



Australian Sex Workers Association

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Women's Safety and Justice Taskforce Queensland
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To the Women's Safety and Justice Taskforce,

Thank you for the opportunity to submit a response to *Discussion Paper Three: Women and girls' experiences across the criminal justice system as victims-survivors of sexual violence and also as accused persons and offenders.*

Formed in 1989, Scarlet Alliance is Australia's national peak body representing a membership of individual sex workers, and sex worker networks, groups and community-based projects and organisations from around Australia. Scarlet Alliance is a leader when it comes to advocating for the health, safety and welfare of workers in Australia's sex industry. Our member organisations and projects have the highest level of contact with sex workers in Australia of any agency, government or non-government. Through our projects and the work of our membership we have a high level of access to sex industry workplaces in the major cities. Scarlet Alliance represents sex workers on a number of government and non government committees and ministerial advisory mechanisms. Through our objectives, policies and programs, Scarlet Alliance aims to achieve equality, social, legal, political, cultural and economic justice for past and present workers in the sex industry.

Scarlet Alliance submitted to the Women's Safety and Justice Taskforce's previous consultation on the *Discussion Paper 2*, outlining the numerous and difficult barriers that sex workers face in accessing justice and seeking redress for violence. We are concerned that the issues raised by Scarlet Alliance and our member organisation, Respect Inc., have not been recognised in *Discussion Paper 3*. We strongly encourage the Taskforce to refer to our previous submission (attached), as its contents remain relevant to *Discussion Paper 3*. We work alongside Respect Inc., as the voice for Queensland sex workers, and we strongly endorse all of their inputs to this process including their submission. We urge the Task Force's active engagement with Respect Inc to ensure that recommendations and actions resulting from your work recognise the significant barriers to accessing justice sex workers in Queensland experience.

Sex workers **must** be recognised as key stakeholders in the Taskforces' future outputs.

Sex workers and our sex worker peer-led organisations are key stakeholders in any conversation concerning women's safety and justice. Sex workers are some of the most criminalised, villainised, and stigmatised women in Queensland. The laws, policies and social attitudes relating to sex work create circumstances in which sex workers are viewed as a threat to the morality and safety of the community, requiring careful state control. This environment emboldens individuals, organisations, and institutions to discriminate and enact violence against sex workers with the knowledge that this behaviour is socially and culturally accepted *and* legally sanctioned. We experience a combination of marginalising, eliminating, and silencing actions that see us expending significant resources to achieve the benchmarks of human rights that ought to be presumed by all women in Queensland.

Legislative reform is essential.

Due to the complex legislation that regulates the sex industry in Queensland, sex workers face unique and significant barriers to accessing justice. Queensland's licensing framework creates a two-tiered industry in which a large proportion of sex industry business are criminalised. Criminal code laws criminalise sex worker safety strategies compromising our safety and work. These combine with excessive police powers directly impacting the experiences of sex workers seeking justice, as police occupy the role of both (alleged) protector and prosecutor.

The culture of police corruption and entrapment in Queensland, empowered by the laws regulating sex work, has long degraded trust between sex workers and the Queensland police. This environment of criminalisation, sex work stigma and predatory police behaviour greatly restricts our ability to report sexual violence, seek legal redress and receive victim services support.

The current legislative framework ensures that the Queensland criminal justice system criminalises sex workers more than it affords our safety and freedom from violence.

Community attitudes must change.

Community understandings of sexual violence against sex workers is marred by misinformation, stigma and discrimination, forming a significant barrier to justice for sex workers. Our 'rapeability' is often brought into question and assault often framed as an occupational hazard that we ought to expect. Community understandings also reflect confusion regarding whether we can be 'victims' at all, and if we can be, it must only be in relation to the terms of our work contracts, rather than in relation to our sovereignty over our bodies.

The criminalisation of Queensland sex workers furthers this stigma, framing us as criminals from whom the community must be protected. This understanding sets a cultural tone where sex workers experience significant challenges being believed by friends, family and community, health and social service providers, law enforcement, and the criminal justice system. Understandably, this tone resonates throughout all aspects of sex workers' experiences seeking justice, including the decision not to do so.

Police entrapment must stop immediately.

