). Gold Coast City Council reports no significant adverse effects of licensed brothels on community amenity (Gold Coast City Council communications, 13 May 2011). However, one council reported that they undertook investigations arising from complaints about three licensed brothel premises in 2010. The complaints were about employees living at the premises in breach of the development approval.⁵

The LGAQ reported that planning issues concerning brothels had changed over recent years with the 'heat' having gone out of the issue (Edwards 2009, p. 47).

The impact of sole operators on community amenity

In contrast to the impact of licensed brothels, some informants to this review expressed concern about the disruption to community amenity caused by sole operators who work in residential areas. We received a submission from someone who objected to the right of sexual service providers to operate out of residential premises, arguing that the impact of the home business was somewhat different and less predictable than other cottage industries:

In my own situation, the clients of my neighbours would arrive at all hours and many during the early hours of the morning. They would start their meeting off inside and then hang around in the backyard, and whatever else they were doing would often be associated with being quite rowdy. For months, two to three nights mid week, I was kept awake or awoken in the wee hours of the morning, to the voices of strange men, loud bangs and clangs, bursts of music and spontaneous outdoor entertainment activities, which were really quite unpredictable and ill fitted to the surrounding residential context. The unpredictability, together with hearing certain threatening conversations and bangs in the night, left me feeling quite vulnerable and generally disempowered and unsafe in my own home.

5 At the time of publication, the CMC had not been advised of the outcome of these matters.

When I called the Council, I was disappointed to find that regulation did not provide any amenity protection to the general resident, and even more surprisingly, that it would be up to me to provide that my neighbours' 'legitimate' home employment was affecting my residential amenity. My partner and I subsequently moved house (confidential submission B 2010).

From 2000–01 to 2005–06, the PLA received about five complaints a year about sole operators but there have been no such complaints reported since then (PLA Annual Reports 2000–01 to 2009–10).

The size of the sole operator sector

It is impossible to estimate the number of legal sole operators working in Queensland. Sex workers are highly mobile both within the industry (shifting between sectors and brothels and across jurisdictional borders) and outside the industry. Many sex workers keep their involvement in the industry from family and friends and value their privacy, making it largely a covert occupation. Other researchers have made attempts to contact sole operators in Queensland with varying degrees of success. They report the following:

- 82 private sex workers participated in a study by Woodward et al. in 2003 (p. 22)
- 103 private sole operators were identified in a study by Seib et al. in 2003 (2009, p. 473)
- 27 of 65 sex workers contacted by us in an earlier survey were working as sole operators (CMC 2004, p. 151).

A submission to this review from the owner of five Queensland escort directories claims that over 100 private sex workers are currently advertising on those sites (confidential submission C 2010).

Defining the legal sole operator sector is made more difficult by the fact that many sole operators can venture into the illegal sector by operating in breach of the tightly defined parameters of the legal sole operator, such as sharing premises or working with another sole operator.

Although complaints to the PLA about sole operators are declining, we received varying reports on the issue from councils.

The Cairns Regional Council reports that there are legal, single providers working from home in their area as well as some reported illegal activity, but state that there have been no known reports of prostitution adversely affecting community amenity (2010, p. 2).

In contrast, another council reported that it has received complaints about prostitution activities occurring in domestic premises. That council provides the following picture of how these matters develop and how they respond:

[A]n operator ... makes a decision to operate from a domicile. If working 'out' of the domicile there are rarely any issues and such a business is no different from a computer repair person fixing computers on-site in the suburbs. However, if working 'on' the premises, the experience of the [council] has been that the clientele attracted to the property are the cause of neighbourhood angst with issues such as:

- consuming alcohol in the street
- injecting needles left in the gutter, footpath and roadway
- alcohol containers deposited in the gutter, footpath and roadway
- brawling
- noise from motor vehicles — revving engines and starting and leaving the premises continuously throughout the night
- rubbish bins overflowing with used prophylactics, alcohol containers, syringes and the like.

The trend then has been to employ several operators, exacerbating the situation, all however using the same name to circumvent the planning scheme requirements surrounding employees.

The end result has usually been a combined visit from the [council] staff and police to regulate the business (confidential submission A 2010).

Yet another council reports that it receives regular complaints about the activities of prostitutes within the local authority area and that 'this is a good indicator that the activities of prostitutes are having an impact on community amenity'. The council submits that it is severely limited in the action it can take in response to complaints: 'If a development offence cannot be proven, the council has no power to deal with the complaint'. It suggests that the PLA should investigate options for better regulating the location and activities of sole operator sex workers.

Since our last review, when we reported that sole operators have minimal impact on communities, there is now some evidence that this is becoming a concern in certain council areas. However, we are satisfied the current framework provides sufficient regulation through:

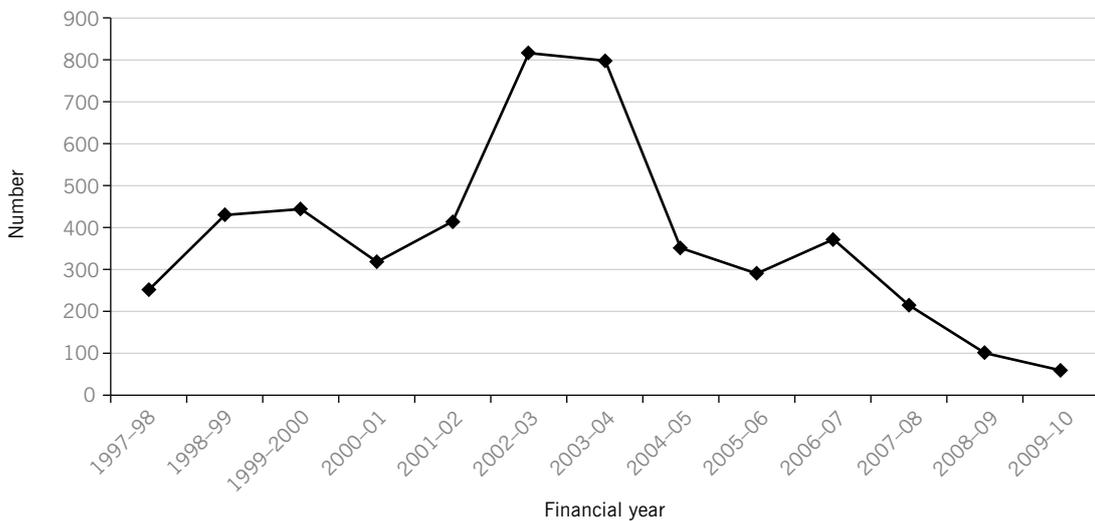
- the application of planning laws, which require sole operators to comply with home business requirements as enforced by council staff
- the criminal law, which prevents unlawful activities such as two sex workers operating from the same premises and is enforced by the QPS.

Despite a council's proposal for the PLA to look at options for better regulating the location and activities of sole operators (mentioned above), this sector is not subject to the PLA's regulatory or licensing role. It is a matter for government whether the role of the PLA should be so expanded. See further discussion in Chapter 8.

Street soliciting in Queensland

Under the Act, soliciting for prostitution in a public place is an offence for both clients and sex workers. Although we reported a high concern about street prostitution in our previous review, this time little has been expressed about the impact of street-based sex work. None of the councils who responded to our invitation for input have mentioned it as a problem and Figure 3.2 shows QPS data indicating a substantial decline in the street prostitution offences over the period.

Figure 3.2: Public soliciting offences reported/detected, 1997–98 to 2009–10



Source: Data for the years 1997–98 to 2009–10 was taken from the QPS Annual Statistical Reviews from 1998–99 to 2009–10.

The data show that street prostitution offences have declined from a peak of around 800 just prior to the last review to a low of 60 in the last financial year. However, we cannot say definitively whether this decline is the result of changes in policing practices or a decline in the level of street prostitution. For instance, the police may be using move-on powers in respect of street workers rather than charging them with public soliciting. This information is not recorded so we do not know how often the move-on powers are being used to deal with street prostitution (CMC 2010, p. 39).

In 2004, we noted that PETF and the Tactical Crime Squad (Prostitution Unit) in Metro North Region (which policed street-based prostitution) reported persistent and frequent enforcement activities of illegal prostitution following the implementation of the Act (CMC 2004, p. 78). The QPS report that they no longer have a dedicated Prostitution Unit within the Tactical Crime Squad (TCS) Metro North but that the TCS police street prostitution as part of their overall work. They will target street prostitution as and when the issue arises (interview with District Officer, Brisbane Central District, Metro North Region, QPS on 1 March 2011).

Despite these possible changes in policing practices, sex worker representatives expressed the view that the number of street workers has reduced dramatically in the past five years (interview with Respect Inc, 11 November 2010).

Conclusion

There has been limited growth in the licensed brothel sector in Queensland with about 24 licensed brothels operating for the past five years, up from the 14 noted in our 2004 report. Submissions to this review have shown that, despite this increase, the impact of licensed brothels on community amenity continues to be minimal. This is consistent with the views of the LGAQ as reported to Edwards (2009), that planning issues had changed over recent years with the 'heat' having gone out of the issue (p. 47). Recent concerns have been raised in one local authority area about the living-in arrangements of sex workers in some brothels. We have also seen some comments expressed about sole operators reportedly causing disruption to community amenity, while complaints about street-based sex work appear to have diminished as the level of street prostitution has declined since the last review. Overall, we are satisfied that the Act, with its strict controls on the location and activities of licensed brothels, is successful in ensuring quality of life for local communities.

ACHIEVING PRINCIPLE 2: SAFEGUARDING AGAINST CORRUPTION AND ORGANISED CRIME

In the past, prostitution in Queensland was closely linked with corruption and organised crime. A key focus of the regime established under the Act was to ensure vigilance against the re-emergence of corruption and organised crime within the industry. To achieve this aim, the PLA and PETF work together to conduct rigorous probity checks on the people involved in the licensed brothel industry.

Corruption

The CMC reported in the previous review that since the implementation of the Act, there was no evidence of corruption among police or other government agencies in relation to either the legal or illegal prostitution industries in Queensland. The measures for preventing corruption that were imposed on the Queensland public sector, including the police service, following the Fitzgerald Inquiry appeared to be effective in ensuring accountability and transparency among those dealing with the industry (CMC 2004, p. 46).

Overall, in this review we found that most people agreed that there currently appears to be no corruption within the legal prostitution industry in Queensland. The PLA reports that there is no evidence of official corruption within the licensed brothel sector. We spoke to a number of brothel licensees and managers and all agreed that there is no evidence of corruption within the industry, including amongst its regulators. Respect Inc reports that it has seen no significant forms of corruption within the statutory authorities (although it supplied some allegations that are reported below).

However, we did find some isolated allegations of corruption in the submissions received.

One submission claimed that links between prostitution, corruption and organised crime still exist in one area in regional Queensland. The submission alleges that the local police were involved in protecting drug dealers and bikers who were involved in unlawful organised prostitution in the area. This allegation was referred to the Misconduct arm of the CMC which reported that the allegations were assessed and preliminary inquiries were made. No specific details were provided as to the alleged corrupt activity and no specific officers were identified by the complainant. As a result of the inquiries, it was determined that the information was not capable of productive investigation.

Respect Inc claimed in their submission that a police officer on the Gold Coast was reportedly charged with extorting or attempting to extort private sex workers. We made inquiries with our Misconduct arm and could find no material to support this claim. However, we did identify some complaints relating to the interaction between police officers and sex workers. These are discussed further below.

Corruption risks in policing practices and the legal framework

We received some submissions, from those representing sex workers, which suggested that corruption risks were inherent in the current legal framework. These claims relate specifically to the policing practices applied in relation to sole operators and, at a more general level, to the fact that criminal laws still apply to some prostitution activities.

Sex worker interest groups argue that the practices engaged in by PETF officers policing 'sole operators' are potentially corrupting:

Respect Inc has been contacted by sex workers who have been charged by PETF police posing as clients who offer extra money to the sex worker to perform sexual services without condoms. We find this sort of entrapment distasteful, unnecessary and potentially corrupting (2011, p. 6).

The main new and emerging issue that we would like to bring to the CMC's attention is the over policing of private sex workers in Queensland. This has opened the door on corruption and should be of considerable concern to the CMC (Scarlet Alliance 2011).⁶

I, like most Queensland sex workers, have a very real and ongoing fear of the PETF officers ringing me. Not only do they waste your time ringing and asking about services they will never book an appointment for but I have heard of numerous stories of these police trying to bait the workers into saying things just on the phone and then getting charged with crimes they have not even committed. This behaviour currently endorsed by the Qld government is ripe for corrupt activities (confidential submission E 2011).

None of the submissions made specific allegations against one or more PETF officers. However, we referred all allegations to our Misconduct arm to determine whether or not the evidence suggested misconduct or 'corrupt' activity that would be within the CMC's jurisdiction. The CMC also sought advice from the QPS about the approved policing practices in this area.

We are advised that PETF officers are aware that it is an offence for them to offer to engage in sexual activity with a sex worker without a condom and that they accordingly do not make such offers. On the information provided to us by the QPS, we are satisfied that the covert policing practices engaged in by PETF officers are carried out within a set of procedures designed to minimise the risk of corrupt activity or misconduct on the part of the police officers.⁷ However, it was suggested by Respect Inc staff that the practice may be employed by police officers across Queensland, other than PETF officers (interview with Respect Inc, 6 May 2011). The QPS should ensure that all officers are aware that it is unlawful for them to make an offer for prostitution without a prophylactic. We encourage any sex worker who has evidence of unlawful activity or misconduct on the part of a PETF officer, or any police officer, to make a complaint to us regarding the officer's behaviour.

We note that proposed amendments to the *Police Powers and Responsibilities Act 2000*, currently the subject of a public consultation process, will allow officers to make such an offer as part of a controlled activity.⁸

At a more general level, some sex workers and their interest groups have argued that there is a risk of corruption inherent in any system that provides for police to enforce criminal laws on prostitution and that the only way to abolish corruption is to decriminalise prostitution. They claim that the current legal framework, and the high percentage of sex workers working outside that legal framework, creates a risk of corruption (Respect Inc 2011, p. 14). A similar concern was expressed by Self-Health for Queensland Workers in the Sex Industry (SQWISI) in the last review and is expressed in this review by Scarlet Alliance and a sole operator.

6 Scarlet Alliance is the Australian Sex Workers Association and aims to achieve equality, social, legal, political, cultural and economic justice for past and present sex workers.

7 This information was provided in a letter of 11 April 2011. We have not included the information in this report so as not to adversely impact upon the policing activities of PETF by disclosing law enforcement methodology.

8 See Prostitution Amendment Bill 2011, clause 106.

Scarlet Alliance claims that the New South Wales model of regulation was decriminalised in response to high levels of police corruption and it is recognised to have reduced corruption (2011).

We have examined the NSW model and, although it may have removed the risk of police corruption from the regulation of the sex industry, there remains a risk of corruption within the local council regulatory regime.⁹ Two relatively recent Independent Commission Against Corruption (ICAC) investigations demonstrate that corruption can exist even in a decriminalised environment.

An ICAC officer provided this summary of one case:

In May 2007, the [ICAC] held a public inquiry into allegations that Mr Wade Fryar, the team leader of Compliance Services at Parramatta City Council, had corruptly solicited and received cash payments and sexual services from brothel owners and prostitutes.

It was alleged that he did so in return for failing to take action to prevent unauthorised use of premises for prostitution. In most cases Mr Fryar initiated this improper conduct, but on some occasions brothel operators or owners approached him.

The ICAC made findings of corrupt conduct against Mr Fryar and against certain persons working in the brothel industry.

The [ICAC] found that over about four years Mr Fryar received free sexual services from at least five prostitutes and up to \$40000 by way of corrupt payments (Sutherland 2009).

More recently, the ICAC has been conducting an investigation into allegations that a Willoughby City Council building inspector received free sexual services from a bath house which was providing illegal services in return for not reporting that illegal services were being offered.

In her opening at ICAC's public hearings, Ms Williams (Counsel assisting) stated:

This public inquiry will hear evidence to the effect that Mr Karkowski has been visiting the Oriana Bath House and receiving massages and sexual services there since at least approximately September, 2009. He has not reported to the council that the business is providing sexual services, in breach of the development consent. It is alleged that the proprietors and manager of Oriana Bath House have not required Mr Karkowski to pay for those services presumably on the implicit understanding that he will turn a blind eye to the breach of the conditions (ICAC 2011, p. 4T).

