



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

13th Assembly

ECONOMIC POLICY SCRUTINY COMMITTEE

Public Hearing Transcript (Open Sessions)

Sex Industry Bill 2019

8.30 am, Tuesday 29 October 2019

Litchfield Room, Level 3, Parliament House, Darwin

Members:

Mr Tony Sievers MLA, Chair, Member for Brennan
Mr Jeff Collins MLA, Member for Fong Lim
Mr Lawrence Costa MLA, Member for Arafura
Mr Gary Higgins MLA, Member for Daly (via teleconference)
Mrs Kate Worden MLA, Member for Sanderson

Witnesses:

Scarlet Alliance

Jules Kim, Chief Executive Officer

Northern Territory Women's Legal Services

Caitlin Weatherby-Fell, Senior Solicitor, Top End Women's Legal Service, Representative, Northern Territory Women's Legal Services

Member of Coalition Against Trafficking in Women Australia

Dr Caroline Norma

Australian Christian Lobby

Wendy Francis, NT Director
Ally-Marie Diamond, former sex worker in New Zealand

Priceless

Matthew Davis, Priceless Spokesperson
Sabrinna Valisce, former prostitute in New Zealand

NT AIDS and Hepatitis Council

Genevieve Dally, Executive Director
Heath Paynter, Deputy CEO, Australian Federation of AIDS Organisations
Leanne Melling, Coordinator, Sex Worker Outreach Program NT

Department of the Attorney-General and Justice

Doug Burns, Senior Policy Lawyer, Legal Policy
Hannah Clee, Senior Policy Lawyer, Legal Policy

The committee convened at 8.30 am.

SEX INDUSTRY BILL 2019

Scarlet Alliance

Mr CHAIR: Welcome everyone. On behalf of the committee, I welcome everyone to this public hearing on the Sex Industry Bill 2019. I welcome to the table to give evidence to the committee Ms Jules Kim, Chief Executive Officer of Scarlet Alliance.

Jules, I will introduce our committee. We have Mr Jeff Collins, the Member for Fong Lim; Mrs Kate Worden, Member for Sanderston; Mr Gary Higgins, on the phone; and Mr Lawrence Costa should be joining us soon.

Jules, thank you for coming before the committee. We appreciate you taking the time to speak to the committee today and look forward to hearing from you.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee applies. This is a public hearing which is being webcast through the Assembly's website. A transcript will be made for the use of the committee and may be put on the committee's website also.

If, at any time during the hearing you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private.

For the *Hansard* public record, could you please state your name and the capacity in which you are appearing here today. Then, Jules, we are happy if you would like to make an opening statement. We have all read the submission you put in. Then, we will open to the panel for any questions. Over to you, Jules.

Ms KIM: Thank you, Mr Chair. My name is Jules Kim and I am here as the Chief Executive Officer of Scarlet Alliance, the Australian Sex Workers Association.

First of all, I would like to thank you for the opportunity to address the committee on the Sex Industry Bill 2019. Scarlet Alliance, Australian Sex Workers Association is the peak national body that represents our membership of individual sex workers, sex worker organisations, collectives, networks and projects throughout Australia since 1989.

Through our work and that of our membership we have the highest level of contact with sex workers in Australia of any agency, government or non-government ensuring that we are well placed to represent the current issues affecting sex workers.

I am not just one sex worker speaking about my personal experience. Scarlet Alliance is informed by the voices of many sex workers throughout Australia and in this instance especially in the NT. Particularly on that note I acknowledge our members SWOP NT and their Sex Worker Reference Group.

Scarlet Alliance represents sex workers on a number of government and non-government committees and advisory mechanisms within Australia and globally, including the Blood Borne Viruses and Sexually Transmissible Infections Standing Committee and the National Roundtable on Human Trafficking and Slavery since its inception in 2008.

Scarlet Alliance applauds the intention to fully decriminalise sex work in the NT. The full decriminalisation of sex work is the best legislative model for the sex industry as supported by the ever growing number of organisations, academics and researchers both within Australia and internationally, supporting the decriminalisation of sex work as a strong body of evidence-based research that affirms that it is the only model of regulation proven to improve work place health and safety outcomes, access to justice, peer support and industrial rights.

Only decriminalisation achieves these aims. Other models that criminalise the sex industry and sex work, including the Nordic model as well as licensing and registration have been proven to be harmful to sex workers rights, choices and safety.

By repealing the current problematic laws under the *NT Prostitution Act 1992*, this Bill enhances sex workers safety and choices by enabling us to work together and employ support staff, support sex workers ability to access justice in the event of a crime. It affirms our right to refuse clients and it prohibits exploitation of sex workers and supports our ability to seek redress for exploitive work conditions.

Decriminalisation does not remove laws that criminalise exploitation, trafficking or violence against sex workers, in fact it enhances our ability to access them, and consistent with the intention of decriminalisation this Bill enables the sex industry to operate in accordance with existing laws and regulations, such as the laws that govern employment, OH&S, workers compensation, rehabilitation, planning, taxation and discrimination.

Criminal laws will become accessible to sex workers as we will no longer be seen a criminals ourselves. The Bill allows for the transparent operation of the sex industry subject to the same laws and regulations as any other businesses.

While we are supportive of the Bill generally, there were just a few areas we would like see amended in the Bill. These relate to the continuation of the same unworkable advertising restrictions that exist under the *Prostitution Act*. If sex work is to be decriminalised we should be subject to the same regulations that govern other businesses, such as advertising standards and we should be able to openly and transparently advertise for staff and clients. Instead, this carries forth the regulations that exist within the current licensing and criminalisation framework.

Additionally, we would like to see amendments to provisions allowing more than two sex workers to work together without the need for a suitability certificate. Sex workers who are working together in a collective and do not manage or employ each other should not be required to hold a suitability certificate. It is common practice for sex workers to work together and share premises and or support staff. Requiring these independent sex workers to hold suitability certificates recreates the same issues with the current registration requirements that exist in the NT.

We would like to see the addition of a spent convictions clause, ensuring on the commencement of the Act a conviction held for a sex work offence will be taken to be spent. This is an important addition ensuring that people with previous criminal records for sex work will not be further discriminated against once sex work is decriminalised.

Finally, we would like to note the importance of anti-discrimination, anti-vilification provisions for sex workers in supporting the implementation of decriminalisation in the NT. We are aware that the modernisation of the *Anti-Discrimination Act* is in progress and would like to reiterate the crucial need to include sex work and sex workers as protected attributes as outlined in our submissions to the enquiry of the *NT Anti-Discrimination Act*.

Again, we affirm our support for the passing of the Sex Industry Bill with these few amendments. Any further changes would be detrimental to sex workers and the intent of the Bill to fully decriminalise sex work in the NT. This Bill will ensure work place rights and protections are afforded to sex workers as they are to all Territorians. Thank you.

Mr CHAIR: Thanks Jules. I will open it up to the committee. Mr Collins?

Mr COLLINS: I just have a quick one on what you said about suitability certificates and the situation where you effectively have a collective. How do you tell the difference? To an outsider, so trying to regulate, I take it obviously that, or seemingly, that is about making sure that the person who is operating the premises are suitable. How do you tell the difference between what is operating as a collective or is there the opportunity for somebody to operate like a collective so they can avoid a suitability certificate?

Ms KIM: I think it is pretty clear. I mean that is the current model as it operates in New Zealand, for example, where up to four workers can work. It is clearly outlined as long as they do not have an employment or management relationship to each other. So as you know, as many other small business operators do, we share premises and support staff. To criminalise that or to regulate that is quite unworkable and requiring those workers to register is unnecessary.

I think it creates barriers to independent sex workers to be able to operate together and safely together if they wish to do so. I think what you are speaking about is clearly when somebody is in an employment relationship and is actually employing other workers. This is a situation where there is no employment or

management relationship of those workers to each. So nobody is actually taking a cut of somebody's booking service fees. It is a very different operation. Everyone is operating independently.

Mr COLLINS: Yeah, perhaps you have something similar too?

Mrs WORDEN: It is one of the areas I am interested in. Because at what point—these things are only good practically, and I have just sought some advice, apparently these things will put in under as a *Planning Act* rather than—that will be where it will come. So it is useful for the information now, because I know there is work going on there at the moment.

At which point does a collective become a business? For all intents and purposes for someone on the outside, you have a premise that is being used by a whole number of people. But if for all intents and purposes you have 10 people operating from an area, maybe they have one name, because people obviously need to find a place, plus advertising—I am presuming there might be some joint advertising. At which point does that become a business? Whilst the money side is separately, and we do see this in the construction industry. For arguments sake you will see someone registered as business but a whole heap of people contracting to them and there is not necessarily people taking a cut. They are just working side by side. But at which point do you think that would be a business? Would it be 10 people in a property?

Ms KIM: I think we could argue that in the NT it would be very unlikely to see 10 people working in a premises for a start. Secondly, I think while I recognise that there are some provisions that will be in the *Planning Act* it does explicitly state in the Bill currently that if you are more than two workers, more than two sex workers, than you are required to have a suitability certificate. So it applies to brothels and it is treating independent sex workers the same as brothels, and that is our issue here.

Mrs WORDEN: The only problem I see is this can be a potential loop hole. That is where I think this is probably being driven from—that essentially 10 people could agree. Let us say we are not in the NT, but 10 people could under legislation—but I do not know any of that scape so that is fine.

Ms KIM: Generally, what we are talking about though is not somebody operating—you know what you described as having the same business name is generally a brothel. What we are talking about is usually a handful of sex workers sharing a premises, so they might be sharing the rent on a premises, maybe they might sharing a driver or security, splitting the costs of that, but not actually having an employment relationship to each other. That is kind of recognised and is working well in...

Mrs WORDEN: I can understand that but it does sound to me that it is a way around of not holding a suitability certificate, I see the other side. I think there is a misread of the legislation, this says sex services, what has been proposed, is a sex services business engages more than two sex workers. An individual would not be considered a business. I think the legislation already says what you are saying.

Ms KIM: That it is going to include private independent workers?

Mrs WORDEN: No, it does not 'if a sex services business'. Obviously three or four people operating out of the same premise having no business relationship; that is not a business. I do not believe that this applies.

Ms KIM: I think for clarity, if that is actually the case, then...

Mrs WORDEN: My reading of it, the word business is in there. I think we have a misunderstanding and there needs to be some caution, from my perspective, around that setup on paper to avoid the suitability certificate.

Mr CHAIR: I am mindful of time, we have a busy day. I have a few questions. You have expressed support for clause 9 which ensures that 'sex workers can refuse to undertake sex work at any time, whether or not there is a contract for sex work'.

How effective do you think this clause will be in situations where sex workers are fearful of the consequences of refusing consent, even though they have a legal right to pursue criminal charges if forced against their will?

Ms KIM: It is significant that it is actually stated in the Bill and it is a real step forward. It is a process of sex workers being informed of their rights that are being received under this Bill. That will be a process in those being conveyed. To decriminalise sex work, to remove the criminality of sex workers status and to be able to

access different mechanisms—and currently there is an extreme barrier for sex workers—this will be a significant step forward.

