

The street prostitution industry in the southern communities of Auckland

The need for legislative control to reflect the intent of the Prostitution Reform Act.

May 2012



Foreword

The time has come for legislative support to overcome a problem in the southern communities of Auckland that has been evolving and worsening for two decades; street prostitution.

The expansion of the street sector of prostitution has been so uninhibited that it is influencing the character and reputation of these communities.

There is no doubt that the street sex trade is enjoying its unrestricted use of public space and is possibly the only industry in New Zealand to enjoy such status. Other industries must comply with licences or special authority of some kind. The street sector of prostitution faces no such constraints.

Everyone assumed that the Summary Offences Act would be sufficient to deal with any consequences of street prostitution.

The actual result is that there is a growing number of new victims; ordinary New Zealanders who have nothing to do with the industry yet must endure its effects upon their lives.

When the Prostitution Reform Act legalised the industry in 2003, there was probably a natural assumption that it would become more professional, respectable and discreet; that it would go indoors.

Nobody could have predicted that the street sector would grow. Why and how this has happened may become clear as you read this document.

We also outline why we cannot move directly to a bylaw regulation until national legislation is first amended.

Before Parliament now is the re-named Auckland Council (Regulation of Prostitution in Specified Places) Bill. It has been several years in preparation to address the phenomenon of street prostitution.

The downstream effects of this sector of prostitution are so wide and many that Police, health and social services are not able to cope.

I come from this part of Auckland and I know these communities. As a councillor and then Mayor of Manukau City, I observed the growth of street prostitution and worked with these communities to try to manage it.


Manukau and now Auckland Council have invested substantial resources in an effort to find non-legislative 'solutions' and as you survey this document, I am sure you will conclude that those measures are not working.

It is time for legislative support to restore some balance for communities on the southside of Auckland.

This document asks all Members of Parliament to consider all of the victims of this industry.

The Prostitution Reform Act (PRA) 2003 required councils, as the local regulatory bodies, to approve only those brothels *that didn't cause a nuisance, serious offence or were incompatible with the character or use of that area.*

This Auckland Bill seeks to reflect the intent of the PRA by applying that same test to street prostitution.



Len Brown,
Mayor of Auckland



“There is no doubt that the street sex trade is enjoying its unrestricted use of public space...”

The Southern Local Boards

Mangere-Otahuhu Local Board

The Manukau Harbour and the Tamaki Estuary surround three sides of the Mangere-Otahuhu Local Board area. The area includes the coastal township of Mangere Bridge, the Mangere and Otahuhu town centres, as well as the Favona and Mangere East town centres and suburbs.

Population: 76,000

"The presence of street sex workers in our communities is very difficult for Pacific Island people to cope with emotionally. Pacific culture is far less open about these matters and it creates huge tensions."



Leau Peter Skelton,
Chair, Mangere-Otahuhu Local Board



Otara-Papatoetoe Local Board

The Otara-Papatoetoe Local Board area includes the suburbs of Otara, Papatoetoe, East Tamaki, Puhinui and Manukau Central.

Papatoetoe, this year, celebrates its 150th anniversary. The community is close to Auckland Airport, motorway, the sub-regional Manukau city shopping centre, Hunters Corner, Otara town centre and St George St area.

Population: 81,000

"If we don't receive help soon on this issue, our community's proud 150 years will be forgotten in the shadow of a single industry allowed to run free and unrestricted."

"We are beyond moral outrage. We just ask for some reasonable control of this industry."



John McCracken,
Chair, Otara-Papatoetoe Local Board



Manurewa Local Board

The Manurewa Local Board area includes the Wiri industrial estate, the suburbs of Manurewa East and Homai, and the coastal suburbs of Weymouth and Wattle Downs.

Manurewa is home to Auckland's Regional Botanic Gardens, hosting approximately one million people each year.

Population: 81,000

"Without a means to control this totally unrestrained industry, more innocent people will be forced to adjust their lives. No industry should have that power."



Daniel Newman,
Chair, Manurewa Local Board



Two decades of street workers

1994

- *Manukau Courier*, June 9: "Otahuhu patch for young prostitutes".
"About a dozen prostitutes, some as young as 14, are working the Great South Road of Otahuhu".

