

Key Informant Interviews

Review of the Prostitution Reform Act 2003

Prepared for the Ministry of Justice by

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Summary

The Ministry of Justice on behalf of the Prostitution Law Review Committee (PLRC) commissioned the Crime and Justice Research Centre to conduct interviews with brothel operators and Non-Government Organisations (NGOs) to provide information for the review of the Prostitution Reform Act 2003 (PRA) by the PLRC. It was important to assess what operators and NGOs observed or experienced first hand. Sections one and two cover the aims and methodology of the interviews.

The interviews focussed on

- The effectiveness of the welfare, health and safety provisions of the PRA.
- Whether the PRA improved conditions of employment of sex workers.
- Whether the 'system of certification' is working well.
- How well things were working as regards helping people not to become sex workers, and assisting those who wanted to leave the sex industry.
- How far the PRA had achieved its aim of stopping those under 18 years being used in prostitution.
- How the territorial authorities were responding to the PRA.
- The effectiveness of monitoring and enforcement provisions within the PRA.

A total of 73 interviews were conducted involving 86 individuals (some were interviewed together) in Auckland, Christchurch, Wellington, Nelson, and Hawkes Bay. There were 48 interviews with NGOs and 38 with brothel operators. Of the operators, 25 were commercial brothels operators (BOPs), and 13 were small owner-operated brothels (SOOBs). Only one of those we approached declined to be interviewed, although there were a few who we would have liked to have talked to but were unable to arrange an interview. It cannot be claimed that the sample will be fully representative of New Zealand brothels. Nonetheless, the researchers consider good coverage was achieved.

The level of support for the PRA (Section 3)

Informants were asked to indicate their level of support for the PRA both before it was passed and currently: 73 answered. Rather more (84%) were in favour of the PRA before it passed than they were currently (77%). Where support slipped among the NGOs it was because of concern over local councils' power over businesses, and the position of foreign workers. Where support slipped among operators – and it did so more – it was mainly because of having less control over their own workers, and a decline in brothel business due to competition from SOOBs.

Reasons for support

Informants often gave several reasons why they supported the PRA. The most common reasons – with fairly equal weighting – were that:

- The PRA protected basic human rights of sex workers particularly by removing the stigma and barriers associated with criminal convictions, the opportunities for exploitation, and constraints on their being kept safe.
- The health of sex workers was likely to be better as a result of PRA – through making it easier to use safer sex practices and through increased access to health services.
- A law that made sex workers criminals but not the clients was seen by many as unjust. Many NGOs felt uncomfortable that sex work was illegal, yet people knew and effectively accepted what was going on behind closed doors.

However, around half of those who were – and still are – supportive of the PRA said that they were still waiting for its full effects to be realised. They wanted more monitoring and enforcement for this to happen.

Reasons for non-support

Nine of the informants (12%) had not been supportive of the PRA at the outset. For the five of these who were NGOs, the main reasons were ideological opposition to prostitution and concern that decriminalisation would normalise it. One NGO had particular concerns in relation to the impact of the Act on young people. The four brothel operators mainly had concerns about competition from SOOBs, and price undercutting.

Welfare, health and safety (Section 4)

A key aim of the PRA was to promote the welfare and occupational health and safety of sex workers. The informants spoke about a number of relevant issues.

Safer sex practices

Informants were not aware of any substantial change in the use of safer sex practices by sex workers. However, this was not a great concern as it was generally felt that most sex workers had adopted such practices prior to the PRA. Some positive effects were reported as a result of the PRA:

- **Safer sex with clients** – The PRA had made it an offence for sex workers and their clients not to use safe sex practices. Sex workers found it useful to be able to point this out to clients who tried to insist on having unsafe sex. The Ministry of Health stickers that provided in writing the details of this offence were widely endorsed.
- **Access to condoms and lubricant** – Prior to the PRA, being in possession of condoms or lubrication ('lube') could be used as evidence for a conviction. Brothel operators in particular commented that it was better that they were now able to supply and display these items.

Operators were aware of their legal requirement to adopt and promote safer sex practices. However, some NGOs were concerned that not all brothel operators were complying – in particular as regards displaying health information, and supporting sex workers to adopt safer sex practices.

Barriers to adopting safer sex practices were noted. There was concern among some NGOs that the pressure to earn money (particularly for street workers) increased the likelihood they would agree to unsafe sex. A sexual health nurse also expressed concern over some foreign workers who appeared not to understand the importance of safer sex practices.

General health and well-being

The main impact of the PRA that informants mentioned – both NGOs and those in the industry – was an improved sense of well-being due to sex work no longer being ‘criminal’. Removing the fear of being arrested by an ‘undercover cop’ was seen as a considerable move forward. One nurse also felt that the women she saw felt the environment in which they were working had improved. This also helped them feel better about themselves.

Despite improvements, many informants felt there was still a long way to go to eliminate the stigma of sex work. There were also a few areas where improvements were felt to be needed, in particular:

- **Health of street workers** – which was felt to be poor
- **Mental health** – to which insufficient attention was being given.

Access to health services, information and training

Most informants felt there had been no great change for sex workers in access to health services, information and training, although again this was felt always to have been good. Those in the industry we spoke to valued and relied on the New Zealand Prostitutes Collective (NZPC) services in particular, which in the main centres included a confidential sexual health clinic. NZPC itself felt that the PRA had made their work easier. It was now possible to speak openly about sex work and safer sex practices.

Two-thirds of operators said they were familiar with the Ministry of Health’s *Occupational Health and Safety in the New Zealand Sex Industry* guidelines, and generally thought them to be good. There were comments from some that the *Guidelines* needed to be more ‘user friendly’.

Areas for improvement

Around a third of informants felt there was room for improvement in terms of increasing access to health services, information and training. Not all regions had an NZPC office or a dedicated sex worker sexual health clinic. Some brothel operators were thought to discourage sex workers from accessing NZPC services and several people commented that there should be more outreach work done with sex workers in brothels. One SOOB said accessing mainstream health services was still awkward.

Suggestions for ways to improve access included:

- better internet resources;
- more user friendly printed information (including in foreign languages); and
- providing opportunities for experienced sex workers to educate those less experienced.

Safety issues

Improving the safety of sex workers was another important aim of the PRA. Opinion among informants differed on its impact. The majority felt that the PRA was able to do little about the violence that occurred in the sex industry, but around a quarter felt there had been an improvement.

Differences of opinion, to a certain extent, reflected the sector of the industry about which informants were speaking. The situation in parlours was not seen as having changed much, but those we spoke to felt it had never been particularly problematic.

Street workers were generally seen at most risk of violence, with NGOs reporting acts of violence they had witnessed. There was considerable concern over the two street-based sex workers murdered in Christchurch since the PRA. There was a sense among some informants that things had been made worse early on by the increased attention paid to sex workers by the media and the general public following the PRA (e.g. verbal and physical abuse from the public).

There were mixed views on whether the risks faced by SOOBs had changed. In general, the SOOBs we spoke to felt safe and in control. However, there were a few operators with concerns about SOOBs. These related to the isolated nature of the work, and the increased numbers of SOOBs now potentially at risk.

Reporting of violence

The PRA appears to have had limited effect in preventing violence. But informants said it had helped to increase the reporting of violence to the Police, particularly by street workers. There were also indications that incidents of violence against sex workers were being taken more seriously, and that in some cases the Police response assisted in resolving situations. Nonetheless, it was felt that sex workers were still reluctant to carry the process through to court.

Barriers to reporting

Illegal drug use among street workers was felt to be a barrier to asking for Police assistance. Fear of being publicly exposed after making a complaint also remained a significant impediment. It was felt some sex workers still perceived that the Police might not take their complaints seriously.

Reluctance among sex workers to make official complaints has led some brothels to develop their own strategies for dealing with 'in house' violence – particularly 'Ugly Mug' books of photos of clients who were barred. Some felt this was not the best way for the industry to deal

with violence. There was an innovative system amongst street workers in Christchurch of texting, which might help in stopping violent incidents.

Relationships with the Police

Relationships in some regions appeared to have improved. The Police were now seen more as a 'protector' than as a 'prosecutor'. Informants in other regions felt relationships still needed improvement.

Conditions of work (Section 5)

The PRA included specific provision aimed to protect sex workers against being forced or induced to provide commercial sexual services, and to ensure they had the right to refuse. Decriminalising prostitution also meant sex workers were now entitled to the same rights and had the same responsibilities as other workers.

Changes in management practices

The sex workers of the brothel operators we spoke to were said to be contracted as 'independent contractors' rather than as 'employees', although whether this accurately reflects the true nature of the relationship has yet to be tested. They typically signed a contract with the brothel operator agreeing to specific services and the terms of the contract.

In terms of the style of management, the informants' general impression was that brothels who had treated their workers fairly prior to the PRA continued to do so. Those who had unfair management practices continued with them. The management practices of brothels that had opened after the PRA were viewed positively by many who referred to them as the 'new generation' brothels. NGOs felt a positive development was that it is now possible for sex workers who are unhappy with brothel conditions to set up a business and work for themselves.

Bonds and fines

Bonds and fines were common practices that the PRA made illegal. Several operators mentioned that they had stopped using them, and some commented that it had made managing their business more difficult. Other operators used modified versions of financial control, and called bonds by another name such as 'indemnity'.

NZPC felt it important that the Act was tightened so that it was clearly spelt out to operators that they could not charge bonds or fine sex workers. While unprofessional behaviour may make running businesses difficult and can cost operators money, there are established and more acceptable means to manage employment relationships (e.g. warnings, written warnings and firing).

Ability to refuse to provide commercial sexual services

Sex workers have the right at any time to refuse to provide commercial sexual services. Some brothel operators appeared to respect this only up to a certain point. Most accepted that a worker could refuse to take a client, but others prefaced this with 'but they have to have a good reason'. There were also reports of sex workers not being able to refuse even when there was a very good reason.

Awareness of rights and responsibilities

In the main, informants felt sex workers were aware of their rights. However, *knowing* about personal rights was rather different from being able to *insist* on them. Only some workers seemed able to challenge operators on inappropriate management practices. There have been a few cases of legal action being taken successfully against brothel operators. Informants would have welcomed more.

There was concern among some informants that 'bad operators' purposely tried to isolate workers, discouraging them for accessing places like NZPC, so they would be kept uninformed of their rights.

Informants had suggestions for increasing awareness among sex workers of what they were entitled to regarding working conditions. These suggestions included:

- increasing available information through websites or pamphlets;
- a card the size of a credit card which listed sex workers rights (one informant); and
- an online confidential discussion site to facilitate information sharing.

There was also a sense among several informants that there should be more access to those working in brothels.

Increased tax compliance

Informants were aware of an increase in tax compliance by sex workers since the PRA, but this was far from complete, with the majority still not filing tax returns. Some informants suggested a form of amnesty so that long-term sex workers could start paying taxes, but not be held account for previous unpaid tax.

The system of certification (Section 6)

The PRA requires that every operator of a business of prostitution must hold a 'brothel operators certificate' that is approved and issued by the Registrar of the District Court at Auckland. Owners, managers and receptionists are all considered operators. However, a sex worker who works at a SOOB is not considered an operator and is not required to hold a certificate.

Importance of certification

Nearly all (87%) informants questioned, felt that some sort of system of certification was important. They pointed to the need to have some control over people running businesses which placed them in a position of power over sex workers.

Administration issues

Opinion was fairly evenly split over whether the Auckland District Court was the most appropriate agency to process applications. Half thought it was. Half thought a local body would be better able to assess the suitability of an individual to hold a certificate.

Compliance

Compliance in general appeared to be good. Certificates were not seen as difficult to get. There was some concern, however, that some businesses were avoiding getting a certificate by operating under the guise of being a SOOB, and also that owners who would not qualify for a certificate could employ managers to 'front' the business.

Areas of confusion

The exemption of SOOBs from requiring a certificate appeared to have caused some confusion over who was required to hold a certificate. The following are examples of situations where people did not realise they needed a brothel operator certificate:

- an operator of a brothel, who is not a sex worker but had four or less sex workers working from his premises;
- an operator of a brothel where there were no more than four sex workers working at any one time, but with several shifts per day.

Areas of dissatisfaction

A few operators objected to paying the fee for the brothel operator licence certificate. But by far the main complaint – from almost all operators – was the inconvenience of having to put in a new application each year. This took time and effort.

The other main grievance was that, having gone to the effort of obtaining a certificate, no-one checked up. This was seen to make the process pointless.

About half the informants argued that certificates were, in fact, *too* easy to obtain – again raising questions over their value. NZPC offered a counterview, cautioning that making certification too onerous might result in fewer operators applying for certification. This might result in a two-tier system of illegal and legal operators as has happened in Victoria, Australia.

Suggestions for improvement

Suggestions for improvement included:

- a simpler renewal process;
- premise-specific certificates, rather than certificates relating to individuals;
- more rigorous checking processes; and
- not requiring receptionists to have certificates.

Exiting (Section 7)

We looked at one element of a review task set for the PLRC which concerned the means available to help exit from sex work. This proved somewhat difficult. Some felt there were few problems to exiting if this is what the sex worker wanted. Some felt it glossed over the fact that some sex workers were happy in their work. Brothel owners saw the problem as being how to *keep* them working.

Informants in most areas could identify services that could be accessed by sex workers who wanted assistance to exit the industry. Most of these provided general support services, which included assistance with exiting if that was what was wanted. Services included outreach work (which could result in one-to-one case management), drop-in centres, and career planning.

Legislated assistance

The government has provided some assistance for sex workers to exit the industry through legislation:

- the Clean Slate Act 2004 – relating to the concealment of past convictions; and
- the PRA – less stringent conditions regarding entitlement to social security benefits or ACC payments.

There was little awareness among informants about these initiatives, although there was support for them once they had been explained.

What is needed?

Key informants were given the opportunity to say what they felt would be the best way of assisting those who wished to exit the industry. Suggestions included:

- **Accommodation** – both emergency accommodation and half-way houses.
- **Access to drug and alcohol treatment** – in particular services for young people.
- **Generic support services** – seen as preferable to programmes developed specifically for sex workers, which risk further stigmatisation.
- **Budgeting advice** – to lessen the impact of a reduced income if they exited.

- **Career counselling / education / training** – services were seen to exist, but sex workers needed help to access them.
- **Support and ‘being there’** – exiting was difficult for sex workers and a ‘patience game’ for those who wanted to help.
- **More funding** – NGOs called for more funding in order to provide more and better services to assist those who left sex work.

Persons under 18 years of age (Section 8)

The PRA makes it an offence for anyone to assist someone under 18 years of age to provide sexual services, or for anyone to procure these services from them. There was consensus among all informants that this was how it should be.

Impact on numbers

The effect of the PRA on the numbers of young people who might enter into prostitution as a result of decriminalisation was a key issue when the PRA was passed. We asked informants whether they were aware of any changes in the number of young people providing commercial sexual services.

In Christchurch there was general agreement among those most actively involved with young people that there had been no increase in the number involved in prostitution. However, opinion elsewhere was divided. In South Auckland for instance, half the NGOs reported an increase, and half that numbers were the same. The difficulties of obtaining reliable counts were acknowledged.

Message sent by the PRA

For young people

There were mixed views on what message young people were taking from the PRA. Several NGOs were concerned that young people were interpreting it as that they were ‘not doing anything wrong’ – thus encouraging them into prostitution. But other agencies providing youth support services had a more positive view. They felt the PRA had made it easier for them to access and support youth now that they understood they were legally protected.

For those using young people

Informants agreed that the message of the PRA was more straightforward for those who are using young people to provide commercial sexual services. There was general consensus that it was now more difficult for those under 18 years to get employment in a brothel – though not impossible. Most operators were aware of the penalties and were careful about age identification (though this could be difficult if fake IDs were used). But some felt that not all men were fully aware they were breaking the law.

Limited options

There was acknowledgement that a downside of it being more difficult to work in brothels was that a determined young person will end up working on the street. Another option was for them to work privately – and this was seen as difficult to monitor or control.

Prosecution and enforcement

Many informants wanted to see more prosecutions by the Police, particularly of men who cruised the streets for young girls. Increased Police presence even without arrests was also endorsed by some. The NZPC, though, cautioned about simply ‘displacing’ young people to other locations where they were less accessible to support services.

Prosecution of brothel operators was viewed more positively, and the monitoring of under age people in brothels was in general felt to be good.

Preventing entry

We asked about how young people could be prevented from entering prostitution. The complexity of difficult family backgrounds was acknowledged, as well as the need for across-the-board improvement in service provision. A summary of the general view is that the means available to assist young people to avoid entry into prostitution were limited due to both lack of resources and insufficient attention paid to high-risk youth. The need to address underlying causes was a key theme.