In his evidence, Mr Karkowski admitted to receiving free sex but said that he saw it more of a gesture of gratitude for helping the business with its development application:

Williams: So you knew that your receipt of those services at the Oriana Bath House was corrupt didn't you?

Karkowski: I don't believe there was any arrangements to protect them, I never went out of my way to protect them. It's just I never dobbed them in to the council for what they were doing (ICAC 2011, p. 34T).

It is clear that corruption linked to prostitution is not the exclusive domain of the police and that a robust regulatory framework needs to recognise, and take steps to minimise, the risk of corruption. Queensland's probity processes are designed to minimise the risk of brothel owners' involvement in corruption or organised crime. The ICAC recognised the value of these processes and recommended that the NSW government consider adopting a system to prevent unsuitable persons operating a brothel (ICAC 2007, p. 6). In 2010 the NSW Opposition, which is now in government, announced an intention to introduce changes to establish a Brothel Licensing Authority with probity and compliance functions (*Daily Telegraph* 2010).

9 See Appendix 4 for an overview of the law in New South Wales and other jurisdictions.

Complaints of misconduct or corrupt activity in Queensland

In Queensland, the PLA, local council staff and police are involved in the regulation of prostitution. We have reviewed the CMC complaints database to determine whether there have been any substantiated complaints against any police officers or public sector officers involving the regulation of prostitution in Queensland. We found very few substantiated complaints of official misconduct or police misconduct (or other more minor forms of behavioural breach) against police officers or other officers over the period. Those that appear to be substantiated include:

- An allegation in 2006 that a police officer spoke inappropriately over the phone to a sole operator making a complaint. This resulted in managerial guidance of the officer.
- An allegation in 2006 that two officers at a particular station were ringing prostitutes and sex lines from police service phones. This was determined to be a breach of discipline and no sanction was imposed.
- An allegation in 2007 that a police officer attended the premises of a sex worker in a police vehicle during work hours and asked about the sexual services she provided. Disciplinary action was taken against the officer, resulting in the officer having a salary increment forfeited or deferred.

At the time of writing this report, there were a few matters that were still being investigated or were not finalised. These involve allegations against police officers in relation to seeking or receiving sexual favours from prostitutes and improper relationships with prostitutes. We cannot comment further on these matters at this stage.

Overall, our review of the complaints database shows very little substantiated misconduct among the police and public sector officers over the past five years, confirming the view that there is little evidence of corruption within the legal prostitution industry in Queensland. There were no substantiated allegations of corruption relating to the operation of licensed brothels.

Organised crime

We reported in 2004 that there was no evidence of organised crime involvement in the legal prostitution industry in Queensland — for either licensed brothels or sole operators. Although illegal prostitution, which by its very nature may be classified as organised crime,¹⁰ existed in Queensland, there was little evidence of further involvement of the industry in crimes such as the drug market, sex trafficking or child prostitution (CMC 2004, p. xiii). Overall, we were satisfied that the careful probity checking and ongoing auditing of licensed brothels in Queensland had resulted in a clean legal industry (CMC 2004, p. 51).

In this section we examine whether the Act remains effective in safeguarding against organised crime. We examine the links, if any, between the legal prostitution industry and organised crime — either illegal prostitution or other forms of organised crime. We start with an examination of the prostitution industry's involvement with organised crime other than illegal prostitution. We then examine the links between the legal and illegal prostitution industries before examining in more detail the illegal prostitution sector in Queensland.

10 Organised crime as defined by the Crime and Misconduct Act (Schedule 2) means criminal activity that involves:

- indictable offences punishable on conviction by a term of imprisonment not less than 7 years
- 2 or more persons
- substantial planning and organisation or systematic and continuing activity
- a purpose to obtain profit, gain, power or influence.

Industry involvement with organised crime other than illegal prostitution

We have been told by most of the respondents to this review that the legal industry is free from links with organised crime other than illegal prostitution. Similarly, our Crime arm reports that in the course of its investigative and intelligence-gathering activities relating to major crime since 2004, the CMC has not become aware of any involvement of organised crime (other than illegal prostitution) in the legal prostitution sector in Queensland.

When questioned, brothel licensees and sex workers denied knowledge of any links between the legal prostitution industry and organised crime such as illicit drugs, child prostitution, sex trafficking or other criminal activities. Given the competition among participants in the legal sex industry, we would expect that any suspicious activity by others would be reported to authorities.

One submission alleged that the sole operator sector in a part of regional Queensland was involved in the drug trade. However, these allegations were very general and provided no detail capable of productive investigation. (This is the same submission that alleged corruption in regional Queensland, referred to earlier in this chapter.) One participant in the sex industry claimed that organised crime had strong links with China and that trafficked workers were often from China. However, he suggested that the issue of trafficking was more of a problem in New South Wales than Queensland.

The growth in migrant sex workers and the risk of sex trafficking

A key trend identified in this review is the continued influx of Asian sex workers into the legal and illegal sectors of the prostitution industry in Queensland. This raises the question of whether any of these workers are the victims of sex trafficking or debt bondage.

The PLA informs us that the organisation 'is rightly proud that during the past decade there has not been a single incidence of the discovery of a trafficked person for the purposes of sexual servitude in any licensed brothel in the state'. The PLA is confident that Queensland's probity and compliance functions present a low risk of sex trafficking in licensed brothels (2010b, p. 21).

The PLA is aware of instances of trafficking in legal brothels in other states and that it cannot afford to be complacent. However it also acknowledges that other states do not have the same level of probity checking and monitoring of brothels as in Queensland. The PLA works with other relevant agencies and its compliance officers remain vigilant for indications of trafficking (2010b, p. 21). It is agreed among the QPS, the Australian Federal Police (AFP) and the PLA that any risk of sex trafficking in Queensland is much greater in the illegal sector (confidential QPS communication).

During 2009, many of those detected by PETF as involved in organised illegal prostitution in Queensland were migrant sex workers or organisers from eastern Asia. Those charged by PETF in 2009 were predominantly Chinese nationals, followed by South Korean and Thai nationals. Most of the organisers of Asian prostitution detected by PETF are from the same country as the sex workers, or at least speak the same language, but there have been some cases of Australian-born organisers operating a number of Asian sex workers (confidential QPS communication).

The QPS points out that many of the Asian sex workers have limited English skills and are reliant on organisers to enable them to participate in the industry (confidential QPS communication).

Despite the growing number of Asians involved in the sex industry — in both the legal and illegal sectors — the QPS reports there is little evidence that these workers are victims of sex trafficking.

Respect Inc reports seeing a high level of Asian sex workers who are being charged by police and suspect that Asian sex workers are being targeted by police, partly due to the hype around trafficking and calls by licensed operators for police to 'deal with' the competition that Asian sex workers represent. Despite the increased number of Asian sex workers, Respect Inc have not encountered any cases of sex workers who have been trafficked or held under bonded contract by operators (2011, p. 15).

Migrant sex workers: voluntary workers or victims of sex trafficking and debt bondage?

In the context of this discussion, we need to draw distinctions between:

- migrant sex workers working by choice for legal brothels and working in accordance with the terms and conditions of their visas
- migrant sex workers working for legal brothels who may be breaching the terms and conditions of their visas – for example, by working beyond the number of hours allowed or by not fulfilling the education requirements of their student visas (see <www.immi.gov.au/students/visa-conditions-students.htm>)
- migrant sex workers working for illegal prostitution operators – either knowingly or unknowingly
- migrant sex workers who are the victims of sex trafficking or debt bondage.

These distinctions are important because there has been a tendency for the issue of sex trafficking to be caught up in the wider debate about prostitution.

The pro sex work approach believes sex work is rarely related to trafficking and is a legitimate career choice for local and migrant women. According to such a view the extent of trafficking for sexual purposes, particularly of migrant women, is overstated and exaggerated by anti sex work ‘crusaders’. Moreover, according to such advocates, although the sex industry may require regulation and oversight it should not be regulated any more or less than other legitimate industries (Drugs and Crime Prevention Committee 2010, p. 121).

The neo abolitionist position maintains that prostitution is inherent violence against and exploitation of women and that trafficking and forced prostitution is very much part of that violence. Therefore laws and policies should work towards the abolition of prostitution as a means of eliminating sex trafficking and violence against women (Drugs and Crime Prevention Committee 2010, p. 121).

In the Inquiry into People Trafficking for Sex Work, the Drugs and Crime Prevention Committee concluded that:

it is clear from evidence to this Inquiry that the schools of thought of the pro sex work lobby and the neo abolitionists are still sharply divided. An ideological impasse between radical and sexual liberationist perspectives also characterises much of the international anti-trafficking debates (2010, p. 128).

When Dr Anne Gallagher gave evidence to the Committee she argued that:

Trafficking has been hijacked by both sides of the broader prostitution debate to push for greater recognition of sex work as work on the one hand, and to push for a much stronger response to prostitution (and, hopefully, its eventual abolition) on the other (Drugs and Crime Prevention Committee 2010, p. 128).

Any analysis of the claims surrounding allegations of sex trafficking and prostitution needs to be viewed in the light of these opposing viewpoints.

Other issues associated with migrant sex workers

While there are no reported instances of trafficking or other forms of sexual exploitation in the prostitution industry, it is important to continue to monitor migrant sex workers operating within the industry. Limitations such as language barriers, migrant workers’ relationships with the authorities, such as the PETF, and a lack of support services make this group one of the most vulnerable to exploitation. This vulnerability is exacerbated by the business model under which these Asian brothels reportedly operate. The PLA report in their submission that:

the business model associated with these brothels is that the sex workers are from interstate and travel to Queensland for periods of typically two weeks’ duration. During this time they tend to be housed on-site at the brothels. This presents an obvious risk of sexual servitude. The Authority manages this risk through its probity of brothel licence applicants and by conducting announced and unannounced inspections and audits of brothels. If it is warranted, the PLA will conduct inspections with other relevant agencies including the Australian Federal Police and the Department of Immigration and Citizenship. To further minimise any risk, the PLA is currently developing a code of practice for culturally and linguistically diverse (CALD) sex workers (2010b, p. 21).

It is also important to ensure that these workers have access to health, education and advice services in their own language so as to minimise the health risks associated with their work (see Chapter 6).

Links between the legal industry and illegal prostitution

One area in which the picture today is less positive than in our last review is in the links between the legal industry and illegal prostitution. We reported in 2004 that there was no evidence of any organised crime involvement within the licensed brothel industry. There had been early reports of some illegal immigrants involved in the legal industry but successful efforts by the industry and the Immigration Department had removed them (CMC 2004, p. 47).

We now have clear evidence of a link between the legal brothel industry and organised illegal prostitution. The QPS have provided the following details of the case:

Operation Bravo Donut was a PETF operation that resulted in the conviction of an offender in 2007 for providing prostitution through a number of escort and model agency businesses, which were collectively known under the one business name. The offender received a wholly suspended sentence (for 3 years, 8 months imprisonment) for 13 offences and then continued to operate his business using a more hands-off approach through an associate and the use of a false identity to run the businesses.

Following his conviction, as prostitution was still being provided by his escort and model businesses, a joint QPS and CMC investigation was commenced. This investigation identified that the offender had arranged to sell his business to another syndicate ...

As a result of PETF investigations, six persons, including a licensed brothel owner, were charged with 65 offences. The charges included knowingly participate in the provision of prostitution, procuring prostitution, assault occasioning bodily harm, attempts to procure commission of criminal acts, using a telecommunications network to facilitate the commission of a serious offence, possess tainted property, possess dangerous drugs, and possess utensils or pipes (confidential QPS communication).¹¹

Gold Coast News reported that a brothel licensee pleaded guilty to running an illegal escort agency business:

A former brothel madam and her husband have pleaded guilty to running an illegal escort service on the side and been fined \$2000 each this morning in a Gold Coast court.

Debbie Kay Neilson, 48, and Graeme Charles Neilson, 50, faced the Southport Magistrates Court each charged with knowingly participating in the provision of prostitution of another, two counts of procuring another to engage in prostitution and Commonwealth charge of using a telephone service to facilitate the commission of an offence.

Barrister Tony Kimmins said his clients had no criminal history and had worked successfully in the childcare industry before opening a brothel.

However he said that court charges had 'sounded the death knell' for their involvement in the industry and they now hoped to branch into a real estate website.

Magistrate Terry Duroux accepted their pleas of guilty had prevented the need for a district court trial and fined them \$2000 each and ordered no convictions be recorded.

For the Commonwealth charge he ordered them to each pay \$1000 recognisance to be of good behaviour for nine months (2010).

The PLA have advised that Ms Neilson is no longer a brothel licensee; she surrendered her licence and sold her brothel after she was charged and before she pleaded guilty to the offences.

Despite this case, the PLA remains of the view that their probity function has been effective in ensuring that only suitable persons may operate a brothel.

11 Not all charges relate to the licensed brothel owner.

The size and nature of Queensland's illegal prostitution industry

It is impossible to state with any certainty the size and nature of the illegal prostitution sector in Queensland. Participants in the sector operate covertly and many of the participants and businesses are highly mobile. Estimates of the size and nature of the industry vary greatly among industry participants and others. This problem is not confined to Queensland. A report into the Victorian brothel sector commissioned by Consumer Affairs Victoria reported that estimates of illegal activity vary widely from low estimates amongst law enforcement agencies to higher estimates from industry representatives. Estimates of the number of unlicensed brothels in Victoria reportedly ranged from under 70 to over 300 (Pickering, Maher & Gerard 2009, p. 1).

Bearing in mind the difficulties, we present below:

- information on the size and nature of the illegal industry according to review respondents
- information on policing prostitution, including police data on reported offences, police comments on the nature of the industry, discussion of some of the difficulties in policing the industry and courts data on penalties imposed
- strategies to control the illegal industry.

Difficulties in estimating the size and nature of the illegal industry

Some of the reasons put forward to explain the difficulty in establishing the size of the illegal prostitution industry include:

- The absence of an 'evidence' base. Illegal industry participants are obviously not going to declare their participation in the industry so there is no verifiable data to rely on. The only verifiable data we have are reported police offences and courts data on those convicted, but these data sources have limitations and are likely to be underestimated.
- The influence of sectional interests on the estimates put forward by different people. For example, Donovan et al. claim that licensed brothel owners have a vested interest in publicly exaggerating the scale of their 'illegal' competition to 'goad' politicians and police to prosecute. This phenomenon is not only seen in licensed brothel jurisdictions – it is even seen to some extent in the decriminalised environment of Sydney where owners of development-approved brothels loudly lobby to minimise competition (2010b, p. 36).
- The tendency for opinion, if repeated often enough, to be taken as fact. For example, the NZ Prostitution Law Review Committee noted that they could not find any statistical evidence to support a claim that the number of street-based sex workers would increase by 400 per cent if prostitution was decriminalised there, but instead reported:

The figure of a 400% increase has been re-reported several times, demonstrating the ease with which opinion can be perceived as fact (New Zealand Government 2008, p. 40).

This tendency has been demonstrated in our own review, with the PLA (and others) quoting the 'CMC's own reckoning [that] 75 per cent of the demand for prostitution in Queensland is for outcalls' (2010b, p. 2) when that estimate was reportedly provided by the PLA and others (CMC 2004, p. 83).

- The differing views of what constitutes illegal prostitution among the review participants. The term 'illegal prostitution' obviously includes things such as: unlicensed brothels; escort agencies, often masquerading as sole operators, providing sexual services; massage parlours providing sexual services; and street prostitution (public soliciting). However, two sole operators sharing premises also constitute part of the illegal prostitution sector in Queensland. Further, sex workers who do not declare their earnings or pay tax and those who operate from premises in breach of local council planning requirements can also be categorised as part of the illegal sector, although there tends to be less emphasis on this type of illegality in most discussions of illegal prostitution.
- The difficulty in distinguishing between legal outcall prostitution provided by sole operators and outcall prostitution provided by illegal operators (who often masquerade as sole operators in their advertising). We have noted a tendency by some contributors to our review to not distinguish between the two and to tend to use the terms 'outcall prostitution' or 'escorts' as synonymous with 'illegal prostitution'.

Has the size of the illegal industry changed over the past five years?

We asked respondents to this review whether they considered there had been any change in the size of the illegal industry (excluding street prostitution) since the last review. Most respondents reported no change in the size of the illegal prostitution industry over the past five years. (As discussed in Chapter 3, there appears to have been a decline in street prostitution during the same period).