1999

- *Manukau Courier*, October 21: "Seeing red over prostitutes".
"Prostitutes will keep on plying their business at Hunters Corner because the Manukau City Council does not have enough trained staff to chase them away".
- *Manukau Courier*, December 20: "Action plan for Hunters Corner".
An action plan is being put together to curb the problems associated with prostitution at Hunters Corner.
"What people are facing is completely unacceptable as it is affecting their quality of life".

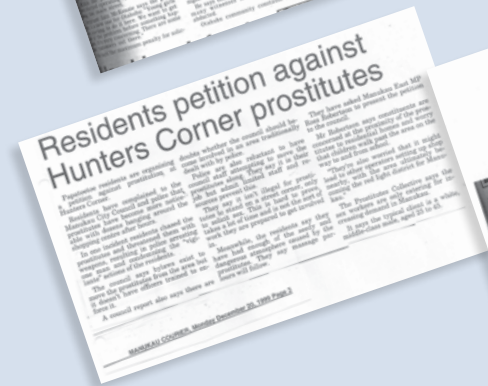
2002

- *Government Select Committee* reviewing Prostitution Reform Bill.
"We do not agree decriminalisation of prostitution will see such an increase in soliciting that it warrants imposing zoning restrictions or prohibitions... the Summary Offences Act could be used".

2005

- *Manukau City* proposes Bill which is rejected by Government.

- **NON-LEGISLATIVE EFFORTS TO CONTROL THE INDUSTRY**
- Council continues to invest in minimising problems created by the street sex trade in southern communities.
 - Staff dedicated to linking with other charities and service agencies.
 - "Crime Prevention Through Environmental Design".
 - Working with the Prostitutes' Collective and routine monthly meetings to discuss issues.
 - Linking with external partners – business associations, Police, churches, residents, crimewatch patrol, CCTV monitoring.



Two decades of street workers

2009

2010

2011

2012

- **Ministry of Justice Review.**

"The Prostitution Reform Act does not directly address street-based prostitution and makes no specific provision for its regulation".

"...a significant problem in only two specific areas of Manukau City..."

"...localised approaches are likely to be more effective than legislation..."

- **August:**

The revised Bill re-introduced to Parliament and following month referred to Select Committee.

- **May:**

Manukau (Regulation of Prostitution in Specified Places) Bill revised and re-enters Select Committee process.

- **July:**

Auckland Council adopts Manukau City Bill for consideration by the 2011-14 Government.

- **September:**

Auckland Council introduced supplementary order paper to change the name of the Bill from Manukau to Auckland.

- **February:**

House votes 105-15 to accept Select Committee's interim report on the Bill. Select Committee advises Auckland Council that Bill is next due for debate in Parliament, late July, 2012.



Personal accounts

Statements from people living and working in Otahuhu, Papatoetoe and Manurewa.



**Graham Mullins,
Town Manager,
Otahuhu Mainstreet Association.**

Graham Mullins has worked and owned businesses in Otahuhu for over 40 years.

He is now the Town Manager for the local business association which has over 350 members.

He says the street sex trade in Otahuhu has had the same impact as in Papatoetoe and Manurewa but is lesser known.

“We have avoided public attention but we probably have the best evidence of its effects.

“We have a comprehensive CCTV security system which has captured some appalling behaviour from the sex workers.

“Soliciting for prostitution in a public place is no different from a commercial hawker.

“Any other hawker would require a permit to sell their goods in a public place but street prostitutes don’t need a licence.”



**“Any other hawker would
require a permit
to sell their goods
in a public place but
street prostitutes
don’t need a licence”.**



Otara-Papatoetoe Local Board Chair, John McCracken, took this photo at 9am in Hoteo Ave, Papatoetoe on a weekday during March this year. The prostitutes had been soliciting and, in their downtime, were also approaching passers-by and asking for money.

Personal accounts continued...

Accountant

(name and location withheld)

In early February this year, "Jane" was crossing the Great South Road in Papatoetoe with a friend at 8am, to the friend's vehicle. A transvestite was seen slamming a supermarket trolley into the vehicle. They both confronted him and an argument started. Jane rang 111 and the transvestite struck her in the shoulder. Emergency services advised Jane and her friend to enter the vehicle and lock themselves in. The transvestite lay across the bonnet. Police arrived and completed an arrest, by which time the offender had moved over to a bus stop and sat right next to an elderly lady.