That is not to say that it is not going to be a process but it has been demonstrated that once decriminalised, occupational health and safety and access to police is improved.

Mr CHAIR: Thank you. Your comment in clause 9(iii) does not apply where the conduct of the other party constitutes a criminal offence. If the sex worker is an employee that general employment law provides that the employer is liable for any reimbursement if a contract is breached. However, this would not be the case for sex workers who are self-employed'.

To what extent will self-employed sex workers will be less likely to refuse consent, due to concerns that they will be liable for breach of contract?

Ms KIM: I do not think that will be the case, it is clearly stated where it is a criminal offence, that they can refuse. It is also the case that sex workers can refuse any service. Many sex workers have different boundaries and services they provide. This is the importance of decriminalising sex workers, it enables us to explicitly negotiate. This is why we are asking for the repeal of the advertising regulations, so that is clear in terms of the services we provide.

Not to say that it is going to be explicit, it will be subject to the same advertising standards as everyone else. There will be those guidelines that apply to sex workers, however what it means is that it does not restrict us as we are currently to having head shots and not being able to describe ourselves, which is incomprehensible legislation as it currently stands.

Mrs WORDEN: I am interested in the advertising.

Mr COLLINS: That was a reference to criminal offence. What if there is not a criminal offence, have the right to refuse consent but there is still the belief of the client to sue for breach of contract?

Ms KIM: That is only if the service has taken place, at any time the sex worker can refuse a service. What that speaks to is if the money for the service has been received, it is stating that a sex worker can refuse a service, regardless of having received that money for the service ...

Mr COLLINS: That is right, but the Act as it is provides that the ordinary remedies—apart from specific performance—for a breach of contract apply, which includes compensation and damages. Even without a criminal offence having occurred, the sex worker can refuse consent and the contract is terminated ...

Ms KIM: Absolutely, yes.

Mr COLLINS: ... but they are still open to damages and compensation.

Ms KIM: Not damages, having to reimburse the cost of services that they have not provided. Generally what will happen is that the service is negotiated at the outset and ...

Mr COLLINS: Sorry. I understand all that about the contract. What I am saying is the question was about how do you think sex workers will be less likely to refuse consent through concerns about liability for breach of contract.

Ms KIM: This is what the Act does. It does not make them liable for the breach of contract. Yes? What it is saying—it is significant that it is in there because in the Bill it differs from regular contract law in the sense that it—I will just pull it up because I have a copy of the Bill here.

Mr COLLINS: Well, my reading of clause 9(3) Refusal to perform sex work:

However, nothing in this section affects any right to rescind or cancel, or to recover damages for, a contract for sex work that is not performed.

So, you have the right to say no ...

Ms KIM: Yes.

Mr COLLINS: ... and end your consent at any point. You have that right, but nothing in this provision affects the client's right to recover damages. You cannot get specific performance, because that is a criminal offence. I get that. But damages are still there. My question is a concern for the worker ...

Ms KIM: Sure, if ...

Mr COLLINS: Please get me right. Do you foresee any circumstances where a worker might be concerned about being sued for damages, and therefore, continue on with the contract?

Ms KIM: If you wanted to be more explicit in that, it is just the payment for services being returned, we would be supportive of that ...

Mr COLLINS: I see that. Okay.

Ms KIM: ... as opposed to damages. We would be supportive of that amendment.

Mr COLLINS: Okay. Thank you.

Mr CHAIR: Jules, I have one more question. Some submitters have commented that decriminalisation in New Zealand and New South Wales has not improved conditions for sex workers. One submission stated that levels of crime in relation to sex workers in New South Wales, in particular, have increased due to greater involvement of bikie gangs in owning and operating sex service businesses. To what extent do you think that will have an impact on the NT, if any? Are there any changes to the legislation that we should be looking at to circumvent that happening here?

Ms KIM: The evidence-based research supports that is not the case. Some of the evidence that has been put forward has been personal testimonies from inquiries. Yet, when, for example, the decriminalisation inquiry into the brothels review happened in New South Wales, the Police Association supported maintaining decriminalisation.

I also note that the Australian Crime Commission has, in examining the presence of organised crime in the sex industry, has not identified that there is a prevalence of organised crime within the Australian sex industry. Further, there has been evidence-based research that affirms that pimping is not part of the culture of sex work in Australia.

I am very happy to provide those resources to the committee as well.

Mr CHAIR: That would be great.

Ms KIM: There is a lot of claims that are made about what has happened with decriminalisation. However, if we look at the evidence-based research, including the government's own reviews of decriminalisation, they have found that there has been improved occupational health and safety for workers. In fact, it has reduced corruption in the sex industry. It has enabled sex workers better access to police. This is supported in the government reviews of decriminalisation five years after it had been implemented and by the Kirby Institute's report to the Ministry of Health.

Mrs WORDEN: I have a question and I will be asking everyone who comes before us today. It is a burning issue for our community and it is specific to the Northern Territory.

The current industry in the Northern Territory is hidden behind massage parlours. Through this process today, we can be honest around the construct in the Northern Territory.

I have concerns that whilst we bring this Act in—and it will be terrific for sex workers—I am not sure the incentives are there for those particular businesses to transform to legitimate business. The community is saying, what incentives are there for the current construct to move to a legal construct? Do you think the Act will change that?

I will explain that better. A lot of the locations of these places are locations of choice. There is nothing currently limiting location. We have massage parlours besides schools et cetera and there are community issues, whether we agree or not. Would you give feedback whether this Act will change the current construct in the Northern Territory?

Ms KIM: Firstly, there are some misconceptions of massage parlours. I do not deny that there are massage parlours which provide sex services, but there is this assumption that all Asian massage services are sex service premises. That is not the case and you will hear evidence about that later.

Massage is a type of sex work, like escort, brothel-based sex work or private sex work and it is a type of sex work that sex workers choose. This Bill is providing protections for, not just sex workers, but sex industry businesses as well. Additionally, the problem with a lot of the previous frameworks is that they were these onerous requirements which made it hard for people to comply and were costly. For example within a licensed framework we have in Queensland, Victoria and in part in the NT. By removing those barriers, it incentivises people to be able to work within the decriminalised system.

Mrs WORDEN: You think that will change, that is your view?

Ms KIM: Yes, it is advantageous for the sex industry as a whole.

Mrs WORDEN: Only time will tell?

Ms KIM: Could I state ... for that reason, we would like to ask—as we have mentioned in our submission—for a review process. That was inbuilt in the decriminalisation Bill in both New Zealand and New South Wales. We would like to see a review process as we firmly believe that this Bill will be beneficial, not just to sex workers but the whole community.

Mrs WORDEN: We get feedback from the massage parlours at the same time but the legitimate part of their business is being tarnished and that is difficult, too. We understand we need to get that balance right.

Mr CHAIR: Thank you, Jules. On behalf of the committee thank you for coming in today and we appreciate your submission for the committee.

The committee suspended.

Northern Territory Women's Legal Services

Mr CHAIR: Welcome Caitlin. I will go through the formal procedure, Caitlin, then off we go.

Caitlin, on behalf of the committee I welcome everyone to the public hearing in to the Sex Industry Bill 2019. On our committee we have Mr Jeff Collins, Member for Fong Lim; Ms Kate Worden, Member for Sanderson and Mr Higgins on the phone.

Welcome to the table to give evidence to the committee. Caitlin Weatherby-Fell, Senior Solicitor at the Top End Women's Legal Services who is representing the Northern Territory Women's Legal Services here today.

Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and we look forward to hearing from you today. This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee does apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for the use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public then you do have the right to ask the committee to go in to a closed session and take your evidence in private.

Caitlin, could you please state your name and the capacity in which you are appearing here today for Hansard and the committee, and we welcome you to make an opening briefing statement.

Ms WEATHERBY-FELL: Thank you, Mr Chair. My name is Caitlin Weatherby-Fell. I am the Senior Solicitor at the Top End Women's Legal Service and this morning I am appearing as a Representative of the Northern Territory Women's Legal Services, which is the coalition of the three women's legal services in the Territory, comprising of Top End Women's Legal Service, Katherine Women's Legal Service in Katherine and the Central Australian Women's Legal Service in the Alice Springs/Barkly region.

For the committee's information, our shared vision as the NT Women's Legal Services is a community within which women enjoy and are entitled to legal and social justice. As the NT Women's Legal Services, we are

part of a national network of community legal centres specialising in women's legal issues and focussed on the advancement of women's rights.

Our services provide free and confidential legal information, advice, representation and advocacy to women across the Central Australian, Barkly, Katherine and Top End regions.

With respect to this Bill that the committee is hearing evidence in relation to this morning, the Women's Legal Services in principle support this Bill as referenced in our submission. We also made a submission to the earlier discussion paper in May of this year to which we annexed a copy of that submission to our submission to this Bill.

We note and confirm that it is our submission that the primary considerations with respect to the sex industry in the Northern Territory are work place health and safety as well as human rights protections, and we give our evidence in relation to our work, particularly for women in our community experiencing social disadvantage as well as women from culturally and linguistically diverse background, called women and Aboriginal and Torres Strait Islander women.

Mr CHAIR: Thank you, Caitlin. We will open it up to the committee for any questions.

Mr COLLINS: I have nothing specific but I will ask the first question we have here. In your submission you noted that in clause 19 the words suitable is not defined in relation to what it meant by a suitable person. In your view, what type of criterial should be used to define who is a suitable person to operate a sex services business?

Ms WEATHERBY-FELL: Mr Collins, that question will best be answered through further consultation with sex workers themselves. It is sex workers and the industry that is able to give light to definitions as to suitable that will be appropriate for their service industry.

The Women's Legal Services, whilst we are able to give advice with respect to certain definitions of suitability, or definitions in general and the legal consequences for such, it is not our view that it is our place to propose that definition of suitability with respect to a particular industry.

Mr COLLINS: So more probably looking at a regulation over it? Because obviously the Act is going to go through with the...

Ms WEATHERBY-FELL: That is right. One of the main concerns that the Women's Legal Services noted in our submissions is that whilst the Bill itself referenced a couple of times "regulations", there were no regulations included with this draft of the Bill. So for the suitable person, first that definition, but then the second step where there would be a process through which regulations would inform that definition, it is difficult to make comment when nothing has been provided.

In saying that, I am sure the Women's Legal Services would be happy to provide further comment should those regulations be released for that purpose. But at this time I would say the sex industry itself is the best place to start with reference to a definition of suitability.

Mrs WORDEN: Might stay on the thing from the previous submission because you were in the room for that I presume?

Ms WEATHERBY-FELL: I was.

Mrs WORDEN: Because you guys raised some issues regarding advertising as well?

Ms WEATHERBY-FELL: Yes we did.

Mrs WORDEN: I wasn't quite clear, but you have said one of the key issues raised in submissions and some submitters have expressed concerns when the regulations for advertising are developed they will simply replicate what is in the current regulations. So what is your view? How do you think advertising should be regulated under the Bill?

Ms WEATHERBY-FELL: In our particular Bill we noted that there were no regulations proposed. Subsequent to lodging this submission it is our understanding that the current regulations would flow to this proposed Bill.