The PLA reported that it did not think the size of the illegal sector had changed over the past five years (interview with PLA officers, 27 October 2010). The PLA noted the CMC's statement in 2004 that illegal prostitution had continued unabated since the implementation of the Act and stated that it had seen no evidence in the intervening period that made it think this situation had changed:

All indicators are that there is a thriving illegal prostitution sector, both in the form of illegal brothels and illegal escort agencies, which operate largely with impunity (2010b, p. 3).

One brothel manager in regional Queensland claimed that the illegal sector was growing and that the PETF could not keep up with the growth (interview with brothel manager, 7 February 2011).

The QPS is unable to provide an estimate of the size of the illegal industry (beyond its official data presented below) but acknowledges that it is very likely to continue to be larger than the legal prostitution industry in Queensland (confidential QPS communication).

One sex worker representative reported that she didn't think that much had changed in the industry over the past five years, and that there were currently just as many illegal operators as there had been then. She also thinks that the size of the illegal industry has been exaggerated, although she acknowledges that it is hard to know how much is organised. Sex worker representatives see a lot of ad hoc relationships between two workers that can result in charges, such as two workers renting a flat together (interview with Respect Inc, 11 November 2010).

This view is consistent with that reported in 2006 when a spokesperson for the sex worker organisation SQWISI (now replaced by Respect Inc) gave the opinion that the illegal sector was not as big as everyone made it out to be:

I think it is quite large but when I say it's quite large I think that's two sole operators working together ... or one girl doing day shift and one girl doing night shift or a married couple ... working from the same premises (CMC 2006, p. 16).

Edwards reported that about half of the 35 sex workers interviewed in her project reported that they had worked in an illegal operation. Seven of those workers had worked with others in a sex worker 'co-operative' while the remainder had worked for an illegal escort agency or other illegal operation (2009, p. 41).

Police data on illegal prostitution in Queensland

Police statistics provide the only reliable verifiable data on the illegal sector. However, such statistics have limitations as the data can reflect policing priorities and resources rather than actual levels of illegal activity.

The police data presented on the following pages shed some light on the industry and on changes over time.

Figures 4.1 to 4.7 present the data from 1997–98 through to 2009–10 for the following reported offences:¹²

- Procuring prostitution (s. 229G of the Criminal Code)
- Knowingly participate in the provision of prostitution (s. 229H of the Criminal Code)
- Found in place used for prostitution (s. 229I of the Criminal Code)
- Having interest in premises used for prostitution (s. 229K of the Criminal Code)
- Permit minor to be at place used for the purposes of prostitution (s. 229L of the Criminal Code)
- advertising prostitution
- other prostitution offences.

Figure 4.1: Reported QPS prostitution offences: Procuring prostitution, 1997–98 to 2009–10

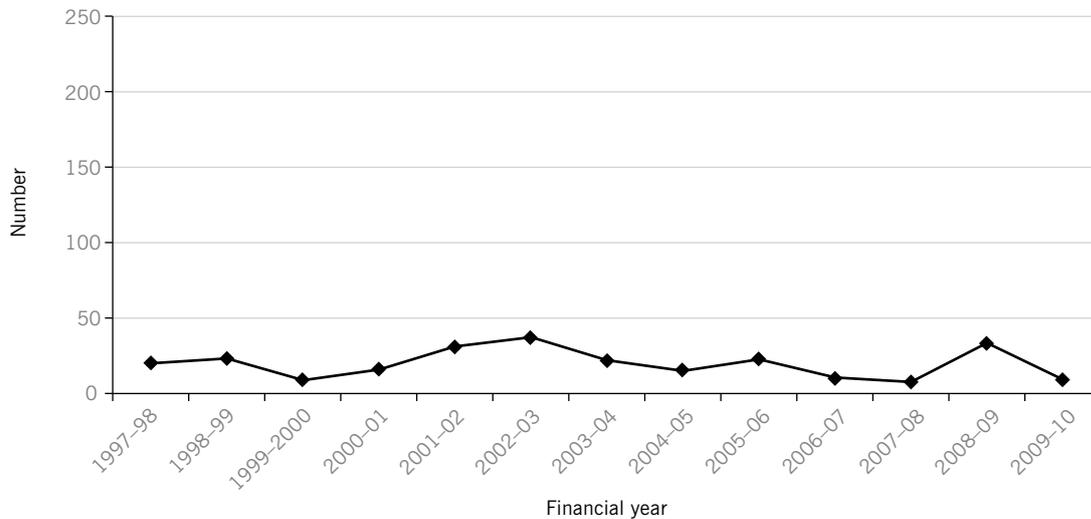
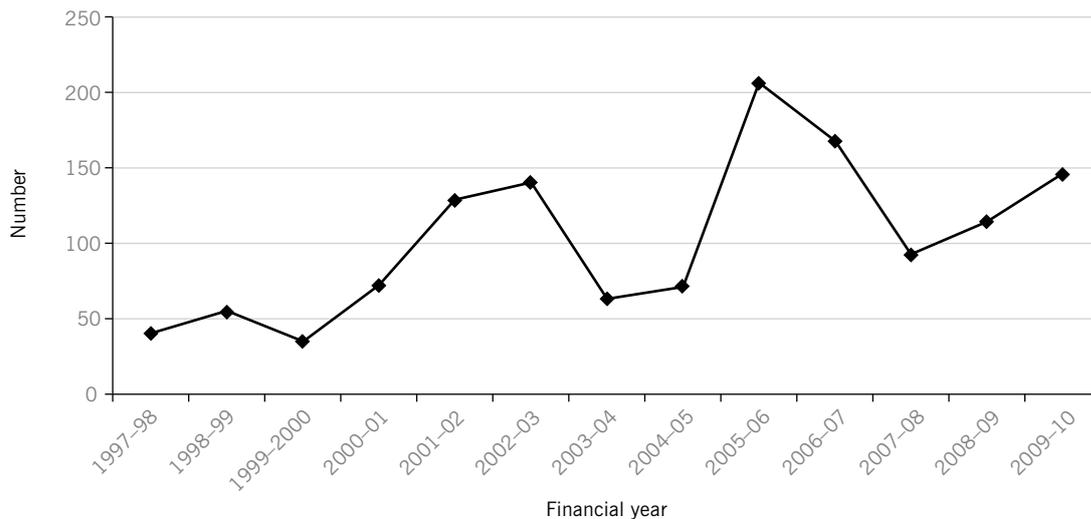


Figure 4.2: Reported QPS prostitution offences: Knowingly participate in provisions of prostitution, 1997–98 to 2009–10



¹² 'Reported offences' refer to all established offences reported to or becoming known to the police within the relevant reference period (QPS 2010, p. 159).

Figure 4.3: Reported QPS prostitution offences: Found in place used for prostitution, 1997-98 to 2009-10

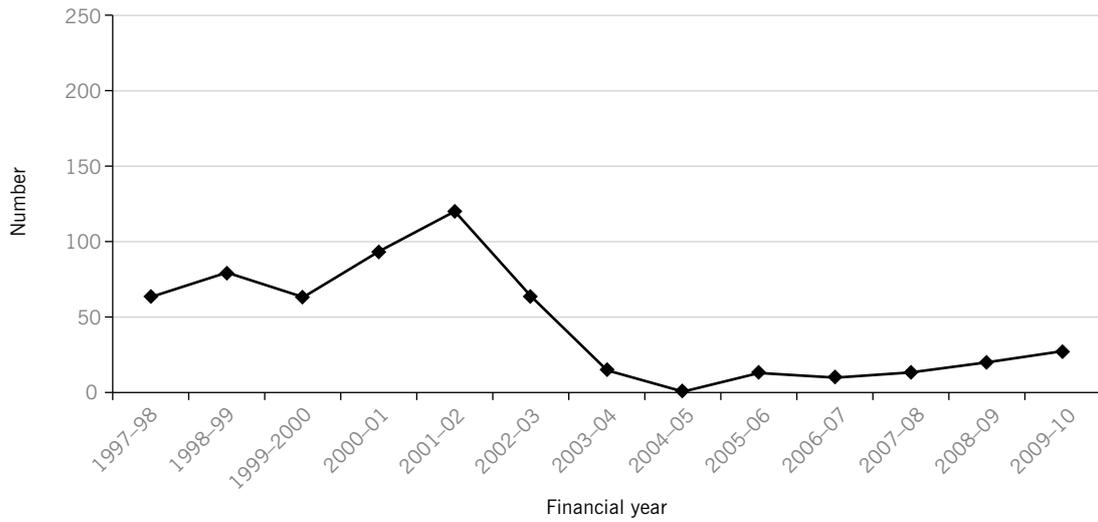


Figure 4.4: Reported QPS prostitution offences: Having interest in premises used for prostitution, 1997-98 to 2009-10

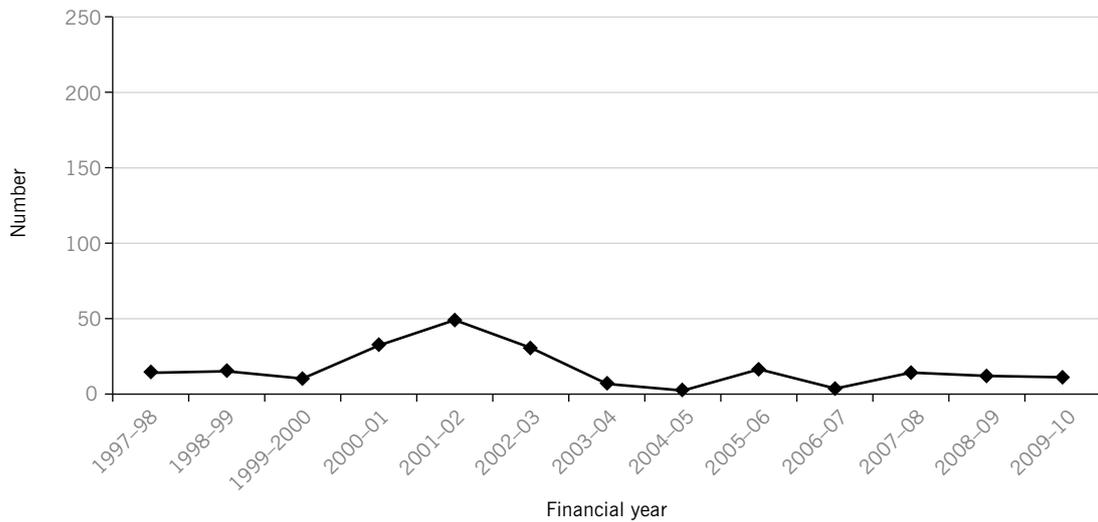


Figure 4.5: Reported QPS prostitution offences: Permit minor to be at place used for purpose of prostitution, 1997-98 to 2009-10

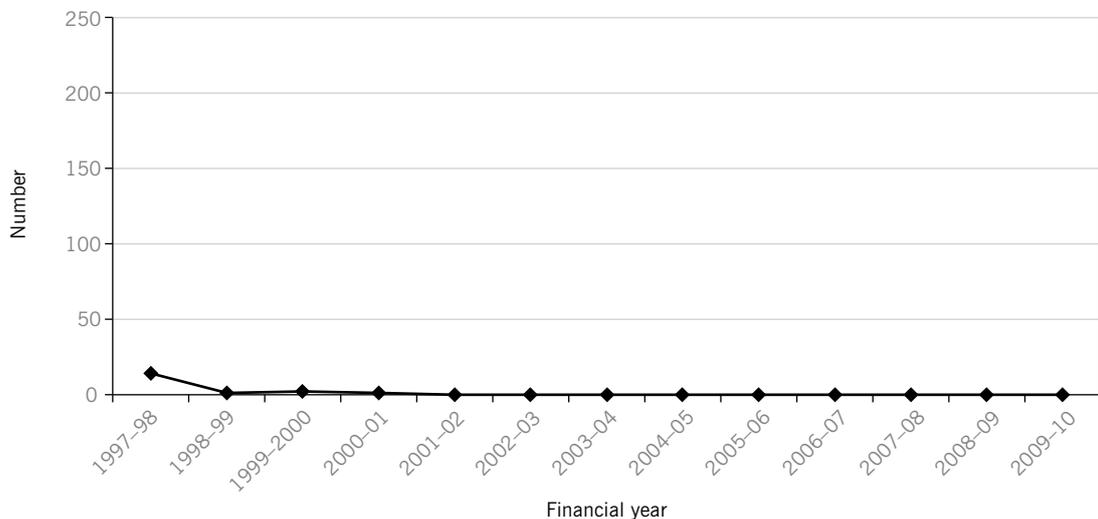


Figure 4.6: Reported QPS prostitution offences: Advertising prostitution, 1997–98 to 2009–10

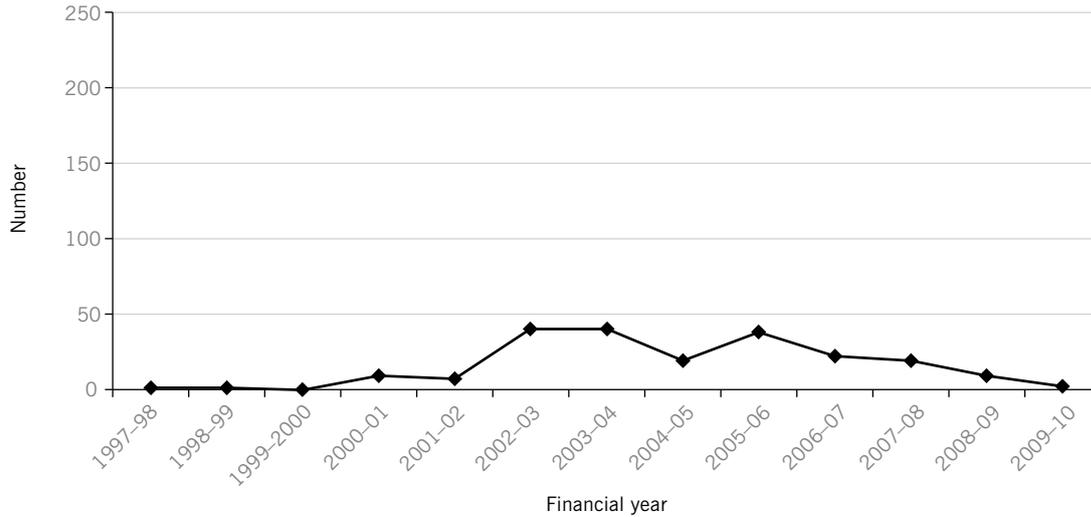
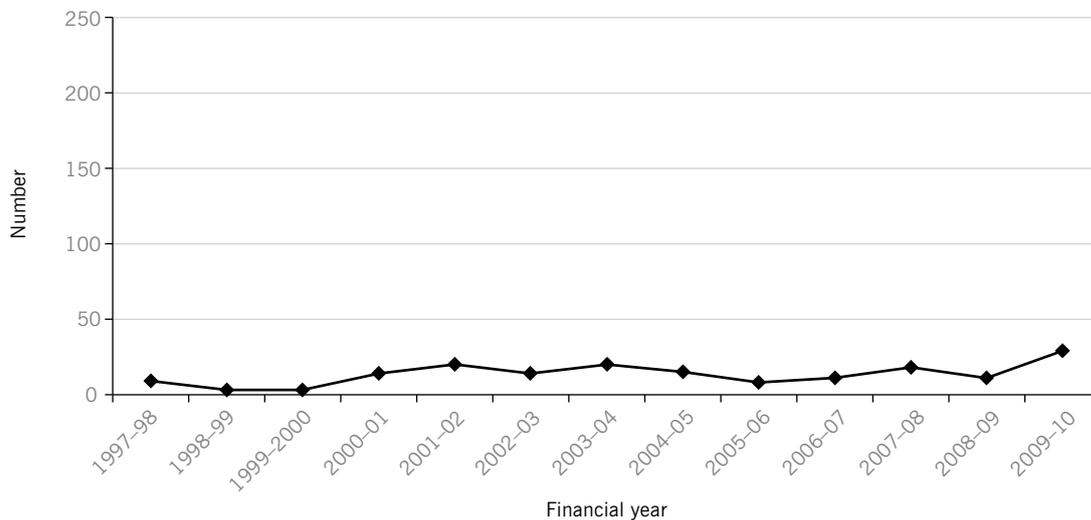


Figure 4.7: Reported QPS prostitution offences: Other prostitution offences, 1997–98 to 2009–10



Source: Data for the years 1997–8 to 2009–10 for Figures 4.1 to 4.7 was taken from the QPS Annual Statistical Reviews from 1998–99 to 2009–10.