Specific suggestions for preventing entry into prostitution included assisting youth financially, making access to the Independent Youth Benefit easier to obtain, and ensuring there were accommodation options available, either in emergency housing or longer term accommodation. Ensuring access to youth specific drug and alcohol treatment was also seen as important.

Territorial Authorities (Section 9)

We asked key informants what had been their experience of the actions taken by their territorial authority (TA) to the PRA. Their comments reflected the region they were in, and whether they personally were affected by a by-law.

Informants in Wellington, Hawkes Bay and Nelson were either happy with the response of their TA, or had no comments. The reaction was different in Christchurch and Auckland – where the TAs had enacted restrictive by-laws, albeit subsequently quashed by the High Court. Here, informants spoke of the stress caused by the TA actions. These resulted in brothels either closing or reverting back to illegal operations. The fear of prosecution also returned.

Should territorial authorities have the powers they do?

While there were mixed views over the actions taken by some TAs, many informants questioned whether they should be making decisions. There was a feeling among some that TAs did not have sufficient understanding of the sex industry.

Monitoring and enforcement (Section 10)

A persistent theme from key informants was that while the majority applauded the PRA, very many were frustrated that the provisions of the Act were not being adequately monitored and enforced. The main areas of concern related to:

- the number of young people (those under 18 years old) providing commercial sexual services;
- the unfair management practices of some brothels (e.g. no bond, fines, intimidation, sexual harassment);
- clients trying to have unprotected sex; and
- the occupational health and safety of some in the industry.

There was a general lack of awareness among informants over who was responsible for overseeing the various aspects of the PRA. Moreover, the operators we spoke to had been subject to virtually no checks on them. A factor here will be that the regulatory system is essentially 'complaint driven'. Where no complaint is made, no check is done. Many informants were unhappy with the situation, given a working environment in which 'complaining' can lead to trouble or public exposure.

Suggestions

There were a number of suggestions for improvement:

- **More active monitoring including spot checks** – though there were conflicting views on who should do these.
- **A reward-based system** – to reward operators for good practice, rather than penalising them for poor practice.
- **Registration of workers** – so that their working conditions could be checked. But while supported by some it was strongly resisted by others.
- **Increased Police prosecution** – felt to be needed to reduce demand for commercial sexual services provided by young people, and to deal with coercive or exploitive brothel management practices.
- **Informal monitoring** – more informal styles of monitoring and enforcement that have been used effectively in the past.

1 Introduction

The Ministry of Justice on behalf of the Prostitution Law Review Committee (PLRC) commissioned the Crime and Justice Research Centre to conduct a substantial number of key informant interviews with brothel operators and Non-Government Organisations (NGOs) to provide information for the review of the Prostitution Reform Act 2003 (PRA) by the PLRC.

1.1 Background

Prostitution in New Zealand was decriminalised in June 2003 by the PRA, which repealed offences related to soliciting and brothel keeping in particular. It created a new legal environment for the sex industry. The PRA decriminalised prostitution, whilst not endorsing or morally sanctioning prostitution or its use. Prostitution is now subject to the same laws and controls that regulate other businesses.

The PRA aimed to create a framework that:

- safeguards the human rights of sex workers and protects them from exploitation;
- promotes the welfare and occupational health and safety of sex workers;
- is conducive to public health; and
- prohibits the use in prostitution of persons under 18 years of age.

The Prostitution Law Review Committee (PLRC)

The PLRC was established under the PRA to review its operation. The PLRC was asked to do two basic tasks. These were:

- First, to assess the number of sex workers in New Zealand and any matters relating to sex workers or prostitution. This work has been completed and reports are available from the Ministry of Justice.
- Second, within three to five years, to:
 - Review the operation of the PRA and consider whether any further review was necessary.
 - Assess the impact of the PRA on the number of sex workers in New Zealand and on any prescribed matters relating to sex workers or prostitution.
 - Assess the nature and adequacy of the means available to assist persons to avoid or cease working as sex workers.
 - Consider whether any amendments or other legal changes are called for. Particular issues here are with regard to (i) whether the system of certification is effective; (ii) whether any other agency or agencies could or should administer it; and (iii) whether a system is needed for identifying the location of businesses of prostitution.

An evaluation framework to conduct the PLRC review was developed by CJRC for the Ministry of Justice in July 2005 (Mossman, 2005). The framework outlined a series of research tasks that would address the review requirements. The research reported here forms one part of the evaluation framework. This was to conduct key informant interviews with operators and NGOs.

1.2 What the key informant interviews aimed to do

The key informant interviews were to assist the review of the PRA by providing the perspective of operators and NGOs. The interviews focussed on the following issues:¹

- The effectiveness of the welfare, health and safety provisions of the PRA.
- Whether the PRA improved conditions of employment of sex workers, and the way they were contracted.
- How far the PRA had achieved its aim of stopping those under 18 years of age being used in prostitution (by clients, and operators for example).
- The effectiveness of enforcement provisions in the PRA (including those involving Immigration, the Police, and the control of advertising).
- How well things were working as regards helping people not to become sex workers, and assisting them to leave the sex industry.
- Whether the system of certification is working well.
- The response of the Territorial Authorities to the PRA.

Section 2 describes how the key informant interviews were carried out.

¹ These objectives are based on research questions identified in CJRC's evaluation framework (Mossman, 2005).

2 Methodology

The Ministry of Justice asked for up to 60 key informant interviews with operators of brothels and NGOs in five locations (Auckland,² Christchurch, Wellington, Nelson and Hawkes Bay). We achieved more interviews than this.

The regions selected were those covered in another research project by the Christchurch School of Medicine, funded by the Health Research Council and the Ministry of Justice (the HRC study). The HRC study has focused on the perspective of the sex workers themselves. The present study focuses on the perspective of operators and NGOs. As HRC results are not yet available, it is too early to compare the results.

2.1 Who was interviewed

Informants were those who have had direct experience of working with or as sex workers since the PRA. The first group was NGOs; the second was brothel operators. It was important to assess what they had observed or experienced of how the PRA is operating.³

An initial list of potential informants was suggested by the Ministry of Justice. This was then refined with assistance from NGOs in each of the areas, who provided information on which individuals and organisations were most actively involved with the sex industry in their region. The final list was then decided upon in collaboration with the Ministry of Justice's Research Advisory Committee. Appendix 1 shows a breakdown of who was interviewed.

A total of 73 interviews were conducted with 86 individuals (some were interviewed together). Table 1 shows the number and type of interview per area.

Table 1 Interviews conducted across research sites

	Auckland	Hawkes Bay	Wellington	Nelson	Christchurch	Total
Brothel operators	14	4	6	2	12	38
NGOs	21	5	8	4	10	48
Total	35	9	14	6	22	86

² We further divided Auckland into North Shore, Auckland City and South Auckland.

³ It was not the intention of the present research to gather more general opinions on the PRA, from political lobby groups for instance. Their views will be important when reviewing the PRA, and the PLRC has been inviting submissions.

We tried to interview similar groups of stakeholders in each of the five sites. We also tried to talk to operators across a range of different types of brothels. The number of interviews in each region reflected the relative size of the sex industry and related NGO activity. For example Nelson (where there were six interviews) has just two brothels, no evident street work and very few NGOs actively involved with sex workers. On the other hand, we interviewed 35 people in Auckland, where there are 26 brothels for Auckland City listed in the Yellow Pages, and 38 across the Auckland region as a whole. Street work occurs in Auckland City and South Auckland and the number of NGOs actively working with sex workers was higher than in other areas. The national offices of some of the NGOs are also in Auckland City (e.g. NZ Aids Foundation (NZAF), ECPAT, Stop Demand).

NGOs

Thirty-eight interviews were conducted with 48 individuals from a range of NGOs. They covered groups who provided:

- support, advocacy, and counselling for sex workers, including young people;
- outreach services to street-based sex workers;
- sexual health services;
- education and health promotion related to the use of drugs and alcohol; and
- assistance with eliminating sexual exploitation of children in sex work.

All those contacted agreed to be interviewed, and provided answers to most questions put to them.⁴

Appendix 1 shows the NGOs who were interviewed. The organisations that had higher numbers of people interviewed were those which operated in more than one area (e.g. NZPC, Needle Exchange Programmes, Sexual Health Services) or where members of an organisation had different roles and were all keen to provide input (e.g. NZPC, NZAF, Te Aronga Hou Trust).

Brothel operators

Thirty-eight interviews were conducted with operators of brothels.⁵ Of these, 25 were operators of commercial brothels ('BOPs' hereafter) covering a range of brothels: up-market and more regular brothels; large (over 20 rooms) and small (two rooms); and speciality brothels (providing bondage and discipline, fantasy rooms, and Asian services).

4 A few intended NGO participants were not interviewed. This was because relevant staff were on leave, for instance. These included one group of Maori wardens and Streetwise in Wellington.

5 The PRA distinguishes between two types of brothel operators:

- (i) 'Operators' of the larger brothels (i.e. those who, whether alone or with others, own, operate, control or manage a business of prostitution that employs more than four sex workers); and
- (ii) 'SOOBs' – sex workers from 'small owner-operator brothels', at which there are no more than four sex workers, and each retains control over his or her individual earnings. Under the PRA, SOOBs are not required to hold an operator certificate.

A further 13 interviews were carried out with operators of 'small owner-operated brothels' known as SOOBs. These individuals were both sex workers and operators. Four of the SOOBs worked with others, while nine worked alone. They included two sex workers who were transgender and several who were dominatrix mistresses. Some SOOBs also did shifts in commercial brothels and were able to comment on practices there.

As individual sex workers are already the focus of the HRC study, it was difficult to decide whether sex workers who were SOOBs should be included. It was decided that they should be, as they were operators of their own brothel. In terms of numbers of interviews, however, priority was given to commercial brothel operators.

A few operators could not be contacted (i.e. they did not respond to repeated emails). One of the operators refused to be interviewed.

Interviewing brothel operators was not as straightforward as with the NGOs – perhaps unsurprisingly as the sex industry is traditionally suspicious of outsiders. We relied heavily on introductions from representatives of NZPC, particularly for the interviews with SOOBs. The operators had varying relationships with NZPC. Most BOPs appeared to have a good relationship, but two or three did not.⁶

It cannot be claimed that the sample will be fully representative of New Zealand brothels. For instance, those SOOBs willing to be interviewed were likely to be more experienced, confident and empowered sex workers. Nonetheless, we feel that good coverage was achieved. All operators were pleased to have the chance to provide feedback on the PRA.

2.2 Collecting and analysing data

The questionnaire

An interview schedule was developed in collaboration with the Ministry of Justice's Research Advisory Committee (see Appendix 2). Essentially, it covered questions pertinent to the issues identified in Evaluation Framework for the PRA (Mossman, 2005).

The interviews

Interviews were conducted by experienced senior researchers between mid February 2007 and late April 2007. All but four interviews were carried out face-to-face. The telephone interviews were at the request of the interviewees (one brothel operator and two NGOs), and one NGO elected to respond to the questions in writing. The interviews varied in length, but most were quite long. Some interviews took three hours.

Interviews with NGOs were carried out on their premises. It was not uncommon for there to be several members of staff working who had different roles. In these cases, group interviews were conducted.

6 This was usually over disagreements in the past between NZPC and operators over management practices and the treatment of sex workers.

Interviews with BOPs were typically carried out at the brothel. Interviews with SOOBs were carried out either at their place of work, or at the NZPC office if they preferred this. There were three cases where more than one employee from a brothel was keen to participate; and in one case two operators from different brothels requested to be interviewed together.

Key informants had differing types of involvement with the industry and their awareness of certain issues and ability to answer particular questions varied. They were encouraged to answer only questions that were relevant to them. Not all questions were relevant to everyone. A few interviews were rushed because informants had little time available. In these cases, we asked just key questions most relevant to the informant's area of interest.

Because not everyone was asked all questions, the numbers responding to any particular question varied considerably from all 85 to under ten in some cases. Where numbers were low, it was felt inappropriate to present the precise number and percentage responding one way or another. However, we do indicate the strength of opinion – for example if there was simply an isolated comment, or if responses represented about a third, half, or three-quarters etc. of respondents.

Ethical considerations

The research was approved by Victoria University Human Ethics Committee.

Results

The rest of this report presents findings from the interviews with key informants. It is organised as follows.

Section 3 looks at the **level of support for the PRA** both before it was passed, and now. It gives an indication of the range of views for and against, and information on the type of impacts key informants were anticipating from the PRA, and whether it lived up to initial expectations.

After this, we present the main findings from the interviews that address the research objectives laid out above.

Section 4 takes up matters to do with the **welfare, health and safety** of sex workers. An improvement in these areas was one of the key objectives of the PRA. We review the extent to which key informants felt this had been achieved.

Section 5 deals with **conditions of work** for sex workers, in particular whether the PRA has been able to protect sex workers from exploitation and coercion by others, and the extent to which sex workers are now afforded the same rights and responsibilities as other workers in New Zealand.

Section 6 discusses key informant views on the **system of certification** for brothel operators.

Section 7 takes up issues to do with **exiting sex work**. There is a statutory requirement for the PLRC to assess the means available to assist people to cease working as sex workers. We look at what informants felt about these.

Section 8 considers what impacts the PRA may have had on the involvement of **persons under 18** in the sex industry. It also looks at the prevention aspect of the review task set for the PLRC – to assess what means are available to help people avoid entering sex work.

Section 9 deals with the **response of the territorial authorities to the PRA**. The PRA encompasses provisions that enabled territorial authorities to enact by-laws to regulate the location and signage of brothels. This section considers the perceived impact of actions taken by these authorities.

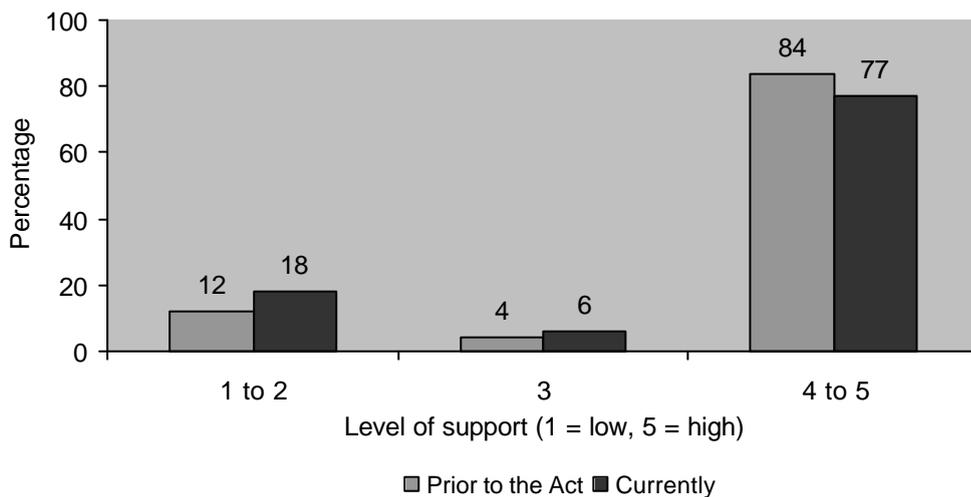
Section 10 looks at **monitoring and enforcement**. The effectiveness of any legislation depends not only on the provisions provided for, but how well the provisions are implemented. This section discusses monitoring and enforcement issues related to the provisions of the PRA.

3 Level of support

We asked informants to indicate their level of support for the PRA, both before it was passed and currently. For each point in time, they gave a rating ranging from one to five, where one indicated they were strongly against the Act and five that they were very supportive. Seventy-three of all those we interviewed were able to give us the two ratings.⁷

The majority of those interviewed, however, were strongly in favour of the PRA both before it was passed and now (Figure 1). Rather more (84%, n = 61) were in favour before the PRA than currently (77%).

Figure 1 Level of support for the PRA before it was passed and now



3.1 Support for the PRA before it was passed

Informants often gave several reasons why they supported the PRA before it was passed. The most commonly reported reasons are covered below. They had fairly equal weighting.

Basic human rights

A common theme was that the PRA served to protect basic human rights of sex workers on a number of fronts:

⁷ Thirteen informants did not give a rating. This was mainly because they were not around or involved in the industry before the Act was passed; or did not feel in a position to rate it now.

