

**Submission
No 106**

INQUIRY INTO THE REGULATION OF BROTHELS

Organisation: Northcott
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Select Committee on the Regulation of Brothels
Parliament House
Macquarie St
Sydney
NSW 2000

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Re: Regulation of Brothels in NSW

Thank you for providing Northcott with the opportunity to provide a submission to the Select Committee on the Regulation of Brothels.

About Northcott

Northcott was established in 1929 by the Rotary Club of Sydney. Northcott's purpose is to build an inclusive society where people can live the life they choose. This is achieved by assisting people with disability to develop their skills and achieve their goals - including their right and choice to engage in full adult lives, which can include a range of options for sexual expression and exploration.

Northcott has been providing support to people with a disability for over 85 years. Today, Northcott supports over 14,000 people with disability and their families. Northcott employs over 700 staff, providing more than 100 services from 34 sites and offices across NSW and the ACT. Northcott provides services to people with a broad range of disabilities including physical, intellectual, sensory, acquired and degenerative disabilities.

Northcott has a firm commitment to supporting people with disability to realise their right to be recognised as sexual beings and navigate a range of options to engage in sex and sexuality related activities. We support people to learn about their sexuality through many of our services. We also support people to access sex workers.

In 2014, we launched our world-first *Feel the Vibe* sexuality and disability expo. Through this forum, we aimed to promote sexual inclusion for adults with disability, to legitimise that this is a valid aspect of daily living that all adults have a right to make decisions about, and to provide information, discussion, education and linkages to both mainstream and specialist sex and sexual health services. *Feel the Vibe* received the Award for Excellence in Innovation in Lifespan Approaches to Disability and the Minister's Choice Award for Excellence in Innovation at the 2014 NSW Disability Industry Innovation Awards and was replicated with enhancements in the ACT in mid-2015.

Northcott intends to continue to deliver this and other positive sexuality supports to people with disability and their supporters.

Our Submission

Northcott's submission is based on our extensive history and contemporary experience in providing positive sexuality support to people with disability.

Northcott's broad position is that adults with disability should be able to engage as fully in sexual activity as all other adults in the community. This needs to include:

- A range of options to learn about and engage in sexual activity
- Safe access to sex services
- Access to sex services without the threat of criminalisation
- Dignity
- Choice and control

Recommendations in this paper align with this overall view, however we also make specific recommendations in response to particular issues raised through the following terms of reference:

(d) Options for reform, including a scheme of registration or licensing system for authorised brothels;

(f) Options to maintain the high level of public health outcomes;

(g) Residential amenity and the location of sex services premises.

Why is this issue important to us?

Ensuring people with disability have the same opportunities to engage as fully in life as the rest of the population is enshrined in State, National and International policy and legal instruments - the UN Convention on the Rights of Persons with Disability, the National Disability Agreement (UNCRPD), the National Disability Strategy and its state and territory Implementation Plans to name a few. Article 25a of the UNCRPD compels all state parties to "provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health."¹

Despite this, adults with disability remain unequal to their non-disabled peers in terms of access to and engagement in sexual activity. Through our work, we hear from clients regarding negative attitudes on their right to sexual and reproductive health choices, the difficulty in 'navigating the system' to find support on the topic of sexuality, not knowing how to engage in sex or who to ask about this, and their experience that support people avoid discussing the topic because they feel that sexuality support is not in their role. Many clients have told us they feel that they

¹ UN General Assembly, *Convention on the Rights of Persons with Disabilities : resolution / adopted by the General Assembly*, 24 January 2007, A/RES/61/106, available at: <http://www.refworld.org/docid/45f973632.html> [accessed 18 August 2015]

have not been sufficiently informed or supported to engage in this fundamental aspect of full and healthy adult life.

These anecdotal reports are supported in academic literature. 50.7% of adults with physical disabilities identify their disability as having a significant impact on their sense of body image, and 28.2% go on to highlight that they feel it also impacts on their ability to engage in a intimate relationship². Severity of disability is not always directly correlated to level of sexual activity³, however it is linked to lower levels of sexual esteem⁴.

As well, dependence on others for care seriously restricts an individual's opportunities to freely express their sexuality, because of a lack of privacy or over-protective carers⁵. Women with physical disabilities are less satisfied with their dating frequency, they perceive more constraints when attracting a partner, and they perceive more societal and personal barriers to their dating than other women⁶. For men, physical disability may pose additional difficulties where the loss of ability for 'normal' sexual performance can have a significant negative effect on self-esteem and mental health⁷.

The ability to engage in sex can have significant positive effects for all people. Sexual activity and enjoyment are considered to be important components of quality of life for adults of all ages⁸. In fact, the strongest contributors to the variance of overall quality of life are satisfaction with personal relationships, followed by health status and sexual activity⁹. Sexual activity is one of the most important dimensions of quality of life¹⁰. With up to 15% of the adult population potentially affected by negative societal attitudes to disability and sexuality as well as lack of information about how to engage in sex when one has physical limitations, there is a clear imperative to address this imbalance.

