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14 April 2024

Legislative Assembly Committee on Community Services
NSW Parliament House
6 Macquarie Street
Sydney NSW 2000

By email: communityservices@parliament.nsw.gov.au

To the NSW Legislative Assembly Committee on Community Services

Re: Inquiry into the Equality Legislation Amendment (LGBTIQA+) Bill 2023

Thank you for the opportunity to submit to the Inquiry into the Equality Legislation Amendment (LGBTIQA+) Bill 2023 (the Equality Bill 2023).

Scarlet Alliance, Australian Sex Workers Association, is the national peak sex worker organisation. Formed in 1989, our membership includes state and territory-based and national sex worker organisations and individual sex workers across unceded Australia.

Scarlet Alliance uses a multifaceted approach to strive for equality, justice and the highest level of health for past and present workers in the sex industry. We achieve our goals and objectives by using best practices including peer education, community development, community engagement and advocacy.

Scarlet Alliance is a leader when it comes to advocating for the health, safety and welfare of workers in Australia's sex industry. Through our work and that of our member organisations and projects, we have the highest level of contact with sex workers and access to sex industry workplaces throughout Australia. Scarlet Alliance represents sex workers on a number of government and non-government committees and advisory mechanisms.

When introducing the Equality Bill 2023 for its second reading, Alex Greenwich MP stated that 'sex workers are part of or supportive of the LGBTIQA+ community, and they have always marched with us.'[1] Scarlet Alliance is proud to support this Bill, which provides a long-overdue update to NSW's anti-discrimination framework and represents significant progress for sex workers across the state.

Yours sincerely,

Mish Pony
Chief Executive Officer

[1] New South Wales, *Parliamentary Debates,* Legislative Assembly, 24 August 2023, Equality Legislation Amendment (LGBTIQA+) Bill 2023 and Conversion Practices Prohibition Bill 2023 Second Reading Speech, 9145 (Alex Greenwich).

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In this submission, we refer to texts (some of which have been using the same language since the late 1800s) which use terms like 'prostitute', 'prostitution' and 'soliciting'. To avoid confusion, we've used the same language as the text we're referring to. Scarlet Alliance acknowledges the harm generated by stigmatising and outdated language. Our preferred terms are 'sex worker', 'sex work' and 'street-based sex work'.

Background - New South Wales' unfinished decriminalisation

New South Wales was a world leader in the decriminalisation of sex work, with allyship between sex worker and LGBTQ+ activists and communities playing a vital role in successful decriminalisation campaigns from the late 1970s onwards.[2]

In 1979, the NSW Government recognised that laws which essentially prohibited sex work were 'discriminatory', and abolished the offences of 'soliciting another person in or near a public place' and 'being a reputed prostitute on premises habitually used for prostitution'.[3] This led to a significant upswing in sex workers organising for industrial protections and workplace rights, the repeal of other sex work offences, and sex workers providing health and safety peer-education.[4]

However, conservative backlash accompanied by political inertia has led to a fragmented and piecemeal legislative framework of decriminalisation in NSW, where sex workers' rights, livelihoods and autonomy have been sacrificed in favour of political point-scoring. Small but motivated groups of

[2] Eurydice Aroney and Penny Crofts, 'How Sex Worker Activism Influenced the Decriminalisation of Sex Work in NSW, Australia' (2019) 8(2) *International Journal for Crime, Justice and Social Democracy* 50, 56-7.
[3] New South Wales, *Parliamentary Debates,* Legislative Council, 23 April 1979, Cognate Summary Offences Bills First and Second Readings, 4830 (Jack Hallam, Minister for Decentralisation and Minister Assisting the Premier).
[4] Eurydice Aroney and Penny Crofts (n 2) 53-7.

inner-city residents and local councils pressured police to undermine the 1979 reforms, and in 1983 successfully campaigned for the reintroduction of a public soliciting offence which remains in force today.[5]

In 1995, in the face of overwhelming evidence received by the Wood Royal Commission of 'a clear nexus between police corruption and the operation of brothels',[6] the NSW Government also removed police discretion to shut down brothels and abolished criminal offences related to brothel ownership and operation.[7] However, little guidance was provided on how sex work businesses should be integrated into the community, generating confusion for local governments, sex work workplaces and individual sex workers.[8]

Scarlet Alliance, SWOP NSW and the NSW sex worker community do not believe the existing reforms have been sufficient to implement true decriminalisation. There remain **nine criminal offences** in the *Summary Offences Act 1988* directly impacting sex workers. Sex workers continue to face extremely high levels of discrimination[9] with no access to anti-discrimination or anti-vilification protections in NSW.