Seeing these women for over eight or nine years, they appeared to have fewer rights than any other group I was aware of. It didn't seem right to me. They couldn't travel because of convictions, couldn't get a mortgage. It was unfair. I don't like the industry, but I see that it will always be there so I supported the Bill for the sake of the women. (Sexual health nurse)

The right not to be exploited

Many interviewees felt decriminalising prostitution was important to ensure that sex workers were less vulnerable to exploitation from others (in particular from clients and brothel operators):

You had no rights as it was officially illegal. You were open to Police raids, extortion. There was no protection against clients raping you. You couldn't refuse if you had your period – or you needed to bring a medical certificate to prove it. There was no protection against poor working conditions, no child care, no rights as a worker. High-class places made it dear you were privileged to work there. If you caused problems, you'd be bad mouthed and couldn't work anywhere. We had to get rid of the stand over tactics from the clients, the cops and the owners. (NZPC)

Prior to the Act, there were ownership issues, with managers ripping off girls, through fines, bonds, and not paying their money. Some had to pay \$600 just to start working. When it was illegal they didn't have the option of setting up their own business so had to work in larger parlours under poor conditions. (BOP)

To enhance health and safety

Informants supported the PRA on the grounds that it would improve the health of sex workers, either through making it easier to use safer sex practices, or through increased access to health services:

The existing Massage Parlour Act was 20 years out of date and was no longer relevant. It needed to be changed. You couldn't promote safer sex practices without risking it being used to prosecute you – having condoms on the premises for example. (BOP)

Mainly from my own experience as a sex worker, I thought it would result in having more support services available. (A&D counsellor)

In decriminalising sex work, the PRA was also seen as important in terms of improving the safety of sex workers by reducing the barriers to reporting violence to the Police:

If girls had horrible experiences, they were afraid to report. But now it is legal it is safer as they will report things. On the street and even here, bad things can happen. One guy here before the Act was trying to strangle a girl. (BOP)

When I worked twenty years ago, there was lots of stand over behaviour, lots of rapes. It was very scary. But because it was an illegal activity you couldn't report anything. (A&D counsellor)

Removing convictions

The removal of convictions associated with prostitution was a strong theme. Informants spoke of the negative effect on sex workers of being seen as 'a criminal', and fearing conviction. Sex work being illegal was seen as unjust:

Because of the way sex workers were treated – because it was illegal. This was degrading for the sex workers. (BOP)

I felt it was a good idea. Before, there was always a chance the next client was going to be a cop who hadn't met his quota. There was also the fear that neighbours might do you in to the Police. (SOOB)

I disagreed on moral grounds with a law that made sex workers criminals. (Doctor)

I got my only ever criminal conviction ten years ago for soliciting. It wasn't right that I was convicted for something that came natural to me. As a transgender, you are drawn to your peers on the street. (NZPC)

Making prostitution legal was seen by some as important in achieving 'truth and consistency'. They felt it was wrong that while everyone knew prostitution existed, those involved had to pretend that it did not:

Accepting a reality which had been denied – everyone was just pretending under the Massage Parlour Act. (NZPC)

The public morality and public discourse had previously been a double standard. On the one hand it was saying this is illegal and they're criminals. On the other hand, everyone knew and almost accepted it was going on behind closed doors. I think it is better for it to be honestly recognised as happening, whether people like it or not. (Church leader)

The reasons above for supporting the PRA were common. Just one or two informants who were supportive gave other reasons. Two brothel operators thought the Act would be good for business. One NGO felt it would help to reduce the criminal activity associated with prostitution (such as organised crime). Another NGO thought the PRA would help those under 18 years since others could not use them in prostitution.

3.2 Reasons for non-support

Twelve per cent (n=9) of those interviewed had not been supportive of decriminalising prostitution before the PRA was passed. They were two brothel operators, two SOOBs, one health professional and four youth-specific NGOs.

The two main reasons for lack of support were ideological opposition to prostitution, and concern that decriminalisation would normalise it:

As an organisation we do not believe that prostitution is a good choice for any woman. We felt decriminalisation would make it easier to get involved, and make it normal. We do not see it

as a normal profession. I think they decriminalised it to say it was 'okay', and to give sex workers rights. Women have always had rights, but in no other job is it okay to have to sleep with the boss, or be taken from one end of the country to another to provide sex. (NGO – youth).

I see prostitution as part of the global system that is encouraging and sustaining violence against girls and women, particularly sexual violence. It is a global problem, and sex trafficking is being fuelled by prostitution. It is all being fuelled by male demand. The Act says it was not morally sanctioning prostitution, but by making it legal it was. (NGO – youth)

One of the youth-specific NGOs said that it was against the PRA because more young people might get involved through increasing demand; however, they had no particular view as regards decriminalisation of sex work for those over 18 years of old.

The two brothel operators had concerns it would be bad for business – with more competition from SOOBs. The two SOOBs, too, were concerned that an increase in the number of private sex workers would lead to price undercutting. One operator felt decriminalisation would result in more visible street prostitution; they preferred it to be kept behind closed doors.

3.3 Changes in level of support

Over three-quarters of informants who were supportive of the PRA before it was passed were also supportive now – and for the same reasons. Around half of these, however, said they were still waiting for the full effects of the PRA to be realised, and wanted more monitoring and enforcement for this to happen:

It's been put in place, but let's make sure it's now happening (NGO – health)

I'd say I'm still supportive but I'm waiting to see it come into full bloom. I don't want it to be regimented but at least once a year checks should be done – for instance, whether health and safety information is being displayed and annual HIV and STI checks. Random spot checks would be best. (Sexual Health Nurse)

There were 18% (n=13) whose support for the PRA had slipped since it had been in operation. These included four health-related NGOs who were concerned about specific parts of the Act that gave local councils power over businesses, and that had made it illegal for foreign workers.

Support had slipped among nine operators. Four of them (one SOOB and three BOPs) gave a rating lower than for before the PRA was passed. Five (all BOPs) went from being very supportive to completely against. The one SOOB felt there had been a reduction in clients.

The BOPs whose support had fallen (and other BOPs too) talked of a significant downturn in business, and more competition from SOOBs. One operator said their takings were down 70%. They were also finding it harder to run their businesses because they had less control over their workers and some difficulty in finding employees (with many switching to private work). One operator said they had been advertising constantly for eight months. In the main, the drop in business was put down to more sex workers choosing to work for themselves as a

result of the PRA. A few SOOBs felt that there might be other subtle factors at work at the beginning. Mention was made, for instance, that some clients may have been put off by the media attention given to the PRA and the issue of prostitution.

One operator whose support for the PRA had fallen also resented having to pay for the new brothel operator certificates, describing it as “a big rort”.

Endnote

Perhaps not surprisingly, those in support of the PRA tended to point to the positive impacts when they were asked about the perceived impact of the PRA. Those who were unsupportive focused on negative effects. Prostitution is a topic which attracts a polarisation of views.

4 Welfare, health and safety

One of the key aims of the PRA was to promote the welfare and occupational health and safety of sex workers. We asked key informants what changes, if any, they had seen since the PRA had been in operation. The areas of interest included:

- the use of safer sex practices;
- general health and well-being;
- access to health services, information and training; and
- issues of safety (violence and abuse).

4.1 Safer sex practices

Informants were not aware of any substantial change in the use of safer sex practices by sex workers. It was generally felt that most sex workers had already adopted such practices⁸ – as a result of the effective HIV / AIDs prevention campaign that ran in the early 1980s. Many informants said that it was in sex workers' own best interests to look after their health. (Contracting a sexually transmitted infection (STI) meant they had to take time off work.) Sex workers in brothels seemed to actively police this – coming down hard on any sex worker gaining a client through providing sexual services without using a condom.

Negotiating safer sex practices with clients

The PRA makes it an offence for sex workers and their clients not to use safer sex practices. We asked informants if they knew whether sex workers were aware of this. Of those who replied, two-thirds (n=27), thought sex workers were aware, and 20% (n=8) thought they were not. (The remainder did not know.) Of the eight who thought not all sex workers were aware, six were NGOs and two SOOBs; none were BOPs. It should be noted this was just the opinion of the informants; a more accurate assessment will emerge from the HRC study which asked the sex workers directly.

Despite no great change in safer sex practices, there were several positive effects reported as a result of the PRA. Before, while it appeared not uncommon for clients to insist on having unsafe sex, workers felt in a weak position in resisting or even talking about using condoms with a client: they feared it might be used against them in an accusation of soliciting. In the current regime, sex workers could 'point to the legislation':

It is better that sex workers are able to talk about using a condom. Before, we didn't want to say the word out loud for fear of prosecution. (NZPC)

8 The New Zealand Prostitutes Collective was set up for this purpose in 1987 and is provided with funding from the Ministry of Health.

I now say, 'I don't want your germs, do you want mine? I could be fined and go to jail, and if you take it off, then I could send you to jail'. (SOOB)

There was wide endorsement for the stickers published by the Ministry of Health, saying that unsafe sex was an offence for both the sex worker and client and the penalties for it. Those in the industry said how helpful it was for sex workers to be able to point to the stickers, and for clients to see 'in writing' an offence was involved. This seemed particularly useful for younger, less experienced, sex workers who may be less confident in negotiating with clients:

There is back up now. The small sticker that is behind the door or in the bathroom says you must have protected sex. She can point to the bit about the fine. Because it's the law and the law is in print, the client backs down. It's great. (BOP)

The MOH stickers are great for 18 to 21 year olds. We're constantly being asked for more (NZPC).

Access to condoms and lubrication

Prior to the PRA, being in possession of condoms or lubrication ('lube') could be used as evidence to convict a sex worker. Brothel operators, in particular, commented that it was better that they were now able to supply and display these items:

We can now advertise the word 'brothel' and have condoms and lube on display. This saves the women lugging it around, and storing it at the family home. We now can supply the condoms and lube (part of room rental fee). There is information in the rooms and up in the bar. (BOP)

Operators adopting and promoting safer sex practices

The PRA has made it a legal requirement for brothel operators to adopt and promote safer sex practices, including to 'take all reasonable steps to give health information (whether oral or written) to sex workers and clients, and to display health information prominently'. All operators we spoke to were aware that this was a legal requirement.

However, some NGO informants were concerned that brothel operators were not complying. Certainly the MOH stickers mentioned above seemed to be readily available, and the brothels we visited were able to show us posters and / or stickers either in the rooms, at the reception, or in the bar areas. However, there were examples of operators doing a very poor job in promoting safer sex practices:

One time a guy in a parlour took his condom off, and it wasn't the first time either. I told the receptionist who didn't even bat an eyelid (this was after the Act). They leave it up to the girls. They think they are just renting the rooms to the girls. At home I'd have kicked him out, but you're a bit restricted in parlours. (SOOB)

Barriers to adopting safer sex practices

There was concern among some NGOs that pressure to earn money, in particular for those on the streets, increased the likelihood that they would agree to unsafe sex. Street conditions were

felt to be quite desperate. An offer of unsafe sex – after half a night of waiting – was difficult to resist. But this was countered by outreach workers who felt that most street workers were using safer sex practices:

The numbers of condoms we give out, and pick up, suggest they are using them.

One sexual health nurse expressed concern about some foreign workers who came to her clinic. She spoke of Asian girls who appeared not to understand the importance of safer sex practices:

What I hear from foreign women makes me think they are not good about using safe sex. They say they don't care. It's funny – it's a different culture. I try and explain about infections if they don't use a condom. They say 'no problem, it's good money; it doesn't matter if I get an infection'. (Sexual health nurse)

It was said that it had always been difficult for health professionals to access workers with poor English. But several informants felt that things were worse now that the PRA expressly made it illegal for non-residents to be sex workers. One felt it was unfortunate, especially because of the lack of sex education in the countries from where they came.

4.2 General health and well-being

We asked about other impacts the PRA may have had on the health and well-being of sex workers. The main impact mentioned was an improved sense of well-being due to sex work no longer being 'criminal'. Sex workers could go about their business without fear of being arrested by an 'undercover cop'. The relief this created was frequently mentioned. Both NGOs and those in the industry that we interviewed felt that decriminalising prostitution made sex workers feel better about themselves and what they did:

There's just an increase in confidence now it is legal – been validated. It's hard to explain, but it's something I've seen. When the Act was passed, the girls knew about it. They didn't know the technicalities, but they knew it was legal and the work could be less demeaning. (BOP)

Personally, I feel more confident now I've got rights. I still work secretly, but I can say 'the law says this'... There is now no fear of being caught by Police. It was difficult when I was younger. I felt like a criminal and was less assertive. (SOOB)

The biggest difference is that, very slowly, the women are more empowered. It will take a while, but they are starting to go public and telling friends and family. Their confidence is changing. (Sexual Health Nurse)

One nurse also felt the women she saw felt the environment in which they were working had improved, which also helped them feel better about themselves:

The brothels are posher since the Act. They've tarted them up. The girls feel better working in a better environment. It's given them a confidence boost.

Despite improvements, though, many felt there was still a long way to go to eliminate the stigma of sex work. There were also a few areas where informants felt improvements were needed. Some were concerned about the poor conditions of health among those working on the streets:

On the streets, I think health is gradually deteriorating. There is more drug use. Life is very chaotic. There is fighting, bitching, scrapping (Street worker)

Others felt there was not enough attention given to the mental health stress of sex work and the support needed for this:

It is important that they have access to someone for debriefing. You can work ten days in a row, and start getting robotic. I think they should be made to take a break. All the parlours are so dingy and poorly lit. It's not good for you day in day out. I think breaks should be compulsory. (BOP)

Mentally, I think there should be more support. It can be tough and there should be free counselling. It's part of the risks of the job, like lifting correctly is with building. There are no harms from the physical sex. It's the mental effects of suppressing feelings of why you shouldn't be doing this, but have to get the income. It is a hard business. The suppression can take its toll if there is no release. Counselling would keep you healthier mentally. Otherwise you can be at risk of making poor judgements around drugs or bad boyfriends. (BOP)

4.3 Access to health services, information and training

NZPC was seen as the main provider of health services and information. Offices in Christchurch, Wellington and Auckland provided weekly sexual health clinics. Those in the industry valued greatly NZPC services in particular, which they felt had always been good. Most felt there had been no great change in access for sex workers, although some felt there had been improvements since the PRA:

The role of NZPC is so important. If the regional co-ordinator retires, it would be a disaster. They need more money and support. They play such a crucial role. (NGO – health / youth)

No change – there have always been opportunities through NZPC (BOP)

NZPC is more organised and able to provide good information. People can be more open now. Workers acknowledge NZPC more. They say it's their right to get information, people are more confident. (BOP)

Some informants felt that sex workers could be more open with other health professionals, such as their GPs. One NZPC office noted that one woman had been sent by her GP. (She had discussed the possibility of becoming a sex worker with her GP who suggested she talked to the NZPC.)

NZPC itself felt the PRA had made their work easier, as it was possible to speak openly about sex work and safer sex practices.

Occupational Health and Safety Guidelines

Two-thirds of operators (18 out of 27 who replied) said they were familiar with the *Guide to Occupational Health and Safety in the New Zealand Sex Industry* published shortly after the PRA. The rest – mainly SOOBs – were either not familiar with the guide, or had not seen it at all.

The *Guide* was generally thought to be good. While ‘common sense’ for most, they were felt useful for those starting out. Some sections of the *Guide* appeared of marginal relevance (e.g. under arm sex). There were comments from some that the *Guides* needed to be more ‘user friendly’. It was referred to by those in the industry as that ‘big blue book’ and was not thought of as light bedtime reading. Further comments on accessibility to health information are covered below.

Areas for improvement

About a third of informants noted that there was still room for improvement as regards access to health services, information and training. A Hawkes Bay operator felt that an NZPC outreach clinic was needed there. Several people commented that there should be more outreach into brothels:

I think there needs to be more – perhaps someone visiting the brothels providing education. I see girls who have lost sponges they've put in when they had periods, but forgotten to take them out. There needs to be more on health information. (Sexual health nurse)

As said earlier, most brothel operators appreciated the service provided by NZPC and appeared to rely heavily on them for providing health information and safer sex materials. Some operators had their own in-house training, but many preferred to send their workers (particularly new ones) to NZPC. However, there were concerns from several sources that some brothels strongly discouraged their workers accessing NZPC:

NZPC has always been here and they are good. But down the road there are some places NZPC are not allowed in. There may be more access now for NZPC. (BOP)

A lot of girls don't know about NZPC because the operators suppress them. (SOOB)

The issue of some brothel operators ‘isolating’ their workers is discussed in Section 5.

One SOOB commented that accessing mainstream health services could still be awkward even now:

There is no difference really. The GP at student health – his eyes popped out when I said I was a sex worker. (SOOB)

Improving accessibility

Access to health information (in particular on sexual health) was seen as vitally important. Several informants drew on parallels in other occupations (e.g. nurses being taught how to lift properly). Some had suggestions on how access to information might be enhanced. These included:

- **Better internet resources.** These were felt to be useful especially in maintaining privacy (e.g. an update to the NZPC website). Lack of internet access was noted as a constraint though.
- **More user friendly leaflets, in different languages.** One operator said they found internet sites that translated into different languages useful for those for whom English was a second language.
- **'Hooker school'** – An NGO recommended that more experienced sex workers taught younger ones about safety and health matters. This had more immediacy than 'paper leaflets'.