Northcott is committed to and invested in giving people with disability opportunities to learn more about how they can engage in and enjoy sexual activities which much of the adult community takes for granted. We confront the taboo surrounding the sexualities of people with disability and provide support around:

- Practical aspects of how to engage in pleasurable sex acts if a person has physical limitations
- How to support a person around the issue of consent
- What equipment is available to support a person to engage in sex, or how other items might be used or adapted

² Packham & Hall, 2002

³ Nosek et al., 1996

⁴ Donelson, 1998

⁵ Bach & Bardach, 1997

⁶ Rintala, 1997

⁷ Tepper, 1999

⁸ Rohde, Berg & Haugeberg, 2014

⁹ Robinson & Molzahn, 2007

¹⁰ Thirlaway, Fallowfield & Cuzick, 1996

- Strategies for communicating one's sexual needs or asking for assistance to have them met
- How to get pleasure and enjoyment from sexual activity
- Sex as a contributor to overall wellbeing.

We work closely with key agencies in this area, such as Family Planning NSW to ensure the information we impart is clinically accurate and reflects contemporary best practice, and Touching Base to assist the people we support to access sex workers where they choose this.

Why do people with disability choose to access sex workers?

Accessing a sex worker is a valid choice for any person over the age of consent. It is one of a range of means to achieve a sense of sexual fulfilment, and through it all the range of positive quality of life outcomes outlined above.

For people with disability, the choice to access a sex worker could be driven by any of the following¹¹:

- To help overcome feelings of stigma associated with participating in sexual activity as a person with disability;
- To increase knowledge of and experience in having sex;
- To learn about what works for them, and to learn about what they can do for a partner;
- To worry less about being an 'inadequate' lover when beginning to pursue opportunities for other intimate relationships;
- To develop other related skills such as flirting;
- To experience intimacy, companionship, shared interests and feelings of connection and validation;
- To experience positive influences on quality of life, self-esteem and confidence;
- To feel empowered in their right to a sexual pleasure and expression as a key part of a full adult life;
- To experience fulfilment through participation in sex with someone who understands how to meet their specific needs;
- To overcome barriers to other types of sexual activity, including barriers in the built environment as well as social barriers.

It is a present reality that people with a range of lived experiences of disability do not enjoy the same ease with which other adults may commence, conduct and continue their sexual lives. The ability to access sex workers, including but not limited to sex

¹¹ Adapted from "Your Visit to a Sex Worker: A Guide for People with Disability", Touching Base 2014

workers who specialise in providing services to people with disability, has a huge impact on the quality of life for these people. Examples of the barriers to sexual fulfilment which can be overcome through access to a sex worker follow.

Tom* is nineteen and wants to have sex like all of his peers can. He has a degenerative neuromuscular condition and is not expected to live long into his 20s. It is already hard for him to leave the home due to his limited mobility and the relative inaccessibility of his local community. Tom doesn't have or want a partner because he knows he will pass away. With access to a sex worker who can visit him at home, and support from his family to get ready for each visit, Tom can experience one of the things most important to him.

Jada* is thirty-five and has recently moved out of home for the first time. Jada is used to living with her mum, who really cares for her but who worries about Jada being unsafe if she has boyfriends or girlfriends or engages in sex. Now that her living situation has changed, Jada wants to have the full experience of living independently, including being able to have a sexual relationship with whom she chooses. Jada feels scared, though, of trying to meet people and be intimate with them as she feels she is too old to be so inexperienced.

Maria* is forty and is sexually active. Her disability and medical needs can cause significant levels of pain during sexual activities. In the past, Maria has participated in sexual activities that cause her a lot of pain because she has not wanted to disappoint her partner – she has felt that she is lucky to be loved by anyone in the first place. Maria has now started seeing a sex worker so that she can explore what sexual activities, positions and approaches can reduce or eliminate pain. Maria feels OK about testing things out with her sex worker without worrying about letting him down or hurting his feelings if something doesn't work or hurts. Maria can then take what she learns back to her partner and they can enjoy sex together.

* Personal details changed

Having the ability to choose a sex worker, and to choose the context in which sexual services are delivered, is key for many people to be able to achieve sexual fulfilment and/or to develop skills that will lead to positive intimate relationships. It is Northcott's firm view that people with disability ought to be able to retain the right to make these choices.

Options for reform

Northcott notes this Term of Reference and its focus on 'a scheme of registration or licensing system for authorised brothels'.