Most of the prostitution offences remained relatively stable or have declined since the 2004 report (which presented data to 2002–03) with the exception of the ‘knowingly participate in the provision of prostitution’ offence. This offence is the most frequently charged of the Criminal Code offences and has shown less stability than the other offences. For example:

- Since the 2004 report when these offences rose to 140 (2002–03), there was a decline to approximately 70 in 2003–04 to 2004–05.
- The year 2005–06 saw these offences peak at 206 before decreasing to 93 in 2007–08.
- From that year to 2009–10 there has been a steady increase (to 114 in 2008–09 and 145 in 2009–10).

The QPS reports that the scale of illegal operations ranges from two sex workers sharing premises to larger operations involving numerous sex workers, drivers, receptionists and/or organisers (confidential QPS communication). It is not possible to tell from the data how many of the offences relate to small-scale operations and how many involve larger operations.¹³

The difficulty in policing illegal prostitution

The nature of illegal escort or outcall services (including two or more 'sole operators' functioning together) makes this form of criminal activity particularly difficult to police. Much of this illegal activity takes place in private premises and is consensual in nature. The identification of offenders often requires the use of labour-intensive covert policing strategies, and witnesses are often reluctant to be identified or involved in court proceedings.

Illegal prostitution providers attempt to hide their activities by appearing to operate as a sole operator or by operating under the guise of legitimate businesses such as escort agencies, model agencies and stripper entertainment businesses (confidential QPS communication).

The increasing reliance on technology, including mobile phones and the internet, for arranging and advertising the provision of illegal sexual services contributes to the difficulty in policing. This technology enables businesses to be highly mobile and to operate beyond the reach of Queensland's laws.

An increasing number of sex workers working in both the legal and illegal sectors in Queensland fly in and out of other states where the laws are different (see Appendix 4 for an overview of these laws). The differing legal regimes may hamper efforts to work effectively with other jurisdictions to combat illegal prostitution in Queensland.

Despite the difficulties, police continue to have some success, with people continually being charged with criminal offences, especially with the offences of knowingly participating in the provision of prostitution. Another measure of success is that the AFP reports illegal prostitution operations in Queensland tend to be smaller than those in New South Wales and Victoria due to the presence of a dedicated prostitution task force and heavier regulation (confidential QPS communication).

We note later in this chapter that recent amendments have been made to the Code to introduce new offences which should make it easier for police to charge these more mobile illegal operators. However, considerable concern continues to be expressed by police officers and others about the low level of penalties imposed on illegal prostitution providers who are found guilty of these criminal offences.

Penalties imposed on illegal prostitution providers

Some brothel licensees are concerned that the current sentencing laws and practices surrounding illegal brothels are providing no deterrent to illegal operators and submit that penalties should be harsher.

We sought data from the Department of Justice and Attorney General (JAG) to determine the sorts of penalties imposed on prostitution offenders over the past five years. Penalty data provided by JAG show that despite the Criminal Code offences carrying maximum penalties ranging from three years (for a first offence of knowingly participating in the provision of prostitution) to 14 years (for procuring a person who is not an adult or a person with an impairment of the mind to engage in prostitution), imprisonment is rarely imposed by the courts and fines are the most common penalty.

13 PETF officers have advised that since the introduction of the new Criminal Code offences relating to carrying on the business of unlawful prostitution (ss. 229HB and 229HC of the Criminal Code effective from 1 September 2011), they are more likely to use this charge against the larger illegal operators. This means that after the offences have been in effect for some time, we may be able to draw a clearer picture of how much illegal prostitution is related to the large operations and how much involves the smaller operations.

Table 4.1 presents data on the most serious penalty imposed in the District, Magistrates and Children's Courts of Queensland on offenders whose most serious offence was a prostitution offence under the Criminal Code, by year from 2005–06 to 2009–10.

Table 4.1: Prostitution offences in all Queensland courts: Recorded as most serious offence, 2005–06 to 2009–10

	2005–06 (n=64)	2006–07 (n=58)	2007–08 (n=32)	2008–09 (n=54)	2009–10 (n=49)
Imprisonment	0	1	2	0	1
Intensive corrections order/ suspended sentence	1	2	1	2	2
Fine	54	51	23	29	35
Convicted not punished or dismissed/ discharged	6	2	2	16	8
Probation, correction service order or good behaviour	3	2	4	7	3

Source: Courts database maintained by the Office of Economic and Statistical Research, provided to us by Department of Justice and Attorney General, 1 March 2011.

Note: A defendant is a person against whom one or more criminal charges have been laid and which are heard together as the one unit of work by the Court at a particular level. The defendant data in the above table does not enumerate unique persons. If a person is a defendant in a number of criminal charges finalised within the Courts during a financial year, this person will be counted more than once in the reference period/s.

In the last two years, more than 20 per cent of offenders were 'convicted not punished' or were 'dismissed/discharged' as the most serious penalty.

Of those defendants sentenced over the past five years, 16 were sentenced in the District Court and all but one of the remainder were sentenced in the Magistrates Court. The District Court sentenced two offenders to imprisonment, five to a suspended sentence, six to a fine and three to other penalties as the most serious penalty. One offender was sentenced to probation by the Children's Court of Queensland.

The data presented above need to be viewed with caution as it is not possible to determine how many of the cases involved sex workers and how many involved the organisers of illegal prostitution. It is likely that the sex workers involved in the illegal operations would outnumber the organisers and would be more likely to receive lesser penalties. This might help explain the high number of penalties imposed at the lower end of the scale of seriousness. Further, the data only show penalties imposed on people where the most serious offence for which they were being dealt with was a prostitution offence. If the offender was also sentenced for other more serious offences on the day, such as money laundering, they would not show up in this data.

To show a clearer picture of penalties imposed in particular cases, the QPS supplied the following information on the outcome of some PETF operations:

The two organisers charged during QPS Operation Hotel Fortune respectively received a suspended sentence of one year on nine charges and a \$2000 fine on five charges, and both were removed by DIAC from Australia. Cash was seized from these two principal offenders. The sex workers located during the closure received good behaviour bonds between \$200 and \$500, with some also found to be unlawful non-citizens.

A recidivist prostitution organiser currently under PETF investigation has on three previous occasions been charged with prostitution offences but has not been imprisoned. He was fined \$1500 with no conviction recorded in 2006, and a total of \$5500 for a prostitution offence and tainted property in 2007 (confidential QPS communication).

We cannot draw too many conclusions from the limited data and case studies we have presented here. However, we can see some evidence that supports the concerns expressed about the apparently low level of penalties being applied to prostitution offences. We note that one of the functions of the PLA is to raise awareness in judicial officers (among others) about issues relating to prostitution.

Options for reducing the illegal sector

Participants to this review and to our previous one agree that there is a pressing need to reduce the illegal prostitution sector in Queensland. It is generally acknowledged that illegal prostitution will never be eliminated, but the balance between the legal sector and the illegal sector needs to be shifted so that the illegal sector diminishes.

However, there is no consensus among all respondents to this review about how best to control the illegal industry.

A variety of proposals have been put forward. Some advocate for strategies targeted at the suppliers of illegal prostitution, such as increasing police enforcement, making detection and prosecution of offenders easier and increasing penalties imposed on offenders.

Others advocate for strategies which focus on shifting the demand for prostitution from illegal prostitution services to the legal prostitution sector. Strategies already in place which aim to impact on the demand for illegal prostitution services include:

- making it an offence to be a client of an illegal prostitution provider
- restricting advertising opportunities for the illegal sector.

The PLA and a number of brothel licensees argue strongly that the most effective strategy for combating illegal prostitution is to open up outcall prostitution (which most of the illegal operators are said to offer) to competition from the licensed brothel sector:

The prohibition on outcalls from brothels and the outlawing of escort agencies has left a void which has been filled by illegal operators (2010b, p. 2).

The PLA is confident that legalising outcalls would result in an expansion of the state's licensed sector at the expense of illegal operators (2010b, p. 3).

The PLA submission supports the extension of legal outcalls to licensed brothels and to stand-alone escort agencies. Of the brothel licensees we spoke to who support the legalisation of outcalls beyond sole operators, most want the extension of legal outcall services restricted to licensed brothels, not escort agencies.

Respect Inc argues that it would be to the detriment of sole operators to allow licensed escort agencies or escort services only from licensed brothels. They argue for the legalisation of escort agencies to operate alongside brothels.

One brothel licensee was less concerned about the outcall issue and considered that the focus should be on improving police enforcement of illegal prostitution: 'Before legalising escorts, they should take a harder stand on the illegal industry' (interview with brothel licensee, 4 February 2011).

It is difficult for clients to know who is providing legal sexual services and who is providing illegal services (Edwards 2009, p. 20). Some brothel licensees and sole operators advocate a strategy designed to enable clients to distinguish between legal sole operators and illegal operators who masquerade as sole operators by requiring legitimate sole operators to register. This has also been suggested by some police (confidential QPS communication). It is claimed that one of the advantages of this approach is that sole operators can then be given a registration number which must be used for advertising.

Other sole operators, sex industry representatives (such as Respect Inc and Scarlet Alliance), Queensland Health and the PLA argue against the registration of sole operator sex workers, claiming that sex workers value their privacy and to require registration would result in a high level of non-compliance. It was suggested that it would drive sex workers underground and make them less accessible to health, education and other services.

The arguments for and against these proposals were canvassed at great length in our earlier review, especially during the public hearings we held into the possible legalisation of outcall services before the publication of our 2006 report.

The CMC's 2006 recommendations for targeting the illegal industry

The CMC rejected many of the strategies set out above, including the proposal for legalised outcalls and for registration of sole operators, in the earlier review (see CMC 2006 for a detailed discussion of the reasoning). Instead, we opted for a model that focused on targeting illegal prostitution through improving police enforcement measures and tightening advertising restrictions.

We made recommendations specifically aimed at combating the illegal industry, including to:

- improve the police enforcement measures, including the creation of new offences and associated evidentiary provisions (recs 18–21/2006) and the development of protocols to assist police in disabling telephones used by illegal operators (rec. 22/2006)
- address the way in which illegal operators were advertising their businesses, including by imposing restrictions on social escort advertising (recs 3–9/2006)
- provide for general advertising offences to be more flexible in their operation to enable the offence provisions to respond quickly to the ever-changing nature of the illegal industry (rec. 11/2006).

New criminal offences for prostitution

On 1 September 2010, new criminal offences came into effect for prostitution-related activities. These were:

- an offence of 'Obtaining prostitution from a person who is not an adult' which carries a maximum penalty of seven years and 14 years if the person providing the prostitution is under 16 years of age (s. 229FA of the Criminal Code)
- an offence for a person to 'Carry on a business of providing unlawful prostitution' with a maximum penalty of seven years (s. 229HB of the Criminal Code)
- an offence for 'Persons engaging in or obtaining prostitution through unlawful prostitution business' which makes sex workers and clients liable to a maximum penalty of three years for a first offence, five years for a second offence and seven years for third or subsequent offence (s. 229HC of the Criminal Code).

The latter two offences were created in response to recommendations in our 2006 report (recs 18–21/2006) and are accompanied by other new evidentiary provisions, all of which are designed to enhance the capacity of the QPS to respond to illegal prostitution.

The new offences have only been in operation for a short time. The QPS reports that three people have been charged with offences under s. 229HB of the Criminal Code and three people have been charged with offences under s. 229HC of the Criminal Code. These matters are yet to be finalised so no comment can be made on the effectiveness of the new provisions. No charges have been laid under s. 229FA (confidential QPS communication).

Increased advertising restrictions for illegal prostitution providers

In March 2011 controls surrounding social escort advertising were implemented through:

- the *Prostitution and Other Acts Amendment Act 2010* Parts 2 and 4
- the *Guidelines for the Advertisement of Social Escort Services* issued by the PLA under s. 139A of the Act.

These changes were made in response to CMC recommendations (recs 3–10/2006). They were designed to address the strategies used by illegal operators to masquerade as social escort services/agencies in their advertising. While prostitution advertisements were subject to strict controls, including the size of the advertisement, ‘social’ escort agencies were unrestricted in their advertising. It was also widely understood by potential clients that these ‘social’ escort agencies provided sexual services.

The changes limit the size of social escort advertisements and require prospective clients to be told that sexual services are not provided. They are also designed to make it easier to establish who is responsible for the offence and link the penalties to the cost of the advertising.

Given the short period of time which has elapsed since these amendments have taken effect, it is not possible to assess the impact that they may have had on the illegal industry. However, the PLA expresses some doubt about the effectiveness of these provisions:

Whilst the Authority does not want to be unduly pessimistic, it is aware that the illegal sector has proven quite adept at altering its business operations to cater for changes in the law. The likely impact will be that these businesses will no longer masquerade as social escort agencies but instead their workers will advertise as legitimate sole operator sex workers whilst in reality operating as part of an illegal escort agency (2010b, p. 27).

Responding to changes in advertising practices

At the time of making the recommendations in our 2006 report, we were aware that the industry was adaptable in its advertising, changing quickly in response to new regulations to avoid prosecution. We recommended that s. 93 of the Act be amended to ensure that it covers all advertisements for prostitution however prostitution is described in the advertisement (rec. 11/2006). We noted in Chapter 2 that despite the government accepting the recommendation, our inquiries revealed that the necessary amendments were not made (see p. 6). We have recommended that s. 93 of the Act be amended as originally proposed. The problem it was designed to address continues to confront the industry and is exacerbated by the increased use of the internet. Social escort advertising restrictions alone will not prevent the advertising of illegal prostitution services under some other guise.

Monitoring the impact of the strategies targeting illegal prostitution

As explained above, the recommendations targeting the illegal prostitution industry in Queensland have been in place for only a short time, and not long enough for us to determine whether they are having any real impact on the illegal sector. The new criminal offences and associated evidentiary provisions targeting the illegal prostitution industry were a key part of the CMC’s 2006 recommendations and, while it is clear that that the QPS are using the offence provisions, we have not yet received information on how the matters progressed through the court system. We are also yet to see the penalties the courts imposed.

We note the concerns expressed by the PLA about the impact of the social escort advertising restrictions. The PLA argues that instead of advertising as social escorts, illegal operators will simply masquerade as sole operators in their advertisements. There is a strong view across the industry and within the QPS that this is already happening. A perusal of the newspapers and the Yellow Pages reveals very few escort agency advertisements and a continuing number of ‘sole operator’ advertisements. The PLA reports similar findings in their perusal of current advertising (PLA communication, 31 March 2011).

We are very aware of the rapidity with which the illegal industry responds to changes in the law and new restrictions, which is why we reiterate our 2006 recommendation that s. 93 of the Act be amended. We hope that, if implemented, it may address some of these concerns.

In light of the above, the CMC proposes that there be ongoing monitoring of the implementation and effect of these recommendations targeting the illegal industry. We propose that the role of the Ministerial Advisory Committee include monitoring the implementation and impact of our earlier recommendations.

In particular, the effect of the Criminal Code amendments could be assessed by:

- examining the number of, and nature of, illegal prostitution activities which are the subject of offences under ss. 229HB and 229HC
- reviewing the progress of those charges through the courts and examining the extent to which the associated evidentiary provisions are relied on and their effectiveness in progressing the prosecutions
- examining the penalties imposed by the courts under these more serious offence provisions, including the extent to which proceeds of crime legislation is utilised and the outcome, to determine if the new provisions have a potentially greater deterrent effect on the illegal industry.

Our review has found that although the illegal prostitution industry continues to exist in Queensland, the environment in which it operates does not differ significantly from that reported in the 2006 report. We took the view then that, on the available information, the preferred approach was to enhance the police response to illegal prostitution and make other changes designed to reduce its size. As noted above, we are still waiting to see whether that has been the result of the recommendations.

We acknowledge that it is open to government to adopt a different approach. We note earlier in this chapter that there are some groups who strongly advocate other strategies to reduce the illegal industry. We have also highlighted the difficulty of finding objective, verifiable evidence to support or to discount these claims. Ultimately, it is a matter for government policy to determine whether any changes should be made. In our view, this decision is best made with input from people who have a good knowledge of, and ongoing contact with, all sectors of the prostitution industry.

We think that the proposed committee could play a key role in assisting government by identifying and advising on further strategies to diminish the illegal industry, if considered necessary. More details of the proposed role and membership of this committee are provided in Chapter 8.