4.4 Safety issues

Improving the safety of sex workers was another important aim of the PRA. Opinion among informants differed on the impact of the PRA. The majority felt that it was able to do little about the violence that occurred in the sex industry:

Clients getting stroppy will always happen. This was the case before the Act and after it (BOP)

There has been no impact. There will always be ugly mugs. (NGO – health)

Others – but less than a quarter – felt there had been an improvement:

It's better now... I've heard workers say "don't have to take that crap anymore". They know they have a right to report stuff. (NGO)

Some of the difference in opinion reflected the sector of the industry about which informants were speaking. The situation in parlours was not seen as having changed much, but it was felt never to have been particularly problematic:

Violence is more on the streets, not in parlours. What I've seen in parlours has more to do with personal relationships. (BOP)

No change that I'm aware of, and we don't really get those situations here. (BOP)

Violence may not be common in parlours, but it exists nonetheless. NZPC were aware of a few incidents of sex workers being raped in parlours.

Street workers were generally seen as being at most risk of violence. There was considerable concern among many informants over the two street-based sex workers murdered in Christchurch since the PRA. The violence was very visible:

The violence is there, even in daylight. We were setting up at 10am for an event and a girl was getting thumped by a client. Workers are still putting their necks on the block every time they get into a car. (NGO)

It's worse. There are more rapes. The other night there was a girl running up saying she'd just been raped. I'd say it's happening every night, but they don't report it. Rape is either up, or I'm just hearing more about it now. (NGO – youth)

One informant suggested there were less people working on the streets as a consequence of the Act, so in that way safety had been improved.

There was a sense among some informants that things had been made worse early on by the increased attention paid to sex workers by the media and the general public following the PRA:

A bad consequence of the law change has been more attention on sex workers. There are more people shouting out 'filthy whores', and more risks of being battered. (BOP)

It's still out there. Maybe there is more. This would be a slap in the face to the intention of the Act. People don't like prostitutes. Now there is more attention on them, and more exposure. It can lead to more problems. (SOOB)

There were mixed views on whether the risks faced by SOOBs had changed. In general, the SOOBs we spoke to had felt – and still feel – safe and in control. They said they were good at detecting clients who might be ‘trouble’ and simply refused them. However, there were a few operators with concerns. This was mainly due to the increase in the number of SOOBs for whom they felt some risk was inevitable:

There have been more girls going private. This is okay if they're switched on, capable of running a business and able to pick the different personalities. If they've got a quick temper it could be dangerous. You have to know how to talk to people who might be on P – they are volatile. (BOP)

Privates, however, I think are much less safe. I've heard of them getting ripped off by clients. They have a lot of cash on the premises. (BOP)

I've got my own panic button that is monitored. Everyone should have one. There should be something in the Act about having one. You don't know what some guys can do. (SOOB)

Reporting of violence

It appears the PRA has been limited in its ability to prevent incidents of violence from occurring. However, informants indicated that the Act had assisted in violence being reported to Police, with some indication that the Police response may assist in resolving a situation. There was a sense that the PRA meant incidents of violence against sex workers would now be taken seriously. Of those feeling in a position to comment, the majority (70%, n=22) felt sex workers were now more likely to report incidents of violence to the Police. It appeared that this was particularly true for the street workers:

Since the Act ... I'd say the incidence of violence has been lessened a little, because the girls can stop a Police car now and make a legitimate claim. One night I was in a Police car with a Senior Sergeant and this girl had just phoned 111 and waved us down. She was traumatised – but perhaps because I was in the car and she knew me we were able to encourage her to report the assault. (NGO)

If it is serious I'd make a complaint now – over violence against me or someone I know. (SOOB)

While sex workers were more likely to report incidents of violence to Police, willingness to carry the process through to court was less common:

Street workers come in here and tell us, and we talk on their behalf if they want us to; others are happy for Police to know but won't report if it has to go through. (NZPC)

A distinction was drawn between assaultive behaviour and 'violence' from clients using deceptive practices during sex. The reporting of these latter incidents was much less likely: it appeared accepted by many as part of the job:

.. guys still try it, especially on new girls. They ask for doggy and rip it [the condom] with their finger nail. I always hold the base of the condom to make sure, but new girls don't realise. (SOOB)

I wouldn't report it if a guy took a condom off, only if he'd been really violent. All the guys give it a try; I broke the finger of one guy who tried it on. I would have reported before and I would now. (SOOB)

Barriers to reporting

While most informants felt there was an increased likelihood of violent incidents being reported to Police, barriers to reporting were still seen as existing – some perceived and some real. It was pointed out that many street workers used illegal drugs which made them reluctant to ask for assistance from the Police. For others, fear of being publicly exposed as a sex worker was still a significant barrier. One SOOB spoke of deciding against making a complaint when a Police officer asked how she would feel if her name was in the newspaper. There was also a perception that Police might not take sex workers seriously:

Some girls don't report because they think the Police will say 'well you're a hooker, what do you expect'. (SOOB)

Reporting has increased. Or at least they will give more consideration to reporting. But although they can, they often don't as they are concerned with how the Police will treat them. They still expect to be treated disrespectfully, due to the stigma that still exists. (NGO)

Reluctance among sex workers to make official complaints has led some brothels to develop their own strategies for dealing with 'in house' violence – particularly 'Ugly Mug' books of photos of clients who had acted inappropriately and were barred.⁹ This did not prevent troublesome people from using other brothels of course. There was one successful prosecution of a man who had raped a sex worker, but the operator who had supported the worker in making the complaint noted:

9 Photos taken off close circuit TV.

It was difficult though. Other parlours had info on this guy, but they hadn't passed it around. They weren't that helpful in putting us in touch with other girls who had had problems with same guy. (BOP)

In Christchurch, NGOs had put in place a Phone Text system. Sex workers could voluntarily supply a cell phone number to NZPC, and if NZPC received information of a potentially violent client (and the information was verified from the Police) they sent out alerts to those registered on the Phone Text system.

Relationships with the Police

The role of Police with regard to sex workers has changed as a result of the PRA – switching from 'prosecutors' to 'protectors'. Some regions appeared to have done better than others in making this shift and communicating it to sex workers.

Relationships between the sex industry and Police appeared good in Christchurch. Informants spoke positively about the way the Police had conducted the murder enquires, and noted how this has improved what were previously already good relationships. There were also reports of Police in Christchurch donating Christmas presents for the children of street workers, with one sex worker reported to have said, 'So they really *do* care about us'. The shift in relationship was also evident from a story told by an NGO:

A Police car had pulled up right next to a street worker in order to arrest a boy racer who had been pulled over. The sex worker waved her finger at the Policeman, saying "not here I'm working". Apparently the Policeman moved his car to the other side of the road and down a way! (NGO)

Informants in other regions felt that more still needed to be done, with sex workers still seeing Police as 'prosecutors' not 'protectors'.

5 Conditions of work

Although not actively policed, brothel keeping was an offence prior to the passing of the PRA. Because it was illegal, there were no controls or regulation over the working conditions of sex workers. If they were being unfairly treated, coerced or exploited by those running the brothels, there were no legal means for redress (Jordan, 2005). The PRA included specific provisions aimed to protect sex workers against being forced or induced to provide commercial sexual services, and to ensure they had the right to refuse to provide them. Decriminalising prostitution also meant sex workers were entitled to the same rights and had the same responsibilities as other workers.

In this section we briefly look at the current employment arrangements in brothels. We then move on to assess what has been the perceived impact of the PRA on the management practices of brothel operators, and the employment rights and responsibilities of sex workers. This section refers mainly to conditions of work in brothels. Those who work privately are their 'own bosses' and so enforcing their rights is not an issue. Indeed, many SOOBs we spoke to said this was the reason why they chose to work privately.

5.1 Independent contracts

We asked the brothel operators what the employment relationship was between themselves and the sex workers in their brothel.¹⁰ All those we spoke to considered the sex workers to be self-employed contractors (independent contractors) rather than 'employees'. They typically sign a contract with the brothel operator agreeing to provide specific services. They were seen to be responsible for filing their own tax returns.

The nature of the relationship varied but in the main sex workers were expected to work set shifts, with the sex workers choosing which shifts they worked. A few premises operate a booking system, where sex workers come in only for pre-arranged bookings.

How fees from clients are divided also varied in detail, but with the sex worker getting the bigger share. Out of earnings, most sex workers pay a room fee to the operator for each client, to cover laundry and other overheads. Some might pay a fairly small weekly or nightly shift fee which was explained as covering the costs of other incidentals such as tea and coffee. Some workers just pay the operator an agreed percentage of the fee charged to the client. In most

¹⁰ The type of employment relationship is important as it impacts on the rights and duties of each party, e.g. how tax is paid and whether a worker is entitled to holiday or sick pay. However, it is the true nature of the relationship that determines whether it is one of 'employer–employee' or 'principal–contractor', not the intention of the parties or the contract agreed to. For example a brothel operator may 'employ' sex workers as independent contractors, but if the operator has a high level of control over the work to be done by the sex worker and the manner it is to be done – the relationship, if tested in the Employment Court, could on balance be found to be one of employer–employee.

cases, sex workers supply the condoms and lube, and the operator supplies towels, laundry, showers, music, etc.

Arrangements for collecting money also vary. Sometimes, the client pays an all-inclusive set door fee to the operator who 'squares up' with the sex worker after the job or at the end of the shift. Sometimes, a negotiated price is paid by the client directly to the worker, which is then spilt with the operator afterwards. (The money from 'extras' that a client may want is kept by the sex worker.)

While the nature of the employment relationship varied, as noted, there has been to our knowledge no case of the true nature of the relationship being tested in the Employment Court.

5.2 Changes in management practices

The general impression of the informants was that brothels who had treated their workers fairly prior to the Act continued to do so, and those who had unfair management practices continued with them:

Nothing has changed here because we've always been good. Elsewhere who knows – but you hear lots of stories still of poor management, workers having to have sex with the boss as part of interview, money taken off girls, personal details used to blackmail them if they try to complain or cause trouble. (They 'out' them to their families.) (BOP)

There is one brothel that has a big sign at the reception saying to clients what they are and are not allowed to do – like not wearing a condom. Every parlour should have one. There are still owners out there who try and have sex with the girls, and because they're the boss they insist on not using a condom. The girl is scared because he is the boss. To me, that's rape. (NGO)

NGOs were encouraged by some of the brothels that had opened after the PRA, which they referred to as 'the new generation'. These new operators appeared to run things by the book, and had thought of ways to improve the working conditions of the sex workers:

There is a new parlour opening that is going to be run by Australians. They've got good practices they've brought over from Australia – food for the girls, nice clothes for them, and a proper place to sit down and eat their lunch. And they check the clients out too. (NGO)

NGOs also commented that a positive effect of the PRA was that it was now possible for sex workers who were unhappy with the conditions in brothels to set up a business and work for themselves.

Bonds and fines

A common management practice prior to the PRA included charging a worker a bond which they were meant to get back when they finished working for the brothel. In practice, the bond was more often used to try and control behaviour – for example deducting from the bond a fine for turning up late for a shift. The PRA makes it explicit that any form of coercion to

provide commercial sexual services is not permitted. As a result some operators have now changed this practice:

Yes, we've had to change practices. There are no fines or bonds any more. (BOP)

Girls choose which shifts they work and what hours. I get cross though, if they don't turn up for shift they're supposed to do (unless they phone in that they're sick or something). We used to fine them, but we don't any more. (BOP)

Some operators commented how this had made running their business more difficult. (As seen in Section 3 this was one reason for reduced support for the PRA):

A \$200 bond was good in a way (they got it back). And it was useful in managing the business. We knew when she was finishing ('I'll take my bond on Friday'). Now, you never know when they are finishing. They just don't turn up. (BOP)

You can't control the girls now – sometimes they are not here when clients arrive. You can't run a business like that. (BOP)

Other operators used slightly modified versions of financial control, and called bonds by another name:

We don't take a bond – but we're firm but fair. We're clear at the beginning. If a lady is 1–2hrs late, she is sent home – as she will have been replaced for that shift. If there is a 'no show – no phone' when a client made a booking, we lose. We charge her the lost room fee. But they are made fully aware of this when they start. (BOP)

We no longer charge any fines or shift fees. We still operate 'bonds', but call it a banking deposit. If they do a runner we get paid. (BOP)

Bonds are illegal, so now they call them 'indemnity'. (SOOB)

Workers have to say if they can't meet the terms of their contract. For example, there's a \$70 infringement fee if they can't come in. It's set out in the rules. The owner went to an industrial relations person for advice and uses NZPC as a mediator for disputes. (BOP manager)

NZPC felt that it was important that the Act was tightened up so that it was clearly spelt out that operators could not charge bonds and could not fine sex workers. The BOPs' perspective, though, is not without force – when unprofessional practice by sex workers impacts on their business, e.g. not arriving to work shifts as agreed and clients having to be turned away. However, established and more acceptable management procedures do exist – such as a system of warnings prior to being dismissed.

Ability to refuse to provide commercial sexual services

The PRA makes it quite explicit that sex workers have the right at any time to refuse to provide commercial sexual services. Brothel operators appeared to comply with this only up to a certain point. Most of those we interviewed accepted that a worker could refuse to take a client, but others prefaced this with 'but they have to have a good reason':

If they do refuse we need an explanation. We won't allow nationality to be the reason – they don't have a right to discriminate. If the client is intoxicated or abusive, they don't have to if they don't want. (BOP)

They usually can get to refuse if they have had problems with clients in the past. It's her call if it is a legitimate reason. It's difficult if they don't want to do Indians. But we can't make a blanket decision against them. (BOP)

How can they refuse? The girls are paid to do it. They can refuse if there were problems in the past, or if it's a relation. (SOOB)

In some cases, it appears it is difficult to refuse even with good reason:

One 18 year old worker had just finished a job. A big Samoan guy was waiting who she had not even had a chance to check out. He was really rough with her, held her down by her throat. She went out to complain to the manager who told her to 'go back in'. (BOP)

There were also reports relayed of sex workers wanting to go home early after a long stint and/or because they felt unwell, but who were told they had to finish their shift.¹¹ There was also an example of a brothel where a sign had been put up saying sex workers could not refuse to do outcalls – though workers were reluctant due to a recent bad outcall incident a few weeks earlier.

The overall impression was that there were 'good' and 'bad' operators as regards allowing sex workers to refuse to provide commercial sexual services. The good ones tended to accept a worker's judgement, but even so insisted on their having a 'good' reason to refuse.

5.3 Awareness of rights and responsibilities

For sex workers to be able to benefit from their rights, they must be aware of them and in a situation where they can insist on them. We asked the informants if they felt sex workers were aware of their rights. In the main they felt that they were. (Again the HRC study will be able to verify this better.)

It appeared that *knowing* about personal rights was rather different from being able to *insist* on them. For some it seemed difficult:

There was a sex worker who was being abused by the manager of the parlour. But she was reluctant to use the law, even though she could have done things. Sex workers are often in that situation. They fear losing their jobs, and they cannot afford that. (NGO)

11 One SOOB spoke of being made to take ten clients, even though she had very bad thrush and had asked to go home after the first client. She endured considerable pain from a bad infection and had stop work for two weeks.

There were, however, several examples of sex workers who gained if they were prepared to 'stand up' to the operator:

We weren't supposed to be charged bonds, but we still were. But if they tried not to return them when we wanted to leave, now we could say we'll call the cops. That works now, whereas it wouldn't have before. (SOOB)

Previously the sex workers could not refuse without very good reasons. Now when the ladies refuse, owners and managers know they don't really have a leg to stand on, though they may try to put pressure. (NGO)

Personally I feel more confident now I've got rights. I can say 'but the law says this'. I got a copy and read it right through. Other girls are also aware. The manager at a brothel I worked at tried to fine one of the girls \$5 for not showering. I said to the manager, 'You're not allowed'. Prior to the Act the clients were always right. I think the balance is better now, more freedom for women and less biased towards men and what they could do. (SOOB)

Girls have started to stand up for themselves. They've got some leverage now. They can either refuse to pay fines, chose to move on, work private or they can take the boss to court. Some managers still try it on, but they haven't got a leg to stand on if they are challenged. Some girls, though, unfortunately still buckle in. (NGO)

There were also examples of medical certificates now being used by workers to ensure they could appropriately take time off work.