The Equality Bill 2023 represents the continued allyship of sex workers and the LGBTQ+ community, and offers NSW the opportunity to complete the unfinished process of sex work decriminalisation.

Recommendation 1: that the NSW Government enact the Equality Legislation Amendment (LGBTIQA+) Bill 2023.

Schedule 1 - amendment of *Anti-Discrimination Act 1977*

> *Discrimination and vilification against sex workers is common and takes many forms, including a refusal to provide goods and services. The bill defines a sex worker as a person who provides sexual services on a commercial basis. The definition covers a range of services in return for payment or reward, including participating in sexual activity like erotic entertainment, BDSM work and pornography. Discrimination against sex workers will be outlawed, including discrimination in the course of doing sex work.*[10]

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[5] Ibid 54.

[6] *Royal Commission into the NSW Police Service* (Final Report, May 1997) vol 1, 13.

[7] Disorderly Houses Amendment Bill 1995.

[8] See Penny Crofts, 'Brothels: outlaws or citizens?' (2010) 6(2) *International Journal of Law in Context* 151, 154-7; and Penny Crofts and Jason Prior, 'InterSections of Planning and Morality in the Regulation and Regard of Brothels in New South Wales' (2012) 14(2) *Flinders Law Journal* 329, 330-1.

[9] Timothy Broady *et al*, Stigma snapshot: Sex workers 2022 (Report, Centre for Social Research in Health, University of New South Wales, 2023).

[10] New South Wales, *Parliamentary Debates* (n 1) 9145.

Anti-discrimination protections

In 2022, Scarlet Alliance published a non-exhaustive list of commonly reported discrimination from our community, which included discrimination in accommodation and housing, employment, health, family matters, financial services, insurance and advertising, and noted:

> *Sex workers in Australia have long been subjected to discrimination and vilification with devastating impacts on our safety, housing and accommodation, financial stability, mental health and well-being...Unfortunately discrimination against our community is widespread and persistent, taking place daily at systemic and interpersonal levels for sex workers.*[11]

Scarlet Alliance supports the Bill's proposed insertion of pt 4H into the *Anti-Discrimination Act 1977,* but recommends that the definition of 'sex worker' be amended and a definition of 'sex work' be inserted, such that:

> *Sex worker means a person who performs sex work; and*
> *Sex work means the provision by a person of services that involve participating in sexual activity, including erotic entertainment, in return for payment or reward.*

This amendment provides anti-discrimination protections to a broad range of sex workers, including stippers, BDSM providers, pornography performers, and erotic massage providers. Scarlet Alliance's experience with anti-discrimination legislation around Australia is that both the attribute of 'sex work' and 'sex worker' must be explicitly defined and protected in order for the legislation to be effective.

Scarlet Alliance also supports the provisions applying to both current and former sex workers, and to direct and indirect discrimination (cl 50AB).

Scarlet Alliance supports that discrimination against sex workers be prohibited in the areas of:

- **Work** (cls 50AC-AJ). Current and former sex workers are frequently subjected to unfair and/or disadvantageous treatment in workplaces if their sex work status is discovered. A current example involved a former sex worker in Victoria being dismissed from her job at a real estate agency, with her employer informing her that the fact that she had previously done sex work '[was] not in keeping with its branding and reputation in the business community.'[12]
- **Education** (cl 50AK). Sex workers routinely report fear that being known to be a sex worker within education settings will adversely affect their studies or ability to enrol.
- **Provision of goods and services** (cl 50AL). Financial services such as banking and merchant facilities, and tech services are two major areas where sex workers experience discrimination.[13]

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[11] Scarlet Alliance, *Anti-discrimination & vilification protections for sex workers in Australia* (Briefing Paper, February 2022) 4-5.