In our view, which is focused around the ability of people with disability to access sex workers with choice and dignity, there is not a compelling case for a change to the current legal framework of decriminalisation. In providing both direct and indirect support to people with disability to access sex workers, we have found that the current system has the following features:

- Young people with disability above the age of consent but below the age of legal entry into sex industry premises may access the services of a sex worker either in their own home or at the sex worker's home, according to mutual agreement;
- People with significant core activity restrictions may receive sex services in their own homes, where traveling to receive the service may not be possible;
- Neither the provider nor the recipient acts under the threat of criminal prosecution, so that the service may be provided safely and without being driven 'underground'.

All of these features ought to be retained in any review of the existing system and any proposed new system.

Areas in which some reform could improve the existing system are:

- Consistent application of the Sex Services Premises Planning Guidelines (2004)¹² across all Local Government Areas in NSW, where currently we see that a person's place of residence may facilitate or hinder safe and equitable access to sexual services;
- Clarity regarding the different nature of a private residence as a premises in which sex services may be provided (either the home of the sex worker or the home of the client), and clear exemption for people receiving sex services in the home from being required to submit to the Development Application process;
- Improved local council practice in the planning, approval and zoning of sexual services premises to ensure that they are both safe and accessible for people with disability. This includes built environment considerations such as level access, clear signage, etc, as well as zoning considerations such as removing restrictions seen in some councils where brothels may only operate within industrial areas, which frequently have limited public transport and can be very isolated.

It seems a better approach to reform, rather than introduce regulations, may be to harmonise the application of the existing guidelines across all NSW Local Government Areas.

Options to maintain high-level public health outcomes

As discussed earlier in this paper, the ability to engage in sexual activity has significant quality of life outcomes for all adults. The retention of a system whereby people with disability may choose to engage the services of a sex worker can have a significant positive public health outcome.

Positive sexuality is a key quality of life determinant and can have significant positive impact on a person's general wellbeing, self esteem, mental health and overall

¹² Sex Services Premises Planning Guidelines, December 2014. Prepared by the Sex Services Premises Planning Advisory Panel on behalf of the NSW Department of Planning

functioning. Empowerment to engage in sexual activity can go on to contribute to a person's capacity and willingness to participate in the community more broadly and can have positive impacts on other family/carer relationships^{13, 14}.

With this in mind, Northcott's view is that positive public health outcomes can continue to be improved through greater access to sexual experiences for all adults with disability. Mechanisms for this – some may be beyond the scope of this Committee but ought to be advocated nonetheless – could include:

- Targeted health promotion campaigns, providing information and resources to assist people with disability to understand their rights and options, navigate the system and negotiate their sexual interactions (whether with sex workers or with others);
- Targeted health promotion campaigns for families, carers and other supporters, to break down taboos about disability and sexuality and provide guidance on how to support a person with disability who wishes to engage in sexual activity;
- Clear recognition of the status of sex worker services as a 'reasonable and necessary' support for some people who receive funds under the National Disability Insurance Scheme¹⁵, addressing the fact that many of the people with disability who are in most need of sexual services due to barriers to engaging in sexual activity with others are likely also to be living at or below the poverty line¹⁶, and thereby unable or infrequently able to procure sexual services;
- Retention of the existing decriminalisation framework, or if any regulatory system is to be introduced, an approach to regulation that ensures that it is not made prohibitively difficult for sex workers to provide services to people with disability.

Location of sex services premises

As briefly mentioned in the section above, our current experience is that the area in which a person is seeking to access sexual services can presently either facilitate or hinder this access.

It is a concern that in some areas, planning decisions require a person to travel to a poorly connected, isolated, industrial zone in order to access a sex worker in a brothel. It is also a concern that home based services are not allowed in most metropolitan councils, or at a minimum are required to be approved through a Development Application process which is disincentivised because of the personal risks the publication of name and address details pose for sex workers. Both of these factors present significant barriers to a person with disability, as well as others, in

¹³ Rohde, Berg & Haugeberg, 2014;

¹⁴ Thirlaway, Fallowfield & Cuzick, 1996

¹⁵ National Disability Insurance Scheme (Supports for Participants) Rules 2013.

¹⁶ Australian Bureau of Statistics, Disability and Labour Force Participation, 2012

accessing a sex worker. These barriers are significantly compounded for people who have difficulty travelling beyond their immediate local area.

Application of the existing Sex Services Premises Planning Guidelines (2004) could allow for wider zoning permissions and less demanding Home Occupation Sex Services permissions, without amendment. It would be appropriate to conduct an audit of all NSW councils to determine the extent to which their sex services planning practices are facilitating or hindering access by people with disability. This audit should then make recommendations for the improved accessibility and safety of sex services, and the more consistent application of the Guidelines, across NSW Local Government Areas. Councils could be encouraged to report against this as a part of their Disability Inclusion Action Plan and associated implementation plans, under the NSW Disability Inclusion Act (2014)¹⁷.

¹⁷ NSW Disability Inclusion Act (2014), Sections 12-14

Should you require any clarification or further information please contact:

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