Medical certificates are a very positive change. They used to be used more to say a girl was clean. Now the women use them for their own good – they can show them to the operator to say they are sick and then they don't have to work. Two young Chinese girls came in the other day with terrible flu and asked for a certificate. They now know their rights. (NGO–Health)

There have also been a few cases of legal action being successfully taken against brothel operators – though this most commonly involved the managers and receptionists (as 'employees' of BOPS) taking action against unfair dismissals and sexual harassment. But some sex workers seemed to have been successful in recovering money owed, using the disputes tribunal. NZPC often supported sex workers in this process. There had been several more sex workers who had lodged complaints with NZPC but decided not to follow through with it:

... with the nature of the work, they walk across town, get another job and lose the energy to follow it through. (NGO)

While most workers were thought to be aware of their rights, there were concerns that some were less knowledgeable. These included those new to sex work, those who did not speak good English, and those who were isolated by the brothel operators from accessing information:

Poor managers are careful to try and isolate a sex worker – keep them away from places like NZPC where they might find out what is acceptable and what is not. The poor brothel operators suggest that conditions are worse elsewhere. The girls don't want to leave in case it is so and they can't get back to working where they were. (NGO – health)

They like new girls here because they don't know what they're doing. They'll do a blow job without a condom. A lot of girls don't know about NZPC because the operators suppress them. (SOOB)

There was a suspicion among some NGO informants that 'bad operators' purposely try to employ sex workers who are easier to isolate. The workers thus get less chance to become knowledgeable about the PRA, by going to the NZPC office for instance. While some operators encouraged sex workers to visit the NZPC office, some went in themselves to get supplies for their workers. There were some brothels where NZPC was not welcome.

Increasing awareness

Some NGOs and brothel operators that we interviewed were frustrated that some sex workers were unaware of their rights or did little to insist on them:

I don't think conditions have changed much. The Act has been an important first step. But what is needed for conditions to change is knowledge. The girls need to find out the difference between a good brothel and a bad one. But because they never talk about their work this doesn't happen. (BOP)

There were several suggestions made as to how to increase awareness among sex workers of what the PRA entitled them to with regard to working conditions. These included:

- Increasing available information either through websites or pamphlets;
- A card the size of a credit card which listed sex workers rights (one informant); and
- An online confidential discussion site to facilitate information sharing.

There was also a sense among several informants that there should be more access to those working in brothels:

It's about informing the girls. There needs to be someone out there everyday going into the brothels and informing the girls what is acceptable and what is not acceptable. (NGO – health)

Responsibilities

Responsibilities as well as rights were a requirement of the PRA in decriminalising sex work. One key responsibility was paying tax. Informants could only estimate the level of compliance – although brothel operators had some indication from how often workers asked for receipts for work-related expenses. Estimates of compliance ranged from perhaps a third of sex workers complying to less than 5%. SOOBs, new workers, and those planning to stay in the industry were seen as most likely to register with Inland Revenue.

Overall, informants gave a sense of increased tax compliance since the PRA, but far from a complete one. Some informants suggested a form of amnesty so that long-term sex workers could start paying taxes, but not be held account for previous transgressions. The prospect of having to pay all unpaid taxes was a barrier for many.

6 The system of certification

This section discusses key informants' views on the system of certification for brothel operators required by the PRA. Every operator of a business of prostitution must hold a 'brothel operators certificate' that is approved and issued by the Registrar of the District Court at Auckland. An operator is defined as a person who, whether alone or with others, owns, operates, controls, or manages a business of prostitution. More than one person in a brothel might need a certificate, since the system covers owners, managers and receptionists. The cost of a certificate is in the region of \$200. A sex worker who works at a SOOB is not considered an operator and is not required to hold a certificate.

6.1 Importance of certification

Thirty informants answered the questions relating to the importance the system of certification: eighteen BOPs, nine SOOBs, and three NGOs.¹² Of these, 87% (n=26) reported that they thought that some system of certification was important. The rest felt it was simply a means of raising revenue, and did not see why the sex industry should be singled out as requiring a licence. Of the 18 BOPs, 15 were supportive of certification; all but one SOOB were; and all three NGOs were.

Those who felt certification was important all commented on the need to have some control over people in a position of power over sex workers:

It culls out the shady people. (BOP)

There are cowboys out there who will try and open up and rip the girls off – try and get them on drugs. If I'm employing managers, it's good for me to know they have had a Police check and are not likely to rip me off. (BOP – owner)

It shows some form of commitment from those applying, which there should be for someone with responsibility for other people. I like to think the legal side is there and that work is being done to stop criminals being operators. (BOP – owner/manager)

It is a regulated industry now. It is important we know that reputable people are running brothels. (NGO – health)

One SOOB had applied for an operator certificate as she wanted to be able to expand and have more than four sex workers operating from her premises. She commented:

When I didn't have one, I didn't feel secure, not being legitimate. (SOOB)

12 Those who did not were those who had limited involvement with brothel sex work. They tended to be youth-specific or health-related NGOs, or those that focused on supporting just street-based sex workers. There were also four SOOBs who had no comments.

6.2 Administration issues

Opinion was fairly evenly split over whether the Registrar of the Auckland District Court was the most appropriate person to process applications. Half thought they were, as they were disinterested and had done a good job so far. Half thought a local body would be better able to assess suitability to hold a certificate.

6.3 Compliance

Compliance in general appeared to be good. Certificates were not seen as difficult to get (a point returned to), and as a result most brothels would comply:

It was really straightforward. I applied and it came through within eight days. I think most people comply with this.

There was some concern, however, that some businesses were avoiding certification by operating under the guise of being a SOOB:

There are a lot of places out there in the suburbs that appear to be operating as SOOBs but have a lot more than four girls. (SOOB)

6.4 Areas of confusion

There was also some confusion about who was required to hold a certificate. For instance, an operator of a business with four sex workers or less, not working him/herself, is still required to hold a certificate. This was not happening in some cases. The remark below is by a male who had two sex workers operating from his home and should therefore have had a certificate:

I'm a cottage industry so I don't need one. But I think it's good – a protection for everyone. It keeps out the dodgy operators. (BOP / SOOB)

Some operators said there was also confusion about the definition of a SOOB, and whether the rule of four or less workers was per shift or in total. One operator questioned if it was possible for there to be three shifts a day with four different girls working and still be a SOOB. This was not the intention of the Act.

6.5 Areas of dissatisfaction

There were a few areas of dissatisfaction among brothel operators in relation to the system of certification. A few operators objected to paying the fee:

They're thieves. We need two certificates each year, and it will soon be three. It's costing us too much. (BOP owner)

The main complaint however – from almost all interviewed operators – was the inconvenience of having to re-apply each year. This took time and effort, and required arranging for a new authenticated piece of photo identification (such as a passport photo) signed by a Justice of the Peace:

It's a real pain. You have to get a passport photo, get all the information to court and re-do it every year. I don't mind paying the fee, I'm just not happy with all the hassle. There should be a new photo every five years. With the Massage Parlour Act, you just had a renewal process each year which was much easier. You don't have to get a new driving licence each year so why do you for a brothel licence? (BOP)

The other – and main – grievance was that, having gone to the effort of obtaining a certificate, no-one checked up. For many informants, this made the certification process pointless:

It's a total waste of time. We have to pay \$200 a year per manager – for what? Most people think 'why should we have them?' Nobody checks them. They need to be like the General Manager certificates for liquor licences – you have to notify authorities who your managers are and where they are working. If the liquor licence runs out, the premises are notified. They are there on the door step. Even under the Massage Parlour Act, you notified Police who was working for you. (BOP owner)

I have never had anyone ask about our operator certificate. I have had checks on the liquor licence but not a check for operators of brothels. I would like to see operators' certificates regularly checked for all brothels. (BOP manager)

No-one has ever asked to see mine. I've never had the Police or council here.

Around a third of informants expressed doubts whether the certification system was able to prevent inappropriate owners from operating:

It's important to keep the bad guys out. But they can get around it by getting someone else to front up for them. (BOP)

About half the informants argued that certificates were in fact too easy to obtain – again raising questions over their value:

They are too easy to get. I've lost confidence in the system. I used to be a car dealer and to get a licence was really hard. For this, there is no training, no interview, no asking what you know. What's the point?

There's no assessment of character, just whether you have a criminal record. Damn all really. People have one that should not have. I know one who is a pervert, films the girls, is okay with under 18s but he's got a certificate

NZPC offered a counterview with respect to the standards that should be set for certification. They cautioned that making the system too onerous might result in fewer operators applying for certification, resulting in a two-tier system of illegal and legal operators as has happened in Victoria, Australia (Sullivan, 1999; CMC, 2004).

6.6 Suggestions for improvement

Picking up from the discussion above, there were some suggestions from informants for improvement. The main ones were:

- **Renewal process** – Operators would prefer a simpler ‘renewal’ process rather than having to send in a complete application each year.
- **Premise-specific certificates** – One brothel owner felt strongly that certification should be linked to the premises rather than to an individual. At the very least, a system should be in place whereby the owner of the premises was notified if a manager’s certificate was due to expire. With the current system, it was difficult to keep track over whether staff all had valid certificates.
- **More rigorous checking process** – Many operators wanted a more rigorous checking process. Suggestions were that operators should be required to demonstrate knowledge of the PRA and present the management practices they would use. NZPC wondered whether certificates could be given on the condition that operators agreed to use ethical management practices (e.g. no bonds or fines).
- **Criteria** – While informants in the main felt the correct criteria were being applied as regards who needed a certificate (owners, managers and receptionists), several questioned whether certificates were appropriate for receptionists, as they were fairly transient.

7 Exiting

7.1 Informants' responses

One of the review tasks set for the PLRC is to 'assess the nature and adequacy of the means available to assist persons to avoid or cease working as sex workers'. In the informant interviews we divided this into the two distinct elements: the prevention of entry into prostitution, and exiting from it. This section deals with exiting. The issue of preventing entry was addressed in questions we put to informants in relation to young people: this is presented in Section 8.

In relation to exiting, we asked informants what means of helping sex workers to exit were available in their region and what they felt was needed. The questions proved to be ones in which many informants had limited interest, or were not keen to talk about. Many within the industry did not feel it was a problem for sex workers to exit when they wanted to. For the majority of brothel operators, the issue was not how to assist sex workers to exit but how to keep them working:

I don't think there are barriers to leaving. Most of the girls here are on training courses, are studying, or have a normal straight job too. Most would prefer to be doing a straight job, but wouldn't get the same money for it. (BOP)

They are so transient it isn't funny. They just leave and don't tell anyone. (BOP)

One brothel operator was of the opinion that being a sex worker could be very positive for some and so was against the idea of trying to get them to exit:

In my 15 years of experience there are only a few who do this because they are stuck and have no options, and they don't stay for long. In the majority of cases I see it has actually been beneficial. Ladies often arrive with low self-esteem, but become empowered by it and leave a better person than when they started, it's a bit cliché but I see them blossom.

Similarly the SOOBs we spoke to did not feel that any assistance with exiting was necessary and some reminded us that it was a career choice they were very content with:

It's a choice and it pays well. (SOOB)

I don't have a problem. I can come and go as I please. I've got qualifications, BSc, MA. I've developed good skills from being a sex worker too – empathy, good phone manners. I think anyone can get out if they want to. But I'd rather do two clients a day, earn \$200 and be able to watch TV for the rest of the day. (SOOB)

I don't see that it is hard to exit – from what I've seen they come and go all the time. (SOOB)

NZPC also made us aware that it was potentially offensive to be discussing with sex workers how they should be assisted to exit:

It is offensive to talk about exiting – it's a right to be able to be a sex worker. We don't need rescuing. For some it is just three to five years for an average career – a means to a goal. Get the money for the degree and then move on. (NZPC)

As a result we were careful to phrase questions so that it was clear we were only referring to ways to assist those who *wished* to exit the industry.

7.2 What's currently available?

Key informants were asked what means they were aware of in their area to assist sex workers who wished to exit the industry. The list below may not be complete, but reflects what key informants were aware of.

- **Christchurch** - NZPC, Youth Cultural Development (YCD) – Street Youth Work Project, Salvation Army outreach services, WINZ
- **Wellington** - NZPC, WINZ, Evolve, Drug Arm
- **Nelson** - Connections programme for school leavers and the Nelson's Women's Centre, WINZ
- **Hawkes Bay** - Nothing identified
- **Auckland** - NZPC, Streetreach, Salvation Army, Awhina Teina, Te Aronga Hou Trust (Mama Tere).

Most of the agencies listed above provided general support services for sex workers, which included assistance with exiting if that was what was wanted.

YCD's Street Youth Work Project and Te Aronga Hou Trust provided outreach services for young people on the street. They also had facilities to do one-to-one case management with those who were keen to receive more support. YCD ran a drop-in centre one night a week. Streetreach, Drug Arm and the Salvation Army in Christchurch provided outreach support *via* mobile vans to those on the street of all ages. Streetreach also operated a drop-in centre during the day and provided courses. The Salvation Army also runs a drop-in centre a couple of nights a week.

Awhina Teina was the only accommodation provider. They had up to six beds available for young people who were either at risk of entering or wished to exit from prostitution.

The core work for NZPC is health promotion – in particular around safe sex practices. However, they also provided more general support and advice to sex workers (including help with CVs), and would act as brokers to other agencies who could assist further with alternative career options.

Employment and career services are provided by WINZ to the general public. In Christchurch, a particular WINZ case manager had developed an understanding of the sex

industry and NZPC were able to refer sex workers directly to this person for assistance. This was seen as a useful way for sex workers to get the help they needed, and to deal with someone who was sensitive to their particular needs.

7.3 Legislated assistance

There are some means available to assist sex workers to exit that have been provided through government legislation. Awareness of these is important if they are to be accessed and their benefits used.

Criminal record

A criminal record is seen as a significant barrier to finding employment. In repealing prostitution related offences from the criminal code, the PRA has assisted greatly in this respect. Sex workers and brothel operators are no longer at risk of getting a criminal record as a result of working in the industry.

Prior to decriminalisation, Police had kept a record of those working in the industry. This could come up when individuals applied for jobs that required Police screening (e.g. security, banking, CYF, TAB). Following the passing of the PRA, it was agreed that this was inappropriate. Where possible, the information the Police had collected was placed into New Zealand Archives, and has been authorised to be destroyed.¹³ This was viewed positively by many. However, there was still uncertainty among informants over the status of this information, and whether sex workers applying for jobs that required Police screening could be guaranteed past information would not come up.

The introduction of the Clean Slate Act in 2004 can also assist in removing the negative impact of a criminal record. All individuals, including sex workers, will have their past convictions concealed providing they meet certain criteria (e.g. no convictions in the last seven years, having never received a prison sentence). If they do not meet the criteria there are two situations where people can apply to the Court to have a conviction disregarded. One of these is where the offence has been decriminalised – which could, for instance, apply to someone who had received a prison sentence for brothel keeping.

We asked those interviewed if they were aware of this. Two-thirds (n=27) had not been aware of this, but all were very much in favour when it was explained.

Entitlements

For many, the barrier to leaving the sex industry relates to loss of income. There are two provisions included in the PRA to assist with this (see Section 18 of the PRA). First, sex workers are exempt from the stand down period (up to 13 weeks) before receiving a social security benefit (such as an unemployment benefit) that employed people have to forfeit if they

13 It has been possible to destroy stand alone information on sex workers held by police (e.g. paper records, photographic material and 'stand alone' electronic information). However, there is some information that was entered into the police's NIA database (National Intelligence Application), that was more difficult to isolate and has not yet been amended or erased.

hand in their notice. In effect, sex workers can exit voluntarily but still receive financial support.¹⁴

The second measure concerns entitlements under the Injury Prevention, Rehabilitation, and Compensation Act 2001 (e.g. ACC payments). These entitlements can be affected if an individual refuses to accept work which they are capable of doing. However, these conditions have been altered to exempt sex workers. Entitlements for a sex worker capable of returning to sex work, but who decides not to do so, are not affected. This ensures financial support while other employment options are explored.

Key informants were even less aware of either of these arrangements for sex workers. Only 30% (n=12) knew of them but – again – the remainder felt they were a positive moves, particularly the removal of the thirteen-week stand down period.

7.4 What is needed?

Key informants were given the opportunity of suggest what they felt would be the best way to assist those who wished to exit the industry. There was some overlap between some suggestions covered in the next section on how to assist youth from *entering* the industry, and what is suggested here to help them exit. For instance, Awhina Teina provides services to those at risk of entering and those young people who wish to exit.

Accommodation

NGOs talked about the need for both emergency accommodation, and half-way houses. Emergency accommodation was seen as particularly important for those living on the streets and young people. One NGO who provided outreach spoke of a 14 year old girl who was working on the streets:

If I could have taken her somewhere, she could grow. You need to be able to take them to a place they trust. I'm sure if I asked them if they wanted to come home with me, there would be seven or more girls who'd come with me any night. We really need a house. It should be not just for the young, but for anyone who is being prostituted. (NGO – youth)

Currently there is no emergency accommodation available other than Awhina Teina in Auckland, which has one bed available as emergency accommodation for a young person. Emergency accommodation for youth was seen by NGOs as particularly important. They drew attention to the fact that if a young person was picked up off the street by the Police, the options were to take them home or contact CYF. Apparently, they would often have to wait with the young person for hours for the duty social worker to arrive – meaning time taken away from other policing business.

In addition to emergency accommodation, some informants felt there was a need for longer term accommodation options for those of all ages. Suggestions were for a 'safe house' or 'half-

14 The standard two week stand down period before receiving a benefit, still applies to sex workers, although in special circumstances this can be waived.

way' house that would provide supported accommodation as sex workers made the transition. One informant suggested it should be based on a 'therapeutic communities' model.