[12] Rachel Clayton, 'Former sex industry worker challenges employer over claims she was fired due to her past' *ABC News* (online, 27 March 2024).

[13] See Lavender Baj, 'How Banks Are Exploiting A Loophole To Legally Discriminate Against Sex Workers' *Junkee* (online, 10 November 2021); and Julie Fenwick 'Australian Sex Workers Have Been Removed From Linktree. What They Are Doing Is Not Illegal' *Vice* (online, 21 January 2022).

- **Accommodation** (cl 50AM). Discrimination in the area of accommodation impacting sex workers has received extensive coverage in Queensland, where these practices are currently legal.[14] Reform of Queensland's anti-discrimination law to provide specific protections to sex workers is supported by the Queensland Human Rights Commission[15] and the Queensland Law Reform Commission[16] as being vital to ensure that sex workers are able to realise the benefits of decriminalisation. Express prohibition of discrimination against sex workers in the area of accommodation is also required in NSW in order to avoid replicating the systemic disadvantage experienced by sex workers due to Queensland's legislation.
- **Registered club membership** (cl 50AN). This prohibits discrimination by cultural or sporting clubs, such as surf lifesaving or RSLs. Sex workers are part of NSW's communities, and are entitled to equal participation in social and public life.

Anti-vilification protections

> *Sex workers experience vilification from members of the general public, the media, organisations, law enforcement and government actors and agencies…Entrenched stigma and discrimination, historic criminalisation and a lack of consistent and comprehensive anti-discrimination and anti-vilification protections for sex workers has meant that sex workers are treated as an 'easy target' for vilification as individuals and as a collective.*[17]

Sex workers frequently report incidences of vilification, particularly in online spaces. During the joint submission to the Queensland *Inquiry into Serious Vilification and Hate Crimes*, Respect Inc and Scarlet Alliance conducted consultation with Queensland sex workers, collecting the following reports about experiences of online vilification:

- A sex worker who also worked as a teacher's aide was threatened by an ex-partner that if she did not leave the town where they both lived, he would 'make sure she got what she deserved' by putting a post online telling parents at the school about her sex work career.[18]
- The new girlfriend of a sex worker's ex-husband circulated on an online blog with a link to the advertisement of a sex worker with her personal phone number and home address.[19]
- A neighbourhood social media group post listed an address and accused the resident of being a sex worker.[20]

[14] Respect Inc and DecrimQLD, Joint Submission No 130 to the QHRC, *Review of Queensland's Anti-Discrimination Act* 46-50. See also Eden Gillespie, ''Forced to move home': discrimination of Queensland sex workers needs to end, say advocates' *The Guardian* (online, 20 April 2022).

[15] Queensland Human Rights Commission, *Building Belonging: Review of Queensland's Anti-Discrimination Act 1991* (Report, July 2022) 295.

[16] Queensland Law Reform Commission, *A Decriminalised Sex Industry for Queensland* (Report No 80, March 2023) vol 1, 99.

[17] Respect Inc and Scarlet Alliance, Joint Submission to the Queensland Legal Affairs and Safety Committee, *Inquiry into Serious Vilification and Hate Crimes* (25 August 2021) 3.

[18] Ibid 7.

[19] Ibid.

[20] Respect Inc. and Scarlet Alliance, Joint Submission to the Queensland Legal Affairs and Safety Committee on the *Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023* (12 May 2023) 3.

- A sex worker was accused of living with HIV and their photo and address were made public online.[21]
- Posts made in a suburban social media group about a local massage parlour, accompanied by the distribution of physical flyers, describing the location as a 'threat to children'.[22]

It is clear that sex workers require specific anti-vilification protections in order to provide a level of protection and avenue for recourse when we experience online and real world hate speech and malicious exposure of personal information. Scarlet Alliance supports the proposed prohibition of vilification towards sex workers (cls 50AA and 50AO). The introduction of both anti-discrimination and anti-vilification protections for sex workers was recognised as a vital component of sex work decriminalisation in the Northern Territory,[23] and its anti-discrimination legislation now prohibits 'any distinction, restriction, exclusion or preference', 'harassment'[24] and public acts intended to 'offend, insult, humiliate or intimidate another person or a group of people.'[25] It is vital that the Equality Bill 2023 contains specific anti-discrimination and anti-vilification protections for sex workers in order that all sex workers in NSW can access the benefits of decriminalisation.

Recommendation 2: that the definition of sex worker be amended, and a definition of sex work be inserted, such that:

> *Sex worker means a person who performs sex work; and*
> *Sex work means the provision by a person of services that involve participating in sexual activity, including erotic entertainment, in return for payment or reward.*

Recommendation 3: that the Equality Bill 2023 retain its proposed prohibitions against:

a) discrimination towards sex workers (cl 50AB) in the areas of work (cls 50AC-AJ), education (cl 50AK), provision of goods and services (cl 50AL), accommodation (cl 50AM), and registered club membership (cl 50AN),
b) vilification towards sex workers (cls 50AA and 50AO).

Schedule 18 - amendment of *Summary Offences Act 1988*

Scarlet Alliance supports sch 18 of the Bill, which repeals the remaining criminal offences relating to sex work in pt 3 of the *Summary Offences Act 1988.*

The current criminal offences relating to sex work are:

- living on the earnings of prostitution of another person (s 15)
- causing or inducing prostitution (s 15A)
- prostitution or soliciting in certain premises (s 16)

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[21] Ibid.
[22] Ibid.
[23] Sarah Spina-Matthews, 'With anti-discrimination changes, Northern Territory has some of the world's most progressive sex work laws. It wasn't always that way', *ABC News* (online, 27 November 2022).
[24] *Anti-Discrimination Act 1992* (NT) s 20(1).
[25] Ibid s 20A.

- allowing certain premises to be used for prostitution or soliciting (s 17)
- advertising premises used for prostitution (s 18)
- advertising for prostitutes (s 18A)
- soliciting clients by prostitutes (s 19)
- soliciting prostitutes by clients (s 19A)
- public acts of prostitution (s 20).

Living on the earnings of prostitution of another person (s 15)

This section prohibits an adult person from 'knowingly liv[ing] wholly or in part on the earnings of prostitution of another person' (s 15(1)), with a maximum penalty of 10 penalty units ($1,100 fine) or 12 months imprisonment. The offence does not apply to owners, managers or employees of brothels (s 15(3)).

In 1986, the NSW Government acknowledged that the offence was not effective 'against the use of violence, coercion or other forms of exploitation'[26] and when taken on its face:

> *prevent[s] prostitutes from engaging voluntarily in domestic relationships with others, and such matters as shared rental of a home could be used in evidence against a spouse or live-in companion. This is undesirable as it [prevents] prostitutes from making decisions about their personal life which should not be affected by their working life…It means that prostitutes are subjected to greater legal limitations than any other members of the community, which means they are discriminated against and disadvantaged. Such restrictions are unnecessary and could be used to harass prostitutes unreasonably.*[27]

The Select Committee's recommendation to repeal the offence was never implemented.

It is unacceptable that NSW maintains criminal penalties dictating how sex workers spend their earnings. The offence criminalises any adult family members a sex worker may support, such as partners, adult children at university, or elderly or disabled family members. Scarlet Alliance is not aware of any other industry in Australia where workers are prevented from choosing to support others by threat of criminal sanction. The continuation of this offence is an embarrassment to NSW legislators, and it must be repealed as a matter of urgency.

Causing or inducing prostitution (s 15A)

This section prohibits using 'coercive conduct or undue influence' to 'cause or induce another person to commit an act of prostitution' (s 15A(1)) or to 'cause or induce another person to surrender any proceeds of an act of prostitution' (s 15A(2)), with a maximum penalty of 50 penalty units ($5,500 fine), 12 months' imprisonment, or both.

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[26] Select Committee of the Legislative Assembly upon Prostitution, Parliament of New South Wales, *Prostitution* (Report, 17 April 1986) 251.

[27] Ibid 250-1.

The intent of s 15A is already criminalised in non-sex work specific sections of the *Crimes Act 1900* which apply equally to sex work and non-sex work contexts. The creation of sex work specific offences is counter to the intent of the decriminalisation of sex work. In the *Crimes Act 1900,* s 61HJ outlines circumstances where a person does not consent to sexual activity, which include a person participating in sexual activity because of 'force, fear of force or fear of serious harm of any kind' (s 61HJ(1)(e)), 'coercion, blackmail or intimidation' (s 61HJ(1)(f)), unlawful detention (s 61HJ(1)(g)), or because of 'abuse of a relationship of authority, trust or dependence' (s 61HJ(1)(h)). Sexual activity in circumstances where there is no consent give rise to the offences of sexual assault and assault with intent to have sexual intercourse (ss 61I-61KB), sexual touching (ss 61KC-61KD) and sexual acts (ss 61KE-61KF), which carry sentences of 18 months to 20 years imprisonment.

The *Crimes Act 1900* also contains offences of causing sexual servitude (s 80D) and conducting a business involving sexual servitude (s 80E) which carry sentences of 15-19 years imprisonment. Theft or fraud offences apply to circumstances where a person causes another person to surrender their wages unlawfully (ss 94, 99, 192E) and carry maximum penalties of 10-14 years imprisonment.

While research indicates that 'pimping', coercion and trafficking, slavery and slavery-like practices are now extremely rare in NSW's sex industry,[28] this kind of offending should be taken seriously. The retention of s 15A within the *Summary Offences Act 1988* sends a message that the sexual consent, property rights and autonomy of sex workers are less important than our non-sex worker counterparts.

Prostitution or soliciting in certain premises (s 16) and allowing certain premises to be used for prostitution or soliciting (s 17)

Section 16 criminalises soliciting or conducting sex work in places 'held out as being available' for 'massage, sauna baths, steam baths or facilities for physical exercise' or photography studios, with a maximum penalty of 5 penalty units ($550 fine) or 3 months imprisonment. Section 17 also criminalises business owners/operators for knowingly allowing soliciting or sex work to take place within these kinds of premises. A sex industry business operating without the appropriate development consent is non-compliant under the *Environmental Planning and Assessment Act 1979.* This is a civil matter under the jurisdiction of local councils and does not warrant specific legislation under the *Summary Offences Act 1988.*

Further, retention of these offences creates criminal liability for workers who may be unknowingly working for businesses that are non-compliant with zoning requirements. In the 2021 case of *Blacktown City Council v Kellyville Ridge Health Centre*,[29] the Council received a single complaint that erotic massage services were being performed at the premises, in breach of zoning requirements. (Blacktown City Council is one of many NSW councils that effectively prohibit 'home occupation (sex

[28] Basil Donovan et al, *The Sex Industry in New South Wales: A Report to the NSW Ministry of Health* (Report, Kirby Institute, University of New South Wales, 2012) 21, 22.

[29] *Blacktown City Council v Kellyville Ridge Health Centre Pty Ltd* [2021] NSWLEC 65.

services)',[30] and permit sex services premises only in areas zoned as general industrial).[31] Upon receipt of the complaint, the Council hired a private investigator, who attended the premises on two separate occasions and reported receiving sexual services in exchange for payment.[32]

Concerningly, the judge noted that in addition to the civil remedies available in relation to non-compliant businesses under the *Environmental Planning and Assessment Act 1979* and *Restricted Premises Act 1943*, that the offences in **both** s 16 and s 17 of the *Summary Offences Act 1988* could be used in situations where massage businesses were non-compliant with zoning requirements.[33] It is clear that these provisions were drafted long before the Government envisioned sex work workplaces operating openly within communities, and were not intended to be a response to zoning technicalities.[34]

The use of archaic legislation to impose criminal sanctions against the operators of businesses who are non-compliant with zoning requirements is contrary to natural justice. No other non-compliant businesses would be subject to similar penalties. Judicial endorsement that these may be appropriate for *workers* in non-compliant business (who are likely to be unaware of the zoning requirements for their workplace) is reprehensible.