Mrs WORDEN: The business regulations or?

Ms WEATHERBY-FELL: No, the current regulations held in the prostitution regulation Bill. But that is what we are acting upon, that presumption. At this time, the purpose of this Bill is to make work health safety practices available to this industry and to sex workers themselves. It seems inconsistent that the current regulations as they stand would flow across to this new Bill where there are issues raised by Scarlet Alliance, by SWOP NT, by the sex worker reference group with respect to the current regulations in respect of safety.

We particularly note the submission of the Scarlet Alliance and we have heard just before a little on this line, but deeper in their submission around advertising being an initial line of screening. That I think is really important. That steps to issues with respect to consent, issues with respect to formation of contract and advertisement in and of itself can be the first step to someone engaging with a sex worker or choosing to engage with this industry as a potential worker themselves.

The regulations as they stand at the moment, having quite strict compliance bases with regard to displaying head or face, can be quite risky. Particularly noting that community attitudes towards the sex industry itself are perhaps not as progressive as we would hope.

Mrs WORDEN: So are you thinking no head or face shots? Is that the main change we are looking for here?

Ms WEATHERBY-FELL: I would say again it would be the sex industry itself who would give more detail as to what they would see would be the most suitable form of advertising. We would support advertising being compliant with business based advertising regulations and community practice with regards to advertising more generally. But with respect to particular parts of the body that would be on display, unfortunately that is not something I see we are fit to comment on at this time.

Mrs WORDEN: So more conforming under normal business rules rather than have specific legislation that relates to this industry?

Ms WEATHERBY-FELL: Yes, particularly that the purpose of this Bill is, yes, to give workplace safety bases for these workers, but also to bring them into a business practice in line with other businesses that already exist in our community. By putting in place further restrictions, it arguably is leaning back from a full decriminalisation model to stepping back into further regulation and further regulation.

Mrs WORDEN: Do you know of any places where the advertising is simply in line with business?

Ms WEATHERBY-FELL: I do not. Unfortunately, I do not have that evidence to hand. I note that in our earlier submission, we noted a couple of studies, particularly one quite recent study of the New Zealand model, which we found quite interesting and had quite a lot of depth with respect to running through the model that had been in place and stepping through what had worked and what has not. That is reference point one of our earlier submission to the discussion paper. I can make that available to this committee.

Mrs WORDEN: Maybe we can have a look at those ourselves and see what it looks like in practice. It is all very well in theory ...

Ms WEATHERBY-FELL: That is right.

Mrs WORDEN: ... but it is important to see what those things look like in practice.

Mr CHAIR: Before we wrap up, Caitlin, we have heard from Jules who supports a review. Will you support a review as well?

Ms WEATHERBY-FELL: A review process with respect to ...

Mr CHAIR: The Bill and the ...

Ms WEATHERBY-FELL: To the Bill itself?

Mr CHAIR: Yes.

Ms WEATHERBY-FELL: At this time, in and of itself, we have said we broadly support the Bill, but, yes, a review would make logical sense, particularly because this change is a big change for the Northern Territory,

in and of itself, it is a big change for Australia, which is really encouraging and heartening. The Northern Territory would be the jurisdiction that is leading the way in this. It would make sense to have a review marked for a period of time where the sex industry could give more information as to how things are operating. Always when they are new, things will perhaps need some tweaks.

Mr CHAIR: Great. All right. On behalf of the committee, Caitlin, we thank you for coming today and appearing. Thank you for your submission.

The committee suspended.

Caroline Norma – Member of the Coalition Against Trafficking in Women Australia (CATWA)

Mr CHAIR: Welcome, Caroline. You are on teleconference. I hope all our members can hear you. We also have Mr Higgins, the Member for Daly, on teleconference. We have Mrs Kate Worden, the Member for Sanderson, here and Mr Jeff Collins, the Member for Fong Lim as well.

Caroline, I will go through some formal process to open the conversation, then we will hand it over to you to maybe make an opening statement.

On behalf of the committee, I welcome everyone to this public hearing into the Sex Industry Bill 2019. I welcome to the table to give evidence to the committee Dr Caroline Norma, a member of the Coalition Against Trafficking in Women Australia, who is joining us by teleconference.

Thank you for coming before the committee. We appreciate that you have taken the time to speak to the committee and look forward to hearing from you today.

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If, at any time during the hearing, you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private.

Could you please state your name and capacity in which you are appearing today and would you like to make an opening statement?

Dr NORMA: Dr Caroline Norma, a member of the Coalition Against Trafficking in Women Australia. I understand I have five minutes, I will not talk over that time, but I will make some comments. I would like to thank the Economic Policy Scrutiny Committee for listening, I know you are all busy.

I am a member of the Coalition Against Trafficking in Women Australia. Since the age of 19—23 years ago, which makes me old—I have spent my whole adult life examining sex industries in Australia and other countries. It means I have talked to survivors over these years, of whom most were and are critical of the sex industry.

I co-edited a book which compiles the life stories of 20-odd women who escaped the sex industries in various countries of the world and the critical of their experiences. I have their support in speaking today.

I have no vested interest in the sex industry or in the prostitution of people. My comments and chat with the committee are on the basis of my knowledge gained over my adult life and my concerns about the harms that are inflicted on people in the sex industry which I have learned from talking to those people.

I receive a full-time salary from RMIT University, but this is for teaching and its translation and interpreting degree. It does not matter what research I do, I still receive that salary. I have no vested interest in the area.

I see the proposed Bill as being based on no empirical evidence or evidence in logic in terms of an aim to reduce harms against people in the sex industry.

In terms of logic, lifting regulation and oversight from any industry—especially the sex industry—will make it easier for commercial operators in that industry to do business and will reduce their cost of doing business. Inevitably, if the rules of the market apply, that means expansion of the industry. Expansion of the industry, proliferates harm that the industry inflicts on people. It is a matter of numbers, the number of people in the industry spans, when you deregulate any industry.

We have no empirical evidence from New Zealand that things are better since 2003, since their sex industry was completely deregulated. They have had five deaths of women in the sex industry since 2003. This compares to Sweden, which heavily regulates this industry in the opposite direction. In 1999, they have had no deaths.

I do not know on what basis the New Zealand government says that the policy has been a success. It has only done 23 inspections of sex industry businesses over a period of 12 years, since the legislation was passed. There has been no review of the legislation since 2008, more than 10 years ago. Through numerous newspaper and police reports that we have collected, trafficking continues to be detected in the industry.

New South Wales is an even bigger policy disaster and the government acknowledges this. As you know, there was a review conducted in 2015 into the New South Wales industry. The final committee report of that review said:

... this inquiry has received evidence of serious instances of criminal involvement in the sex services industry and sex slavery.

...

... there is still significant criminal activity present in the industry. Around 40 brothels have some recorded connection or ties to outlaw motorcycle gangs in NSW Police intelligence holdings. There are also numerous reports of links to Asian organised crime in NSW brothels.

This finding was not rejected by the New South Wales government in its response to the report.

Obviously, the Northern Territory Bill lifts regulation from the sex industry at an even greater rate than New Zealand and New South Wales. For example, it does not bar visa holders from the industry, whereas the New Zealand model does. Different from the New South Wales model, the Northern Territory proposal is to completely bar police involvement and also registration of sex industry businesses under the *Public Health Act 2011*—among other things.

Yes, there is a lot I can stay, but I will stop there because I know my time is limited. Thank you very much.

Mr CHAIR: Thanks, Caroline. I will open it to our members for any questions.

Mr COLLINS: Just a quick one. You referred to five deaths in New Zealand since 2007, then you compared that to Sweden. How many deaths were recorded before 2007 in New Zealand?

Dr NORMA: I do not know ...

Mr COLLINS: Would that not be a good comparison?

Dr NORMA: Yes. The year you want to look at is 2003. The legislation there passed only by one vote. There was no groundswell or overwhelming urgent need in that country to pass that legislation. It was not like there was a massive number of deaths that were suddenly being fixed by the legislation.

Mr COLLINS: That is not ...

Dr NORMA: I do not think deaths was—yes.

Mr COLLINS: The point is you are using that as an argument and you are comparing apples with oranges ...

Dr NORMA: In relation to Sweden, yes, I am.

Mr COLLINS: Yes. So ...

Dr NORMA: We are talking about one jurisdiction that has heavily regulated its sex industry and achieved zero deaths, and another jurisdiction that has lifted regulation from the industry and produced deaths. Also, the premise—and you will hear this quite often from supporters of your proposed Bill—is that New Zealand presents, somehow, a model and base for introducing the Bill you have. Surely, we cannot say that it does when it is still producing deaths, compared to Sweden.

Mr COLLINS: Yes. There could be any number of reasons for that—different markets. But, anyhow, that ...

Dr NORMA: There could be any number of reasons for it, but we have social science research showing explicitly that men, as customers, enter the sex industry in order to perpetrate sex acts against women that they cannot do against their wives and girlfriends, or that will not be accepted in normal household relationships. They are not entering the sex industry to enter into relations of respect and neutrality with women. That is the exact opposite. The function of the industry is to facilitate men's pursuit of pornographic handling of women, for example. They play pornography in the brothels. It is not an accidental thing that these deaths and harms occur.

Mr COLLINS: But the Bill is intended to try to make the industry safer for the sex workers. Nobody is arguing against what you are talking about in terms of some of the clients of this industry, but prohibition ...

Dr NORMA: You are giving those clients ...

Mr COLLINS: ... has not worked anywhere ...

Dr NORMA: You are giving those ...

Mr COLLINS: ... so, ultimately, what we are trying to do ...

Dr NORMA: Well, it has in Sweden. We have not had any deaths in Sweden compared to New Zealand. Also, what harms is your Bill attempting to reduce? Your Bill puts in the hands of customers the supposed ability to take to court women for restitution of lost whatever—lost payments—for not having performed specific service.

Personally—probably all of us here realise and know that there is no chance that the Australian courts will allow some sex industry customers to bring a woman to the court over a couple of hundred dollars that they have paid to use here. Can you imagine what the pimps in these brothels will be saying to the women? These women are vulnerable. They will say, 'Get back in that room with that guy because otherwise you are going to court.'

Unfortunately, these women are going to believe them. They are extremely vulnerable. On every social science measure women in the sex industry of the entire world are extremely vulnerable—of what your Bill proposes to do to put in to the hands of customers that threat that they can take them to court, I just cannot see sincerity in your claim that the Bill is attempting to help women and to protect them.

Mrs WORDEN: Kate Worden, Caroline. In part of your submission you believe that this will expand not reduce the industry. Can you tell me what that is based on, if there is a model or a change in legislation elsewhere that that has actually has been the result? Where are you getting that?

Dr NORMA: It is by your own rights in the Northern Territory as I understand it at the moment, it that you do not allow brothel develop. I understand that you do allow escort prostitution but by your own rights lifting any restriction on brothel development will permit brothel development, and there is no indication from any jurisdiction in the world that brothels are not continuing to be profitable to some extent, especially under completely de-regulated environment.