Queensland's sex work legislation also allows for police to engage in entrapment practices against sex workers with immunity, further breeding mistrust in police. Police can pose as our clients and attempt to incite us into agreeing to or participating in 'illegal' sex work. This is an invasive and predatory practice that violates sex workers' right to safety and privacy. It is the extreme scope of powers granted to police as the 'regulators' of the sex industry, that forms the greatest risk to sex workers accessing justice for sexual violence as we face the risk of criminalising ourselves within a discriminatory system that actively targets sex workers. Queensland sex workers also report that police response to their experience of sexual assault can be questioning, dismissive and disbelieving entirely. Clearly, police cannot simultaneously prosecute us as criminals and protect us as victim-survivors.

Access to justice must be equitable.

Sex workers expect to experience stigma when interacting with the legal system. The anticipation of this stigma and the unlikelihood of a fair outcome are deterrents for our community in engaging with the legal and criminal justice processes at all. Substantive change would need to occur to ensure a sex worker victim is able to receive a fair, non-discriminatory, trauma-informed trial that does not jeopardise their future prospects.

The full decriminalisation of sex work is central to removing police as the regulators of the sex industry thus ensuring that sex workers can access justice in a safe and equal way. We also advocate for divestment of resources from the licensing of sex work, which targets Queensland sex workers as criminals and allows our experiences of victimhood to be overshadowed by our constructed criminality.

Excluding sex workers is counter-productive to improving the criminal justice response and ending gendered violence.

Public policy is often silent on sex worker experiences of violence and barriers to criminal justice. Unfortunately, the *Discussion Paper 3*, reflects the endemic invisibilisation that sex workers face when voicing our concerns and needs within the violence against women sector. This silence greatly undermines overarching attempts to address gendered violence. Community beliefs around slut-shaming, victim-blaming and policing sexual action and expression are embedded within sex work stigma. When sex work stigma is ignored in law, policy and by broader society as a key enabler of gendered violence, such misogynist ideas are permitted to flourish and harm our community without scrutiny. Gendered violence and violence against sex workers are inextricably linked; while either exists, we have failed to fully address the other.

In the fight to end gender-based violence, sex workers must not be left behind, excluded or silenced. No woman should be left behind in this process. Exclusion of sex workers from *Discussion Paper 3* only serves to undermine its beneficial intent and by extension, our collective safety. The work of the

Taskforce must ensure meaningful and active inclusion of sex workers and the investigation of the criminalisation of sex worker safety as a cross-cutting issue that prevents sex workers from enjoying equitable protection under the law.

Recommendations

As our concerns remain unacknowledged in *Discussion Paper 3*, we make the same recommendations as in our submission to *Discussion Paper 2*. We encourage the Taskforce to make direct contact with Respect Inc. to consult on how best to include sex workers in future outputs of this Discussion Paper series.

1. Active inclusion of sex workers as key stakeholders in the work of the Taskforce with unique barriers to accessing justice by working with Respect Inc to ensure that sex workers are able to safely participate in its investigations and other activities.
2. Examination of the criminalisation of sex work and sex workers in Queensland as a key determinant of our access to reporting and seeking justice when victims of crime. Key areas of investigation include:
 - a. Criminalisation of sex worker safety strategies forcing sex workers to take safety risks that would be viewed as unacceptable if forced upon non-sex working women
 - b. The erosion of relationships between the sex worker community and police and resultant barriers to reporting of crimes committed against sex workers
 - c. Police attitudes towards sex workers that are informed by the existence and implementation of sex work specific policing resources, as well as stigma and misinformation about sex work and sex workers.
3. Investigation of the use of entrapment policing tactics against Queensland sex workers and its impact on sex workers' abilities to seek support from police.
4. Investigation of amnesty on sex worker arrests for sex work offences as a potential strategy to improve access to justice.
5. A formulation of a Taskforce position supporting the full decriminalisation of sex work in Queensland as a necessary step toward enabling equitable access to justice.
6. Taskforce support for the ongoing resourcing of Respect Inc to provide training to Queensland police officers, including cadets, on sex worker awareness and sensitivity.

Regards,



Jules Kim, CEO
Scarlet Alliance, Australian Sex Workers Association