It is essential that the Equality Bill 2023 repeal the archaic offences in ss 16 and 17 of the *Summary Offences Act 1988.* These offences were intended to curtail the use of 'front businesses' when sex work was criminalised, and are no longer appropriate. In cases where any business operates outside of zoning requirements, appropriate remedies are available through the *Environmental Planning and Assessment Act 1979*.

Advertising premises used for prostitution (s 18) and advertising for prostitutes (s 18A)

These offences criminalise the publishing of advertisements and signs for both sex work premises and individual sex workers (s18) and advertisements recruiting sex workers (s 18A). Obviously these offences are not enforced, as sex work businesses and individual sex workers advertise openly.

However, retention of these offences undermines NSW's decriminalisation of sex work. National fair-trading and obscenity laws, and relevant local government rules on signage apply to all

[30] Being 'the provision of sex services in a dwelling...by no more than 2 permanent residents of the dwelling and that does not involve the employment of persons other than those residents.' *Blacktown Local Environmental Plan 2015* (NSW) - Dictionary.

[31] Ibid.

[32] *Blacktown City Council v Kellyville Ridge Health Centre* (n 29) [21] and [24]. Scarlet Alliance and SWOP NSW believe that the **widespread and ongoing** practice of local councils hiring private investigators to engage in sexual activity with sex workers in order to 'prove' a business is operating outside of zoning requirements amounts to sexual assault. This practice has traumatic impacts for workers and generates risks of violence and corruption. See, eg, SWOP NSW, *Obtaining Sex Under a False Pretence for the Purpose of Investigation or Obtaining Information is Rape* (Position Paper, 26 February 2019).

[33] *Blacktown City Council v Kellyville Ridge Health Centre* (n 29) [67].

[34] In 1986, the Prostitution Select Committee noted that this offence would require amendment if brothels were decriminalised, however this never occurred as part of the 1995 reforms. Select Committee of the Legislative Assembly upon Prostitution (n 25) 255.

businesses, including sex work businesses. It is unreasonable that there continue to be extraordinary laws creating a blanket ban on all advertising relating to sex work in NSW, even if these laws are not enforced. The Equality Bill 2023 must repeal ss 18 and 18A of the *Summary Offences Act 1988.*

Soliciting clients by prostitutes (s 19) and soliciting prostitutes by clients (s 19A)

Through the 1970s to the early 1990s, street-based sex workers were targeted by police under a variety of laws as the most vulnerable and visible scapegoats in the conflicts generated by rapid gentrification.[35] With the vast majority of sex workers now working in establishments or advertising on the internet, and being able to communicate with clients via mobile phones, the number of sex workers using public spaces to advertise is vanishingly small.

While it is difficult to capture the exact demographics of this workforce, it is fair to say that street-based workers represent the most marginalised sex workers in NSW. Research indicates that 15% of these workers identify as Aboriginal or Torres Strait Islander, almost half identify as transgender, and over a third do not currently have housing.[36] Most (70%) have done street-based work for over ten years, and 83% only solicit within the areas designated as 'preferred' by police and local council,[37] with the remainder working from established street-based sex working areas in industrial or non-residential commercial zones.

These workers are vulnerable to harassment by police (despite working lawfully) and members of the public, leading to a climate of mistrust where these sex workers are unlikely to approach police for assistance when required. This harassment has also necessitated these sex workers to develop practices of discretion and evasion (even when working lawfully), creating access barriers to contact with sex worker and harm reduction outreach services.

Retaining the offence of criminalising the clients of street-based sex workers (s 19A) is not a viable option. Criminalising the clients of any sex workers means that these clients are less likely to engage with sexual health testing and treatment,[38] which is a negative public health outcome. The criminalisation of clients is not supported by evidence as an effective regulatory option.[39]

Police would still retain broad powers under the *Law Enforcement (Powers and Responsibilities) Act 2002* (pt 14) and the *Summary Offences Act 1988* (pt 2 div 1) to deal with public offensive conduct.

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[35] Roberta Perkins, 'Street Prostitution and its Manipulation by Law in NSW' (Conference Paper, Australian Institute of Criminology Women and the Law Conference, 1991) 103-106.

[36] Jason Prior, *Street-based Sex Worker Research Project and the Identifying Safety Issues for Transgender Street-based Sex Workers Research Project* (Report, 5 June 2009) 4, 5.

[37] In 1995, Kings Cross Police, South Sydney Council and other stakeholders identified areas (sections of William St and Darlinghurst Rd) as 'preferred' locations for street-based sex work to occur (ibid, 5).

[38] See *The Sex Industry in NSW* (n 27) 12-13.

[39] Ann Jordan, 'The Swedish Law to Criminalise Clients: a Failed Experiment in Social Engineering' (Issue Paper 4, Center for Human Rights & Humanitarian Law, American University Washington College of Law, April 2012). See also *The Sex Industry in NSW* (n 27) 10.

The remaining street-based sex work offence function to perpetuate inequalities where the most vulnerable of our community are at risk of violence and harassment and face barriers to accessing basic social services. The removal of the remaining street-based sex work offences is a small but vital step in addressing these barriers, and is necessary to ensure that the most marginalised sex workers in our community are able to access the benefits of decriminalisation. As part of this amendment, Scarlet Alliance also recommends that NSW Police receive training to clarify their powers and responsibilities when interacting with street-based sex workers.

Recommendation 4: that NSW Police receive training on their powers and responsibilities in relation to the amendments to sex work laws as part of implementation of the Equality Bill legislation.

Public acts of prostitution (s 20)

The final remaining sex work offence in the *Summary Offences Act 1988* criminalises 'acts of prostitution' occurring 'in, or within view from, a school, church, hospital or public place, or within view from a dwelling' (s 20(1)) as well as acts in those places inside a vehicle, regardless of whether anything can be seen from outside the vehicle (s 20(2)).

These laws subject NSW street-based sex workers to extraordinary levels of criminalisation above every other person in the state. Visible public sexual activity is **already a criminal offence for all people in NSW** (*Summary Offences Act 1988* ss 4-5). Any person who may witness public sexual activity has no way of knowing whether a monetary exchange took place, and the fact that money was exchanged prior to an act commencing does not make an act more offensive. These laws function to criminalise street-based sex workers even when they are working in a discreet manner, and criminalises behaviour that would not be deemed criminal or 'offensive' if engaged in by two adults who were not a sex worker and client.

Recommendation 5: that the Equalitiy Bill 2023 retain its proposed repeals of the remaining sex work offences in the *Summary Offences Act 1988*, which are:

- living on the earnings of prostitution of another person (s 15)
- causing or inducing prostitution (s 15A)
- prostitution or soliciting in certain premises (s 16)
- allowing certain premises to be used for prostitution or soliciting (s 17)
- advertising premises used for prostitution (s 18)
- advertising for prostitutes (s 18A)
- soliciting clients by prostitutes (s 19)
- soliciting prostitutes by clients (s 19A)
- public acts of prostitution (s 20).

Summary of Recommendations

Recommendation 1: that the NSW Government enact the Equality Legislation Amendment (LGBTIQA+) Bill 2023.

Recommendation 2: that the definition of sex worker be amended, and a definition of sex work be inserted, such that:

Sex worker means a person who performs sex work; and
Sex work means the provision by a person of services that involve participating in sexual activity, including erotic entertainment, in return for payment or reward.

Recommendation 3: that the Equality Bill 2023 retain its proposed prohibitions against:

c) discrimination towards sex workers (cl 50AB) in the areas of work (cls 50AC-AJ), education (cl 50AK), provision of goods and services (cl 50AL), accommodation (cl 50AM), and registered club membership (cl 50AN),
d) vilification towards sex workers (cls 50AA and 50AO).

Recommendation 4: that NSW Police receive training on their powers and responsibilities in relation to the amendments to sex work laws as part of implementation of the Equality Bill legislation.

Recommendation 5: that the Equality Bill 2023 retain its proposed repeals of the remaining sex work offences in the *Summary Offences Act 1988*, which are:

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