Mrs WORDEN: If we were talking about numbers this Bill is proposing to move what are currently illegitimate, for the purposes of this discussion I call illegitimate businesses, that we know already operating that just moves them to a legitimate basis, but your ...

Dr Norma interjecting.

Mrs WORDEN: Sorry, let me finish. Caroline, if I could finish. Your submission specifically says, 'it would expand the business here.' Expand the prostitution in the Northern Territory. Basically, you are saying this Act will do that. I am wondering what evidence there has been in other places that that has occurred. Because

it already exists here and you would be blind Freddy to say that it does not. If you could tell me if there is any evidence ...

Dr NORMA: It does exist here.

Mrs WORDEN: Of course it exists here. Your word is expanding.

Dr NORMA: There is no incentive in your Bill for the already existing illegal operations to move in to anything whatsoever; not even requiring them to register under the *Public Health and Environmental Health Act*, so they will stay as they are and then you will get market entrance who are attracted by the fact that they can operate without any oversight from government and start to create ...

Mrs WORDEN: That is an assumption, Caroline. Where has this occurred? Where has de-regulation or decriminalisation occurred that it is ...

Dr NORMA: New South Wales.

Mrs WORDEN: That was my question.

Dr NORMA: New South Wales. They have a huge sex industry there and it has happened precisely because—what happens is, for example, the operators who want to create big brothels like Stiletto, lots of rooms, lots of women most of them for the purposes of sex tourism from interstate or overseas, particularly linked to things like casinos; they like deregulated markets because they can set up these big ventures that they would not be able to in markets that are more heavily restricted.

Victoria has restrictions on numbers of rooms that an operation can offer, for example. Particularly for Darwin and your connection with the closeness of Asia this is a green light for sex industry development in your jurisdiction. You are not putting in any measure in place to stop that inevitably being the case. You just have to look at New South Wales to see that that has happened.

Mrs WORDEN: Thank you. I will look at that further.

Mr CHAIR: Caroline, I have a question. The sex service businesses will have to comply with a range of legislation that also applies to other businesses in the NT, such as legislation relating to work health and safety, workers compensation and rehabilitation, employment, discrimination and planning, and in addition the Bill requires sex service businesses and employ more than two workers to hold a suitability certificate.

Can you clarify to the committee why you consider that compliance with the Territory laws will not be sufficient enough to protect sex workers?

Dr NORMA: Well you have said it yourself. You are not requiring the businesses to register under the public health and environmental health act. You are not requiring the businesses to submit to police intervention like other businesses that fall under the public health act. You are not putting in place any extra requirements of operation in the sex industry that tackle the very things that we know are problems of sex industries in all jurisdictions in the world.

Different from hairdressers it is the case that organised crime loves prostitution and the sex industry and makes its money through it. But your Bill puts in place no disincentives to organised crime entering into the industry. We know that trafficking is a big problem in relation to the sex industry, but your Bill puts in place no restrictions on visa holders entering the industry. We know that demands for not using condoms in perpetrating sex acts against victims in the industry is a problem but your legislation says nothing about that. We know that Aboriginal women across all jurisdictions in the world are particularly vulnerable to exploitation in the industry, but even in the jurisdiction in Australia that has the most, the highest rates of Aboriginal residency in the country, the legislation says nothing about them.

There is no point saying that the sex industry businesses will be subject to the same regulation as all other businesses in the Territory. Number one because it is not true, because you are not requiring them to fulfil the same requirements under the public health act that other businesses do. Number one it is not true. And number two there is no point in saying that because you need to establish responses to things that we know are a problem for the sex industry. These are not mystical things that have just been invented. They are empirically tested—that trafficking is a problem in relation to sex industries throughout the world, that violence

against women is a problem. For example, selling drugs in brothels is standard in the Victorian industry and that is legislated.

Why ignore all of this evidence throughout the world and create a legislative model that just relegates them to the same category as hairdressers, when we know they are not, they do not operate like hairdressers. That is not the business model they operate by, so yeah the legislation seems to drift in space as if we have no research and no experience in the world on what is going on. For that report in 2015 for the New South Wales situation, to be not reflected in the drafting of this Bill I think is particularly heinous, because that review was only done a few years ago, it is in our own county. It highlighted such serious problems that are actually affecting governance in New South Wales. But the Northern Territory does not take that insight. It is a shame.

Mr CHAIR: Caroline, we are going to finish up in a minute. I just have one other question—do you think it allows sex workers to have a choice whether to go into an industry where they have work health safety, where they have compensation and all those sorts of things like a normal business should have? Does it allow sex workers to make a choice, have a choice?

Dr NORMA: The choice is in the ability for them to stay out of the sex industry, and I see no provision made in this Bill for establishing a fund for exit services. Exit services are obviously public facilities and subsidies that sit there waiting to assist people in the sex industry to transition out whenever they want to. While those do not exist then this idea that people have a choice to either enter the sex industry or not is a false premise.

What we need is for the Northern Territory to establish proper shelters, proper subsidies for women, proper retraining for jobs, proper attention to all of the mental health and drug and alcohol, child sexual abuse traumatic effects. All of these services and facilities that we could be establishing in legislation to profit the women who have been sexually used over so many years in jurisdictions like the Northern Territory.

I think it is a lost opportunity and the Northern Territory could see itself at the forefront of the world if it redrafted this Bill to focus on putting at the very centre of their efforts the welfare and health of victims of sexual exploitation and start envisage a better world for women, particularly Aboriginal women. But we do not have to submit to sex acts from random men who just use money to do whatever they like with people's bodies. Let us envisage a better future for women for the Territory. There is a lot that can be done for them.

Mr CHAIR: Yep, all right. Thanks Caroline. We are going to finish up because we are over time. Thank you for your time today, from myself and the committee, we do appreciate you appearing before the committee. Thank you very much Caroline.

The committee suspended.

Australian Christian Lobby and Ally-Marie Diamond

Mr CHAIR: My name is Tony Sievers, the Chair of the Economic Policy Scrutiny Committee. On behalf of the committee, I welcome everyone to this public hearing into the Sex Industry Bill 2019. I acknowledge my fellow committee members in attendance today: Jeff Collins, Member for Fong Lim; Kate Worden, Member for Sanderson; Garry Higgins, Member for Daly, via teleconference; Lawrence Costa, Member for Arafura.

I welcome to the table to give evidence to the committee from the Australian Christian Lobby, Wendy Francis, NT Director and Ally-Marie Diamond, a former sex worker from New Zealand.

Thank you for coming before the committee. We appreciate that you have taken the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public briefing which is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website.

If, at any time during the hearing, you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private.

Could you please each state your name and capacity in which you are appearing and we welcome an opening statement?

Ms FRANCIS: Wendy Francis, Northern Territory Director, Australian Christian Lobby

Ms DIAMOND: I am a woman who exited prostitution in New Zealand. I am not associated with anyone.

Ms FRANCIS: We both would like to make an opening statement, I will go first.

We are all here with the same desire; to protect people in prostitution. We want to give vulnerable people protection. I believe that this Bill has unintended consequences. If I go to the end of what I would like to ask, that is for a full inquiry to look at the consequences. I do not believe that this Bill will give women the safety we want to achieve and we are all on that same page.

I do not want to negate the story of women in the industry who have a voice—you will hear from strong women who have a voice in the industry—but I want you to consider the majority of women in this industry who do not have a voice. I would like to think that today we are speaking for the majority of women who you will not hear.

I also think there are people who have not been consulted. That is why I would like a longer process. From my understanding of the conversations I have had in trying to find out, 30% of your population is Indigenous but I do not think there have been any Aboriginal elders consulted on this. There has been zero consultation with the Indigenous population and their perspective on this is really important.

There are questions on the Bill such as implications for zoning. I would like to know what your councils think of how they will cope with the applications for zoning and the protests that will come from people. That is clearly indicated, even in your Have Your Say website ... in question 11 on the Have Your Say, which we all know was overwhelmingly against decriminalisation. (We did not get a lot of responses. They were not made public). That question was black and white, 'Do you want decriminalisation of prostitution'—yes, 44, no 86, two unsure.

That is probably a reflection of people concerned about things like zoning. That question has not been answered in the Bill.

Any legislative change in the area of prostitution should address the reasons that drive women into the industry—and it is largely women—and the culture that normalises women's bodies being for sale. I ask the Northern Territory government to look into best global practices regarding prostitution before any decisions are made.

We do not have to go globally to look at that, either, we just need to look at what is happening in New South Wales. The police there say that decriminalising prostitution has been a policy failure. They say it has opened the door for bikie gangs and other organised crime groups. There is one New South Wales police officer who investigates sex trafficking and he spoke on the effects of decriminalisation. I quote what he said:

Although the intention was to provide a safe working environment for sex workers ...

That is what we are all wanting:

... the reverse has occurred in that pimps and brothel operators were empowered and enriched.

In 2015, they had an inquiry in New South Wales because of all the problems that were occurring, particularly with councils which were struggling under no police support. I participated in that inquiry and was there when the Deputy Commissioner for Police said there was more regulatory control exercised over dog ownership in New South Wales than the protection of people in prostitution.

We have a serious problem. I have a lot of statistics I could go through, but they might come up in any questions you have. I do not think we can pretend that prostitution is not part of quite a blatant and global abuse of power. That may be more relevant in other countries than in Australia, but we are part of a global network. Normalising the sex industry is totally at odds with all the other legislative approaches that we take dealing with violence against women and gender equality.

I believe that people in prostitution should be offered sanctuary, not sanctions. I agree with removing criminalisation from people in prostitution, but we cannot protect them if then we just give free rein to those who prey upon them—and there are people in this industry who prey upon them.

I have a very recent statement from France and Sweden. We are not talking about their models today, but it is important to hear the sort of thing that they are saying in very progressive countries. I have copies here. It was issued on International Women's Day. The Ministry for Foreign Affairs in France and the Ministry for Foreign Affairs in Sweden made a joint statement. This is just a part of what they said:

France and Sweden have taken a clear position against normalising prostitution as work. Our view is that prostitution should always be perceived as an exploitation of someone's vulnerability, thus prostitution should never be considered a job.

It goes on and I have copies of that statement ...

Mr CHAIR: Would you like to table that for the committee?

Ms FRANCIS: Yes I would like to, if that is all right.

Mr CHAIR: Yes, thank you.

Ms FRANCIS: I will let Ally-Marie give part of her story now, because I think it is really interesting and important that you hear the stories of the women who are being silenced in this debate.

Mr CHAIR: Ally-Marie, we have read your letter and thank you for that. We appreciate that insight.

Ms FRANCIS: Ally-Marie is just going to give a very short summary of what she was going to say.

Ms DIAMOND: I remember the night vividly. He entered my room, my bed. I was five. I froze too scared to even shed a tear. My fragile little body felt like I had bugs crawling all over me. But they were not bugs. They were my uncle's tongue working its way up my body, from the tips of my toes to the top of my head.

I was about three when my head was pushed down over an older boy's penis. When I was nine popular boys from school would ask me to pull my knickers down. Desperate to be accepted I complied. After all, men had been taking my undies off since I was three. Those sneaky thieves that came in the night, they just kept on coming. So many now that I lost count. I quickly learnt that the only thing men wanted from me was sex.

As a young woman I ended up in huge debt. It was at this time that a friend approached me about a way out. A way to pay my debt, have somewhere to sleep and the support that I needed. Here began my journey into the world of prostitution.

My very first client was a big, obese, sweaty man and as he walked into the room he go undressed, stepped into the shower and I had to stop myself from gagging. The smell, the sweaty, crusty stench filled my nostrils. That very first night I had 20 men brought to me. One man after another. After the last man left I curled up in a ball on my head, tears were streaming down my face uncontrollably. My body hurt so bad. I was bruised, broken, my nipples were cracked and they were bleeding. I looked down at my breasts and my body and I did not even recognise myself. My vagina felt like it was on fire. My bottom was cracked and so torn the sheets were covered in blood. I felt ashamed, alone, afraid, broken, worthless.

All my years of being abused as a child did not compare with this night. It was worse. I do not even remember falling asleep. But I do remember waking up and realising that this was not a nightmare, this was now my reality.

The nights passed by as a blur and I became a robot. Money flowed in but none of it paid my Bills, most went to the manager for what he called living expenses and what was left went on used clothes, shoes and lingerie. As I tried to fit into this life and I feel like I belonged somewhere, that I was worth something. Funny how I felt like a princess as I dressed in designer gowns. But even as I bought the things that I dreamed of, nothing covered the feelings of worthlessness. I loved attention, but it was not healthy attention. Spreading my legs was now a habit, an addiction. But like any addiction it is not long before that high wears off and I started to drink to numb the pain, the shame of this life. When that did not work anymore I turned to drugs.

As popularity dwindled the violence and abuse from the men got worse. The abuse that went on behind those closed doors was scary. Abuse that I never reported or shared for fear of what would happen to me if I did. Men who came in and saw me as an object. That they could do anything they liked with, anything they had watched on the latest pornography. Any way that they wanted to try out, because they had paid for it.

Sex worker is a glorified term for paid rape. These men never paid me for my time or my company. They paid to fuck me in every single hole they could find, even when I said no. If I could have been anywhere but there, I would have been. Getting fucked 20 times or more a day is not work. It is terrorism against women. It is a sustained international attack on vulnerable women, girls and children. They may not blow up buildings or themselves. But they blew up my mind, my body and my soul. They sent me to a torture chamber that I would never escape from, not even to this day. Because today I fight to survive, I fight to live, I fight to feel worthy, I fight to be loved and I fight to dream.

I am grateful I am alive to share the part of me that haunts me to this day. I am grateful that I have found my voice but some are not so lucky.

I hear women say that this paid rate brings them empowerment and feeds their children. They protect the only road that they know, the only life they know, the only life they have lived. I understand because I too was once them. The woman who protected my normal and the only life that supported my children. I am grateful that they have their voices, their loud, strong, beautiful voices, but I am here to speak for my sisters who have lost theirs, who do not have the strength to speak, who have lost their fight along with their belief and love and in humanity itself.

I am here to speak for those women and children who are the vast majority. I am here to speak for them the most vulnerable in our society and in our communities. This is my story and their story, and I do not speak for all the girls in this trade. Some may have been lucky enough never to have experienced this form of violence, but sadly some have experienced much worse.

In Australia and Aotearoa, New Zealand, Indigenous, Maori, Thai and Pacific Islander women and girls are enormously overrepresented in the sex trade. We live in a combination of racism and sexism and I am here to speak up for the vulnerable, for the lost, for the weak, for the majority with no voice, for the majority too scared to speak up, for my sisters and I am imploring you to please hear me.

Aotearoa, New Zealand would like you think that they have the perfect model but they do not. Since decriminalisation street prostitution is worse than it has ever been. Children as young as nine are being pimped out on the streets by gangs and even family members. Twelve-year olds are being sold and licenced brothels. When you think of tourism just do not think Thailand or Cambodia. Now you can think Aotearoa New Zealand because it is happening and unless you are looking for it you will not see it.

I hear people speak of the most vulnerable and how we must think of them. Women with voices who know what they want and are not afraid to ask for it or fight for it are not our most vulnerable. The vulnerable are the women and children with no voice. So who protects them under full decriminalisation?

Under decriminalisation communities become unsafe to live. Brothels pop up at the neighbours, down the road from your families, where ever they please. It is happening in my native country, to my families and to my friends and is this the legacy you want to leave our children and our grandchildren? Is this really how you want to be remembered in history as the legacy said, 'today was a great day, today we voted that it was a man's legal right to buy your body.'

I implore you please, be the voice for my sisters who have died because their paying rapist beat them too hard. Be the voice for my sisters who have died because it was the rapist's fantasy to choke her while fucking her. Be the voice for my sisters who said no but the man did it anyway and did so much internal damage that they died. Be the voice for my sisters who have lost the ability to give the gift of life because a paid rapist shoved bottles, cucumbers, carrots, stupidly over-sized vibrators, shoe heels, batons and whatever else their warped mines could come up with so far and so hard up their vaginas that they damaged their reproductive systems beyond repair.

Be the voice for my sisters who could not cope anymore and chose the only path that they could see—suicide. Be the voice for my sisters who are so lost in the streets that all they do is take drugs and drink. The pain that they are in so unbearable they end up losing their lives to organ failure. Be the voice for my sisters who are too terrified to speak out for fear of repercussions and judgement. Be the voice for my sisters who are still trapped and the life of paid rape with no way to get out because they have been coerced, trafficked or had their lives and the lives of their families threatened. Be the voice for the innocent children left behind who lost their mothers. Be the voice for all the children who are being pimped out on the streets who have had their voices and their innocence stolen from them. Be the voice of change that leaves the legacy that no woman, no child, no ones body is for sale.

Mr CHAIR: Thank you, Ally-Marie. That is a very sad and shocking story and we do appreciate you coming here today and presenting for us. Thank you.

Mrs WORDEN: Thank you for sharing your submission, word for word. A whole heap of factors you could say predispose you to this industry. However, is it not important—and I am not diminishing your experiences...

Ms DIAMOND: That is okay.

Mrs WORDEN: ... that as a society we accept the reality up the other end and we make it safer for women who may be there by choice.—we cannot put that aside, but as a society we take care of that end. We accept that even if we say that should not happen, it will still occur.

Is it not better that we would be that voice for women and as a community, emphasise the factors that got you there in the first place? You are making an impassioned plea to us and we have decisions to make as legislators. If our recommendation to Parliament is to not go ahead, it would leave greater vulnerability for women who have found themselves in similar circumstances?

Ms DIAMOND: I am not asking you to completely ignore, that is not a solution. I do not think full decriminalisation is the solution either. We need to protect the women and have support systems in place if they do choose to leave or try something else, they have that option.

In New Zealand they do not have that option. Women are trying to leave the sex trade and there is no help for them. They are leaving and then going back, leaving and going back, because no one is listening to them.

Ms FRANCIS: Why would we have exit strategies if it is normalised and made to be like any other job? We do not have exit strategies for hairdressing or building.

The reason why we want exit strategies for prostituted women is that the majority are not there by choice. In New South Wales it is vulnerable women and children who are in this industry.

We do not say about domestic violence, 'well it is always going to happen'. We don't try and make it safer for the women. We actually say, 'women, get out of that situation'. We take them out, we make a way for women who are in domestic violence situations to get out of that situation. We cannot say 'we will make the home as safe as possible for you to remain', we get them out.

When we look at prostituted women in Sydney, the latest research shows that:

- more than half left home before the age of 16 years
- the average school completion of women in prostitution in New South Wales is year 9
- fourteen percent have no fixed address or are currently homeless
- fifty percent report being homeless within the past 16 months
- three-quarters experience child sexual abuse before the age of 16 years
- one-third reported moving into prostitution before the age of 18 years
- eighty-five percent reported experiencing violence in prostitution
- fifty-four percent have reported attempting suicide, one quarter before the age of 18 years.

We are talking about a vulnerable sub-section of women and children. We need to encourage them; that there is a way out if they want a way out.

Mr CHAIR: Thank you for taking the time to appear before the committee and Ally-Marie, we appreciate you sharing your story.

The committee suspended.

Priceless and Sabrina Valisce

Mr CHAIR: I will introduce you to everyone, Sabrina and Matthew, before we start. We have Mr Jeff Collins, the Member for Fong Lim, Mrs Kate Worden, the Member for Sanderson, Mr Gary Higgins, the Member for Daly, who is on the teleconference as well, and Mr Lawrence Costa, who is also the Deputy Chair of our committee. I will go through some formalities and welcome you to the committee.

On behalf of the committee, I welcome everyone to this public hearing into the Sex Industry Bill. I welcome to the table to give evidence to the committee, Mr Matthew Davis who is a spokesperson for Priceless and Ms Sabrina Valisce, who is a former New Zealand sex worker and is joining us by teleconference today.

Thank you for both appearing before the committee. We appreciate you taking the time to speak to the committee today and look forward to hearing from you both today.

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Sabrina and Matthew, if, at any time during the hearing, you are concerned that what you will say should not be made public, then you may ask that the committee go into a closed session and take your evidence in private. For the record and our Hansard record, Sabrina and Matthew, could you please each state your name and the capacity in which you are appearing today. Then, we welcome either or both of you to make an opening statement. I might start with Sabrina first. Do you want to introduce yourself?

Ms VALISCE: Yes. Hi, I am Sabrina Valisce. I am operating in the capacity of somebody who is survivor of the New Zealand full decriminalisation system, which I am very much against. I work for SPACE International, which stands for Survivors of Prostitution Abuse Calling for Enlightenment, and a national organisation in Australia called PEACE, which stands for Prostitution Education and Collective Experience. That is 100% survivors.

Mr DAVIS: Matthew Davis. I am a Darwin resident and spokesperson for the Priceless movement.

Mr CHAIR: Great. Would either one of you like to make an opening statement to the committee about the Bill?

Mr DAVIS: I would like to give Sabrina the bulk of the time we have. I will take this opportunity to thank you for inviting us to the hearing. I also acknowledge that this meeting is being held on the traditional land of the Larrakeyah people and pay my respects to Elders both past and present. I thank the committee for its work in receiving and evaluating the various submissions on this Bill and its willingness to allocate space for the views of sex work survivors as requested by Priceless movement. Thanks very much for the opportunity and I would like to give Sabrina the bulk of this time. Thank you.

Mr CHAIR: Thank you Matthew. Alright, Sabrina we are in your hands so if you would like to make an opening statement, or talk about the Bill, or your experiences in New Zealand around the legislation, around that. Please take the time.

Ms VALISCE: I was initially introduced to here as a former sex worker. I do not use the term sex worker because it is a term that has been used by pimps, traffickers and even activists who have never spent a day in their lives in prostitution. So I say I was in prostitution and I am not anymore, because it is very specific and very clear.

I used to be for full decriminalisation prior to us having it. I thought that it would solve all our problems and it was presented to me as a safer option than what we had been living. Then we had full decriminalisation and I found out that was very much untrue. So I now fight against full decriminalisation.