Access to alcohol and drug treatment

Access to alcohol and drug (A&D) treatment was seen as a key area of need, in particular, services geared to young people, and places providing residential rehabilitation for all ages. One NGO noted there was a long wait for methadone treatment. Another two suggested it could be good if brothel operators were more aware of how to assist those with A&D dependencies.

Generic support services

A few NGOs felt that services provided should not be specific for sex workers, but that it was better for them to have access to generic support services. There was concern that developing specific 'exiting' programmes for sex workers would single them out as a special group, thus risking further stigmatisation.

Budgeting advice

Since a significant barrier to exiting is loss of income, several informants felt that having more budgetary advice available to sex workers could help them to save and manage their money better.

Career counselling, education and training

As for anyone looking for new employment, key informants suggested career planning services would be useful. Some mentioned the value of helping sex workers to identify their skills and career aspirations, and then putting together with them a realistic plan in terms of re-training and education. Making the links with those providing training / education would also be helpful. Several informants noted that these services already existed (either through WINZ or other community agencies), and that it was more a matter of making sure sex workers were aware of where to go for help. Two informants noted that getting up early for work, and developing a good work ethic, could be a challenge for some sex workers, so that assistance on these fronts might be useful.

Support and 'being there'

Those informants providing outreach talked of the 'patience game' – waiting for the point where a sex worker was ready to make a move, in the meantime developing relationships of trust and showing that 'they were there'. Informants also suggested it was important for support to continue 'throughout the journey'. They were aware that many sex workers attempted to leave several times before exiting permanently, and that it was often a difficult time for those who needed to adjust to a significant drop in income. One NGO said she had supported one young person for three years before they had finally been able to successfully exit.

More funding

The options outlined for assisting exit all require funding. The impression among NGOs was that there was insufficient funding available – with existing services being provided by dedicated people operating ‘on a shoe string’. More services – and more effective ones – relied on more generous funding.

Accounting for time in the industry

A problem mentioned by many informants – but not solved – was how sex workers could account for the time they had worked in the industry. When preparing CVs or going for a job interview, for example, it was difficult for sex workers to explain to potential employers that they had previously been a sex worker, and that some of the skills they had learned (such as empathy) might be useful. It was generally agreed it would be some while before sex work would be an acceptable inclusion in a CV.

Endnote

Many of the themes described in this section have very strong echoes with international literature which we reviewed recently for the Ministry of Justice in relation to models of best practice for exiting (Mayhew and Mossman, 2007). These included the question of how many sex workers actually want to exit, and the considerable financial barriers to doing so. The types of provision recommended (housing options and access to A&D treatment in particular) have also been strongly endorsed in other countries.

8 Persons under 18 years of age

The PRA makes it an offence for any person to assist someone under 18 years in providing sexual services; to receive earnings from commercial sexual services provided by someone under 18 years; or to be a client of a person under 18 years. (Those who contravene are liable to imprisonment for a term not exceeding seven years.) It is important to note that a person under 18 years of age who provides commercial sexual services is protected by the Act and is not committing an offence.

This section looks at key informants' views on the impact of the PRA on persons under 18 years of age. It also deals with the **prevention** aspect of the review task set for the PLRC which is to 'assess the nature and adequacy of the means available to assist persons **to avoid** or cease working as sex workers.' The questions we put to informants on preventing entry into prostitution were focussed around young people. And, certainly, informants spoke about prevention with them in mind. (Section 7 dealt with exiting.)

The first general point is that there was consensus among all those interviewed that those under 18 years of age should not be providing commercial sexual services. There were several who worked in the industry who felt that 18 was too young:

I don't know whether 18 is a good age. I think it should be older – in order for these girls to really be able to make an informed choice. Once they are in, they can get addicted money wise. I think 18 is too young to be making a decision that will affect the rest of your life. Twenty would be better. (BOP)

8.1 Impact on numbers of young people

Before the PRA was passed, there was much debate on whether decriminalising prostitution would lead to a growth in the industry, and particular concern that it might mean more young people becoming involved. Any increase on this front, then, is of particular importance especially because young people have traditionally been associated with riskier street-based prostitution.

We asked informants whether they were aware of any changes in the number of young people providing commercial sexual services. Those who provided outreach support on the streets were in the best position to assess this. Others drew on less reliable anecdotal evidence.

Christchurch

There was general agreement among those we spoke to in Christchurch that there had been no real impact on the numbers of young people involved. Two agencies had been providing outreach on a regular basis for many years, one of which recorded the number of young people seen each night. Both were of the opinion there had been no change:

I don't think there has been any significant change. From what we see, there has been no change – just seasonal ups and downs. In school holidays there are more. The papers get it wrong. Over a 12-month period, [NGO] reported 40–50 contacts with those under 18 years, but probably 50 contacts are with just five girls. (NGO)

We've got stats going back seven years and there has been no increase. There are seasonal ups and downs. Numbers tend to drop in winter. If anything overall there has been a slight decrease. (NGO – youth)

Nelson and Hawkes Bay

Informants believe there is no street work in Nelson. Informants there either felt unable to comment or were not aware of any young people being involved.

In Hawkes Bay, where there is again no known street work, a health-related NGO felt there had been no change in numbers in Hawkes Bay. Others did not have a view, other than three informants who had concerns about young people working privately where no one was checking their ID.

Wellington

In Wellington, most informants felt there had been no change (n=5), with just a couple who felt there may be more, with a possible increase in those working privately:

I think there are more working privately. They are not being run by others. It's more likely they've got friends who are 18 or 19 who say give it a go. (SOOB)

Auckland

The two agencies which did head counts in Auckland differed on whether there had been an increase or not. One thought there was no increase; the other thought there was:

There has been an increase, according to our stats – anywhere from 3 to 16 each night depending on what is happening, Police presence, and what's going on with the gangs. (NGO – youth)

Among the other informants, too, there was a fairly equal divide between there being no change on the one hand, and an increase on the other (especially on the streets in South Auckland). But for some their comments were more often simply opinion:

There has been no impact – it is still there. It's mainly on the street, although I think there are some in the brothels too – the bad brothels. To work in a parlour they've always lied about their age. It happened before and it still does. There needs to be some form of certified age ID required. (NGO)

Decriminalisation has led to underage prostitution on the streets of Manurewa. We have heard of these young people being threatened, assaulted, taken to places, raped by more than one male and refused their money after performing their business ... There are more since the Act. We have seen this as it happens in the car park where we have our office and when we perform our patrols from 9pm to 3am in the morning. (NGO).

The difficulties of counting

Several informants commented on the difficulties surrounding counting numbers of young people, including accurately assessing the age and knowing what they are up to:

It's hard to tell the difference between a 16 and an 18 year old. If someone like CYF asks they'd say 18. When I ask they say 18. But when I say 'really love?', then they say 16. (NGO – youth)

It's difficult to count – there are differences between number of people living on the street and those who are actually sex workers. People don't recognise this. (NGO)

If young people are in groups, it can also be difficult to know which of them is actually selling sex:

There may be a group of seven or more young people on the street but only one is selling sex. The others are just supporting them. But people drive by and think all these young people are prostitutes. (NGO)

It was also acknowledged that it is difficult to know if there are changes in the number of young people in prostitution and whether this was a result of the Act or other factors:

In Manukau, 50% of the population is under 25, and if this population is increasing we will have higher numbers than elsewhere. (NGO)

I don't think it has changed – and if it has it is probably more a sign of society. (SOOB)

Assessing the validity of number counts is something that the PLRC will have to do when they conduct their review. It is beyond the scope of this report.

8.2 The message of the PRA

For young people

A topic which arose in the interviews was how the PRA was interpreted by young people – the 'message' it gave them. There was also divided opinion here. Several NGOs expressed concern that young people could interpret the Act as meaning that they were not doing anything wrong – which could then encourage prostitution:

I was talking with one young person who was telling me she wasn't doing anything wrong. It was like when the government passed the law. It was saying prostitution is okay. It's like drinking – it's illegal until you're 18 years – but it's okay as an adult. So you're being grown up if you do it before 18. (NGO)

One kid said 'the government said I can do it. I'm a bit young, but it gives me opportunities'. (A&D counsellor).

The A&D counsellor above had concerns that young people were considering sex work as a career option because they could leave school without getting qualifications but still make good money.

However, many of the other agencies who provided support services for youth took a more positive position. They felt that if youth felt they were 'not doing anything wrong', it made it easier to access them. The fact that young people did not feel themselves to be criminals was also viewed positively:

They are much easier to make contact with now – they stand in the light. We can provide them with information, resources, and get them to come to clinic so we can work with them on personal hygiene. The PRA provided us with a tool. We are now able to openly discuss what is going on. (NGO – youth)

They can seek advice now from helping agencies as they are not breaking the law. And at least they won't have to live with a soliciting conviction. How harmful would that be! We're just glad that the message is out there that they cannot be prosecuted. (NZPC)

One youth service provider could see both sides, but on balance thought the PRA was positive:

There are ups and downs to things like this. It is negative if young people are taking on an identity that says it's okay to be a sex worker. But deep down they don't want that – so by being legal and in the open, it allows for an open dialogue. Our girls here want to get out of it. As a result, don't want to talk about it. Most of them were doing it as 'survival sex'. But in general, if there is open dialogue, you can challenge their identities. If it's illegal, you don't have the same opportunity to talk about it. (NGO – youth)

For those using young people

While there appears to be debate, then, about the message that the PRA sends to young people, informants agreed that the message was more straightforward for those who are assisting young people to provide commercial sexual services. A couple of outreach workers said they had found it very helpful to inform 'pimps' or 'minders' of someone under 18 years of the penalties associated with assisting them in this way.

Several informants drew attention to the fact that some men may not be aware that they were breaking the law. They questioned how this could be addressed:

We've got concern over a lack of awareness in New Zealand on what is legal by the public and clients. I don't think many of the clients really understand that they are breaking the law if they pick up a girl who is maybe 16. Most men understand that sex with someone under 16

would be illegal, but they don't see the difference between that and paying someone 16–17 for sex. I don't think guys out there make the connection. They don't see it as a criminal act. How do we legally educate people in NZ? (NGO – youth)

The message sent to brothel operators also appears to have been clear. There was general consensus that it was now more difficult for those under 18 years to get employment in a brothel – though not impossible when less scrupulous operators were prepared to take the risk:

It still happens in the sleazy parlours, but not the well run ones. (SOOB)

Most operators, however, were aware of the penalties and were very cautious about asking for age identification. It was acknowledged that it was sometimes difficult to assess if young people had a fake ID and looked older. Some owners now insisted on checking ID themselves to limit the chance of making mistakes:

It is harder now for them to work in parlours. But it is difficult sometimes with fake ID if the girls look older. Other managers are now aware of how careful they have to be. They can't afford to make mistakes. They could go to prison. The owners are often doing the hiring themselves these days, because they don't trust the managers, some of whom don't have a clue. (BOP)

8.3 Limited options

There was acknowledgement that a downside of it being more difficult to work in brothels was that a determined young person will end up working on the street – a far less safe environment (Plumridge & Abel, 2001):

When they come for an interview, we check their ID and turn them away. So they have to work on the streets where they are more vulnerable health wise and from gang types. (BOP)

I don't think it is good that they are left to work on the streets. Prior to the Act we had one working for us that we got permission for from the Police. Everyone thought it was better that she worked for us than go onto the street, which is what she would have done. (BOP)

Operators are more aware now although there's always been stiff penalties for employing young girls, even under the Massage Parlour Act. They're still out there, though, and now very much limited to the streets. This is a shame and I don't think it's right. (SOOB)

As already noted, another option is for young people to work privately, or from bars and other public places. Some operators commented on this:

They work privately or on the streets or in the bars. Or they get people who work privately to let them work with them. (SOOB)

It is easy. All they need is a cell phone and an advertisement. Papers don't check IDs or age. They work in bars in town and do it in toilets in the nightclubs. (BOP)

Some informants expressed concern over the limited controls in the private sector:

There will always be young women working as sex workers. It is the responsibility of managers to prevent that. With private workers – how can you control them? (BOP)

Privates are hard to police. We heard about one man who called up a private number. He went around and a young girl opened the door – apparently she looked about 10. He said 'where is your mum?' but there was no-one else home. It was the young girl for sale. No-one is visiting the privates. (NGO)

8.4 Prosecution and enforcement

Most NGOs we interviewed would welcome more prosecutions, and some NGOs in Auckland were very frustrated at the lack of prosecutions against men who were regularly picking up girls under 18 from the street:

Enforcement has been very poor. There has been no attempt by Police to reduce the demand for child prostitution. Police know there are young people out there. They've been given licence plate numbers, and there is CCTV that picks them up. Maori Wardens also collect information and make it available. Some of these men even turn up in work cars. How hard can it be! There is one girl who is now 14 years old who has been prostituting since she was 12 – every night for two years. She is still going to school, but has been introduced through the gang scene. Nothing is being done. (NGO)

I think that if the clients were charged with procuring a minor there would be less underage prostitution. Many clients actively cruise for young girls. (NGO)

We've heard Police are concerned about prosecuting clients – for fear they might be jumped on for breaking privacy issues of the men. They are concerned about violating their 'human rights'. But what about the young people? (NGO)

More arrests by Police, however, were not seen as the solution by NZPC:

Arrests by Police won't solve the problem; they'll just move somewhere less visible. We'd rather see resources put in support services for the young people. Seeing that their needs are met is better than focusing on stopping demand. We wouldn't like to see them arresting the clients. An education programme might be more effective. Some clients don't really realise they're breaking the law if she is over 16. A few arrests won't stop the other sorts of clients that know they're breaking the law. (NZPC)

Prosecution of brothel operators was viewed more positively, with many informants pleased with successful prosecution of a brothel operator in Christchurch who used underage girls. From comments made earlier, it appeared this had made other brothel operators very cautious.

The monitoring of underage people in brothels was in general felt to be good:

Police check us out regularly if they suspect there are under 18s. (BOP)

Police have always been good on this. They used to come into the parlours and check ID under the Massage Parlour Act. (BOP)

I've been rapped [thrilled] with the Police. Someone had doxed us in for contracting someone under 18 years. The Police did a background check and realised there was no problem, but asked us to let them know if we were aware of any under 18s working. So I think they're great. (SOOB)

The restrictions imposed by the PRA on the Police were raised:

We're concerned that Police are not sure of their role – they can't enter any more without a search warrant. Only health inspectors can. (NGO)

A couple of NGOs commented that just having increased Police presence could be effective, even if there were no arrests:

We have noticed that every time the Police patrol the area on a regular basis the girls disappear for the night. They also move on when Maori Wardens do regular foot patrols and we have had girls complain we scare away their clients. (NGO)

Some acknowledged the barriers to Police making prosecutions. These included inadequate resources, restricted powers of entry, and prioritisation of other work:

In general there needs to be more policing. I don't see that it has been taken seriously. There has been no serious energy in making the Act happen as intended. There has been no extra funding available, no extra services being offered, and so no extra policing. (NGO – youth)

One night in Manuwera, there were no girls out because there was lots of Police presence. It depends on what the target for the night is for the Police. Other nights they just drive by. It's not good. Gangs are getting smarter, they have 2–3 girls in a car and drop them off to clients. But it's hard to prove they're being prostituted. The Police can do a Section 49 and contact CYFs. But CYFs are already overworked, and there are no beds available anyway. (NGO – youth)

There was one NGO who was in favour of making it illegal for those under 16 years old to provide commercial sexual services. This stemmed from their frustration over the perceived lack of action from Police or Child Youth and Family. The view was that these agencies might be pressured into taking action if the young people were engaging in illegal behaviour. Criminalising the young people in this way was not a view shared by others.

8.5 Preventing entry

Key informants were asked what they felt could be done to prevent young people from getting involved in prostitution. (We covered ideas on how they could be assisted to exit in Section 7.) The question provoked strong feelings. The complexity of difficult family backgrounds was acknowledged, as well as the need for across-the-board improvement in service provision. A summary of the general view is that the means available to assist young people to avoid entry

into prostitution were limited due to both lack of resources and insufficient attention paid to high-risk youth.

