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Negotiating Consent: Setting Boundaries in the Sexual Contract

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Introduction

Sex workers construct and maintain boundaries between their sex-worker life and their private life, which provides a form of emotional protection (Abel, 2011; Brewis & Linstead, 2000; Day, 1994). Some sexual acts are

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only seen as relevant in their private lives and so, when engaging in sex in their working life, they need to ensure that the boundary between these two lives is protected. Sex workers typically adopt what Anderson (2004) has proposed as a negotiation model of consent, which requires verbal communication with a client prior to engaging in sex, to establish exactly what activities they are consenting to and what the boundaries are of the sexual transaction. In most cases, clients respect this boundary and commercial sex is completed without any non-consensual events (Comte, 2014). Sometimes, however, things do not go according to the negotiated contract. This chapter looks at how sex workers use formal and informal laws when negotiating and maintaining boundaries and how this differs between legislative environments.

Learning to Negotiate

Clients have different expectations of what they will get when they book a sex worker. Sometimes these expectations are influenced by stigmatised understandings of sex work and sex workers. Sex workers in our study talked of the burden of challenging stereotypes, such as the idea that a client cannot “rape an escort” (Sophia, UK, independent). Anna, who worked on the street in the UK, noted that some clients do not accept they are sexually assaulting sex workers, and claimed that this behaviour equates to failure to accept the conditions of consent. The inability of the client to see the sex worker as a person, or accept their full humanity, means that the breach is not registered as non-consent: “They don’t understand that, they just think—A lot of clients just see you as a piece of meat. They don’t see you as somebody’s daughter. They’ve got no respect for us” (Anna, UK, street-based).

Some clients think that they are entitled to anything they like given that they are paying for a sexual service. Chrissie and Tess were very clear that a commercial sexual encounter *required* their consent:

I think being a sex worker, men think that they don’t have to have as much respect for you or uphold your boundaries because they’re paying you, so they feel they’re in a position of power, when I don’t see it that

way. I think if anything I have more power because I need to consent to what you're doing. But I think that some men, whereas they might not do it to a non-sex-working woman, a girlfriend, a date or something, they're more likely to do it to a sex worker, because they think that we just have to take it. (Chrissie, USA, various)

Then you get some people who think, because they've paid you, they can do what they like, they can spend all day and all night: 'You've got to do this, you've got to do that'. They don't realise you haven't got to do anything, do you know what I mean? You haven't got to do anything. (Tess, UK, street-based)

Some respondents stated that, while most clients 'were okay', other clients considered the sex worker's consent was not important, that money could in some way obviate consent, or that because they were members of a stigmatised population, they were not entitled to sexual autonomy. Linda notes that "others may need to learn this", in reference to societal attitudes that sex work is work and that sex workers are capable of not consenting to certain activities:

It's all about awareness isn't it, really? You know, like people never used to wear a seatbelt until it was aware. People never knew not to smoke on buses until it was aware. It's about making things aware to people and then maybe things will change. (Linda, UK, street-based)

Criminalisation in any of its forms fosters stigmatising attitudes to sex workers. They are positioned as being less valued by society, morally corrupt, without rights and 'disposable' (Armstrong, 2019; Benoit et al., 2018; Krüsi et al., 2016). This can serve to validate clients' actions when they overstep the boundaries. Sex workers, therefore, look to reframe clients' expectations and assert their power by setting the tone of how the booking will proceed, backed up by formal laws (official legal statutes on sexual violence) and informal workplace rules or norms (norms developed through the culture within a brothel and/or learned experience as a sex worker). This can be difficult, especially if there is no one to guide them on what to expect and how to deal with clients. Some new sex workers do not even know that they can set boundaries. Few people

coming into sex work have the skills and knowledge to effectively negotiate what they want to happen in a commercial sexual transaction; nor do they know of any informal norms in the sex industry. Queen talked about the “gross” things she did when she first started sex work because she was unaware that she could set boundaries. With time and experience, she felt a ‘power shift’ in her work relationships, as she learnt how to assert herself with clients:

Like at the start, when I first did the job, I did stuff that was gross and it was only being around other women [that helped me understand I could set boundaries] ... But I did all that stuff because I didn't know you could say no ... That's why we need to be able to communicate with each other. ... At the start I probably would have been, 'What would you like me to do?'. Now it's like, 'Sit down, this is what's going to happen!' It's something that only comes with experience, but I probably gave that out and that's what I'm reluctant to say; it's like, are you giving out that you'd allow somebody to do something to you? And I guess you sort of do if a client comes in and you're going, 'What do you want me to do? Are you happy?' And now I'm like, 'Fuck off'. So, I guess the shift changes between having an air of authority about you; you've got to keep that and that's something that happens over time and experience. (Queen, UK, various)

Negotiation skills are, therefore, essential to the safety of sex workers—and, as Queen said, this is most effectively learnt through communication between sex workers. The legislative environment within which sex workers operate has a part to play in enhancing negotiating skills and thus creating a safer environment. Sex workers in this study who worked in brothels in both Nevada and Aotearoa New Zealand (ANZ) learned from others with whom they worked, as well as from managers/madams, about how to negotiate effectively, take control and so prevent unwanted incidents. This, then, cemented in clients' minds that there was an informal brothel norm that would not tolerate boundary crossing:

The information from our managers was so helpful that we all learned ways, and even off the other girls, sharing our techniques and stuff to manage that better. But, of course, there are times when they don't want

to hear it; the customer doesn't want to hear that you're not fine with something. Yeah. ... Cause obviously a lot of people that come to a place will return to a place, and they begin to expect a sort of environment. Yeah, and so we got less of those customers ... because the girls had been taught and encouraged to stand up for them being in control of the situation, and our clientele would come to know that, and we'd get less of the ones that don't agree. (Jane, ANZ, brothel)

Sex workers in the Nevada legal brothels who we interviewed spoke about undergoing some training before starting. This training was usually around effective negotiation with a client. Here, the madam sometimes assigns 'big sisters' to a new worker and often they sit in and assist the first few negotiations. The new worker learns how to clearly state what they are willing and not willing to provide as part of their service. Teaching negotiation skills within the brothel thus provides a uniformity that sets the culture (or norms) of the brothel:

I learned how to negotiate through a combination of my madam, the other working ladies here, as well as just the experience of doing it all the time. So, right, when I got here, being brand new, my madam walked me through the entire process from when a client walks into the bar, to when you negotiate, to when you go back to the bedroom, to when you walk them back out. Everything was discussed and trained. And then the madam will set you up with a big sister, which is a more experienced working lady, and then she'll shadow you for your first two weeks or so to even come into negotiation with you to show you how the seasoned girls do it. And then I've learned my own little take on the negotiation as time has gone on. I've added my own flavour to it. But they definitely give you all the resources necessary to have a good negotiation with clients. (Abigail, USA, Nevada legal brothel)

Sex workers' negotiations with clients are mediated by power relations (Shannon et al., 2008). Commercial sex transactions are safer when sex workers have greater power in their negotiations with clients (Platt et al., 2018). The brothel-based workers in our study learnt from others prior to engaging in commercial sex, which gave them a sense of

power and control in the negotiation process. In time, they adapted their negotiations to better fit their personal boundaries of consent.

Working collectively creates a supportive environment for sex workers; they have the power to refuse unwanted services and avoid violence (Brents & Hausbeck, 2005; Krüsi et al., 2012; Perkins & Lovejoy, 2007; Pyett & Warr, 1997, 1999; Sanders & Campbell, 2007) and this, in turn, works to foster their health and their human rights (Goldenberg et al., 2015). Our survey clearly showed that most sex workers in all participating countries strongly agreed that they feel safer when there are others nearby (Fig. 3.1).