Now to be really clear, what I mean when I say full decriminalisation is the decriminalising of pimps, of punters or the men who open their wallets to access the bodies mostly of women and girls, but sometimes of boys and Trans people as well, and also the women. Now I am for decriminalising the people who are actually in prostitution, but that is where it ends. The rest of it, decriminalising pimps absolutely not and decriminalising the men who access women's bodies with money, absolutely not.

The reason for this is the way in which the sex trade changed when I was in it, what I experienced and what I saw other people experience. Because you know I was not isolated, I met a lot of people when I was there.

The New Zealand brothels are the thing that are held up as somehow being safe and I want to blow that myth out of the water, because we just exchanged one set of problems for another set of problems. We went from fearing the police—and that is a terrible thing. That is something I would like to see change for all of the people across Australia, I do not want people to be afraid of the police for making a living. But then to be afraid of what I call business pimps. These are the people who own brothels, escort agencies, apps, websites, people who skim money as third party profiteers. To be afraid of them in place of the police is not a solution.

A New Zealand brothel now when you go into it and you work there you are expected to wear very little clothing with huge high heels that are around six inches. There is music blasting, this is nightclub level music. People think that if you know violence goes on in a room somehow people are going to know about it, this is extremely uninformed. You do not hear it over nightclub level music.

People talk about alarms in the room and the guys know where those alarms are, if they are going to be violent they are also going to know to make sure the girls cannot get to one. Even if those alarms go off, there is absolutely no guarantee the receptionist is going to be right at the desk at that moment in time and able to know it's going off. And if she does who is going to go in there? Because I have never once seen a brothel that has security. I have seen one that has drivers, but the drivers outright say I do not do security. There is no actual security in that.

On top of that you have the men talking about women in front of them and some of this is extremely disparaging, most of it is. They talk to each other and they talk about the girls in front of the girls as though we are not human beings. It will be things like, 'What do you think of that one over there?', 'Oh yeah she has no rack on her. What about that one over there?', 'Oh, the old girl is a bit wrong for me wonder if her daughter is here'. This kind of stuff is normal in a New Zealand brothel.

We also two different understandings going on, an 'in-call' and an 'out-call'. An in-call is where a man comes into a brothel or to where the woman is working, so she could be operating from a hotel room, her own house, a flat or a rental apartment. That is an in-call, when the guy goes to the woman in prostitution.

An out-call is where the person in prostitution goes to where the punter is. All brothels I ever worked in, in New Zealand—and I worked in a lot of them over a lot of years—did out-calls. The way that works is the driver will be dropping up to six girls off. He drops you off on the side of the road and then speeds off, because the more jobs he gets, the more money he is paid. He is not sticking around waiting for you to get to the door and get in safely. He is not checking that the premises are safe to enter.

I was once sent to a party and there was absolutely no way known the receptionist who booked this did not know, because there were about 50 people at this party. I was sent there by myself to see one person. Luckily, it was a situation where nothing bad happened, but there is absolutely no guarantee of that. Once upon a time, prior to full decriminalisation, we used to hire drivers of our own accord as security. They would go in first, look around and make sure there was nobody else was there, that there were no weapons in sight and wait for the whole thing to be completed. That level of security was much higher when we were criminal than it became after full decriminalisation.

On top of this, we have people saying that, somehow, there will be more police reporting under full decriminalisation. New Zealand's own report of full decriminalisation says there has been no increase in police reporting. That sits with what I saw going on. These girls would be too afraid to report to the police because there was no record of them working there in the first place. There was no proof of anything.

You do not even know the punter's real name half the time. If they use a credit card, yes, okay. However, most brothels will say they do not know the person who has made the report—'They do not work for us'—because under the decriminalisation they are not employers. The girls are working for themselves and paying their own tax, so it is a situation where they are acting as though they are employers, they are stipulating you

have to start at this time, finish at this time, dress like that, but then they are not taking responsibility of employers.

They charge fees and fines as well. This is part of the coercive nature of what goes on—I guess financial abuse is how this pans out.

The second you start work at a brothel you are in debt. It is an immediate thing. You owe \$50 for a shift fee. Then, there will be advertising fees. You are not given a receipt for this, it is just a flat \$50. Usually, it is one sentence. It is the brothel name, phone number and then the girl's name underneath and that is it. There is no way that even costs that, but they charge it anyway.

Then, if you are late by one minute, it is \$1 per minute. That is not just for shift, that is into the room. You have a half-hour booking. If it takes 31 minutes, that will cost you \$1. If you have appearance infraction fees, is what they call them. If you have ladder in your stocking, you could be charged \$50 for that. If your makeup or your hair is not good enough—\$50.

This is used to keep girls in line. If girls start complaining about anything, then suddenly they will get a lot of these fines going on. Whereas, if they are in line, there are a lot fewer of those fines happening. They are not used very obviously in that the girl did not bother trying to look good at all, it is used as a tool of manipulation.

Mrs WORDEN: Sabrinna, thank you for that introduction. In New Zealand can you describe at all what the advertising looks like? You are saying that it is just one line, one name? It is very difficult for us here.

Ms VALISCE: Okay. The advertising fees from the brothel are done in the local newspaper, however, most advertising actually happens online and through apps. There's a difference between what the girls are getting charged for and what the advertising looks like. The local classified—it is perfectly legal to advertise prostitution services that is the way they understand it. However, that is now where guys are looking. They are looking online. There will be websites, there is specific newspapers. Actually, Australia has an app that New Zealand uses as well. That is what it looks like mostly and then with brothels obviously there is signage, strip clubs there is huge signage.

Mrs WORDEN: Matthew, obviously the current landscape in Darwin is a mix of independent workers but also advertising in the papers by the looks of it, from an outside perspective, and then massage parlours which probably parliamentarians get more complaints about than anything else. Do you think there is enough incentives in the Bill that will incentivise the current businesses working illegally to become legitimate businesses?

Mr DAVIS: I cannot see where the incentives are. I imagine it will go down the same path as other jurisdictions where the non-compliant or illegal services will still outnumber those who choose to register or get licenced.

Mrs WORDEN: You do not think there is enough incentives? We are of the understanding that changes will come in the *Planning Act* which will come after, around some of the locations. But if you are operating a current massage parlour, do you not believe there is enough incentives to become a legitimate business?

Mr DAVIS: I cannot see what the incentives are for any change there.

Ms VALISCE: Can I just ask you a question? Why would you want to legitimise a business that abuses women? I find that utterly offensive that anybody would even consider that an option.

Mrs WORDEN: Sabrinna, in response to that in some ways that is not the ultimate question for us today. It is one of many questions that we are answering. It is not as simple as that. It is not a black and white issue. I will just say that.

Ms VALISCE: Yes. I have worked in these places. It is black and white. I am sorry. What happens in those places is women get abused and when you decriminalise you are saying that is okay, we think that is fine. It is not okay, it is not fine.

Mr CHAIR: No abuse is okay, Sabrinna. We have to wrap it up there. Thank you, Sabrinna for joining us. Thank you, Matthew for joining us as well. We have your submission, and thank you for appearing before the committee today.

Ms VALISCE: Thank you. Bye.

Mr DAVIS: Just before I go, I have three books that I would like to table with the committee on Prostitution Narratives stories of survival from the sex industry.

Mr CHAIR: Thank you, Matthew.

The committee suspended.

Northern Territory AIDS and Hepatitis Council

Mr CHAIR: Thank you, Leanne, Genevieve and Heath for coming here today. I will go through some formalities. I will introduce to our committee. We have Mr Jeff Collins, the Member for Fong Lim, Mrs Kate Worden, the Member for Sanderson, obviously me, and Mr Gary Higgins, the Member for Daly, on the phone and Mr Lawrence Costa, our Deputy Chair as well.

On behalf of the committee, I welcome everyone to this public hearing into the sex industry Bill 2019. I welcome to the table to give evidence to the committee today Ms Genevieve Dally, the Executive Director of the NT AIDS and Hepatitis Council, Heath Paynter, Deputy Chief Executive Officer, Australian Federation of AIDS Organisations, and Ms Leanne Melling, Coordinator, Sex Worker Outreach Program NT.

Thank you all for coming before the committee, We appreciate you taking the time to speak to the committee and look forward to hearing from you all today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee applies. This is a public hearing that is being webcast through the Assembly's website. A transcript will be made for the use of the committee and may be put on the committee's website also.

If, at any time during the hearing, you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private.

For the *Hansard* record could you please each state your name and the capacity in which you are appearing so *Hansard* can record it.

Mr PAYNTER: Heath Paynter, Deputy Chief Executive Officer from the Australian Federation of AIDS Organisations, AFAO.

Ms DALLY: Genevieve Dally, the Executive Director from NTAHC, NT AIDS and Hepatitis Council.

Ms MELLING: Leanne Melling, NT Coordinator of the Sex Worker Outreach Program.

Mr PAYNTER: Thank you and thank for having me here. AFAO is Australia's national peak HIV organisation. Our role is to lead conversations with governments to support to Australia to meet its aim in the Eighth National HIV Strategy as well as engaging in the regional response to HIV in Asia and the Pacific.

AFAO is here today to support our member organisations Scarlet Alliance, Jules, Leanne from SWOP NT and Genevieve from NTAHC to advocate for the passage of the *Sex Industry Bill 2019* through the Northern Territory parliament.

The Eighth National HIV Strategy contains an ambitious but reachable target of eliminating HIV transmission by 2022. Virtual elimination of HIV transmission among sex workers has already been achieved through the enduring work of sex worker organisations in driving safe, inclusive and culturally appropriate healthcare interventions. Sustaining the virtual elimination of HIV among sex workers is critical if Australia is to achieve its target of eliminating HIV transmission. The Eighth National HIV Strategy highlights decriminalisation of sex work as fundamental to addressing stigma and regulatory and legal barriers experienced by sex workers, particularly here in the Northern Territory.

Compelling and robust international and Australian research shows that decriminalisation of sex work, reduces barriers to service access that alternative measures like criminalisation, licensing and registration

create. This research confirms that decriminalisation creates an environment where public health objectives, like service outreach, peer education and self-determination in accessing health services can flourish as opposed to criminalisation, which enables police entrapment, stigma and unsafe workplace settings.

Absolutely central to any successful HIV response is access to safe and non-judgmental healthcare settings to support informed and consensual testing. The alternative, mandatory testing, is illusory as it does not accommodate window periods for the detection of blood born viruses. AFAO welcomes the Northern Territory sex industry Bill as a critical instrument that will support Australia to meet its target of ending HIV transmission. Thank you.

Ms DALLY: Good morning, my name is Genevieve Dally, I am the Executive Director at NTAHC. I would just like it noted that my professional background was in nurse management and prior to joining NTAHC I worked for a number of years for the Sexual Assault Referral Centre here in Darwin.

NTAHC is the lead community organisation working in the area of blood born viruses across prevention, education, training, support and referral in the NT. NTAHC is proud to support the recommendations to the *Sex Industry Bill 2019* as proposed by Scarlet Alliance, Australian Sex Workers Association and the Sex Worker Outreach Program NT and the Sex Worker Reference Group.