Conclusion

Our review has revealed little evidence of corruption within the legal prostitution industry in Queensland, including within the agencies that regulate prostitution. Although there have been some isolated allegations of corruption, these appear to be largely unsubstantiated. We noted that there is some evidence of corruption among council officers in New South Wales but we are satisfied that the safeguards in place in Queensland are effective in preventing such occurrences here. In relation to licensed brothels specifically, our review found no evidence of corruption.

There has been one case in which a licensed brothel owner has been convicted of offences relating to the provision of illegal prostitution. However, overall, the policing efforts of the QPS, especially the PETF, combined with the stringent probity processes in place under the PLA and ongoing auditing of licensed brothels, appear to be maintaining a clean legal industry. We found no evidence of the legal industry being involved in other types of criminal activity such as child prostitution, sex trafficking, or illegal drugs.

We are satisfied that the Act continues to be effective in safeguarding against corruption and organised crime within the licensed brothel industry in Queensland.

We continue to see an illegal prostitution industry in Queensland. There is no consensus on the size and nature of that industry except to say that:

- it is estimated to be larger than the licensed brothel industry
- illegal operations tend to be smaller in Queensland than in other states
- many illegal operators masquerade as sole operators in their advertising
- there are an increasing number of migrant sex workers and migrant organisers working in this sector.

New criminal offences, evidentiary provisions and advertising restrictions designed to target this illegal prostitution industry have only recently been introduced and it is too early to assess their effectiveness. We propose that monitoring the effect of these measures be a key role of the Ministerial Advisory Committee. We also note that there are other options that are strongly advocated by some to reduce the illegal industry and that the Queensland Government may choose to adopt other strategies as part of their policy. The proposed committee could play a key role in advising government on these issues.

ACHIEVING PRINCIPLE 3: ADDRESSING SOCIAL FACTORS CONTRIBUTING TO INVOLVEMENT IN THE SEX INDUSTRY

There are a range of factors that can lead to a person's involvement in prostitution but the potential for financial reward has most often been cited by workers as the key motivator (Edwards 2009; Pickering, Maher & Gerard 2009; Woodward et al. 2004). Researchers have identified a combination of other 'push' and 'pull' factors that can influence a person's entry into prostitution. Push factors include abuse and neglect, a breakdown in care-giving, school exclusion, homelessness and lack of money. Pull factors include excitement, encouragement from others to become involved in sex work, a way of seeking affection and the freedom to work one's own hours to accommodate childcare or study commitments (New Zealand Government 2008, p. 61).

Diverting people from entry into prostitution

The former Prostitution Advisory Council

The framework of the original Act attempted to balance the interests of strict regulation with the need to address the social factors surrounding prostitution. A pivotal part of that framework was the creation of a Prostitution Advisory Council, whose responsibilities included:

- promoting and coordinating programs to divert minors and other vulnerable persons from prostitution
- promoting programs to help sex workers leave prostitution
- educating sex workers, magistrates, police, community workers, and the community about issues relating to prostitution — including through dissemination of information outlining the dangers inherent in prostitution (Queensland, Legislative Assembly (Barton) 1999, p. 4248).

The Council was established in 2000 and was abolished in 2003 with the then Minister claiming that it had achieved its purpose and he could no longer justify the cost of maintaining it (Queensland, Legislative Assembly (McGrady) 2003, p. 4362). The Act was amended in 2003 so that some aspects of the Council's role were transferred to the PLA under s. 101(j), namely to advise the Minister about ways of promoting and coordinating programs that:

- promote sexual health care
- help prostitutes leave prostitution
- divert minors and other vulnerable persons from prostitution, especially opportunistic prostitution
- raise awareness in prostitutes, judicial officers, police, community workers and the community about issues relating to prostitution.

Notably, the Council's function of promoting the dissemination of information about the dangers inherent in prostitution was not transferred.

The CMC reported in 2004 that the PLA ‘suffered from a conflict of interest by having to regulate and encourage the legal industry on the one hand, and encourage sex workers to leave the industry on the other’ (p. 57). At the time, several submissions had recommended that a modified version of the Council be reformed to undertake the role. The PLA had suggested that the functions of the Council could be exercised by an interdepartmental/agency working group responsible to the Minister which could assist the PLA with matters including community sexual health, workplace health and safety and workplace relations as well as facilitating liaison with Queensland Health about its exit and retraining program. An informal inter-agency committee had been established just prior to the 2004 report and the CMC, in line with the PLA’s suggestion, recommended the continuation and formalisation of the role of this committee (rec. 25/2004).

Who is now responsible for diverting people from prostitution?

We noted in Chapter 2 that since the demise of the Council and of the inter-agency committee, there does not appear to be any body which is focused on coordinating programs and strategies to address the underlying factors that lead people to enter the sex industry nor to discourage people from entering the industry. We noted that this responsibility sits uncomfortably with the PLA’s function as the regulatory and licensing body for the legal brothel industry. The PLA reported to us that while it supports the availability of sex worker exit programs for those workers who choose to leave the industry of their own accord, it takes a neutral stance on the industry itself, neither encouraging nor discouraging individuals from entering or exiting the sex industry (2010b, p. 23).

However, we do acknowledge that there are some programs in place to address underlying factors and thereby reduce involvement in the sex industry. Queensland Health plays a key role in coordinating and supporting programs for sex workers wanting to exit the sex industry. Other current programs and strategies that target the underlying factors leading to entry into prostitution, such as homelessness and transition from care, include:

- services funded by the Department of Communities through the Youth at Risk Outreach Services (YAROS) program, which targets young people aged 12 to 25 identified at risk due to homelessness, involvement in survival sex, substance abuse or other circumstances. The program aims to divert young people from risk-taking behaviour and to prevent their entry into the formal sex industry. These services are currently being transitioned to the recently approved Youth at Risk Initiative which will target responses to those young people determined to be most at risk and allow service providers the flexibility to offer a range of interventions to address the complexity of needs that their clients face. This initiative focuses on strengthening partnerships within the service sector and across government, and will ensure that a more holistic approach is taken to addressing the interrelated needs of young people at risk of engaging in the sex industry (Department of Communities communication, 5 May 2011).
- a range of programs and services provided by Family Planning Queensland, Create Foundation (the child protection peak body for children and young people in out-of-home care) and the Youth Housing Reintegration Services to support young people to transition from care to independence who may be at risk of involvement in the sex industry (Mendes 2008).

If the government is still committed to maintaining the balance between strict regulation and addressing the social factors contributing to involvement in prostitution as originally conceived, there is a need to vest responsibility for coordinating all programs and policies to ensure effective diversion and exit from the prostitution industry. We recommended in Chapter 2 that this coordinating role be performed by the proposed Ministerial Advisory Committee.

Assisting sex workers to leave the industry

At a more specific level, the existence of, and government support for, sex worker exit and retraining programs is recognised as an important step in assisting some vulnerable workers,

especially those who work on the street, to leave the industry. Since the commencement of the Act, Queensland Health has been funding programs for sex workers who want to exit the industry. We reported in 2004 that while some success had been achieved with the exit and retraining program at that time, it could benefit from expansion, greater support and enhanced marketing.

Queensland Health has continued to fund the sex worker exit program, 'Career Transition for Sex Worker Program', which is now provided by BSI Learning (which took over the original provider, Southern Edge Training). The PLA reports that the program aims to assist Queensland sex workers who wish to leave the industry or are considering entering or re-entering the industry with career transition and employment training and involves one-on-one career counselling and assistance (2010b, p. 25). Queensland Health also offers drug diversion programs which, although not specifically targeted to sex workers, are available across the state.

Status of the exit program

Queensland Health states that the exit program continues to meet its expectations in scope and performance. At the time of writing, an independent evaluation of the program was underway and was expected to be completed in 2011. Pending the results of the evaluation, we sought other information on how the program is operating.

The Victorian Prostitution Control Act Ministerial Advisory Committee examined the operation of the Queensland program and reported in 2007 that:

- the program had assisted 139 individuals into sustainable alternate employment
- they were then working with another 45 individuals undergoing new training and engaged in workplace preparation programs
- up to 80 per cent of participants who were considering moving on from sex work and had appropriate support in the transition process did not return to sex work (2007, p. 15).

More recently, Edwards reported that in October 2008 there were 88 clients on the exit and re-training program, with an additional 14 clients receiving post-program support, for an annual cost of approximately \$250 000 (2009, p. 9).

The PLA reports that the exit and re-training program participants have been employed in areas such as hospitality, education, retail and sales, travel, community services and health.

Awareness of the exit program

Our earlier review suggested a need to promote the program more widely. The PLA advises that it is now promoted through statewide print media, local and industry-specific newspapers and the PLA newsletter and website. It suggests that representatives of the service provider might also make contact with sex workers through:

- visiting licensed brothels and adult shops
- engaging in outreach to street workers via Drug Arm
- 'cold calling' sole operators who advertise their services in newspapers (2010b, p. 26).

Although one sex worker stated that she was not aware of the existence of the program, our review suggests that there is wide knowledge of it within the industry. The program appears to be well utilised but we await the outcome of the evaluation to determine whether this is supported by its findings.

The need for an exit program

There are differing views among sex workers about the need for an exit program. One sex worker stated: 'People need help exiting the industry — assistance with regular income and lifestyle'. However, another sex worker stated: 'If a person wants to enter another field of work they will actively pursue it by themselves. In my experience, workers are there because they want to be' (confidential submission D 2011). This is consistent with the views expressed by Scarlet Alliance. Respect Inc stated that the need for formal exit programs was not great (2011, p. 11).

Respect Inc raises concerns that the exit program frames sex work as an unacceptable occupation. To overcome this issue, it suggests that any program aimed at developing alternative skills and employment needs 'to be framed in a more sex work positive way ... as a program that can help sex workers to broaden their qualifications and opportunities, not just get them out of sex work' (2011, p. 10). Feedback received by Respect Inc is that the program is limited. It claims that the program does not specifically address the two main problems that sex workers identify when seeking more mainstream employment, which are an inability to obtain recognition of prior learning in qualifications for skills obtained through sex work, and work history gaps in the resume:

Sex workers tell us that 'explaining what I have done for the past eight years' is the most pressing concern. Sex workers are more sensitive than people from socially acceptable occupations because they are terrified that their previous work will be held as a negative marker of character to a prospective employer (Respect Inc 2011, p. 11).

Other comments on the program from sex workers include:

- the exit program itself should be 'aimed at up-skilling' (confidential submission D 2011)
- that 'more courses should be made available to increase skills that we can use in our current business' (confidential submission D 2011).

The program's availability to migrant sex workers

We reported in 2004 that the program's then service provider, Southern Edge Training (SET), was encountering an increasing number of non-English speaking background (NESB) workers, many of whom had limited understanding of English. SET indicated that it was seeking funding to have some of its material translated and distributed. When we followed up on this issue, we were informed that the current provider, BSI Learning, no longer produced NESB resources as there was no longer demand for them. They do, however, continue to advertise their services in other languages in foreign language newspapers (confidential Queensland Health communication).

Given that we have found in this review an increase in migrant sex workers in both the legal and illegal industries, we would expect a continuing need to promote these services to workers with limited English. The exit program evaluation may provide some useful information about the most effective way for BSI Learning to reach that potential client group.

The proposed Ministerial Advisory Committee is well placed to monitor the results of the program evaluation and to assess what steps, if any, are needed to ensure that the growing number of migrant sex workers in Queensland have access to appropriate exit and retraining programs.

Conclusion

Although the broad framework of the Act appears to be lacking a focus on coordinating strategies to address the underlying factors leading to involvement in prostitution, there are programs in place across government which aim to deal with these causes. The proposed Ministerial Advisory Committee will play an important role in ensuring that these programs are coordinated with the other strategies, such as the exit and retraining program available to sex workers. Queensland Health continues to fund the exit program, which is currently the subject of an independent evaluation. We think it is important for the proposed Ministerial Advisory Committee to monitor the outcome of that evaluation and ensure that that program, and others that aim to prevent entry into the industry, are accessible to the growing number of migrant sex workers in Queensland.

ACHIEVING PRINCIPLE 4: ENSURING A HEALTHY SOCIETY

The CMC's last review found that sex workers in the legal brothels of Queensland had relatively sound sexual health, partly because of the strict regime required for sexual health screening and certificates. There was also 'an ingrained culture of ongoing testing by most sex workers in Queensland' (CMC 2004, p. 68). This was positive news for workers, clients and the broader community.

Health issues arising since the last review

In response to this review, Respect Inc reports that the main impact felt by sex workers over the past five years in relation to their health and safety has been the closure of SQWISI. SQWISI was a community-based organisation funded by Queensland Health from 1988 to provide health and related information services to the sex industry and the broader community. It was the peak representative organisation for sex workers in Queensland, consulting with all sectors of the sex industry on an ongoing basis (CMC 2004, p. 11). The organisation was wound up in May 2007. Edwards proffered the following explanation as to why it ceased operation:

Some stakeholders claim there was conflict within the board and organisation about core business — focusing too much on licensed brothels and legality and too little on sex worker needs. Others say that SQWISI had lost its way, relying too heavily on health-based funding but delivering a range of services outside a strictly health-related scope. SQWISI had withdrawn its membership from a national body, Scarlet Alliance, possibly indicating a move away from its traditional client base. Some say the management committee was unable to determine an appropriate strategic direction for the organisation and so voted to close down (2009, p. 12).

From 2007, there were two volunteer organisations, Crimson Coalition and United Sex Workers of North Queensland (USWNQ), providing telephone counselling and email support to sex workers, along with a Queensland Health-funded interim service, Workers in the Sex Industry (WISI). WISI consisted of one part-time worker residing outside Brisbane. Despite the existence of these services, Edwards reported that the effect of SQWISI's demise has been:

... that sex workers are now largely without independent, dedicated counselling, health services and advice ... The team interviewed a number of workers who were relatively new to the industry. These workers had never heard of SQWISI but they mentioned specifically, without prompting, how difficult it had been to access information about health and safety issues as well as support services and an understanding of the regulatory framework (2009, p. 12).

Edwards also reported anecdotal information about a drop in the number of non-brothel sex workers attending sexual health clinics since SQWISI ceased operation (2009, p. 13).

The lack of dedicated health and support services for sex workers was remedied with the establishment of Respect Inc in July 2009 when Queensland Health funded it to provide peer education support. Respect Inc now plays a key educative role, although we recognise that it will take some time to establish necessary relationships with people in the sex industry, especially those who are less accessible, such as workers in the illegal sector or migrant sex workers.

The growing number of migrant sex workers

The growth in the number of Asian sex workers and other culturally and linguistically diverse (CALD) workers, especially in the illegal industry, raises some concerns from a health perspective. For instance, Queensland Health recounts anecdotal information that there are sex workers operating in Queensland on temporary student and holiday visas from overseas countries which may suffer from higher prevalence rates for STIs such as HIV/AIDS, Hepatitis B and syphilis:

Queensland currently enjoys manageable infection rates for these diseases with surveillance activities closely targeted to areas of known risk such as gay men, and injecting drug users.

Should such diseases begin to spread to the wider population via an uncontrolled, mobile sex trade, particularly in regions with unprepared support services (such as remote mining towns) the impact could be significant and Queensland Health's ability to respond with contact tracing significantly stretched. HIV/AIDS represents a particular risk because of the long asymptomatic period after infection. A miner infected by an overseas sex worker may well have returned to a wife or partner without being aware they are infected, and promote the spread of such diseases into the currently largely un-impacted heterosexual community (confidential Queensland Health communication).

Queensland Health notes that current sexual health screening for brothel workers, supported by the ongoing education effort of community-based organisations (CBOs), ensures that sex workers are well aware of the laws prohibiting them from working while infectious and can access services needed to maintain their ongoing sexual health. However, it expresses concern that such arrangements are not likely to be in place for temporary workers, whose clients may face a higher risk of infection:

Unscrupulous operators are at liberty to advise uneducated workers and particularly those from culturally and linguistically diverse (CALD) backgrounds who have little or no English language skills whatever they want in relation to the law, support services, legal protections available to them etc. with little opportunity for service providers to counter such information (confidential Queensland Health communication).

Queensland Health acknowledges that the issue of sex trafficking is not new and that the health and safety risks arising from overseas sex workers being brought into Queensland for the express purpose of providing prostitution is the subject of ongoing QPS attention. What is new, it claims, is the level of risk posed by the exploitation of voluntary mechanisms and the gaps in screening and access points to these migrant workers:

Reaching workers operating in these networks is proving extremely difficult even for the funded CBOs such as Respect Inc. Suspicion is high of any arm of government trying to reach these illegal workers, and hence the provision of information on safe sex and available support services [is] difficult (confidential Queensland Health communication).