Many agencies felt that what was needed to prevent young people ending up on the streets was to deal with 'underlying causes'. This needed more financial support for young people, better housing, more education, employment, counselling, health services, and drug and alcohol treatment. One underlying cause that was prominent in comments was families:

You have to ask why they feel safer on the streets than at home. No youths should have to support themselves. (NGO)

It's about family and preventive stuff. There was one girl of 14 and one night I asked her, 'Do your parents know you're here?' She said, 'Yes of course, they don't care as long as I give them some money.' (NGO – youth)

It goes back to the family. There needs to be more support for high-risk families – to put the brakes on poverty, and abuse cycles. (NGO – health)

It's the abuse in homes. The young people think if I'm going to be abused I might as well at least get paid for it. In South Auckland there is a huge amount of violence and abuse in homes. (NGO – youth)

The problems of dealing with lack of money as a result of a breakdown in family relationships in many cases were recognised as a driver of prostitution among young people. One SOOB spoke of how she had first started in sex work, suggesting that for her – and others – it was a means of survival:

I was under 16 when I started. I was living on the street – too young to apply for a benefit. But I needed money for food, and there were some bad solvent habits back then. We'd work (boys and girls) and then earn enough for a big feed for everyone. In Hawkes Bay, when we were growing up, there was a guy who liked younger girls and I worked out he was good for money. It was a 12 year old that put me on to him. The young ones are often runaways from CYF homes. Some are gorgeous girls, but they do it for food or for somewhere to stay. For some it is their family environment, although it wasn't for me. We had a good family. (SOOB)

Given recognition that most young people turn to prostitution to generate income, many informants (NGOs in particular) felt it was important that other options were available to provide young people financial support. A particular concern was the difficulty for young people estranged from their family to obtain an Independent Youth Benefit (IYB):

Availability of benefits for 16–17s is a serious problem. To get IYB they need to report to CYF but many youth are reluctant because of past problems with CYF. They also need to get parents' approval but they often don't want anything to do with them. (NGO)

Some parents don't want to agree to IYB as they'll lose the money they get for child support. It needs to be easier. (NGO – youth)

Transgender youth are a special concern. Because of conditions at home they move out, but they can't get IYB. The family says they are willing to support them, but 'only if he acts like the man he should be'. There's a real 'trans-phobia' that needs to be addressed. It's unrealistic to say that all youth on the streets are doing sex work because of the PRA. (NGO)

This last quote points to a particular concern of several NGOs, that of transgender youth. This group was seen to be at particular risk of ending up on the streets engaging in prostitution. One transgender worker explained how it can be difficult to find acceptance amongst peers at school or from family members, and as a result they are drawn to the streets to be amongst more supportive transgender peers.

The provision of emergency accommodation was also seen as essential for those who were on the streets and at risk of entering into prostitution:

We need more social supports, age-specific A&D support services, more beds, and 'wet houses' – emergency accommodation, somewhere they can bowl in and crash. (NGO)

We desperately need emergency accommodation. There is none here in Christchurch. I don't mean just a house for street kids, but a proper programme – create a learning environment, setting it up like a flatting situation. It should be a generic programme but with supported accommodation. (NGO – youth)

All the suggestions above require funding. NGOs we interviewed would welcome an increase in resources and government support to provide good prevention services:

The government needs to open its cheque book – create more safe houses like these 'places of belonging'. They need to fund people who can create places like that. Our model is perfect – we work on a strength-based, resiliency model. If the bill allows for 'it's okay to be sex worker', then hopefully there is funding available for strength-based support. (NGO)

Where have the resources gone for agencies who work with these youth? People like Mama Tere are operating on a shoe string. There has been no concerted effort to fix problems. These young people should be on someone's radar. Prostitution is the end result of a long line of difficult circumstances. Prevention work in New Zealand is very ad-hoc, limited largely to faith-based agencies. I don't know anyone in New Zealand who is identifying young people who are at risk of entering prostitution. (NGO – Youth)

9 Territorial Authorities

The PRA encompassed provisions that enabled territorial authorities to enact by-laws regulating the location and signage of brothels. Brothels could also be controlled and regulated in the same way as other commercial activities, using the resource consent process provided for in the Resource Management Act 1991.¹⁵ Different territorial authorities across the country varied widely in their response to the Act. Some did nothing (e.g. Napier City Council, Wanganui District Council), while others brought in by-laws in response to concerns raised by their local communities (Auckland and Christchurch City Council). Manukau City Council responded in a manner beyond that provided for by the PRA. They attempted to bring in a local Bill to criminalise street prostitution. The Bill was voted down by parliament.

The response by Manukau City Council and the enactment of by-laws in some regions have been a contentious issue. This was especially so when territorial authorities made by-laws that were overly restrictive and thus created conditions that made it difficult for sex workers to operate within the confines of the law. By-laws were seen as undermining the purpose and effect of the PRA, with the result that its objectives as intended by parliament could not be achieved (Mossman & Mayhew, 2007).

Brothel operators from Christchurch, Auckland and Hamilton applied to the High Court for a judicial review of the by-laws. The by-laws in Christchurch and Auckland were found to be invalid and were quashed. However, Hamilton's by-law was upheld.

9.1 Experience of key informants

We asked key informants what had been their experience of the actions taken by the territorial authorities in their region in response to the PRA. Not surprisingly, comments reflected what had happened locally, and whether they had been personally affected by a by-law or other action.

Those interviewed in Nelson and Hawkes Bay had very little to say. In these regions there had either been no action taken by their local city councils or very limited controls imposed. As a result no concerns or issues were raised by these informants.

Informants in Wellington were very positive about Wellington City Council. A sex industry policy existed in the city prior to the PRA, and the Council had taken no further action following the PRA. Choosing not to be overly restrictive in relation to the location of brothels, and the Council's general helpfulness was judged positively by informants:

15 The PRA also provided additional matters that territorial authorities must consider with resource consent applications for brothels.

In Wellington status quo prevailed. We had lots of enquiries from operators and workers here, and it was a big relief to say it was all going to be okay. It was really good that a weight had been lifted off their shoulders. (NZPC)

They've been fabulous – very helpful when I had premises in town. (BOP)

The council have been very helpful in answering my queries when I was looking for new premises. (BOP)

Christchurch and Auckland were the two regions that had enacted by-laws that restricted the location of both larger commercial brothels and SOOBs. While since quashed by the High Court, informants nonetheless spoke of the negative impact prior to this:

We fought for 17 years to get sex work decriminalised. It was a huge relief when the Act was passed. Then within a month there were by-laws to re-criminalise workers. There was a lot of anxiety created by these by-laws – brothels having to apply for special dispensation, spending large amounts of money on lawyers' fees. We counted 32 brothels closed down after 2003. The phone went crazy with operators worrying what it all meant. Privates didn't really change. They just ignored it – they could work out of motels, or could move around the country to avoid detection. (NZPC Auckland)

There was a lot of anxiety from operators in Christchurch and Auckland. They felt they'd been tricked – one minute it was legal, the next it was not. They had to revert to being creative – putting up a façade like with the old Massage Parlours Act. The majority of the privates ignored the regulation. But the fear of prosecution was back – the fear of being blackmailed by someone. We heard stories of impostors knocking on doors saying they worked for IRD or whoever, but would keep quiet if you paid up. (NZPC Wellington)

The impact perceived by NZPC on SOOBs was confirmed by two we spoke with:

Before the Act, it was up to the Police, but they didn't want to know. I guess it was a victimless crime and they had better things to do with their time. But because the council DID seem concerned, it was worse. It was more stressful. (SOOB)

Before the Act I had never had any problems with the Police, but now it feels like there is more attention on sex workers and that the council can hassle me. (SOOB)

Some brothel operators in Auckland's North Shore were still under location restriction. They also had to comply with a rigorous licensing system specific to their area. This involved having a series of inspections and having a 'brothel operator certificate' before being granted with a 'brothel licence' to operate (at a cost of around \$700). Interestingly, though, both were happy with the response of their local council. One informant commented:

We did everything they requested and sailed through. They were lovely people to deal with.

9.2 Should TAs have these powers?

As seen, there were mixed views over the actions taken by local authorities. Nonetheless, some informants raised the question of whether it was appropriate for TAs to be making these decisions. There was a feeling among a few that TAs did not understand the sex industry sufficiently to be able to make fully informed decisions:

The Council was totally out of touch. They had no idea about the industry or the local scene. They had to make a conscience vote. They were so far off. They wouldn't give us a chance to explain. (BOP)

I don't think they want the responsibility. They don't understand the industry and what is needed. We lost a few brothels around that time. (BOP)

Another operator felt their TA was not taking the industry seriously:

There are still giggles around the council when prostitution is mentioned. They still see it as a curiosity thing – which is inappropriate. They're very conservative and don't understand about the industry.

10 Monitoring and enforcement

A theme that has emerged throughout this report is that while the majority of those interviewed applauded the PRA, there was also a high degree of frustration among many that the provisions of the PRA were not being adequately monitored and enforced.

The effectiveness of any legislation depends not only on its provisions but also on the effectiveness of the regulatory body responsible for implementation (CMC, 2004; Mossman, 2005). The PRA decriminalised prostitution recognising that providing commercial sexual services was a legitimate business. Regulation of the industry is now through existing statutes and regulations that apply to all businesses and individuals in New Zealand. The only exception is the brothel operator licensing system (certification of brothel operators).

There are a variety of regulatory bodies that have responsibilities relating to the implementation of the PRA and overseeing those working in the sex industry. The key ones include:

- Registrar of Auckland District Court – certification of brothel operators
- Territorial authorities – location and signage of brothels
- NZ Police – offences specified in the PRA
- Ministry of Health’s Medical Officers of Health
- Occupational Safety and Health
- Inland Revenue – collection of income tax
- Department of Labour / Immigration New Zealand – non-residents working in the sex industry.

Key informants generally felt that monitoring and enforcement was non-existent or poor across the board. However, the main areas of concern related to:

- the number of young people (those under 18 years old) providing commercial sexual services;
- the unfair management practices of some brothels (e.g. bonds, fines, intimidation, sexual harassment);
- clients trying to have unprotected sex;
- the monitoring of operator certificates; and
- the occupational health and safety record of some in the industry.

Informants were asked who they thought was responsible for monitoring various aspects such as health and safety, and conditions of employment. Very few mentioned those intended by the PRA to be responsible. Most informants were more likely to suggest it was the responsibility of operators, the sex workers themselves, or the NZPC.

Operators were asked if they had been visited by any agencies to check on either operator certificates, occupational health and safety, employment conditions, or anything else. No SOOB had received any visits. One brothel operator had been visited by the Police on more than one occasion to check on their operators' certificate, although many BOPs mentioned they had had their liquor licences checked. There were also a few visits from the Police mentioned involving enquires in relation to underage persons. There had been no visits in relation to conditions of employment, and no occupational health and safety visits to any brothels. The exception to this was the Auckland brothels that were required to be checked before getting a licence from the City Council.¹⁶

The lack of visits can be explained by the fact that the regulatory systems in place are very largely 'complaints driven'. Hence, a medical officer of health will only go and investigate if there has been a complaint made. Similarly, concerns over employment matters (e.g. unfair dismissal, unpaid monies) rely on a complaint being made to the appropriate agency (for example, the Department of Labour). Police also rely heavily on complaints being made in order for them to be able to follow up coercive practices (the hiring of persons under 18 years of age, etc.).

A complaints-based system was noted as a problem by several informants. Sex workers traditionally do not like to make a complaint because of fear that it might result in them being exposed as a sex worker to family and friends who were previously unaware of their occupation. Sex workers can also be vulnerable to intimidation and blackmail from those within the industry.

10.1 Suggestions

Spot checks

Key informants had some suggestions as to how they would like to see things done differently. It was frequently suggested that there should be 'someone' going around and visiting the brothels – doing more spot checks. These checks would focus on health and safety issues and on how the sex workers were being treated by brothel operators.

There were mixed views on who would be the appropriate person to do the checks. Some felt it should be someone with good knowledge of the sex industry, perhaps with prior involvement. Some felt the NZPC was in the best position. However, NZPC itself felt it was inappropriate for them to 'police' the sex industry; it would be in conflict with their advocacy role. The National Co-ordinator of NZPC felt strongly that existing agencies should be used – rather than setting up any industry-specific regulatory body. This would be consistent with the

¹⁶ Auckland City Council is one of the few TAs to have implemented their own licensing system relating to the by-law implemented there.

model of decriminalisation promoted by government, where the aim was for the sex industry to be treated like any other business (Mossman, 2007).

Encouraging not penalising

A couple of informants suggested that an effective system might reward operators for good practices, rather than penalise bad ones. In Sydney for example, brothels can apply for and be awarded a 'safe house' certificate if they can show they have reached a certain set of standards. Clients, if they wish, can then elect to choose a 'safe house' brothel.

System of registration

Several informants warmed to the theme of whether sex workers should somehow be registered (street workers, SOOBs, and those in brothels). Some felt it important that they could be easily located so that their working conditions could be checked. There was concern in particular over the health and safety conditions of some SOOBs – a group currently not being monitored in any way. These concerns came from many of the brothel operators, a few SOOBs and some health-related NGOs.

It was recognised that any system of registration required someone being responsible for storing the information – which in the past had created concerns over ensuring the confidentiality and security of the personal information supplied. The registers previously kept by Police had always been contentious. NZPC in particular were strongly opposed to licensing – again pointing out that it would be at odds with the decriminalisation model selected by the government.

Increased prosecutions

In relation to the number of young people (those under 18 years) who are providing commercial sexual services, there were calls from many of those we interviewed for more prosecutions to be made (see Section 8). There were also calls for the Police to be more active in response to coercive management practices. While this is an offence under the PRA, there were reports of confusion among the Police over whether they were responsible or whether it was an employment matter.

Informal monitoring

NZPC suggested that informal styles of monitoring and enforcement can be effective:

We're aware of one brothel being examined by a Medical Officer of Health following a complaint. Ideally it would be better if there was a voluntary relationship built among operators and appropriate authorities – imparting information rather than 'policing'. (NZPC)

NZPC in one region described a Police officer (prior to the PRA) who, if made aware of inappropriate conduct, would go around to the brothel concerned and 'get them to pull their head in'. While this did not result in any prosecution, the behaviour of concern stopped. It was felt that there is now more of a focus on collecting evidence and bringing prosecutions, which was said not to have an immediate impact on poor conduct.

In another region, the NZPC had been successful in playing a mediating role between agencies if they were made aware of inappropriate conduct by authorities or clients (e.g. hygiene practices, or acts of coercion). On some occasions they had been able to offer advice to brothels on how to fix the problem without the relevant authorities having to be called in.

11 Conclusion

The majority of those interviewed had supported the idea of decriminalising prostitution and remained in favour three years after the passing of the Prostitution Reform Act. There was a minority who were against the Act, either because they were ideologically opposed to prostitution or because of the negative impact decriminalisation had had on the profitability of their businesses.

According to those we interviewed there were a few areas requiring attention. The main ones were:

- The number of young people who continued to provide commercial sexual services post PRA. (The transgender youth within the group were a particular concern.)
- Poor management practices in some brothels, especially where this involved coercion and sexual exploitation. The brothels of most concern were those that had previously had unfair management practices, which had not changed. Brothels which had treated their workers fairly prior to the PRA continued to do so – and the management practices of brothels that had opened after the PRA were viewed positively.
- How to ensure all sex workers are aware of their rights and are able to insist on them.
- There were calls to improve the re-application process and the monitoring of operator certificates. It was suggested that areas of confusion relating to the exemption criteria for certificates should be cleared up.

Other issues that arose included whether it had been appropriate to criminalise foreign sex workers (those without New Zealand residency); whether more controls were necessary to ensure the occupational health and safety of SOOBs; and whether territorial authorities were in the best position to control the location of brothels.

The positive outcomes resulting from the PRA were seen as significant. Sex workers were no longer considered criminals, and they could earn a living as a sex worker without fear of being prosecuted and having to live with the stigma associated with criminal convictions. They now had rights similar to those working in other occupations, and were able to take legal action against those who denied them these rights. They were better able to negotiate safer-sex practices and seek assistance from the Police over issues of safety. Providing assistance to sex workers was also seen to be easier – as sex workers were more accessible, and barriers to discussing illegal behaviour had been removed.

The overall picture was one where those with the most direct experience of working with or in the industry were in the main happy with what had been provided for by the PRA. They felt it had 'set the scene' and with more time and an increase in the monitoring and enforcement of its provisions, the intentions behind the Act could be fully realised.