Jane describes the behaviour as fairly typical.

"Above all it's intimidating. It just creates tensions for other people.

"Street prostitutes appear to have no understanding of acceptable social conduct but every understanding of their rights."

On March 15 at the same time of day, Jane noticed a transvestite semi-naked and changing his dress outside a Great South Road office. A school bus had stopped alongside as this was happening and a bus load of children became unsuspecting spectators to the display.



"Prostitutes appear to have no understanding of acceptable social conduct but every understanding of their rights."

Personal accounts continued...

Shop owner

(name and location withheld)

"Bill" purchased his shop in November 2009. He has kept opening hours from 6.15am to 9pm, seven days a week. Four schools are within five minutes walking distance and a main commuter base a little closer. They all create business for his shop.

At the start, it was routine for five or six sex workers to assemble in the rest area on the same corner. This would be the average daily number. Today, many more are dropped off by car. For the past six to eight months at least, 10 have been working the site every day and night. Bill closes his shop at 9pm but two tenants in the rear flat tell him the street trade is a 24-hour operation.

Bill counted 15 on one Friday and there have been groups of 20 to 30 on some occasions.

"They are very arrogant to us. When I ask them to move away from the front of my shop they tell me I have no authority to move them on and that they know their rights.

"I am Asian so I get a lot of racial abuse.

"It would be more than two or three times a week when they ask my customers for money. When I tell them to leave the shop I get abused again. Sometimes they will throw rubbish into my shop after I tell them to leave.

"They use the rear of the shop to defecate and I have to hose this away at least three or four times a week.

"They operate as a group. They have areas on the street and leaders. They have a structure in place. They seem to know when the Police are coming. They just disappear. But sometimes they fight each other over space. Violence breaks out among them every week.

"I have a lot of CCTV evidence from my shop to support what I am saying.

"It is difficult to measure how much they steal from my shop but they are very clever shoplifters. I have banned those I have caught but it's very difficult to police. Some I have banned vandalise my street signs in retaliation.

"There is not much I can do when they annoy me and my customers. They just say 'You can't force me to leave. We know our rights'".



Bottles of alcohol concealed as packages of spare clothing, to avoid police detection.

"They operate as a group. They have areas on the street and leaders. They have a structure in place..."

Personal accounts continued...



Donna Lee, Manager, Hunters Corner and central Papatoetoe business districts.

Donna has been manager of the Hunters Corner Business District for five years and in the same role for the central Papatoetoe Shopping Centre for two years. About 370 businesses operate in these zones.



In the past 18 months, Donna reports that more than 40 parking sign poles have had to be replaced.

"Prostitutes use these as dancing poles. The poles are part of their soliciting equipment and they often snap them. Some of the prostitutes are big, strong people.

"I don't receive as many complaints from business people any more. They have just given up on getting any help and go about cleaning up their properties after the night's trading. This clean-up would typically include condoms, alcohol, other drugs and often defecation.

"We, quite literally, deal with human waste every day.

"If you watch a prostitute walk down the main street in the early morning, you see how other people just move away. The prostitutes are often grumpy after a night on the street and if you make eye contact, you are risking intimidating behaviour. This is now what we live with.

"The sex workers know their rights and if anyone asks them to move on, change their behaviour in some way, this just meets with confrontation.

"This is an out-of-control industry and people in the wider community are now paying the price.

"The Police cannot possibly cope with every disturbance and other offensive public behaviour. It is just too frequent and commonplace today".

"The sex workers know their rights..."

"This is an out-of-control industry..."

Personal accounts continued...



Angela Dalton, Manager, Manurewa Business Association.

Angela has served the 200 members of Manurewa Business Association for the past 18 months.

She says several meetings have been held with the Prostitutes' Collective over the past

12 months in an attempt to overcome the daily disruption to local businesses by street sex workers.

"Our purpose has been to see what we can do alongside the Manurewa Police to help prostitutes get into different work or on to social welfare benefits. I admit I was advised by colleagues that this would not lead to any improvements and, true to that advice, we are still to make progress. The Prostitutes' Collective does its very best and everyone acts in good faith. But it appears that nobody has any control over street workers in this industry.

"We have also suggested curfews be agreed to that would restrict the hours of street workers operating, to allow local business owners to go about earning their income to pay overheads such as rent, utilities, rates and GST without disruption. These curfews have simply not worked.



"One of the daily problems is the intimidating behaviour towards shoppers and school children. The Police cannot possibly be there for every incident so we need some way to control this industry so it doesn't strike fear into others. We need to do this more than ever because the trade is growing".

"The whole climate has changed in the last two years".



Sharon Maxey, Retail store owner.

The Lace and Craft Shop had a 40-year history in the Manurewa business centre. Patrons travelled from throughout Auckland for its products. That ended on November 1, 2011 when proprietor Sharon Maxey decided to relocate her

business to avoid the impact of the street sex trade.

The shop operated 9am to 5pm daily and on Saturdays from 9am to 1pm, in Maich Rd, Manurewa.

Sharon purchased the shop in 2005. She said the evidence of the street sex trade was obvious early on but the threatening presence of prostitutes only emerged in more recent years.

"It was two years ago that I noticed numbers starting to grow. And about 18 months ago, transvestites began to appear.

"A total of 30 is the most I've counted. They used to walk to solicit outside my shop.

"Then they started to turn up by the carload. Sometimes they were accompanied by pimps and the odd dog.

"The Prostitutes' Collective does its very best and everyone acts in good faith. But it appears that nobody has any control over street workers in this industry".

Personal accounts continued...

"The whole climate has changed and become much busier."

The daily impact upon Sharon's business featured loud, aggressive and foul language.

"And every male was pounced upon."

Less regular, but two or three times a week, yelling and fighting would break out. Sharon says this was either generated by prostitutes dealing with a prospective customer or a fight over territory.

"They would also touch the cars to intimidate people.

"I made it a rule never to engage with them because that would invite trouble. Whenever I phoned the Police for assistance I would have to ask them not to come directly to me because they (the prostitutes) would know it was me complaining.

"They regard the Police as a joke. They know exactly what their rights are. I have heard them talking about what they can do to avoid Police charges."

Sharon's final decision to move her business came last October when a transvestite threatened an elderly man with a knife outside the shop.

"One of my customers kindly rescued him by opening her car door and telling him he was late for his medical appointment. While untrue, this diffused the situation for a moment and he

got away without having to hand over any money.

"It was then I realised I don't need this in my life. The appearance of weapons was the final straw.

"What really saddens me is that they had absolutely no respect for my business."

Transvestite group upsets Papatoetoe community

By James Ihaka

5:48 AM Tuesday May 15, 2012

Tweet 1 Like 9 +1

A group of Hamilton transvestites is has been accused of causing havoc in a South Auckland red-light area by breaking a long-standing deal between sex workers and the community.

The chairman of the Hunters Corner Town Centre Society in Papatoetoe, Pat Taylor, said the transvestites were breaking an agreement that police and locals had with the Prostitutes Collective which banned sex business between 6am and 9pm.



The transvestites were breaking an agreement which banned sex business between 6am and 9pm. Photo / Getty Images

This recent New Zealand Herald article showed little had changed for the better.

Papatoetoe Resident

(Name withheld)

A Hunters Corner resident – one who lives in one of over 20 homes directly exposed to the "heart" of Hunters Corner street prostitution - was disturbed by the sound of a prostitute soliciting outside his gate. He walked outside his house to tell her to keep the noise down. A male 'minder' emerged from the shadows and told him to go back inside. The resident was also reminded that the sex worker was perfectly within her rights. The local resident complied. He didn't call the Police because he decided the Police could not protect him.

The same resident regularly deals with human faeces on his front lawn and had two unclaimed wallets left on his property. He presumes these are from customers who fell victim to robbery but, for personal reasons, did not report the crimes.

Discarded wallets from the front lawn of a residential home. Some thefts go unreported because of the customers' fears of discovery.



"They regard the Police as a joke. I have heard them talking about what they can do to avoid Police charges..."

Why this bill is necessary - the legal situation

Some believe that a council already has sufficient authority to create a bylaw to regulate the location of street prostitution.

Some councils in New Zealand have already produced their own bylaws and applied a blanket ban on street soliciting in ANY public place. One has set a maximum fine **ten times** the amount of this proposed Bill.

It is clear that a bylaw that seeks to ban street prostitution completely within a district would be *ultra vires* (or outside its powers. See Report of the Prostitution Law Review Committee 2008 - section 8.7.1). The question is whether the type of bylaws proposed under this Bill could be adopted under existing legislation. We do not believe it could, for three main reasons:

1) Legal

Local authorities have the power to regulate certain activities through bylaws within their area. Bylaws are subordinate legislation and must be authorised by Parliament. Bylaws cannot be repugnant to the general law (s14 Bylaws Act 1910), unreasonable or *ultra vires* (s17 Bylaws Act).

The Prostitution Reform Act (PRA) does not give councils the power to regulate street prostitution. Such a power may not be implied either.

Councils have been specifically empowered to regulate only two areas; signage (s12 PRA) and brothels (s14 PRA) but not street prostitution.

Therefore, bylaws addressing street prostitution cannot be made under the PRA (see "Bylaws – regulating the Sex Industry", Caldwell 2004, cited in the 2008 Prostitution Law Review Committee Report).

Section 15 of the PRA states that when a territorial authority is considering an application for land use under the Resource Management Act relating to the business of prostitution it must take into account whether the business is likely to cause a nuisance, serious offence or is incompatible with the character or use of that area. This relates to brothels only and the Auckland Council Bill seeks to apply the same test to street prostitution.

The Local Government Act (LGA) empowers territorial authorities to make bylaws for:

- **Protecting the public from nuisance (s145(a));**
- **Protecting, promoting and maintaining public health and safety (s145(b));**
- **Minimising the potential for offensive behaviour in public places (s145(c)).**

Section 146 also empowers territorial authorities with specific bylaw-making powers including for the purposes of trading in public places (s146(a)(vi)).

The sections in the LGA above provide a *prima facie* basis for the enactment of bylaws to control street prostitution.



However, bylaws cannot be inconsistent with the New Zealand Bill of Rights Act (BORA) 1990 (s155(3) LGA 2002). The question of whether a limit of rights and freedoms contained in the BORA is reasonable is therefore a question for Parliament not councils.

The Auckland Council Bill limits some rights under the BORA; such as the right to freedom of expression under section 14 (clause 12 of the Bill restricts the ability to provide commercial sexual services in a specified place). It also allows Police to stop and search vehicles which would be considered *prima facie* unreasonable without empowering legislation. It is therefore up to Parliament to decide whether the limits can be demonstrably justified in a free and democratic society (s5 BORA).

Manukau City Council received advice that the Bill as drafted would be inconsistent with the BORA without parliamentary approval that the limitation on rights would be justified. The Ministry of Justice is charged with providing advice to the Attorney-General who is required to alert Parliament where a Bill appears to be inconsistent with the BORA (s7). The Ministry of Justice has considered the Auckland Council Bill and concluded that the Bill is a reasonable and justified limit on the rights and freedoms under the BORA (see report to Attorney-General dated 23 September 2010).

At best the legal situation is inconclusive and would require significant cost, delay and effort to determine.

The revised Auckland Bill allows the debate to occur at the legislature where it rightfully belongs, rather than the judiciary.

2) Enforcement

The current Bill also proposes that the Police would exercise powers of enforcement in respect of any bylaws that may be made by council. This addresses a significant issue regarding the enforcement of the bylaws. Trained Police officers are in a much better position and have greater general powers to enforce such regulations. The Auckland Bill provides the power of arrest (clause 13) and the power to stop and search vehicles (clause 14). These powers are much more appropriately exercised by the Police rather than council officers or contractors. An example of the Police effectively enforcing a council bylaw is the enforcement of liquor bans in public places.

A bylaw under the LGA cannot contain such coercive powers. A bylaw that does not have effective enforcement powers would be an ineffective and widely ignored tool.

3) Effectiveness

This Bill also proposes that any contravention of the bylaws would be addressed by the court, rather than through an infringement notice which is the realm of many bylaws.

The serving of an infringement notice was considered but dismissed as a blunt tool that is inadequate to address a complex issue. An infringement offence provides a monetary penalty (that can be challenged in court) that may provide prostitutes with a perverse incentive to keep working to pay off the fine. The Police, on the other hand, deal with low-level offences daily and are skilled at using their discretion and tools such as warnings to address situations before formal proceedings. The courts also have powers to consider a wide range of circumstances (compared to an infringement officer) and the ability to levy the appropriate penalty, if any, based on the offender's circumstances. This ability to be flexible, compassionate and holistic toward a particularly vulnerable population suggests the Police and courts are best placed to enforce the legislation rather than using council officers and infringement notices.

This Bill also has precedents. The need to better control gang patches in public places and the activities of boy racers both required legislative change before any effective bylaws could be produced.

“This ability to be flexible, compassionate and holistic toward a particularly vulnerable population suggests the Police and courts are best placed to enforce the legislation rather than using council officers and infringement notices”.

The proposed Bill - key points at a glance

What the proposed BILL CAN enable

- 1 **IT CAN** set apart the street sex trade from incompatible community activity (family homes, schools, sports facilities).
- 2 **IT CAN** apply fines, maximum of \$2,000, to both street workers and their customers. Local Boards hold the view that fair warnings to customers will be enough to encourage the industry to move to a new, recommended area.
- 3 Police powers of arrest (subject to 'good cause to suspect').
- 4 Police to stop motor vehicles suspected of street sex trade activity.



What the proposed BILL CANNOT enable

- 1 **IT CANNOT** impose a blanket ban. Street prostitution is a legal industry.
- 2 **IT CANNOT** be used unreasonably, such as seeking to exercise some moral bias.



What the BILL REQUIRES of Council itself

- 1 Specific evidence of problems related to street prostitution in an area before considering a bylaw.
- 2 Prior evaluation of all options before determining that a bylaw would be the best solution (Sections 77 and 155 of the LGA (2002)).
- 3 Signposting of banned areas.
- 4 Public notification of any bylaw (Section 157).
- 5 Mandatory review periods.
- 6 Local Boards will go further and actively help the industry to relocate.

Auckland's proud southside communities, represented left, deserve a brighter future.

Frequently asked questions

Q1. Why doesn't Auckland Council simply introduce its own bylaw?

A. This was considered in detail by the former Manukau City Council as an alternative to introducing a local bill.

See the section on page 12 titled 'Why this Bill is necessary.'

Q2. How severely would offences be prosecuted?

A. If a person in any industry were fined for trading where that specific trade is not permitted, the usual response would be a fine. This is the case with a bylaw under the Bill.

The maximum penalties proposed in the Bill are at a similar level as other lower level offences such as disorderly behaviour or public nuisance.

Typically, Police would first give fair warnings to people and any prosecutions would only result for repeat offenders.

Council would also invest in education and public information working with the Police and other social services, so that buyers and sellers in this industry were encouraged to change their trading outside of specified places.

Promoting defined areas may also assist monitoring of health and safety of prostitutes and their customers. Currently, the industry can trade in any public place at any time and this can create extra work for social services.

If anybody continued to avoid acknowledging and paying a fine for trading in a specified place, the matter may escalate legally, as with any trading regulation.

It is in nobody's interests to burden the courts with unnecessary work when effective public information could change the geographic location of the trade. Years of non-legislative methods have been tried and have failed.

The Police and courts exercise their discretion every day to take into account particular facts and circumstances when deciding whether to prosecute, or what type of sanction to impose.

Frequently asked questions continued...

Q3. Would this Bill simply send the street sex trade underground again?

A. No. The Bill only applies a restraint on where street soliciting can take place. This is no more than applies to any other industry. It will have areas where it cannot operate and will leave it free to operate everywhere else.

Currently there is no legislation that can ensure that the street sex trade maintains a reasonable distance from activities such as:

- areas frequented by children - such as schools and sports venues; and
- residential areas within which people are sleeping during the nocturnal operations of the industry.

Loud noises and unrestrained language at any time of the day or night, are typical complaints about the industry.

Q4. Are the fines to be imposed too severe?

- A.** Currently the proposed Bill recommends fines of up to \$2000 to be applied to either a seller or buyer who could be reasonably suspected of breaching the bylaw in a specified place. Points to note with this are:
- a. Once the Bill becomes law, a bylaw must then go through an entirely separate public consultation process before it is imposed. The level of fines proposed in the Bill is the maximum allowed and would be reserved for the most serious and repetitive breaches of the bylaw. There are a range of other remedies available to the Police and courts such as warnings or diversion that can be imposed to educate offenders without using penalties. The level of fine, while having some significance, is not as important.
 - b. Our discussions with Police indicate that actual prosecutions would not be frequent. First warnings would be given and in the case of "customers" a high degree of co-operation is anticipated. This means that sellers would follow buyers to the new trading areas outside of specified areas.

It was considered whether to make breaching the bylaw an infringement offence (although it should be noted that infringement offences can also be proceeded with through the courts).

The main reason that tipped the balance towards requiring a summary conviction was that court supervision of offenders was considered a positive outcome and is much more likely to take into account the offender's personal circumstances.

For instance, there is a current trend towards specialist courts (drug, family violence and youth) and these courts look to address underlying issues and use therapeutic interventions to divert offenders from the formal criminal system.

It was decided that court supervision of vulnerable sex workers was a positive thing and is more likely to result in therapeutic interventions rather than on-the-spot fines by the Police, which many in the industry argue, exacerbates street workers' dire financial situations.

Specialist courts have their own rules regarding how offenders are dealt with. Police also have the ability to seek leave of the District Court to withdraw any information before conviction, or in the case of a guilty plea before sentencing, if the defendant has completed a Police diversion programme under section 36 of the Summary Proceedings Act 1957.

Frequently asked questions continued...

Q5. *Is this just an attempt to re-criminalise street prostitution?*

A. The Bill does not re-criminalise street prostitution, anymore than liquor bans criminalise alcohol consumption. It identifies certain areas where it cannot occur. Street prostitution will remain legal but subject to restrictions on where it cannot happen.

If a person in any industry trades in an area where that specific trade is not permitted, the usual response is a prosecution involving a fine. This is the case with this Bill. If the street sex workers and customers move outside of protected specified places they can trade as normal without risking a fine.

If anybody continues to flout the bylaw without good reason, prosecution is the only response currently available to us.

However, as with every other regulatory approach, Council would support, wherever possible, an education phase where buyers and sellers in this industry would be encouraged to meet outside of specified places.

Courts and Police would also continue to exercise their discretion on whether they prosecute and how they deal with offenders, as they do with a range of other offences. Police also advise us that they would not immediately impose fines. They would assist buyers and sellers to understand that a certain area is a specified place and that street soliciting could not occur in that area.

Q6. *Would Auckland Council's local support to the industry cease if this Bill were passed?*

A. The intention is to sustain the work already in place, which attempts to reduce the negative effects of the industry. Additional effort would be made to relocate the industry outside of the specified places. This could include any work that enhances safety for the prostitutes and their customers, such as lighting, shelter and anti-litter services.

The street workers need support to work safely and the wider community needs to be safe while they work. Council would support all parties to achieve this. Interestingly the 2008 Prostitution Law Review Committee argued that it was in the interests of street workers themselves to move indoors or leave the industry altogether, although that is not the purpose of this Bill.

Q7. *Would this Bill reduce health and safety practices of street sex workers?*

A. Street work is recognised as the most dangerous and least healthy part of the industry, despite legalisation. A review in 2008 found that the benefits of the Prostitution Reform Act were not realised in the street sector.

This Bill does not directly address improved health and safety directly. The Bill's intention is to improve the health and safety of street sex workers by confining the trade to areas known to the various support services. Street workers have no reason to fear the authorities or work in unsafe areas unless they continue to operate in breach of a bylaw. Council believes that social services are best placed to provide support to street workers once this Bill were in place.

“The Bill does not re-criminalise street prostitution, any more than liquor bans criminalise alcohol consumption”.

“ The street workers need support to work safely and the wider community needs to be safe while they work”.

Frequently asked questions continued...

Q8. *Isn't it better to target the clients instead of the vulnerable prostitutes?*

A. Manukau City Council considered targeting clients only but concluded an approach that applied regulations to clients **and** street prostitutes was more appropriate.

International experience suggests that applying sanctions to clients only, is ineffective.

Some would quote the Swedish example, which is different to our local situation.

The Swedish situation is unique to that country and is a result of a fundamental belief that prostitution is a form of sexual violence towards women.

Sweden prohibits the purchase of all sex and does not confine this to street-based sex.

In New Zealand, commercial sex between adults is legal (notwithstanding regulation on some aspects of it).

The Swedish law has mixed reviews on effectiveness. The Auckland Council Bill does not distinguish between deterring prostitutes or their clients. It applies sanctions to both were a breach of this bylaw to occur.

This is much better than pre-2003 when prostitutes were prosecuted and their clients faced no sanctions. It is also more balanced than the Swedish situation which only prosecutes clients.

Customers, under this Bill, cannot be prosecuted for trying to solicit sex from a prostitute other than within specified places. In addition, blanket bans over entire communities are not permitted. Therefore, the logic that customers might force prostitutes "underground" and into less safe areas cannot apply.

There will be areas outside of specified places where the industry can operate and customers will quickly learn this. Sweden has no such flexibility.

This Bill deals with locations where the legal trade cannot happen; it is a typical bylaw that virtually all other legal trades and industries can accommodate.

The former Manukau City Council took advice from Swedish Professor, Petra Ostergren, an authority on prostitution and commercial sex law in Sweden and learned of the shortcomings of the Swedish legal position. This advice influenced what is seen by Council and local boards as a more balanced position contained in the Auckland Council Bill.

“Auckland Council took the advice from a Swedish Professor and learned of the shortcomings of the Swedish legal position...”.

“This advice influenced what is seen by Council and local boards as a more balanced position contained in the Auckland Council Bill”.

Q9. *If you have a bylaw to specify where the industry can and cannot operate, aren't you just shifting the problem around?*

A. None of our communities would be satisfied with just shifting a problem from one place to another. The bylaw would only specify where the industry CANNOT practise.

However, the necessary first step is to have authority to create a bylaw which could then enable councils to specify such areas.

From there, many more steps would follow, such as:

1. *Finding and recommending street sex trading areas where:*

- The industry's nocturnal noises don't keep people awake;
- The areas could be easily swept and cleaned daily;
- Police could efficiently patrol and discourage anti-social behaviour;
- Public toilets are for their intended use - not for sexual transactions.

2. *Encouraging buyers and sellers to change their travel patterns to these recommended trading areas.*

3. *Working closely with many partners to achieve this - Police, welfare groups and community leaders.*

4. *Completing mandatory public consultation at each step.*

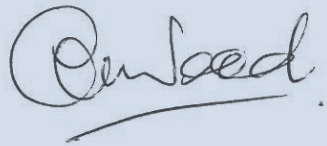
Afterwords

The southern communities described in this document represent three of Auckland Council's 21 local boards. Each area is home to more people than most of New Zealand's provincial centres.

Prostitution is an industry our southern communities accept far more readily than most would be willing to do. Tolerance and compassion have been severely strained on Auckland's "southside".

We need to relieve ordinary, law-abiding citizens from the anxiety of hiding indoors at night, from having to move their businesses and from living under constant fear that the people from the street sex trade can often evoke.

This problem has been around longer than many of the prostitutes currently plying their street trade have been alive. We owe it to everyone within our communities to create a better future for all.



George Wood, CNZM
Chair,
Community Safety Forum,
Auckland Council



I have worked for a decade now to ease the stress for people from this growing legal industry.

If we were able to create a bylaw that was enforceable we would have done so years ago.

This Parliamentary Bill is needed to enable all councils in New Zealand to draft their own regulations for this industry.

It would be the first step of a compassionate solution to a growing problem.

As you consider this document, I also ask you to consider the unassailable fact that a street sex worker could stand outside your home mailbox, on public ground, and solicit for business.

What other business enjoys such freedom?



Sir John Walker, KNZM, CBE
Councillor,
Manurewa-Papakura Ward,
Auckland Council



For more information on any aspects of this Bill, please email John.McCracken@aucklandcouncil.govt.nz or phone the Otara-Papatoetoe Local Board office ph: 09 261 8503

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