



**Queensland Government
Prostitution Licensing Authority**

5 August 2021

Mr Mike Callaghan AM PSM
Banking Code of Practice Independent Review 2021
via email: submissions@bankingcodereview.com.au

Dear Mr Callaghan

Purpose

This submission to the Banking Code Review is intended to focus on the provision of banking services to the operators of Queensland licensed brothels.

About the Prostitution Licensing Authority (the Authority)

By way of background, the Authority is a Queensland Government statutory authority, responsible for overseeing and regulating the licensed sector of Queensland's sex industry.

Banking services are fundamental to the operation of businesses

Licensed brothels are legitimate and lawful small businesses, sanctioned by the State of Queensland. As you would appreciate, banking services are fundamental to the operation of any lawful business. This is explicitly acknowledged at page one of the *Banking Code of Practice*: "Our customers count on us to provide them with a safe place to deposit money, to offer a wide range of options to access banking and financial services, **and to help businesses start and grow**" (emphasis added). Despite this, there are financial institutions that refuse to provide services to the operators of licensed brothels, based purely on the fact that they provide commercial sexual services. Seemingly, this is based on perceived pseudo ethical or moral objections and an assessment of perceived risk of the entire sex industry, implying that a lawful highly regulated industry is a perfect environment for money laundering and human trafficking to take place.

State Law Building
Level 20 50 Ann Street Brisbane
GPO Box 3196
Brisbane Queensland 4001
Telephone +61 7 3858 9500
Email: PLAadmin@justice.qld.gov.au
Website www.pla.qld.gov.au
ABN 34 659 74 123



Queensland Government
Prostitution Licensing Authority

Queensland's brothel licensing framework

The *Prostitution Act 1999* established a licensing framework for brothels in Queensland that has been in existence for 21 years. The Act creates a system of strict regulation of licensed brothels by the Authority and strict regulation is the price of permitting a brothel to be conducted lawfully. Not just anyone can own a brothel in Queensland. Only a person with a brothel licence may lawfully operate a brothel and only a person with an approved manager's certificate may lawfully manage a brothel. A person convicted of a disqualifying offence is ineligible to apply to the Authority for a licence or certificate. The Authority has the function of deciding applications for brothel licences and approved managers' certificates to ensure that only suitable persons are involved in the operations of brothels. There is a stringent probity process of applicants and their associates and in deciding if an applicant is suitable, the Authority must consider a range of relevant matters stipulated in the Act, including any criminal convictions and the applicant's reputation, having regard to character, honesty and integrity. The assessment process for brothel licence applicants is extensive and lengthy and other relevant matters that are considered include, financial viability (including source of funds), the transparency of the business structure, and whether they will have arrangements in place to ensure the safety of sex workers at the brothel. The Authority has prioritised the autonomy and freedom of choice of sex workers at brothels.

Once a person is granted a brothel licence, the Authority is responsible for monitoring and ensuring regulatory compliance. Each of Queensland's 21 licensed brothels are subject to multiple audits and inspections throughout the year. Compliance officers are vigilant for indicators of human trafficking and associated offences such as servitude, and for the involvement of organised crime, as well as for the abuse and exploitation of sex workers.

Although brothel licences and approved managers' certificates are granted for a term of three years unless surrendered, suspended, or cancelled, there is an annual return process, so that the Authority can determine if they remain suitable persons for involvement in the licensed sector. This includes criminal history checks, and financial viability checks of licensees.

Queensland licensed brothels have been successfully quarantined from criminal activities

Brothel operators have made a substantial investment in their business and it is highly improbable that they would jeopardise it by becoming involved in nefarious

State Law Building
Level 20 50 Ann Street Brisbane
GPO Box 3196
Brisbane Queensland 4001
Telephone +61 7 3858 9500
Email: PLAadmin@justice.qld.gov.au
Website www.pla.qld.gov.au
ABN 34 659 74 123



**Queensland Government
Prostitution Licensing Authority**

activities or associating with criminal types. The Authority's probity and compliance functions mean that there is a high risk that such matters would be uncovered, which might ultimately result in the cancellation of their licence and the closure of their business. The licensing system has proved a successful barrier to criminal activities. In its 21-year history, there has been no substantiated instance of human trafficking and associated offences, of money laundering, involvement in organised crime or official corruption at any licensed brothel. It is the unlawful sector of the sex industry, which by its nature is unregulated and unscrutinised, that poses such risks. As I am sure you would appreciate, no matter what some sections of the community might think from a moral or religious standpoint (and they are entitled to their opinion) brothel licensees are business owners like anyone else in the community and should be treated as such.

The impact on the licensed sector of financial institution ethical objections to the sex industry

The ethical objections of some financial institutions to the sex industry has meant that in some cases, many years of client relationships has been reduced to nought through no fault of brothel licensees, but only because of the nature of their business. Some licensees have been advised by their financial institutions of the withdrawal of banking services and that they will need to make alternate arrangements. This is stressful and disruptive to any small business. It may mean having to refinance business loans. They may have to resort to second and third tier lenders which may provide an inferior service at a higher cost. For new licensees, ethical objections may mean that they experience difficulty in obtaining merchant facilities for their business. Such facilities are vital as we transition to a cashless society. Given the nature of the concerns held by financial institutions about the sex industry, it should be noted that if licensees have difficulty in obtaining finance from legitimate sources, it may provide a temptation for them to seek finance from illegitimate sources or to seek 'silent' partners that do not hold a brothel licence.

For existing brothel operators, ethical objections by financial institutions make it more difficult for them to sell their business. Without ready access to finance, the pool of potential investors in brothels is reduced. If major lenders are not prepared to lend to finance a brothel purchase, then buyers either need to resort to lower tier lenders or have cash. Borrowing costs are likely to be higher from lower tier institutions, lessening the attractiveness of brothels as an investment opportunity. For the best part of a decade, purchasers of brothels in Queensland have generally been cash buyers, who have sourced funds from family and friends (either as a loan or gift). As you may appreciate, this is a source of risk for the involvement of dubious types who

State Law Building
Level 20 50 Ann Street Brisbane
GPO Box 3196
Brisbane Queensland 4001
Telephone +61 7 3858 9500
Email: PLAadmin@justice.qld.gov.au
Website www.pla.qld.gov.au
ABN 34 659 74 123



**Queensland Government
Prostitution Licensing Authority**

will seek to influence the operations of licensed brothels and who are beyond the reach of the Authority. If the source of these funds is from overseas, it is difficult for the Authority to verify the source and whether the funds were obtained legitimately and lawfully in the first place.

The need for inclusive and accessible banking services

Part 4, Chapter 13 of the *Banking Code of Practice* commits members to providing inclusive and accessible banking services. Blanket refusal of banking services to sex industry businesses, irrespective of the lawfulness and legitimacy of their operations, is neither inclusive nor accessible. For the operators of Queensland licensed brothels, it is based on perceptions of them and their business that are just plain wrong. They are individuals whom the Authority has found suitable for involvement in the licensed sector, after the conduct of thorough and ongoing probity checking, and who are held to the highest standards. They are providing a service to the community for which there is a demand, from a business which is regulated and scrutinised, in premises which are safe and healthy for sex workers and clients.

The need for change to the Banking code

The Authority submits that the Banking Code should provide that financial institutions will only refuse banking services to persons based on an individual assessment of risk of the business. It should not be based on an overarching assessment of risk of the entire industry, which penalises lawful and legitimate sex industry operators, sanctioned by the State of Queensland. With the COVID-19 situation, it is already difficult enough for businesses, without the denial or withdrawal of essential banking services for no good reason, based on unfounded ethical objections.

Queensland Adult Business Association (QABA) submission

The Authority has seen the submission of QABA to the Banking Code Review and is supportive of it.

Yours faithfully

WALTER H TUTT
CHAIR

State Law Building
Level 20 50 Ann Street Brisbane
GPO Box 3196
Brisbane Queensland 4001
Telephone +61 7 3858 9500
Email: PLAadmin@justice.qld.gov.au
Website www.pla.qld.gov.au
ABN 34 659 74 123