Sex workers are industry experts and NTAHC has looked to community to provide guidance on understanding how the sex industry Bill will impact workers' rights, health and safety. NTAHC supports the passing of the sex industry Bill and applauds the NT Government for taking such progressive strides towards decriminalisation of the industry that will result in access to work, health and safety rights for people working in the Northern Territory.

NTAHC supports both submissions prepared by Scarlet Alliance and the SWOP NT and Sex Worker Reference Group that recommends amendments to sections of the Bill, covering advertising restrictions and the requirement suitability certificates. These amendments along with the inclusion of anti-discrimination provisions and removal of spent convictions will ensure that the industry protects workers while also allowing for transparent operation of the industry in line with current NT laws and regulations.

Lastly, you will have heard from AFAO about national, public, health policy that underpins many of the health benefits for workers and the community and when decriminalisation occurs. I also table the NT Department of Health Strategic Operational Plan that highlights—you have a copy that Leanne has provided to you. It highlights decriminalisation as a priority to remove barriers to equitable access to healthcare and justice.

Thank you for the opportunity to speak today and I am more than happy to take any questions.

Ms MELLING: My name is Leanne Melling. Thank you to the Economic Policy and Scrutiny Committee for enabling me to provide evidence today.

I am privileged to represent past and current sex workers through my role as a Peer Coordinator of the Northern Territory Sex Worker Outreach Program. SWOP NT is a member of the Scarlet Alliance, Australian Sex Workers Association. Our peer-based and led program is located within the Northern Territory AIDS and Hepatitis Council.

Our health promotion services engage sex workers, and other sex work industry stakeholders, to gain knowledge about the Northern Territory's legal and sex work laws and around the criminalisation of sex work, so that people are aware of what they are working under. We try to provide information on work health and safety requirements under this current legislation.

SWOP NT advocates to reduce stigma and discrimination against us as workers via advocacy, information resources and education sessions to health and legal sectors to facilitate equitable access to services and to inform policy development for a safer framework with an aim to fully decriminalise sex work.

SWOP NT is guided by the Sex Worker Reference Group, which is comprised of past and current workers who work in the Northern Territory. The Sex Worker Reference Group co-represents alongside SWOP NT at round table, departmental and political meetings in the delivery of training to stakeholders and at conferences and forums. The Sex Worker Reference Group importantly documents best-practice in case studies to support our submissions, recommendations and evidence for reforms based on the lived experience of us as sex workers.

Through the passing of the Sex Industry Bill 2019, sex workers who work or have worked in the NT, will be able to operate under a regulatory framework that aligns with industrial rights and removes the criminalisation of our work to ensure, for the first time in the Northern Territory, that sex workers are protected equally for our work, health and safety.

The passing of the Sex Industry Bill with minor amendments will facilitate the full decriminalisation of sex work. The draconian laws and its regulations of the *Prostitution Regulation Act* must be fully repealed. The Bill must be passed with the following amendments and additions. In brief:

- no remnant of the unworkable framework of the *Prostitution Regulation Act* should remain
- advertising restrictions for adult content is already regulated
- all penalties against sex workers must be removed
- certification does not provide sex workers with rights; regulatory frameworks for industrial protections and access to services does
- expungement of spent convictions and archaic registration of sex workers and sex service premises must be addressed concurrently within this Bill

The Bill is an integral mechanism to ensure clarity for sex workers, for people who work with sex workers and to ensure clarity for all Territorians, that sex workers are not criminals. This will enable all sex workers to access services with equity.

This Bill states clearly that sex workers will obtain equal protection as workers; that sex workers will be able to report crimes without repercussions; sex workers will be able to live free of life-long registration and convictions. The Bill will ensure that sex workers are able to be equipped to exercise rights to challenge barriers to health and justice services.

In reference to what Heath from AFAO and Genevieve from NTAHC has already mentioned, the structural barriers to health and access to services for sex workers is well documented, as evidenced in Australia's National Strategy for Blood Borne Viruses and STIs 2018–2022.

It has been endorsed by every state and territory's Health ministers, under those strategies. Decriminalisation of our work is endorsed within the NT Sexually Transmissible Infections and Blood Borne Viruses Strategic and Operation Plan of 2019–2023—provided to you as evidence.

The barriers for sex workers, as documented in the national strategies, include:

- stigma and discrimination
- criminalisation
- licensing
- registration
- mandatory testing
- racism
- incarceration
- lack of appropriate targeted services

SWOP and the Sex Worker Reference Group require full resourcing.

It acknowledges explicitly that the decriminalisation of sex work will be essential to addressing these barriers. The public health evidence is unequivocal. Sex workers need the full decriminalisation of sex work. Sex workers in the NT need this Bill for our workplace health and safety and rights.

Mrs WORDEN: I am keen to ask Leanne the same question. I asked you before it was a closed session Leanne. I do not think there was anything contentious.

Ms MELLING: That is fine. I am quite happy to ...

Mrs WORDEN: For the record, my question is around landscape changes in the Northern Territory. Leanne, if you would not mind I really would like to understand a bit more about the incentives that this Bill will provide to change the current landscape of sex services in the Northern Territory?

Ms MELLING: Sex workers and sex service premises operators are very excited about this Bill. The extensive outreach that SWOP NT provides, usually with volunteers and some casual positions on Outreach, sex service premises that includes private workers, workers working out of agencies, workers working out of erotic massage parlours, workers who opportunistically are arriving in town and do not know the laws; so we visit workers and provide training as well.

What this Bill will do is it will make sure that sex workers are able to come forward and ask and be provided with information for protections for work health and safety. Whether it is that somebody wants to go in to a clinic or in to accommodation or to access other health and justice services without repercussions because they are no longer criminalised or whether it is that sex workers want to be able to have evidence and legislation, such as the laws around work health and safety to say to a person who they are working for 'these are my rights, this is what SWOP told me,' this is what this Bill will do. This Bill will open up opportunity for sex workers to gain rights and equitable access to services.

Mr CHAIR: We have had people talk about the advertising restrictions. What are your thoughts on those?

Ms MELLING: I refer back to the Sex Worker Reference Group and the SWOP NT submission as well, we provided statements and concerns of transferring the previous regulations across and we do not recommend bringing those regulations across. We would instead like to have the current business regulations in place for other services who have similar areas around adult advertising to be recommended for compliance in that area.

We note that sex workers to work safely are having to work in a criminalised environment currently, that is private workers working with each other, people working out of agencies and parlours and much of the agencies and parlours, as we are aware, are not registered because sex workers will not register with the police for life any more either.

I feel that people are needing to be able to transparently advertise. Clients need to know what the services are when they are at the front desk. We do not need any hidden ways of advertising. Sex workers need to be able to provide clearly what services are provided as well. I would like to see that section completely repealed because it is part of the previous regulation.

Mr CHAIR: We have also had people today talk about suitability certificates. Do you have any comments on those?

Mrs WORDEN: Gen or Heath do you have a comment about the suitability certificates?

Ms DALLY: Just to say that it is not in line with the intent of the Bill which is full decriminalisation. It adds a layer of arbitrary licensing, especially considering that there is no penalties associated with not complying to having suitability certificates in place. It is not meaningful and it is not full decriminalisation and we will not see the benefits that are really well evidenced nationally and internationally when an industry is fully decriminalised if we have these additional licensing requirements.

Mr CHAIR: On behalf of the committee, I thank you for appearing before us. Thank you for your submission as well.

Ms MELLING: May I add comment, if there is time? Just before the committee leaves, this is something you raised as well in other sessions, Mrs Worden—about the spent convictions and the evidence presented in other sessions. I want to table a document—and I am happy to get copies to the committee afterwards—the Statutes Amendment (Decriminalisation of Sex Work) Bill from South Australia. In relation to spent convictions, it separates the convictions that will be expunged. That may help.

Mrs WORDEN: That will be great, thank you.

Mr CHAIR: You will table that document? Thank you very much. Thank you Leanne, Genevieve, and Heath for appearing today.

The committee suspended.

Department of the Attorney-General and Justice

Mr CHAIR: Welcome Doug and Hannah, thank you for coming along today. I will go through the formalities.

I introduce the committee: Mr Jeff Collins, Member for Fong Lim; Kate Worden Member for Sanderson; me; Mr Higgins, Member for Daly on the phone; and Mr Lawrence Costa who is the Deputy Chair.

On behalf of the committee, I welcome everyone to this public hearing into the Sex Industry Bill 2019. From the Department of Attorney-General and Justice, I welcome to the table to give evidence to the committee, Mr Doug Burns, Senior Policy Lawyer, Legal Policy, and Ms Hannah Clee, Senior Policy Lawyer, Legal Policy.

Thank you both for coming before the committee. We appreciate you taking the time to speak to the committee today and look forward to hearing from you both.

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If, at any time during the hearing, you are concerned that what you will say should not be made public, you may ask the committee to go into a closed session and take your evidence in private.

For Hansard, could you each please state your name and the capacity in which you are appearing today.

Mr BURNS: Doug Burns, Senior Policy Lawyer, Department of Attorney General and Justice.

Ms CLEE: Hannah Clee, Senior Policy Lawyer, Department of Attorney General and Justice.

Mr CHAIR: Did you want to make any statement on the Bill before we start?

Mr BURNS: We did that earlier with the public brief.

Mr CHAIR: Alright, we will open up to the panel for questions. Obviously, there are some questions that came up today, from today's hearings. Kate did you want to kick off? Or Jeff?

Mrs WORDEN: I might go straight to the suitability certificates. We have heard evidence today that is sort of—what is the point of the suitability certificates if there are no penalties for non-compliance? Can you explain perhaps why there are no penalties for non-compliance? I guess the evidence is that if—I think we probably need the correct interpretation. We have interpreted the legislation three different ways today. So the legislation says—Jennifer could I just get that bit of legislation about the suitability certificates please.

Mr HIGGINS: I think Kate it is under clause 19(3A) of the Bill and it says a suitable person to operate a sex service business. So I think the question is, what is the criteria that will be used for judging who is suitable, and then the continuation that you have?

Mrs WORDEN: I think where we are at is 18(1). What it states and we disagreed a bit earlier. It says if a sex services business engages with more than two sex workers, each operator of the business must hold a suitability certificate. The 'sex services business', how are we interpreting that?

Mr BURNS: That is defined in section 4, which is a business that provides for a range sex work.

Mrs WORDEN: My interpretation of that is if you have a building and say five workers—we have reduced that from 10 because that probably will not have in the Northern Territory. But say our five workers are working independently but sharing a property would you class that as a sex services business?

Mr BURNS: No. Well the individual workers would be individual sex services.

Mrs WORDEN: But if they are working independently and on their own but just forming a collective, perhaps to share the cost of the building or something like that they would not be considered a business so they would not have to have those certificates, is that correct?

Mr BURNS: That is right. If you look at it contextually through Part 4, what that is looking at is the purely commercial operation side of things that is on scale, as opposed to an individual or two that are sharing facilities.

Mr COLLINS: More interpretations of business. Is the business a registered corporation?

Mr BURNS: A sole trader is a business.

Mr COLLINS: So if there are two sole traders?

Mr BURNS: If there are two sole traders they are both independent businesses.

Mr COLLINS: And then they have to have a suitability certificate.

Mr BURNS: No, they are independent.

Mrs WORDEN: Not until they have hired two people.

Mr BURNS: Say for example you have one person who is operating a business and they go and employ somebody that is still under threshold. If they employ two people...

Mr COLLINS: A driver and a receptionist?

Mr BURNS: No, workers.

Mr COLLINS: Sex workers?

Mrs WORDEN: Yes, sex workers. It says in the legislation sex workers.

Mrs WORDEN: We just need some clarity because that was a question that came up earlier. But then my second part of the question was how come there are no penalties for non-compliance? What is the whole idea behind that?

Mr BURNS: The object is rather than having it criminalised, it is to provide a framework that sort of sets the setting for the industry to operate in.

Mrs WORDEN: But if there are no penalties where is the incentive to do that? If there are people down the way that do not have it and you have gone all the way out to have it. There is no penalties for non-compliance, so why would you actually bother to do that step? That question has been asked today.

Mr BURNS: Well there is no penalty associated, but there is still that legislative requirement that goes with it. It is then open to the Commissioner for Consumer Affairs to file civil proceedings as would be the case for a lot of other business regulation where there is no offence.

Mr COLLINS: So, you currently have businesses operating illegally? Kate's point is where is the incentive to change that? They are already doing it, and have been doing it for a long time. Our concern ...

Mr BURNS: The incentive is to legitimise themselves.

Ms CLEE: They are not operating illegally without it. The intention of it is if you have workers who want to work for a business and they see they have suitability certificates, they have obviously gone through the process to obtain those suitability certificates. It opens it up to those individuals to then, I guess ...

Mr COLLINS: Walk with their feet.

Ms CLEE: Right.

Mr COLLINS: Or talk with their feet. It came up in the briefing. Our concern is those workers who are exploited. We have a concern—I think I speak for us—for those sex workers. It is all very well for sex workers who have a good understanding of their position and are capable of doing that, and understand the situation and the new legislative regime. But if you have an operator who is exploiting workers, where is the incentive for them to become legitimate, if they will continue operating as they were?

Ms CLEE: They would not be operating illegitimately by operating the business. It is just a requirement. It is, I guess, a process that would be an additional level of scrutiny of the operator of the business, rather than the individuals employed in the business.

Mr COLLINS: I get that. That is the purpose of it. But if there is no offence or penalty provision, where is the incentive?

Mr CHAIR: It says that the commissioner may take such civil injunctive action. Can you explain what that is?

Mr BURNS: That would be for the Commissioner to go to the Supreme Court and seek an injunction requiring the operator to either cease work or to seek a suitability certificate.

Mr COLLINS: Why does that not happen now?

Mr BURNS: Because it is illegal.

Mrs WORDEN: I just cannot see an incentive.

Mr BURNS: The idea is to normalise the situation. If you would like an analogy about exploitation in a non-criminal setting, one just has to look as far as the exploitation of backpackers in the fruit picking industry.

Mr CHAIR: Yes, someone has used that analogy today. So ...

Mrs WORDEN: I have concerns that if there are no penalties for not doing it, what is the point of having it in there in the first place? It could be you are running a carpentry business and for all intents and purposes, you tell people that you are a licensed carpenter and employ two people. It looks legitimate and unpacks that you are not.

Mr BURNS: The same imprimatur as with any other business that wants to be seen as legitimate. One can go off and do an accounting degree and set oneself up as an accountant. One could then take the extra step of undertaking a CPA and advertising that as an endorsement.

Mrs WORDEN: So, you are thinking it would be an advertising incentive?

Mr BURNS: I am not necessarily suggesting that, I am just saying it adds that imprimatur.

Mr CHAIR: All right. I have a question about the child sex worker features. Section 12 makes it an offence for a person to engage in conduct and that conduct results in a child performing sex work. If a 15-year-old girl performs sex work, is it the case that she is performing conduct that results in a child performing sex work? If so, is it possible that she will be found guilty of that offence?

Mr BURNS: No, no. It is not aimed at the actual person undertaking the sex work. It is aimed at the person who is facilitating that to occur.

Mr CHAIR: Right. Who is facilitating. Right, okay. What about section 13, which makes it an offence for a person to receive payment that is derived from sex work. If a 16-year-old boy is paid for performing sex work, he would be receiving a payment that is derived from sex work. Is it possible that he could be found guilty of this offence?

Mr BURNS: No again. The child is the one who is engaging in it.

Ms CLEE: No, he is talking about if it was a 16-year-old who was soliciting ...

Mr CHAIR: Who paid.

Ms CLEE: ... who was acting as the person who then engages the child and is receiving payment on behalf of the child who has performed the sex work.

Mrs WORDEN: In the next section, section 14, 'an offence for a person to accept an offer to enter into an agreement, a child is to perform sex work under the agreement'. If a 17-year-old girl is offered an agreement whereby she will be paid to perform sex work and accepts that agreement, is it possible that she could be found guilty of this offence? I think your previous answer says yes.

Mr BURNS: No.

Mrs WORDEN: No?

Mr BURNS: No. It is not directed to the child actually engaging it.

Mrs WORDEN: It is the person offering the agreement?

Mr BURNS: The offering. That would apply to either a business operator offering to a client or the client accepting it. That is who is captured by this piece.

Mrs WORDEN: The answer to the previous question, asked by the Member for Brennan, was yes around the 16-year-old, but in New Zealand, to avoid the risk of criminalising sex workers in such scenarios, they made similar offences not apply to children.

Mr BURNS: The answer to that was in relation to a 16-year-old procuring another child.

Mrs WORDEN: What about procuring themselves?

Mr BURNS: No.

Mrs WORDEN: No. So offering themselves for sex work is not a criminal offence?

Mr BURNS: Not for the child.

Mrs WORDEN: They will not be prosecuted for that?

Ms CLEE: Not intended to capture the child.

Mr BURNS: The distinction between this and New Zealand is that New Zealand would exempt any child in whatever capacity they were doing. The position taken here is, there is some legitimacy in seeing a child prosecuted if that child is actively engaged in procuring another child, dependant on all the circumstances.

Mrs WORDEN: In earlier sessions we have been hearing about advertising and the intent is that the current advertising standards will continue. We have heard evidence that the possibility is that if you were offering and advertised a particular service, the service may not be what the client is expecting. The evidence we are hearing is that the current situation forces the type of advertising that is being done. The industry would like to see advertising in line with other businesses; complete normalisation of advertising and advertising standards. Do you have any commentary on that?

Mr BURNS: Advertising standards do vary from industry to industry dependant on the nature of that industry. Government has set the policy of continuing the same restrictions that are there, going in to this new Act.

Mr CHAIR: We heard about New South Wales and New Zealand practises. We are talking about work health safety practises and the checks and balances that should happen. Could you tell us how that is going roll out and who will do the checks and balances and how that will work around the practises and standards.

Mr BURNS: In terms of work health, that would be up to NT WorkSafe. They would operate on the basis of receiving reports, as they do for any other industry. They would then come out and investigate and see whether areas need addressing as far as compliance.

In terms of the health aspects, as we mentioned, the Public and Environmental Health officers will have authority to inspect premises of their own volition as well as on the basis of any complaints.

Mr CHAIR: Would that include safe sex practises?

Mr BURNS: That would, to an extent, yes.

Mr COLLINS: To what extent?

Mr BURNS: To the extent that they get involved in it. As far as the information flow goes, you have heard previously that organisations, such as SWOP, are very active on the ground and they are already actively communicating that.

Mr CHAIR: We have today about the importance of training and workforce development in that space. Is that the intention as well?

Mr BURNS: Of SWOP? I imagine so.

Mr CHAIR: SWOP or the roll out of the Bill and how it works and so forth.

Ms CLEE: Certainly not captured within the scope of the Bill itself. We cannot really speak to that.

Mr CHAIR: Would you see any importance of that happening?

Ms CLEE: In terms of?

Mr CHAIR: Understanding what the Bill is and what it entails and the practices and the standards that it supports.

Mr BURNS: Yes, certainly and that seems to be going on at the present time and will continue on if the Bill is passed.

Mrs WORDEN: I do not have any further questions because a number of questions have been asked during the day, back and forth, so they were the main points for me.

Mr CHAIR: Gary, do you have anything?

Mr HIGGINS: Yes. Proprietors of hotels or people with Airbnb and that, are they still going to retain the right not to actually rent those to sex workers?

Mr BURNS: There is certainly nothing in the Bill that says they cannot do it and there is certainly nothing in the Bill that says they can. The general ability lease your premises will be subject to the general law as it exists.

Mr HIGGINS: I cannot hear you, sorry.

Mr BURNS: The Bill is not addressing that at all one way or the other. The current laws that exist outside of it would still apply to how one goes about dealing with leasing their premises.

Mr HIGGINS: I did not get all of that. Presumably that is still going to be left with the *Planning Act*. Is there any intention to actually alter the *Planning Act* in regard to this? No?

Mr BURNS: In regards to leasing that is not covered under the *Planning Act*. As we mentioned earlier in the previous public briefing, amendments are being considered to the *Planning Act* just to allow transition across of interactions with the Planning Scheme to allow these businesses to operate legitimately, and that is still with the Planning Minister at this point.

Mr HIGGINS: At the moment anyone operating in the sex industry illegally or outside of the law—so when they actually register if they are not in an area that is covered by the *Planning Act* are we going to then make them move?

Mr BURNS: That would be subject to the outcome of the Planning Scheme amendments and the consultation process with that, but one would assume that if they are in an area where that is settled and said that those zones are not for that then that would be the case.

Mr HIGGINS: My question is more around if someone is applying for one of these certificates or something or other and they are operating in an area and we know clearly that it breaches the *Planning Act*, are we going to say to them, 'no, you are have to relocate,' or are we not even going to enter in to that discussion with them?

Mr BURNS: No. That conversation would have to happen as it would with any other business that was operating in a zone that it was not permitted to do.

Mr HIGGINS: Yes. Lastly, how are the regs going? Do you know if they are going to be ready before the legislation passes through or what time will they be available afterwards?

Mr BURNS: Current policy of Parliamentary Counsel is to draft regulations once the Bill is passed. We do have a framework ...

Mr HIGGINS: They will not commence that till after the Bill is passed?

Mr BURNS: No, and the Bill certainly will not commence until the regulations are in place as well. As to the content of those regulations I think we provided you with an indication that was in response to question one regarding the suitable person test. That outline and that response we gave you in written answers is a pretty good indication of what the regulations will contain.

Mr HIGGINS: Sorry, I am missing some of that so I will have to read some of the transcript. One last one, with the police, are they going to get any extra authority to enter any of these premises over and above what they have currently for any other business?

Mr BURNS: No. If they have reasonable suspicion to suspect that a crime has been committed they will have authority like they have with any other business premises or private residence.

Mr CHAIR: On behalf of the committee, Doug and Hannah, thank you for appearing today and thank you for answering our questions. Anything further and we will certainly be in touch with you. Thank you very much.

The committee concluded.