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Appendix 1 Those interviewed

General NGOs

- New Zealand Prostitutes Collective (n=9)
- Salvation Army (n=1)
- Church leaders (n=2)
- Manuwera Maori Wardens Association (n=1)
- Nelson Women's Centre (n=1)

Health-related NGOs

- DHB Sexual health teams (Nurses and Doctors)¹⁷ (n=6)
- New Zealand Family Planning Association (n=1)
- Nelson's Independent Nursing Practice (n=1)
- Needle Exchange Programmes (n=6)
- New Zealand Aids Foundation (n=4)
- Alcohol and drug counsellors (n=2)
- Drug Arm (n=1)

Youth-specific NGOs

- Youth Cultural Development, YCD (n=1)
- 198 Health Centre (n=1)
- Evolve (n=2)
- Te Aronga Hou Trust (n=3)
- Awhina Teina (n=1)
- End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes, ECPAT (n=2)
- Streetreach (n=1)
- Stop Demand (n=1)
- Maori youth counsellor (n=1)

Brothel operators

- Commercial brothel operators (n=25)
- Small owner-operator brothels (n=13)

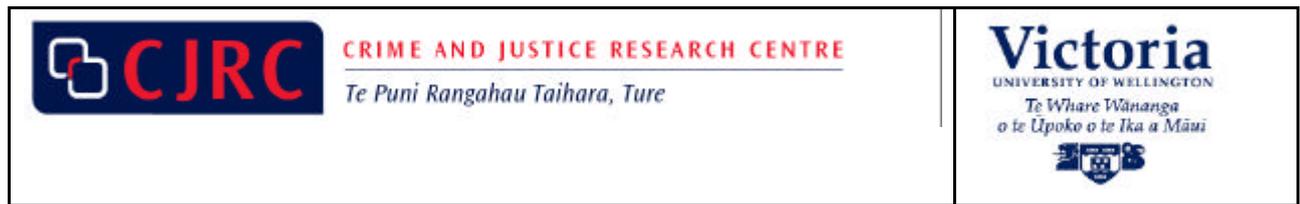
17 Sexual health services were in some cases delivered by nurses from NGOs but more commonly by District Health Board doctors and nurses (i.e. government agencies). The latter group were included in this research if they provided outreach services within an NGO environment (e.g. NZPC offices).

Table 2 Number of individuals interviewed

	Auckland			Hawkes	Well'ton	Nelson	Chch	Total
	Ack City	C. Man	N. Shore	Bay				
Operators of businesses	7	2	2	3	2	1	8 (5)*	25 (22)*
Sex workers of SOOBs	3			1	4	1	4	13
NGOs								14
NZPC	4			1	2		2	
Church leaders							2	
Maori Wardens		1						
Salvation Army							1	
Nelson's Women Centre						1		
Health								21
Sexual health team	1			1	1	1	2	
NZFPA					1			
Nelson Ind. Nurses Practice						1		
Needle Exchanges	1	1		1	1	1	1	
A&D counselling services	1			1				
Drug Arm					1			
NZ Aids Foundation	4							
Youth								13
ECPAT	2							
Stop Demand	1							
YCD							1	
198 Health Centre							1	
Evolve					2			
Streetreach	1							
Te Aronga Hou Trust		3						
Awhina Teina	1							
Maori youth counsellor				1				
TOTAL	26	7	2	9	14	6	22	86

* number in bracket represents number of separate brothels.

Appendix 2 Interview schedule



Interview Schedule

Introduction

- Purpose of interview – reviewing the impact of the Prostitution Reform Act

The Prostitution Reform Act was passed in 2003 – the aim of this act was to decriminalise prostitution and provide protection of the rights of sex workers and promote health and safety in the sex industry. We're interested in your views on the benefits and draw-backs of this legislation.

- Participation is voluntary, answer only questions that you want, stop at any time
- What we talk about is confidential, that means anything you say that we use in reports will be presented in away that will not identify you personally – although your views may be related to specific roles or the organisation you represent (e.g., private sex worker, brothel operator, NZPC representative).

Background details

Name / Id: _____ Date: _____

Interviewer: _____

NGOs / Brothel Operators

1. Can I ask you to please describe your role within this organisation / business?
2. How long have you been in this role?
3. [If applicable] Could you please tell me about the nature of your involvement / working relationship with the sex workers and the sex industry? (e.g., outreach, health provider, manager)

SOOBs

4. How long have you been operating privately from home?
5. Do you work alone or is this a shared venue? If shared with how many?
6. Do you work anywhere else at the moment? Circle: streets, bars, brothels/parlours, escort agencies
7. Where else have you worked previously? Circle: streets, bars, brothels/parlours, escort agencies

8. Did you have involvement with the sex industry before the Prostitution Reform Act was passed in June 2003 and if yes what was this involvement?

Level of support for the Prostitution Reform Act

First off, we are interested in your level of support for the Prostitution Reform Act both before it was passed and now.

1. On a five point scale where 1 = strongly against to 5 = strongly supported, please tell me your level of support for the Prostitution Reform Act 2003 and the decriminalisation of prostitution, before it was passed? 1-5
[]

Can you tell me what were the main reasons for this position?

2. On a five point scale where 1 = strongly against to 5 = strongly supported, please tell me your level of support for the Act and decriminalisation now, based on your own experiences and observations? 1-5
[]

Can you tell me what your main reasons for this position are now?

We've now got some questions on the benefits and draw-backs of the Prostitution Reform Act related to six specific areas:

- Local council's response to the Act
- The system of certification
- Conditions of employment
- Welfare, health and safety of sex workers
- Underage sex workers
- Assistance to avoid entering or to exit the industry

We are talking with several different groups of people and their involvement with the sex industry and their awareness of specific details of the Prostitution Reform Act will vary. It is quite likely that some of the questions will have less relevance to you, so please let us know and we can skip over these.

If you are aware of differences that are particular to a specific type of work for example street workers, or a particular culture such as Maori or Asian, etc or for just males or females, please say.

Interviewer: Start with the section most relevant to the informant.

Local council's/Territorial Authority's response to the Act

The Act gave local councils/Territorial Authorities certain powers to create bylaws that control and regulate the location, advertising and signage of businesses of prostitution. There has been a varying response from local councils in different regions in the extent they have used these powers.

The main aim of the Prostitution Reform Act was to decriminalise prostitution and so it is important to consider the bits of the Act which have the potential to create an illegal sector thus defeating the main objective. The powers given to local councils may be one such area.

3. Which is your local council?

Do you know how (if any) the local council in this region has attempted to control or regulate prostitution? (e.g., bylaws, bills) Y / N / DK

If yes, please describe:

Do you agree with the actions taken by the local council in this region? Please explain: Y / N / DK

4. **Do you have any comments on the effect of the local council's actions on sex workers and for operators of brothels in this region?** [Probe: e.g., if limited to industrial areas: commercial viability; health and safety issues; human rights – right to work in 'just and favourable conditions', freedom from discrimination.] Y / N / DK

If NO go to next section.

If yes, please explain:

5. Overseas when there have been attempts to tightly control the location and licensing of prostitution, a two tiered system can result with just some legal operations and others choosing to operate illegally. Are you aware if anything like this is happening here? Y / N / DK

If yes, please describe:

6. Any other comments or views on the response of councils to the Prostitution Reform Act and the impacts on sex workers?

System of certification (Questions most relevant to brothel operators)

The Act requires that all operators of brothels (e.g., owners, managers, receptionists) must hold an ‘operator certificate’ (this excludes small owner-operated brothels where no more than four sex workers work who are in control of their business). Certain persons are disqualified from holding a certificate based on certain previous convictions.

7. **Do you think it is important to have some sort of system of certification for brothels?**

Y / N /
DK

Please explain:

8. BOps - With the current system certificates should be held by every individual operator at a brothel, i.e., owners, managers, receptionists. Do you think this criteria for requiring a certificate is appropriate?

Y / N /
DK

9. **Do you have any comments on the effectiveness of the current ‘system of certification?’**

[Probe: Level of compliance among brothel operators, in controlling those who can operate a brothel, any changes necessary]

Y / N /
DK

If yes, please explain:

If DK
go to
next
section

10. BOps - Do you have any comments on whether the Registrar of the Auckland District Court is the most appropriate official to administer the system? Please explain:

Y / N /
DK

11. Are you aware of whether there is any negative impact for sex workers in brothels who do not hold operator certificates? Please explain: *[Probe: Does it mean they are operating ‘underground’]*

12. BOps - How effective do think the system of certification has been monitored and enforced? *[Probe: Police can request for an operator certificate to be produced for inspection within 24hrs]*

Employment conditions

13. **BOps / Private** - What difference has the decriminalisation of prostitution made to you in terms of your ability to run a prostitution business?

14. **Private** – What do you feel are the advantages of working privately? [*Probe: control over working conditions, earnings*]

15. **BOps** – Since the passing of the Act, do you find it easier or harder to employ sex workers, or no change?

16. **BOps** - In this brothel, what is the arrangement for employing sex workers – are they considered self-employed, independent contractors / sub-contractors or employees (i.e., taxed at source, entitled to holiday pay, etc)?

Can you explain to me a bit how this works:

- Who pays for condoms, lube?
- Do workers pay room rentals?
- What do you supply
- Who does the client pay, you the sex worker or both?
- Who takes responsibility to pay tax and ACC levies?
- Who decides on the hours/shifts of the sex workers?

17. **BOps** – How have management practices in this brothel changed since the passing of the Act? [*e.g., fines, room rentals / shift fees, bonding, choice of hours ...*]

Y / N / DK

If yes, please explain:

There are specific provisions in the Act that aimed to provide protection for sex workers (a) against being pressured / forced to provide commercial sexual services; and (b) having the right to refuse a client.

- On a five point scale where 1 = no knowledge, and five = very familiar, how familiar are you with these provisions? 1-5
[]
18. Are you aware of sex workers using their right to refuse a client? Y / N / DK
 If yes, please describe: *[Probe: What happens when they have refused]*
19. Are you aware of sex workers taking action against employers for exploitation and/or coercion or any other unfair conditions of work? Y / N / DK
 If yes, please describe:
20. NGO - Are you aware of any changes in the management practices in brothels since the passing of the Act? *[e.g., fines, room rentals / shift fees, bonding, choice of hours ...]* Y / N / DK
 If yes, please explain:
21. Are you aware of whether the passing of the Prostitution Reform Act has improved the working conditions and/or provided protection from exploitation for the following groups: *[Probes: financial independence, ability to manage how they work, ability to take legal action if employment rights are breached, etc.]*
- If yes, please explain:
- Private workers? Y / N / DK
 - Street workers? Y / N / DK
 - Those who work in brothels? Y / N / DK
 - Under age sex workers? Y / N / DK
 - Foreign nationals illegally working as sex workers [UN identified as issue]? Y / N / DK

22. What do you know, about who monitors and / or enforces the working conditions for sex workers? *[Probe: Dept of labour, Employment relations Service, Employment Court, Disputes Tribunal]*

If applicable: How well is this being done?

23. From what you know, what is the typical attitude of sex workers who are self-employed towards filing tax returns and paying ACC levies?

24. Any other comments or views on the effect decriminalising prostitution has had on the employment conditions of sex workers? *[Probe: What else needs to be done?]*

Welfare, health and safety of sex workers

One of the aims of the Prostitution Reform Act was to improve the welfare, health and safety of sex workers, we are interested to find out from your experience the extent to which this has been achieved.

25. What changes (if any) are you aware of in the welfare, health and safety of sex workers since prostitution was decriminalised?.

Probes:

- the use of safer sex practices with clients
- general health and well-being (e.g., physical health, mental health, managing addictions, self-esteem, feelings of empowerment)
- access to (i) health services (e.g., medical check-ups, sexual health check-ups, A&D assessment and treatment, counselling and Hep B vaccinations) and /or access to (ii) information and training on how to keep themselves healthy and safe? (OSH guidelines, NZPC info)
- acts of violence and abuse

26. From what you know, since prostitution was decriminalised are sex workers and / or brothel operators more comfortable in reporting incidents to police? [*Probe: e.g., assaults, clients not using condoms, robbery.*] Y / N / DK

Are you aware if there have been any problems for sex workers in reporting things to police?

27. Do you think there has been any changes in the relationship between sex workers and Police since prostitution was decriminalised? Y / N / DK

Please explain:

28. Do you think there has been any changes in how clients view or treat sex workers? Y / N / DK

Please explain:

29. **NGO – Health** - Do you think there has been any changes in the relationship between sex workers and health professionals since prostitution was decriminalised? *[Probe: more openness from sex workers to talk about health and safety issues]* Y / N / DK

Please explain:

There are some specific health and safety requirements in the Act. These include that legally sex workers and clients must adopt safer sex practices; and that operators of brothels must adopt and promote safer sex practices (e.g., ensuring safe sex practices are used, providing and displaying health information).

30. On a five point scale where 1 = no knowledge, and five = very familiar, how familiar are you with these health and safety requirements? 1-5
[]

31. Do you know, whether sex workers are aware that it is an offence not to use a condom and that both they and the clients can be fined up to \$2000? Y / N / DK

32. NGOs – Have you noticed, or are you aware of any changes in the how health information including the use of safer sex practices is displayed and provided in brothels in this region? Y / N / DK

If yes, please describe:

33. On a five point scale where 1 = no knowledge, and five = very familiar, how familiar are you of the Occupational Health and Safety guidelines published by the Dept of Labour? 1-5
[]

If applicable: What do you think of the guidelines?

34. What do you know about who is responsible for monitoring and / or enforcing the health and safety requirements? *[Probe: Medical officers of health, Police, Dept of labour / OSH inspectors, Local government]*

If applicable: How well do you think this is done? What more could be done?

35. BOps/Private – What contact have you had with any agencies over the new health and safety requirements?	
36. BOps - Have there been any changes in the how health information including the use of safer sex practices is displayed and promoted in this brothel? If yes, please describe:	Y / N / DK

37. Any other comments or views on the effect decriminalising prostitution has had on the welfare, health and safety of sex workers? [*Probe: What else needs to be done?*]

Underage sex workers

The Prostitution Reform Act prohibits the use in prostitution by others (e.g., clients and operators) of persons under 18 yrs of age.

38. **Do you have any comments on the impact of decriminalising prostitution on those who are under 18 years old who work in the sex industry?** (Probe: is it harder or easier for them to work? What type of sex work do they tend to do? Have there been any unintended negative consequences for this group (vulnerability to exploitation, limited to less safe work environments)) Y / N / DK
If DK go to next section

39. Do you think there are more / less / or the same number of underage young people working in the sex industry? What makes you think that (i.e., based on what)?

40. What do you think has been the impact in relation to younger children, those who are under 16 years of age being used by others in prostitution?

41. What do you know about who enforces this part of the Act (i.e., prevents clients and operators using persons under 18 years in prostitution)?

If applicable: how well do you think this part of the Act is being enforced:
[Probe: Are you aware of any problems, ability of police to collect evidence and bring prosecutions against offenders]

42. In your view, what else could be done to prevent underage people becoming used in prostitution? *[See also qu 20 for assistance to exit or avoid entering industry]*

Assistance to avoid entering or to exit the industry

As part of the review of the Prostitution Reform Act the Prostitution Law Review Committee has been asked to assess the nature and adequacy of means available to assist persons to avoid or cease working as sex workers.

43. What do you think are the best ways to assist sex workers who wish to exit the industry?

What is currently available in this region:

What else need to be done:

44. What are the best ways to assist those under 18 years of age to either avoid entering the industry or to exit?

What is currently available in this region:

The Act does not permit non New Zealand residents to work in the sex industry in New Zealand.

45. From your experience, what has been the impact of the Act on non New Zealand residents who work illegally in the sex industry? [*Probe: Has it made it more difficult or less difficult for this group to work in the sex industry? Are they more vulnerable to exploitation, trafficking? Are there more or less of them?*]

46. Are there any specific needs for this group in assisting them to either avoid entering the industry or to exit? Please explain: Y / N/ DK

We'd be interested in your views on the following changes or new initiatives and their usefulness in assisting sex workers to exit the industry:

Work and Income New Zealand (WINZ) has eliminated the four week stand down period for a benefit for sex workers who cease sex work

47. Are you aware of this? Y / N

If yes, on a five point scale where 1 = no use, and 5 = very useful, how useful do you think this is in assisting sex workers to exit the industry? 1-5
[]

There are provisions under the recent Clean Slate Act 2004 for individuals who had prostitution related convictions to apply to have them concealed.

48. Are you aware of this? Y / N

If yes, on a five point scale where 1 = no use, and 5 = very useful, how useful do you think this in assisting sex workers to exit the industry and find new work? 1-5
[]

In the Prostitution Reform Act a person's entitlements under the Social Security Act 1964 (e.g., unemployment benefit) and under the Injury Prevention, Rehabilitation, and Compensation Act 2001 (e.g., compensation for loss of earnings) may not be lost or affected in any other way by a person being capable of working as a sex worker, if he or she refuses to do, or to continue to do, that kind of work

49. Are you aware of this? Y / N

If yes, on a five point scale where 1 = no use, and 5 = very useful, how useful is this in assisting sex workers to exit the industry and find new work? 1-5
[]

Before prostitution was decriminalised, police collected and held information on people who were sex workers.

50. Are you aware of whether current or past records held by police have acted as a real or perceived barrier to exiting from the sex industry (e.g., from police vetting procedures)? Y / N / DK

If yes, please explain:

51. Any other comments or views on the effect decriminalising prostitution has had on assisting people to avoid or cease working as sex workers?

Overall

Any other comments?

Y / N

Thank you for your participation in this research

Would you like a summary of the research report when the research has been completed? Y / N

Send to: