

## Issue 62 – October 2011

### How is sex work (prostitution) defined in Queensland?

In Queensland, a person engages in sex work (prostitution) if they engage, or offer to engage, in the provision to another person, under an arrangement of a commercial character, of any of the following:

- sexual intercourse;
- oral sex;
- masturbation; or
- any other activity that involves the use of one person by another for his or her sexual satisfaction involving physical contact (except where the activity is authorised under an adult entertainment permit).

Sexual intercourse means the penetration of the vagina, vulva or anus of a person by any part of the body of another person or by another person using an object.

Oral sex means the bringing into contact of any part of the genitalia or anus of a person with any part of the mouth of another person.

For further information: refer to Chapter 22A, *Criminal Code*, available from [www.legislation.qld.gov.au](http://www.legislation.qld.gov.au).

### Working whilst knowingly infective

Under s. 90 of the *Prostitution Act 1999*, it is an offence for a sex worker to provide prostitution at a licensed brothel during any period in which they are knowingly infective with a sexually transmissible infection (STI). Likewise, under s. 89 of the *Prostitution Act*, a brothel licensee or approved manager must not permit a sex worker to work at a brothel during any period in which they know the sex worker is infective with a STI.

It will not always be obvious that a person has a STI because whilst a person may be infected they may not have any symptoms. This may be the case with many STIs including, chlamydia, gonorrhoea, syphilis, and HIV. This means that it is possible for a sex worker to provide prostitution whilst unknowingly infective with a STI.

Accordingly, under the *Prostitution Act* and s. 9 of the *Prostitution Regulation 2000*, a sex worker will be taken to have known that they were infective with a STI, unless they can prove that they have had a sexual health examination in the last three months, and believed on reasonable grounds that they were not infective. Similarly, licensees and managers will be taken to have known that a sex worker was infective with a STI, unless they can prove that they believed on reasonable grounds that the sex worker had been subject to sexual health testing within the past three months, and was not infective with a STI.

In order to protect sex workers, licensees, and managers from infringing ss. 90 and 89 of the

*Prostitution Act*, the Prostitution Licensing Authority (PLA) has made it a condition of brothel licence that in order to work at licensed brothels sex workers must present evidence that they have undergone a sexual health check at least every three months. This does not amount to mandatory testing of sex workers. Ultimately, it is up to sex workers to decide if they want to do this but if they do not they will not be eligible to work in the state's licensed brothels. They still have the option of being a sole operator sex worker. In any case, regular sexual health checks are best practice, at intervals consistent with the risk of acquiring a STI and in consultation with the person's clinician. Undiagnosed and untreated STIs can have serious health implications, such as acute and chronic pain, infertility, and cancer. Many STIs are curable and easily treated with antibiotics.

What if a sex worker tests positive for a STI? They should immediately cease working and their Sexual Health Check Certificate of Attendance is no longer valid. They must not return to work until they have been successfully treated and are no longer considered infectious. As a person with HIV is considered to be infective at all times, they are ineligible to work in a licensed brothel. In respect of sex work in other settings, health legislation regarding recklessly endangering others may apply.

### Inducing a client to believe a sex worker is not infective

Under ss. 89 and 90 of the *Prostitution Act*, brothel licensees, approved managers, and sex workers must not use the results of a sexual health check to

induce a client to believe that the sex worker is not infective with a STI. This may seem counterintuitive but there are a number of good reasons for this prohibition.

Firstly, there are 'window periods' for many infections, so that they may not be detectable for weeks or months after infection. This means that a person could have a STI and be infective without any signs or symptoms and it will not be immediately revealed by a test. A person could have a STI test which shows a negative result, when they are actually infective with a STI.

Secondly, for practical purposes, the results of a sexual health check are only valid until the next time a person has sex, when they may potentially acquire a STI (given that prophylactics only reduce the risk of acquiring a STI, they do not entirely eliminate it). For example, a sex worker may hold a sexual health check certificate of attendance valid for three months but during this period may have had sex with 200 clients and potentially been exposed to and acquired a STI.

Thirdly, a client might be lulled into a false sense of security if they are led to believe that a sex worker is STI free. This may then result in demands for unprotected sex. The best way to reduce the risk of acquiring a STI is through consistent use of prophylactics. Either the sex worker or the client may have a STI and be asymptomatic, and if they have unprotected sex, there is a much greater likelihood that the infection will be transmitted to the other person. It is also illegal under s. 77A of the Prostitution Act for an act of prostitution involving sexual intercourse or oral sex to occur without a prophylactic. The use of prophylactics is essential for the protection of both persons.

## Advertising of prostitution

You cannot say anything you want in an advertisement for prostitution. There are limits on words and images. The PLA is responsible for regulating prostitution advertising in Queensland. Advertisements for prostitution published in Queensland must be in the approved form. The PLA has issued *Guidelines about the Approved Form for Advertisements for Prostitution*. It is an offence to publish an advertisement that is not in the approved form (which does not comply with the guidelines). Sex workers and publishers (including the ethnic media) are responsible for ensuring that proposed advertisements comply with the guidelines. The guidelines may be obtained from the PLA or downloaded at [www.pla.qld.gov.au/advertising](http://www.pla.qld.gov.au/advertising). The PLA is available to assist you in the interpretation and application of the guidelines.

## Discrimination

The Anti-Discrimination Commission Queensland (ADCQ) works to protect people from unfair treatment. It is against the law in Queensland for anyone to treat you unfairly because of your sex, race, an impairment, or because you are a legal sex worker. If you are refused entry to a club or are treated badly when renting a room, at work, when buying goods, accessing services or by a government worker because of these things, you may contact ADCQ to see if you can make a complaint.

Sexual harassment is also against the law in Queensland. This means that if people make unwelcome sexual remarks or a request for sex outside of your normal sex work or personal relationships, you may complain to ADCQ.

Information is available in languages other than English and details on making a complaint can be found at

[www.adcq.qld.gov.au](http://www.adcq.qld.gov.au) or by calling the ADCQ on 1300 130 670. This is a free and private service.

## Suggestions for articles

Are there any issues or topics that you would particularly like featured in, *In Touch?* Your ideas for articles will help to keep the newsletter relevant and topical. Suggestions can be submitted via email to [pladmin@iprimus.com.au](mailto:pladmin@iprimus.com.au).

## 2011 PLA meeting dates

The PLA Board generally meets on the first Monday of each month. Meeting dates for the remainder of 2011 are: 7 November & 5 December. *Whilst current at the time of printing, these dates are tentative and subject to change without notice.*

## Vacancies for Approved Manager positions

**Asian Star on Meadow:** We are urgently seeking an approved manager to join our management team. Can be full time or part time. Great conditions and flexible shift. Must be honest with good skills and good phone manner. Please call Carly on 0422023351.

**Northern Belle:** Due to illness, an approved manager's position has become available at Northern Belle in Cairns. This is a permanent, part-time position of 30 hours per week, plus holiday and sick leave relief (for the senior managers). The successful applicant will be required to start ASAP. Please email details or further enquiries to [jag.22@hotmail.com](mailto:jag.22@hotmail.com), Attention Christina. All applications will be held in strictest confidence.

**Please note that approved manager advertisements may be submitted at any time for inclusion in the next edition of the newsletter. They should be emailed to [pladmin@iprimus.com.au](mailto:pladmin@iprimus.com.au).**