The Ethnic Communities Council of Queensland (ECCQ) had earlier reported that sex workers from CALD backgrounds do not have access to appropriate services and are reluctant to use existing health services, particularly because of fear of exposure, thus putting themselves and the community at risk (Edwards 2009, p. 13).

New South Wales experienced significant growth in the number of Asian sex workers from the late 1980s, including a number who were beginning to present with HIV infection. The NSW Department of Health worked with the sexual health services and the Sex Worker Outreach Project to implement a Multicultural Health Promotion Program in 1991 which employed staff proficient in Asian languages and developed educational resources in those languages. This program has been successful, with Donovan and colleagues reporting that condom use by Asian women is now similar to resident sex workers and that the prevalence of sexually transmissible infections is at an historic low. Donovan et al. also noted that as Asian women constitute the majority of women working in Sydney's brothels, the program remains important (2010a, p. 75).

The experience in NSW demonstrates the value of a targeted program to provide education and advice to migrant sex workers. We encourage Queensland Health to continue to fund Respect Inc or a similar service to ensure ongoing health support to workers in the sex industry, especially those migrant workers facing greatest risks. We also propose that the Ministerial Advisory Committee monitor the provision of services to migrant sex workers in both the legal and illegal sectors and assist in developing strategies to enhance their access to these services.

Conclusion

The most significant issues to impact on the health of sex workers in the past five years have been the demise of SQWISI, the fact that there were limited support services available for at least two years, and the time needed for the newly established Respect Inc to build relationships. It is important that Respect Inc or a similar body continues to work with all sex workers to promote health and safety within the sector.

Of particular importance is the increasing number of migrant sex workers and the potential risks they pose to the health of the industry and the community if they do not have access to linguistically and culturally appropriate health advisory services. Such services have demonstrated their value in New South Wales and we encourage the continued availability of these services in Queensland.

The Ministerial Advisory Committee should monitor the provision of health and education services to sex workers, especially those migrant workers facing greatest risks. The committee may also assist in developing strategies to enhance access to these services by migrant sex workers in both the legal and illegal prostitution sectors.

ACHIEVING PRINCIPLE 5: PROMOTING SAFETY

Information received by the CMC in its earlier review about the safety of sex workers in both the legal and illegal sectors illustrated the success, at that stage, of the safety provisions relating to licensed brothels.

Safety of workers in licensed brothels

We reported in 2004 that licensed brothels undoubtedly provided the safest working environment for sex workers in Queensland. The relevant provisions of the Act and the licensees' responsible approach to these requirements were deemed successful.

Commentators and recent studies have confirmed that regulated brothels are the safest and healthiest work environment for sex workers. For example, Quadara reports that indoor environments are subject to a range of controls that inhibit the likelihood of violence:

The environmental design of sex work premises (lighting, security doors, intercom, and surveillance systems) can increase workers' ability to control the interaction ... and increase awareness of encounters that are not going well ... The presence and skill of other staff is another key feature that increases safety. In brothels, the receptionist is a key 'gatekeeper' who can assess the potential danger a client might present (for example, if he is intoxicated), respond to violent encounters or monitor situations (2008, p. 12).

The PLA confirms that licensed brothels in Queensland provide a work environment with high standards of health and safety for workers and clients (2010b, p. 15).

We are satisfied that the licensed brothel industry in Queensland continues to provide the safest working environment for sex workers in Queensland.

Safety of sole operators

In our 2004 report we noted serious and ongoing concerns about the safety of sole operators, who were more likely than their counterparts in legal brothels to be at risk of assault (CMC 2004, p. 76). In our 2006 report we revisited the issue of the safety of sole operators and proposed changes to improve their safety. These allow more options for third party assistance, including:

- ensuring that a person is not committing an offence if they engage in actions necessary to the safety of a sole operator, such as taking messages, staying in contact during outcalls and disseminating information about dangerous clients
- allowing workers to legally have a driver or a message-taker (as well as the existing right to have a licensed security guard) if they wish to do so

but only as long as the person is not a current sex worker and does not work for other sex workers (rec. 23/2006).

This recommendation was accepted and amendments were made in the *Prostitution and Other Acts Amendment Act 2010*. The provisions only came into effect on 1 September 2010 so limited information is available on the extent to which they have been used by sex workers, and their effectiveness.

The PLA welcome the amendments, which offer additional tools for enhancing the health and safety of sole operator sex workers (2010b, p. 15). However, Respect Inc does not have much faith that they will be effectively used by sex workers:

It has been traditional in the sex industry to use drivers and receptionists as support staff. Drivers provide the reassurance that someone knows when we are due out of a booking (which may be in an unfamiliar location) and would be knocking on the door if we were late. A taxi driver could not, and would not do this. Driving our own vehicle does not allow for this. Having a security firm in place with a panic button does not provide for this if we can't sound the alarm and they take time to arrive. In any case any security firm that provided a service like this would not be able to provide it for more than one person under the current legislation.

Receptionists provide for security in that someone knows where and when we are due out and can call for back up if necessary. They also provide an opportunity for our businesses to function more efficiently. We would be able to go from booking to booking rather than having to turn the phone off and then start over again with self-reception at the end of each booking. This is time wasting and is restricting our opportunity to trade. Selling your own services is a very time consuming and emotionally draining part of the job. Around 70% of the calls are timewasters and never turn up. Many sex workers don't want to do this and prefer instead to work for escort agencies or brothels.

Many receptionists and drivers are paid by commission rather than an hourly rate or if effective in their role they may receive a mix of the two payment methods in a similar manner to sales agents within real estate agencies. Without the opportunity to provide their services to more than one worker, drivers are not able to receive financial reward sufficient enough for this to be a significant income. This has meant that this option is not viable for many individuals beyond family and friends who are motivated by their desire to provide us with back up, rather than as a business. Unfortunately many family and friends could not qualify for the Crowd Controller's Licence.

Similarly, the message taker [S229H(5)] cannot be a sex worker themselves and cannot perform the service for more than one sex worker. This is possibly the only positive change, providing a chance for concerned family or friends to assist without risk of prosecution, but again unfortunately Respect foresees only an increased scrutiny by police into the private affairs of sex workers as police seek to 'validate' the credentials of the message taker (2011, p. 8).

Respect Inc reports that workers are waiting to see how the police interpret this provision; it does not expect the take-up rate to be high in the initial stages. The opportunity to engage a security provider to assist in the safety of sole operators was provided in the Act at the outset. While it was unknown how many sole operators may have used the services of a security provider, Edwards reported that it was not a common practice. None of the 35 sole operators interviewed for her study had chosen to engage a security guard (2009, p. 13).

We consider that this is an issue that should be monitored by the proposed Ministerial Advisory Committee to determine the usage and effectiveness of these safety options.

Safety of street workers

In our 2004 report we recognised that street workers were at considerable risk of harm. We proposed that policing strategies and enhanced educative and diversionary strategies to assist workers to work legally or to leave the industry would be the preferred way forward. Since then we have seen a considerable decrease in the number of workers on the streets (as reported in Chapter 3), and note that this will reduce the number of workers exposed to the highest risk of harm.

Conclusion

While the licensed brothel industry continues to provide the safest work environment for sex workers, there are continuing concerns about the safety of sole operators. We recommended amendments to the Criminal Code to improve the safety of sole operators by giving them more legal options, including being able to employ a driver or a message-taker if they meet specified criteria (rec. 23/2006). This recommendation was implemented in the *Prostitution Act and Other Acts Amendment Act 2010* and took effect from 1 September 2010. Limited information is available about the extent to which this provision is used by sole operators and its effectiveness and we propose that the Ministerial Advisory Committee monitor this issue.

Within the illegal prostitution sector, we recognise that street workers continue to be exposed to the highest safety risk, but that risk has been minimised because of the significant reduction in the number of such workers since our previous review.

THE PROSTITUTION ACT: CURRENT STATUS AND FUTURE DIRECTIONS

In this chapter we summarise our findings on the key questions addressed in this review and propose a way forward for the continued monitoring of, and response to emerging issues in, the prostitution industry in Queensland.

Outcomes of our previous review

We are satisfied that most of the recommendations from our previous review have been implemented and are having the intended effect, although key recommendations designed to target the illegal industry have only recently been implemented and it is too early to assess their impact.

The Queensland Government accepted all but two of our recommendations. Of those accepted, there are three that have not been implemented, despite government support. One of these is not considered to be worth pursuing given the changed environment. However, there are two recommendations in particular that we think are worth pursuing as, in our view, they would make the framework surrounding prostitution more effective in achieving the principles set out in the Act. These are:

- that s. 93 of the Act be amended to ensure that it covers all advertisements for prostitution, however prostitution is described (rec. 11/2006)
- that a whole-of-government approach for addressing prostitution-related operational, inter-agency and emerging issues be formalised through the establishment of an inter-agency committee (rec. 25/2004).

We have made the following recommendations in relation to each of these:

Recommendation 1

That s. 93 of the Act be amended as originally proposed in recommendation 11 of the CMC's 2006 report and as supported by government in its response to that recommendation: namely that s. 93 of the Act be amended to ensure that it covers all advertisements for prostitution, however prostitution is described in the advertisement.

Recommendation 2

That in light of the government's stated commitment to the inter-agency committee proposed in recommendation 25 of the CMC's 2004 report, an inter-agency committee:

- **be established as a Ministerial Advisory Committee under the Act, with a legislative obligation to report to the Minister**
- **as well as performing the functions proposed in rec. 25/2004, have a broader role to oversee, and report on, the prostitution industry as a whole.**

In order to ensure that the inter-agency committee does not suffer the same fate as the earlier informal committee, we propose that it have a legislative basis and a broader mandate. The role, functions and membership of the proposed Ministerial Advisory Committee are explained in more detail further below.

Overall assessment of the achievement of the underlying principles

We examined the extent to which the Act, and the PLA operating under the Act, are achieving the underlying principles and have concluded that overall the regulation of the licensed brothel sector continues to be successful. We have seen that licensed brothels:

- have minimal impact on community amenity
- show no evidence of corruption and organised crime (other than illegal prostitution)
- have access to exit and retraining programs for sex workers who may wish to leave the industry
- provide a healthy environment in which prostitution takes place
- provide a safe workplace.

The framework under the Act was originally designed to balance the strict regulation of the licensed brothel industry with addressing the social factors which contribute to involvement in the industry. We have found that this balance appears to have shifted since the demise of both the Prostitution Advisory Council and the inter-agency committee which succeeded it. If the Queensland Government is still committed to a policy framework which maintains this balance, we consider that the responsibility for coordinating strategies to address the social factors should be vested in an agency other than the PLA. Since the demise of the Council, some of its responsibilities were transferred to the PLA. However, the diversionary aspects of the role continue to sit uncomfortably with the PLA's role as the industry regulator. The PLA acknowledges this and submits that its position is that it neither encourages nor discourages people from involvement in the industry. In light of this (as outlined in Chapters 2 and 5) we have proposed that the Ministerial Advisory Committee take up responsibility for addressing the social factors.

We have also seen that although the licensed brothel industry in Queensland is well-regulated by the PLA and PETF, it exists alongside a legal but relatively unregulated sole operator sector and an illegal industry. While we reported some concerns about the impact on community amenity of sole operators working in some residential areas, for the most part there have been no problems identified with the sole operator sector. However, there has been significant concern expressed throughout this review about the ability of the illegal operators to masquerade as sole operators. The fact that this part of the industry is unregulated is said to contribute to that ability.

The illegal prostitution operators make up the remainder of the prostitution industry in Queensland. It is impossible to estimate the size of this sector. As in many other jurisdictions, estimates of the size tend to be influenced by sectional interests, with those in the licensed brothel sector providing estimates at the higher end of the scale and others within the industry, such as sole operators, providing more conservative estimates. We found in relation to the size of the sector:

- general agreement among respondents to this review that the size of the illegal sector has remained relatively unchanged over the past five years
- that the illegal sector is likely to be larger than the legal prostitution sector in Queensland.

Efforts to date to minimise this sector, especially by the PETF, have had some success and the AFP have reported that illegal operations in Queensland tend to be smaller than those in New South Wales and Victoria due to the existence of the specialist task force and heavy regulation (confidential QPS communication). We have previously recommended new offences, evidentiary provisions and advertising restrictions to enhance the police response to the illegal sector. However, these have only recently been introduced and we are waiting to see how effective they are in enabling police to target the illegal prostitution industry. The monitoring of these amendments to assess their impact on the illegal industry is a role we propose for the committee.

Our review has found that the environment in which the illegal industry operates is not significantly different from that reported in 2006. Based on the available information at that time, the CMC took the view that the preferred approach to addressing the illegal industry was to enhance the police response to illegal prostitution and make other changes designed to reduce the size of this sector. As noted above, we are still awaiting the impact of these changes.

We acknowledge that it is open to the Queensland Government to adopt a different approach and we have outlined various alternative strategies proposed by others in Chapter 4. Ultimately, it is a matter for government policy to determine whether any changes should be made. However, we consider that the proposed committee could play a key role in assisting government by identifying and advising on further strategies to diminish the illegal industry, if considered necessary.

The health and safety of sex workers in Queensland is well protected under the Act, although the continued influx of migrant workers, especially Asian sex workers, into the legal and illegal sectors, could present some challenges. We encourage Queensland Health, Respect Inc and other relevant agencies to ensure that linguistically and culturally appropriate health, education and support services are available to migrant sex workers in the legal and illegal prostitution industries. We propose that the Ministerial Advisory Committee monitor the provision of these services and assist in developing appropriate access strategies.

Future directions: the establishment of a Ministerial Advisory Committee

We have recommended that a Ministerial Advisory Committee be established, with its role and functions outlined in the Act to ensure its continuity, and with specific reporting obligations to the Minister. We set out below more detail concerning the role, functions and membership of the committee, drawing together material from earlier chapters.

The role and functions of the committee

The role of the committee should include, but not necessarily be limited to:

- advising about ways of promoting and coordinating programs to divert people from prostitution and help workers leave the industry, thus addressing social factors surrounding prostitution
- overseeing the prostitution industry generally (including the legal and illegal sectors), and developments in other jurisdictions
- providing advice to the PLA on a range of issues, including community sexual health, workplace health and safety and other issues (as envisaged in rec. 25/2004)
- identifying and advising on how best to respond to emerging issues surrounding the industry (also as envisaged in rec. 25/2004)
- reporting to the Minister annually on issues relating to the prostitution industry in Queensland which warrant the Minister's attention.

Some specific issues we have already identified for the committee include:

- monitoring the implementation and effect of the new Criminal Code offences and evidentiary provisions which took effect in September 2010, designed to assist police to reduce the illegal prostitution sector
- monitoring the effectiveness of the additional controls imposed on advertising which took effect in March 2011 and were designed to make it more difficult for the illegal industry to advertise
- ensuring that s. 93 of the Act is amended as originally proposed (rec. 11/2006) and accepted by government, so that it covers all advertisements for prostitution, however described, and monitoring the effect of that amended provision
- identifying other strategies to address the illegal sector, if necessary

- reviewing the outcome of the evaluation of exit and retraining programs, including their accessibility to migrant sex workers
- monitoring the access of health, education and advisory services to the prostitution industry, especially migrant sex workers in the legal and illegal sectors
- monitoring the impact of the new Criminal Code provisions allowing sex workers to have more options to ensure their safety, such as having a message-taker or driver.

Many of these will require ongoing monitoring to ensure that Queensland continues to have a well-regulated legal prostitution industry that is consistent with the underlying principles espoused for the framework governing prostitution.

The membership of the committee

As we have seen in this review, it is difficult to obtain objective, verifiable evidence on issues surrounding prostitution. The people best placed to monitor issues and develop appropriate strategies are those who have good knowledge of the industry — both legal and illegal — and strong connections at the ‘coal face’. Effective strategies, especially in efforts to address illegal prostitution, can only be developed with input from experienced people with good knowledge of the industry who can enlist the support of the various sectors.

Accordingly, we propose that the committee have a core membership of representatives from the key agencies involved in the industry — the PLA, the QPS, Queensland Health — along with the other key government departments and relevant representatives:

- Department of the Premier and Cabinet — to provide a coordinated policy response and to help drive the whole-of-government approach
- LGAQ — to represent local council interests
- Respect Inc — to represent sex workers’ interests
- a representative of brothel licensees
- a representative of community organisations, where appropriate.

We envisage the membership of the committee being fairly fluid with the power of co-option, where necessary to deal with particular issues. Some issues may require the committee to draw on broader expertise — for example, the committee may wish to include a representative of the Ethnic Communities Council of Queensland to address issues concerning migrant sex workers. Other government agencies likely to be involved from time to time on the committee include:

- Department of Communities (which includes child safety, housing and homelessness, multicultural affairs and office for women)
- Department of Infrastructure and Planning (which includes local government)
- Department of Justice and Attorney-General (which includes employment and industrial relations).

The Chair of the committee should be appointed by the Minister and be someone capable of managing the broad range of interests of, and potential conflict among, representatives on this committee.

We envisage that the committee need only meet three to four times a year, unless there are critical emerging issues that warrant more regular meetings.

Relationship between the committee and the PLA

In developing our recommendations, we considered whether the functions proposed for the committee could be performed by the PLA. We concluded that the functions should be performed by a broader committee, in which the PLA will play a key role, for the following reasons:

- The PLA primarily regulates the licensed brothel sector and this committee has a broader mandate that encompasses the whole industry (licensed brothels, sole operators and the illegal sector).
- As a licensing body, the PLA's functions relating to diverting people from the industry and encouraging people to exit the industry do not sit comfortably with its primary role. The committee would be better placed to perform these functions, which involve strategies often directed outside the prostitution industry.
- While the PLA has a multi-disciplinary membership, the members do not necessarily have the 'coal face' experience of, or ongoing connection with, the broader sex industry. Furthermore, its membership is not as broad or as flexible as that proposed for the committee.

It is open to the Queensland Government to consider expanding the role of the PLA to provide it with a broader role in respect of the prostitution industry as a whole. One argument in favour of using the PLA in this way is that it is an existing organisation which is currently responsible for regulating a relatively small part of the industry and which has a proven record in effective regulation.

It is our view, however, that the better approach is the establishment of a Ministerial Advisory Committee as a body with a broader focus than the PLA. By staffing the committee with departmental representatives, we not only establish a body with good, practical experience, but we can avoid unnecessary costs associated with appointing external members. We recognise that cost issues played a part in the demise of the former PAC and are conscious of the need to integrate the functions of this committee within existing service delivery from government.

Importantly, the key outcome we are seeking is the creation of a cost-effective body with strong representation at the 'officer' or 'operational' level of relevant government departments who can demonstrate expertise and good links with sectors of the prostitution industry, both legal and illegal. The body should include representation from all legal prostitution sectors. In addition, there should be a genuine commitment from members to work with each other to ensure a strong, healthy and safe legal prostitution industry and a reduced illegal prostitution sector in Queensland.

APPENDIX 1:

Those invited to make submissions to the review

List of recipients invited to make a submission to the Crime and Misconduct Commission's review of the *Prostitution Act 1999*

Interest groups

- Australian Family Association
- Child Wise
- Coalition Against Trafficking of Women Australia
- Crimson Coalition
- Family Council of Queensland
- Liquor, Hospitality and Miscellaneous Workers Union (Queensland Branch)
- Respect Inc
- Scarlet Alliance
- Queensland Adult Business Association
- Queensland Intravenous Aids Association
- United Sex Workers North Queensland Inc.

Licensed brothels

- 61 Oasis¹⁴
- 88 on Logan
- Arowana on Eastern Service
- Asian Star on Meadow
- Australian Maid
- Black Orchid Bliss at Burleigh
- Cleos on Nile
- Club 7 on Enterprise
- Club 26
- Deviations
- Intimate Encounters
- Luvasian
- Miso Honey
- Montecito
- My Room
- Northern Belle
- Pentagon Grand
- Purely Blue
- Scarlet Harem
- Silks on Upton

14 During the course of this review, this brothel ceased operating.

- Temple of Pleasures
- The Viper Room
- Utopia in Paradise
- Yimi476

Members of Parliament

- Leader of the Opposition
- Minister for Police and Corrective Services
- Premier of Queensland

Government/statutory bodies and agencies

- Commission for Children and Young People and Child Guardian
- Department of Communities
- Department of Infrastructure and Planning
- Department of Justice and Attorney-General
- Department of the Premier and Cabinet
- Local Government Association of Queensland and all local councils
- Prostitution Licensing Authority
- Queensland Health
- Queensland Police Service
- Attorney-General of Queensland

Others

- Associated Brothel Managers not attached to a brothel, current as at PLA list 10 November 2010
- University of Queensland

APPENDIX 2: Crime and Misconduct Commission recommendations from our earlier review and reports

Recommendations from the 2004 report and their status

Full title of report: *Regulating prostitution: an evaluation of the Prostitution Act 1999 (Qld)*

Total number of recommendations made: 29

Title of Act adopting recommendations: *Prostitution Amendment Act 2006*

Note: Not all recommendations from the 2004 report were legislative in nature; some were proposed changes to policies or procedure.

No.	Recommendation	Status of implementation
1	That the Queensland Police Service maintain the rotation of Prostitution Enforcement Task Force and Tactical Crime Squad officers, but review its rotation policy with a view to some extension of terms served in those units.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer Queensland Government Response to Recommendations of the CMC's evaluation of the <i>Prostitution Act 1999</i>, p. 2.
2	That the Prostitution Act be amended to allow brothel licensees to operate under a corporate structure. The Act should retain the provision that any business/company that operates a brothel must be sufficiently transparent to enable all associates to be readily identified.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 17 of the <i>Prostitution Amendment Act 2006</i>.
3	That Queensland Health take a lead role in providing effective interventions for sex workers who wish to leave the sex industry, including drug diversion. Interventions such as the Sex Worker Exit and Retraining Program should be appropriately promoted to sex workers, and procedures for receiving referrals from brothel owners should be established.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer Queensland Government Response to Recommendations of the CMC's evaluation of the <i>Prostitution Act 1999</i>, p. 3.
4	That the policy and research functions of the PLA be adequately resourced to enhance its capacity to review and collate information about a range of issues relevant to prostitution (such as sexual health, workplace health and safety, and workplace relations), and to the social factors that contribute to involvement in the sex industry.	<ul style="list-style-type: none"> • Recommendation accepted and was furthered by a consultative process between Queensland Treasury and the PLA. • Refer Queensland Government Response to Recommendations of the CMC's evaluation of the <i>Prostitution Act 1999</i>, p. 3.
5	That the testing regime for sex workers in licensed brothels be changed to extend the interval between checks to three months.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer r. 9 of the <i>Prostitution Regulation 2000</i>.
6	That section 77A of the Prostitution Act be modified to ensure that proscribed behaviour includes 'an offer' to have sex without a prophylactic as well as the offence of actual sexual intercourse or oral sex without a prophylactic.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 15 of the <i>Prostitution Amendment Act 2006</i>.
7	That the maximum number of sex workers allowed on brothel premises at any one time for a five-room brothel be increased from five to eight. Proportionately fewer should be allowed on the premises of smaller brothels.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 16 and Schedule 3 of the <i>Prostitution Amendment Act 2006</i>.

No.	Recommendation	Status of implementation
8	That the Prostitution Act be amended to provide for a PETF officer to seek the advice of a health professional (such as a doctor, a nurse, a social worker or a counsellor) about the decision-making capacity of sex workers who they consider may have impaired intellectual capacity.	<ul style="list-style-type: none"> Recommendation accepted and implemented. Refer s. 31 of the <i>Prostitution Amendment Act 2006</i>.
9	That licensed brothels be required to display a licence number rather than the personal details of the licensees as currently required under section 87 of the Act.	<ul style="list-style-type: none"> Recommendation accepted and implemented. Refer s. 18 of the <i>Prostitution Amendment Act 2006</i>.
10	That proposals for the implementation of safe houses or safety zones for the use of street-based sex workers in Queensland not be adopted.	<ul style="list-style-type: none"> Recommendation supported. Refer Queensland Government Response to Recommendations of the CMC's evaluation of the <i>Prostitution Act 1999</i>, p. 6.
11	That minor changes be made to the Prostitution Regulation 2000 to ensure that there is consistency with references to the functions of the Prostitution Licensing Authority in the <i>Prostitution Act 1999</i> .	<ul style="list-style-type: none"> Recommendation accepted and implemented. Refer r. 10 and Schedule 1 of the Prostitution Regulation 2000.
12	That section 64(1)(a) and (b) of the Prostitution Act be reviewed to consider whether the location restrictions for legal brothels should be relaxed.	<ul style="list-style-type: none"> Recommendation rejected. Refer Queensland Government Response to Recommendations of the CMC's evaluation of the <i>Prostitution Act 1999</i>, p. 7.
13	That section 64K of the Prostitution Act, the jurisdiction of the Independent Assessor, be extended to include appeals against: <ul style="list-style-type: none"> assessment manager's decisions about the applicability of code or impact assessment under the Integrated Planning Act assessment manager's decisions about requests to make minor changes to approved brothel premises or requests to change or cancel conditions of a development approval. 	<ul style="list-style-type: none"> Recommendation accepted and implemented. Refer ss. 13 and 14 of <i>Prostitution Amendment Act 2006</i> and Part 5 <i>Summary Offences and Other Acts Amendment Act 2007</i>.
14	That the Queensland Government undertake a review of the fee structure for legal brothels, with a view to assessing its relativity with adult entertainment licence fees and assessing the impact of licence fees on the development of legal brothels in Queensland.	<ul style="list-style-type: none"> Recommendation accepted and was furthered by a consultative process between Queensland Treasury and the PLA. Refer Queensland Government Response to Recommendations of the CMC's evaluation of the <i>Prostitution Act 1999</i>, p. 8.
15	That efforts be made to streamline probity requirements without compromising their integrity and that, to this end, the associates of brothel applicants be dealt with directly, providing the applicant is made aware of which associates are to be contacted and the privacy of all parties is respected.	<ul style="list-style-type: none"> Recommendation accepted and implemented. Refer s. 5 of the <i>Prostitution Amendment Act 2006</i>.
16	That section 7(1), paragraphs (i), (j) and (k), of the Prostitution Act be amended to ensure that sex workers are not regarded as 'having an interest in' a brothel simply because they receive remuneration for the sexual services they provide.	<ul style="list-style-type: none"> Recommendation accepted and implemented. Refer s. 4 of the <i>Prostitution Amendment Act 2006</i>.
17	That sections 19(4) and 23 of the Prostitution Act be amended to enable brothel licences to be granted for a three-year period.	<ul style="list-style-type: none"> Recommendation accepted and implemented. Refer s. 6 of the <i>Prostitution Amendment Act 2006</i>.

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No.	Recommendation	Status of implementation
18	That confirmation of all relevant details about licensees and payment of a licence fee be required on an annual basis and, at the expiration of the three year licence period, the licensee must reapply for the licence renewal as if it were an application for a licence.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 6 of the <i>Prostitution Amendment Act 2006</i>. • See also ss. 13 and 14 of <i>Police Legislation Amendment Act 2010</i>
19	That section 23(4) of the Act be amended so that the time required to process licence applications is extended from one to three months.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 7 of the <i>Prostitution Amendment Act 2006</i>.
20	That approval of manager certificates be subject to a two-tiered system to allow for the approval of an interim certificate prior to the more extensive background check that is required for full certification.	<ul style="list-style-type: none"> • Recommendation rejected. • Instead, government proposed that manager certificates should not be contingent on licensee sponsorship. This was another suggestion included in the 2004 report (CMC 2004, p. 102). • Refer Queensland Government Response to Recommendations of the CMC's evaluation of the <i>Prostitution Act 1999</i>, p. 10.
21	That section 44 of the Prostitution Act be amended so that manager certificates are subject to a three-year reapplication process.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 11 of the <i>Prostitution Amendment Act 2006</i>.
22	That the PLA monitor the time taken to process advertising requests and make every effort to expedite the process.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 33 of the <i>Prostitution Amendment Act 2006</i> and r. 12 of the Prostitution Amendment Regulation (No. 1) 2007.
23	On the information currently available, the CMC is unable to recommend that escorts be legalised in Queensland. However, the CMC is extending its review in order to examine whether Queensland should legalise outcall or escort prostitution services. Submissions will be sought from the public and all key stakeholders on the feasibility of legalising escorts and on the practicability of possible models for the regulation of escort services in Queensland. The CMC will report publicly.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Since the 2004 review report, specifically in relation to outcall services, the CMC publicly reported the following: <ul style="list-style-type: none"> – 2005 discussion paper – 2005 interim position paper – 2006 review report. <p>In its 2006 report, the CMC recommended that:</p> <ul style="list-style-type: none"> • Outcall prostitution services from licensed brothels in Queensland not be legalised. • Outcall prostitution services from independent 'escort agencies' in Queensland not be legalised.
24	That the PLA develop its complaints handling process for dealing with concerns about its own client service in accordance with established guidelines such as those published by the Queensland Ombudsman (2003).	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 34 of the <i>Prostitution Amendment Act 2006</i> and r. 12 of Prostitution Amendment Regulation (No. 1) 2007.

No.	Recommendation	Status of implementation
25	That a whole-of-government approach for addressing prostitution-related operational, inter-agency and emerging issues be formalised, and that the inter-agency committee receive continuing support from all of the government agencies involved, to ensure that there is effective cooperation and open communication between them. The operations of the inter-agency committee should also be monitored with a view to maintaining its effectiveness.	<ul style="list-style-type: none"> • Recommendation accepted, but not fully implemented. • Refer Government Response to Recommendations of the CMC's evaluation of the <i>Prostitution Act 1999</i>, p. 12. • An inter-agency committee was established by the Minister for Police and Corrective Services, within the PLA to discuss operational issues. However it is no longer operative (see Chapters 2 and 5).
26	That the PLA implement a mechanism whereby licensees and their representatives can participate in regular and constructive consultation with the PLA.	<ul style="list-style-type: none"> • Recommendation accepted, but not implemented as announced. • Although the Queensland Government Response to Recommendations of the CMC's evaluation of the <i>Prostitution Act 1999</i> (p. 12) states that the Prostitution Regulation 2000 will be amended to include the Queensland Adult Business Association as an agency with which the PLA must liaise, Schedule 1 of the Regulation does not reflect this change. • In light of the discussion in this report, the CMC considers that no further action is warranted.
27	That the Prostitution Act be amended to make it clear that the PLA is entitled to provide information to sex workers, other stakeholders and the community about issues relating to prostitution. This could include the establishment of communication strategies such as an information website or an information line, as well as other opportunities for direct consultation.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer ss. 22 and 23 of the <i>Prostitution Amendment Act 2006</i>.
28	That the government undertake a review of the resources and administrative location of the PLA to ensure that it has the capacity to meet its legislative requirements.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • The Queensland Government agreed to further this recommendation with Queensland Treasury. • It was determined that the PLA will remain part of the Police and Corrective Services Portfolio, outlined in the Queensland Government Response to Recommendations of the CMC's evaluation of the <i>Prostitution Act 1999</i> (p. 13).
29	That a further review be undertaken in three years' time to assess the effectiveness of the Act.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 35 of the <i>Prostitution Amendment Act 2006</i>.

Recommendations from the 2006 report and their status

Full title of report: *Regulating outcall prostitution: Should legal outcall prostitution services be extended to licensed brothels and independent escort agencies?*

Total number of recommendations made: 23

Title of Act adopting recommendations: *Prostitution and Other Acts Amendment Act 2010.*

Note:

- Unlike the Queensland Government Response made to the 2004 review report which was tabled in Parliament, there was no similar response to the 2006 report. However, the Minister for Police and Corrective Services stated that the government was committed to implementing the recommendations contained in the report (Queensland, Legislative Assembly (Roberts) 2010, p. 2596).
- Not all recommendations from the 2006 report were legislative in nature; some were proposed changes to policies or procedure.

No.	Recommendation	Status of implementation
1	That outcall prostitution services from licensed brothels in Queensland not be legalised.	<ul style="list-style-type: none"> • Recommendation accepted.
2	That outcall prostitution services from independent 'escort agencies' in Queensland not be legalised	<ul style="list-style-type: none"> • Recommendation accepted.
3	That legislation be amended to prohibit advertisements for social escorts larger in size than the maximum size currently prescribed for licensed brothels.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer r. 6 of the Prostitution Amendment Regulation (No. 1) 2011 and the PLA guidelines which confirm print directory advertisements for social escorts and brothels are the same size.
4	That legislation be amended to prohibit any advertisements for social escorts that do not contain the words 'non-sexual' or 'sexual services are not provided', displayed prominently in the advertisement.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 8 of the <i>Prostitution and Other Acts Amendment Act 2010</i>.
5	That the restrictions on social escort advertising be made applicable to any publication that has a circulation in Queensland (whether or not it is published in Queensland) and to any advertisement that offers escort services in Queensland (whether or not the business is based in Queensland).	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 5 of the <i>Prostitution and Other Acts Amendment Act 2010</i>.
6	That legislation be amended to provide that, where an advertisement for social escort services has been published for or relating to a business, the person who was carrying on the business at the time the advertisement was published shall be taken to have published the advertisement unless the court is satisfied to the contrary.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 8 of the <i>Prostitution and Other Acts Amendment Act 2010</i>.
7	That the penalty for breaching the restrictions on social escort advertising be tied to the cost of placing the advertisement: for example, a maximum penalty of 10 times the cost of placing the advertisement, or 10 times the commercial cost of establishing the website, as the case may be.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 8 of the <i>Prostitution and Other Acts Amendment Act 2010</i>.
8	That the Queensland Government consider tying the penalty for breach of section 93 of the <i>Prostitution Act 1999</i> to the cost of placing the advertisement (e.g. a maximum penalty of 10 times the cost of placing the advertisement, or 10 times the commercial cost of establishing the website, as the case may be) so that there is parity of penalty with the provisions on social escort advertising.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 7 of the <i>Prostitution and Other Acts Amendment Act 2010</i>.

No.	Recommendation	Status of implementation
9	That legislation be amended to impose an obligation on social escort providers to clearly inform prospective clients who contact the social escort provider (e.g. by telephone) that prostitution services are not provided.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 8 of the <i>Prostitution and Other Acts Amendment Act 2010</i>.
10	That the regulations to the <i>Child Employment Act 2006</i> prohibit the employment of minors as social escorts.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 21 of the <i>Prostitution and Other Acts Amendment Act 2010</i>.
11	That section 93 of the <i>Prostitution Act 1999</i> be amended to ensure that it covers all advertisements for prostitution, however prostitution is described in the advertisement.	<ul style="list-style-type: none"> • Recommendation accepted, but not implemented (see p. 6).
12	That the Prostitution Licensing Authority make the final decision on whether advertisements by licensed brothels should include the brothel's licence number.	<ul style="list-style-type: none"> • Recommendation appears to be accepted and implemented. • Refer PLA 'User Guide to the Guidelines about the Approved Form for Advertisements for Prostitution'.
13	That the Prostitution Licensing Authority make the final decision on whether advertisements by licensed brothels should include the word 'legal'.	<ul style="list-style-type: none"> • Recommendation appears to be accepted and implemented. • Refer PLA 'User Guide to the Guidelines about the Approved Form for Advertisements for Prostitution'.
14	That the guidelines/regulation for advertising by licensed brothels contain detailed rules on what line drawings, pencil renderings and photographs are not likely to offend the general public.	<ul style="list-style-type: none"> • Recommendation appears to be accepted and implemented. • Refer PLA 'User Guide to the Guidelines about the Approved Form for Advertisements for Prostitution'.
15	That the approved form of advertising by sole operators prohibit the use in any advertisement of any business name implying that more than one sex worker is available.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer PLA 'User Guide to the Guidelines about the Approved Form for Advertisements for Prostitution'.
16	That the approved form of advertising by sole operators require the use of an individual's name (usually a pseudonym), and permit only the description of the sole operator, location, business hours and contact telephone number of the sole operator.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer PLA 'User Guide to the Guidelines about the Approved Form for Advertisements for Prostitution'.
17	That any guidelines or regulation for prostitution advertising set broad parameters to guide advertisers rather than relying on the current specific approach, which uses a list of approved words.	<ul style="list-style-type: none"> • Recommendation appears to be accepted and implemented. • Refer PLA 'User Guide to the Guidelines about the Approved Form for Advertisements for Prostitution'.
18	That a 'carrying on business' offence (not applicable to licensed brothels) be created to the effect that a person who has an interest in a business that enables prostitution to be provided by two or more prostitutes commits a crime.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 17 of <i>Prostitution and Other Acts Amendment Act 2010</i>.

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No.	Recommendation	Status of implementation
19	That an offence be created to the effect that clients and workers of illegal prostitution enterprises also commit an offence, but that they may obtain a certificate of discharge, similar to the certificate of discharge in section 229J of the Criminal Code, in return for evidence that can be used against the person or persons carrying on the business of an illegal prostitution enterprise.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 18 of the <i>Prostitution and Other Acts Amendment Act 2010</i>.
20	That a provision be enacted, similar to the section 229N provision of the Criminal Code, enabling the fact that a business (which enables prostitution to be provided by two or more prostitutes) is being carried on to be inferred from particular evidence such as employment records, business records, telephone records, advertisements and the like.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 19 of the <i>Prostitution and Other Acts Amendment Act 2010</i>.
21	That the 'carrying on business' offence be nominated as a serious crime for the purposes of the <i>Criminal Proceeds Confiscation Act 2002</i> , thus enabling the assets of illegal prostitution providers to be confiscated.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 17 of the <i>Prostitution and Other Acts Amendment Act 2010</i>.
22	That the Queensland Police Service develop appropriate protocols with the telecommunications carriers and the Australian Communications and Media Authority to disable telephone numbers advertised by illegal prostitution providers in accordance with section 313 of the <i>Telecommunications Act 1997</i> (Cwlth).	<ul style="list-style-type: none"> • Recommendation accepted and implemented.
23	That section 229H of the Criminal Code be amended to create an exception for: people who engage in actions necessary to ensure the safety of sole operators (e.g. being told where the sole operator is attending an outcall and when he or she will be back, remaining in telephone contact with a sole operator while they are attending an outcall, and disseminating information about dangerous clients), but only if they act for one sole operator, and only if they are not current sex workers themselves; and people who act as receptionists or drivers for sole operators but only if they act for one sole operator and only if they are not current sex workers themselves.	<ul style="list-style-type: none"> • Recommendation accepted and implemented. • Refer s. 16 of the <i>Prostitution and Other Acts Amendment Act 2010</i>.

APPENDIX 3: Location and list of licensed brothels in Queensland

Location of licensed brothels as at December 2010



List of licensed brothels as at December 2010

88 on Logan 88 Logan Road Woolloongabba 4102	Deviations Unit 1, 14 Civil Court Harlaxton, Toowoomba 4350	Purely Blue 175 Abbotsford Road Bowen Hills 4006
Arowana On Eastern Service 13/38 Eastern Service Road Stapylton 4207	Intimate Encounters 22 Brewer Street Clontarf 4019	Scarlet Harem 14 Avian Street Kunda Park 4556
Asian Star on Meadow Unit 1/32 Meadow Avenue Coopers Plains 4108	Luvasian 29 Expansion Street Ashmore 4214	Silks on Upton 44 Upton Street Bundall 4217
Australian Maid 17 Hugh Ryan Drive Garbutt 4814	Miso Honey 120 Robinson Road East Geebung 4034	Temple of Pleasures 83 Randolph Street Rocklea 4106
Black Orchid Bliss at Burleigh 12 Greg Chappel Drive Burleigh Heads 4220	Montecito 180 Abbotsford Road Bowen Hills 4006	The Viper Room 945 Fairfield Road Yeerongpilly 4105
Cleos on Nile 12 Nile Street Woolloongabba 4102	My Room 14 Traders Way Mt Isa 4825	Utopia in Paradise 2/37 Upton Street Bundall 4217
Club 7 on Enterprise 39 Enterprise Street Paget 4740	Northern Belle 11 Cava Close Cairns 4870	Yimi476 476 Boundary Road Archerfield 4108
Club 26 26 Magnesium Drive Crestmead 4132	Pentagon Grand 30 Jade Drive Ashmore 4214	

Source: PLA website, viewed 22 Dec 2010, <www.pla.qld.gov.au/brothels/licensedBrothels.htm>.

APPENDIX 4:

Overview of laws relating to prostitution in other jurisdictions

New South Wales

New South Wales has a decriminalised framework for prostitution. Under the *Summary Offences Act 1988* (NSW) the only activities that are illegal are:

- living on the earnings of a prostitute, although persons who own, manage or are employed at a brothel are exempt (s. 15)
- causing or inducing prostitution (s. 15A)
- using premises, or allowing premises to be used, for prostitution that are held out as being available for massage, sauna baths, steam baths, facilities for exercise or the taking of photographs or as photographic studios (s. 16)
- advertising that a premises is used for prostitution, or that a person is available for prostitution (s. 18)
- soliciting for prostitution near or within view of a dwelling, school, church or hospital (s. 19)
- taking part in an act of prostitution in, or within view from, a school, church, hospital or public place or within view of a dwelling (s. 20).

Local authorities are responsible for the siting of brothels and have developed policies for the management of brothels in their area.

Victoria

Sex work services are regulated by the *Sex Work Act 1994* (Vic.), the *Sex Work Regulations 2006*, the *Sex Work (Fees) Regulations 2004* and the *Public Health and Wellbeing Act 2008* (Vic.).

- The Business Licensing Authority (BLA) within Consumer Affairs Victoria is responsible for granting licenses and manager approvals to suitable applicants.
- Licensed brothels up to six rooms (more in some older brothels established before June 1995) can operate subject to local planning laws (s. 74).
- Escorts can operate from brothels and licensed escort agencies.
- Small owner-operated 'exempt' brothels can operate with up to two workers without a licence but do need a permit to operate a brothel under s. 23 of the *Planning and Environment Act 1987* (Vic.) and must register with the BLA.

Selected prostitution-related offences:

- forcing a person into or to remain in sex work (s. 8)
- forcing a person to provide financial support out of sex work (s. 9)
- living wholly or in part or deriving some material benefit from sex work (s. 10)
- street soliciting (ss. 12 and 13).
- publishing or causing to publish an advertisement for sex work services that describes the services offered, induces a person to seek employment as a sex worker or in a brothel or with an escort agency, or uses words which directly refer to massage or imply that the business provides massage services (s. 17)
- permitting sex worker infected with a disease to work in a brothel (s. 19).

Australian Capital Territory

Key legislation for prostitution-related offences is the *Prostitution Act 1992* (ACT).

- Brothels are legal in two areas of Canberra – Fyshwick and Mitchell – and must be registered with Office of Regulatory Services. Unlike Queensland, there are no probity investigations, however, there are disqualifying offences under the Act.
- Brothels have no limit on the number of rooms.
- Escort agencies must register.
- Private workers must register and must work alone (i.e. prohibited from sharing premises) but are allowed a receptionist or security person.
- Procuring or soliciting is an offence under the Act (s. 19).
- A review of the Act is currently being undertaken by the ACT Legislative Assembly Standing Committee on Justice and Community Safety.

Northern Territory

Key legislation for prostitution related offences is the *Prostitution Regulation Act* (NT).

- Keeping or managing a brothel or allowing a premises to be used as a brothel is an offence (ss. 4 and 5).
- Licensed escort agency businesses are legal (s.6).
- Assessment of applications for licences requires Escort Agency Licensing (within the Department of Justice) to appraise the eligibility and suitability of the applicant. There are no planning requirements attached to the establishment of an escort agency.
- All sex workers working for an agency have to register with the Northern Territory Police.
- Solo sex workers are not required to be registered with the Northern Territory Police.
- Soliciting is an offence (s. 10).

Western Australia

- Currently prohibits brothels, escort agencies and ancillary activities, such as living off the earnings, keeping premises etc.
- Numerous attempts have been made over the past decade to change the laws.
- A recent announcement was made by the Attorney-General that he will introduce a strict licensing system requiring prostitution business operators, managers and workers to be licensed by the Director of the Department of Racing, Gaming and Liquor. Proposed reforms include:
 - Self-employed prostitutes and collectives of two or more will be allowed to operate if licensed and if operating from a permitted zone with planning approval.
 - Prostitution will be prohibited in residential areas.
 - Police powers will be expanded to shut down illegal brothels as well as issue on-the-spot fines for any offences they reasonably suspect are occurring.

South Australia

- Prostitution is largely prohibited under the *Criminal Law Consolidation Act 1935* (SA) and the *Summary Offences Act 1953* (SA): offences of procuring (s. 25A), living on the earnings (s. 26), keeping and managing brothels and permitting premises to be used as a brothel (ss. 28 and 29), and soliciting in a public place or within the view or hearing of any person in a public place (between s. 25).
- Have been unsuccessful moves over the past decade or more to change the laws. Legislation has been unsuccessfully drawn up several times between 1980 and 2001 to modernise the existing laws. A private members bill was proposed for the end of 2010.

Tasmania

Prostitution is regulated by the *Sex Industry Offences Act 2005* (Tas.).

- The Act provides that it is not illegal to be a sex worker but it is illegal to employ or otherwise control or profit from the work of individual sex workers.
- Soliciting in a public place is an offence (s. 8).
- A person must not be a commercial operator of a sexual services business (s. 4).
A commercial operator is a person who is not a self-employed sex worker and who, whether alone or with another person, operates, owns, manages or is in day-to-day control of a sexual services business.
- A 'self-employed sex worker' — that is, a sex worker who solely owns and operates a sexual services business or a sex worker who, together with no more than one other sex worker owns and operates a sexual services business — is permitted.
- Numerous unsuccessful attempts have been made to introduce a broader decriminalised/regulated model. A review of the Act reveals that it has failed to prevent exploitation, that there continue to be illegal operations and that these raise some health and safety risks for workers.

APPENDIX 5: Interview questions for brothel licensees and managers

1. How long have you operated/managed this business?
2. What issues, if any, would you as a brothel licensee/manager consider important to be addressed in this review?
3. How has the industry changed since the CMC's last review? What has improved? What is worse?
4. Has the health and safety of sex workers changed since the last review?
5. What is your relationship like with your local community?
6. What was your experience, if any, of the planning process?
7. From your knowledge of the industry, are you aware of any of the following:
 - use of under-age people in the industry
 - sex trafficking
 - drug dealing
 - corruption
 - organised crime.Has this changed at all since 2004?
8. How easy/difficult is it to find staff? Has this changed since 2004?
9. Do you employ or have you employed any migrant sex workers? If so, how do you satisfy yourself that they are legal?
10. Illegal operators continue to present competition to the legal industry. Some recent steps have been proposed to address this problem — e.g. new criminal offences and tighter advertising controls. What more could be done to address the illegal industry?
11. Why do you think workers work in the illegal industry? What would encourage them to move into the legal industry?
12. Have you had any workers who were looking to exit the industry?
13. What information, if any, is provided to your service providers about exit and retraining programs?
14. What contact do you have with:
 - the PLA
 - the QPS
 - sex worker representatives such as Respect Inc?
15. In your view, how well is the PLA regulating the legal brothel industry?
16. How well do you think the police are policing the illegal industry?
17. What do you think is the optimum size of the industry in Queensland? How much room is there for growth of the industry?
18. Do you think that the size of the illegal industry has changed over the past five years? If so, how and why?
19. What is your position on the legalisation of outcall services?
20. Do you have any further comments to make?

APPENDIX 6:

Flyer

Have Your Say on Queensland's Prostitution Laws

The Crime and Misconduct Commission (CMC) is reviewing the *Prostitution Act 1999* and is seeking input from people in the industry. **We invite all sex workers / service providers to give us your views on how the current laws are working.**

The CMC has done previous work in this area with reports published in 2004 and 2006. This current review will focus on updating the picture of the prostitution environment in Queensland since then.

Some of the questions we will be looking at are:

Health and safety:

- Has the health and safety of sex workers changed over the last five years? If so, how?
- What changes could be made to improve the health and/or safety of sex workers?
- Are there any health or safety issues relating to clients that we should know about?

Exiting the industry:

- Do people need help to exit the sex industry?
- What help is there for people who want to leave the sex industry?
- Are there any things that could improve that?

Regulation:

- How well is the industry regulated?
- Is it better or worse than it was 5 years ago? Why?
- What could be done to better regulate the industry?

Organised crime and corruption:

- Is there any involvement of organised crime or any corruption in the legal prostitution industry?
- How has the illegal prostitution industry in Queensland changed over the past five years?
- What could be done to encourage workers out of the illegal industry and into legal work?

Impact on the local community:

- What change has there been to the impact on local communities by legal brothels, private sex workers and other forms of prostitution in the last five years?

To have your say, please email us at ProstitutionActReview2010@cmc.qld.gov.au by 14 January 2011. If you would like to be interviewed (either face to face, or by telephone) please let us know via email by 13 December 2010 and we will contact you to make arrangements. We look forward to hearing from you.

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