An inability to communicate with other sex workers, on the other hand, increases vulnerability (Atchison et al., 2015). Sex workers in the UK and USA (excluding the legal Nevada brothels) are unable to work collectively, as, in these jurisdictions, it is legally construed as a trafficking-like situation. Sophia (UK, independent) recalled a time when there were brothels in the UK who would “teach them the game”. She felt she would be safer in this environment, but it became more difficult to get advice when the law changed, and brothels were shut down. It was

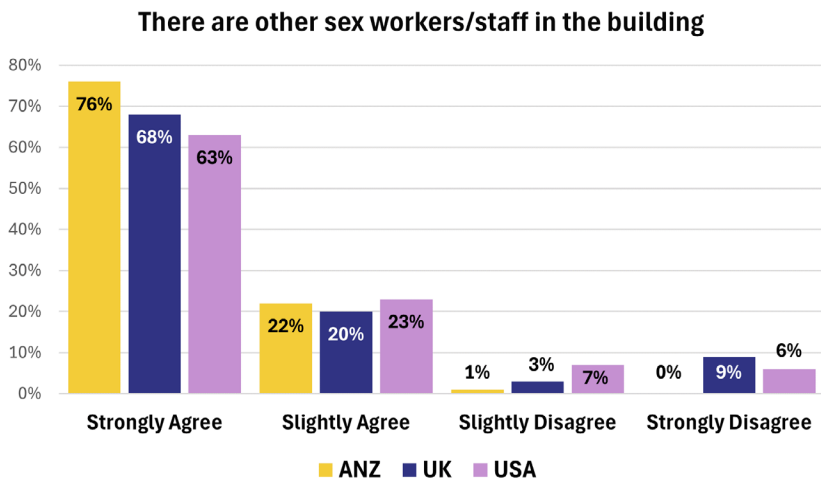


Fig. 3.1 Feeling safer if others are in the building when a client wants something that has not been consented to

also difficult to get advice from other workers without putting themselves at risk of being seen as trafficking each other:

You're learning all the time. Because my mate's done it. She's 36 and she started when she was 20, so she's got 16 years' experience on me. She has helped a lot, because you can't really help each other because then it's seen as a thing. I don't know, but, if anything happens, I'll message her and she'll say, 'This is what I do'. But it used to be that when you'd work in brothels there'd be a madam. That's how you'd start; that's how she started. There'd be a madam and she'd teach you the game, and it was all really safe, and then all the good brothels got shut down. (Sophia, UK, independent)

As Sophia acknowledged, there is a danger when sex workers do not have the ability to learn effective negotiating skills from others. Working independently means that the potential for breaches of consent is greater (Abel & Fitzgerald, 2012). This is somewhat alleviated in ANZ because sex work is decriminalised. Independent sex workers can work with others from their own home or rented premises. They, therefore, still can learn from more experienced sex workers. In addition, there is a publication called *Stepping Forward* (written and distributed by the NZPC—Aotearoa New Zealand Sex Workers' Collective), for new sex workers, which gives tips on handling clients, managing risk, and other useful information. Independent sex workers in ANZ, therefore, do have power in the negotiation process, backed up by a good knowledge of formal law (see the following section on 'setting the boundaries'). In countries like the UK, however, where sex work is only legally possible if sex workers are entirely independent, and in the USA, where it is only possible to work legally in a certain area of Nevada, there is little choice, and acquiring skills in negotiation is almost entirely a 'learning experience'. Some US independent workers said that they had no formal initiation into sex work but that they learnt on the job through "trial and error" (Cody, USA, independent). Cody had been working for five or six years before she "was introduced to the sex worker community": "Many of the women ... taught me about more formal types of screening and that there were blacklists you can join. That was astounding to me; I had no idea" (Cody, USA, independent).

Nancy (USA) and Tess (UK) both thought that they had to do whatever the client wanted when they first started working:

In my early years I was unable to tell somebody that certain things weren't okay, I wasn't able to voice myself. But in later years I basically verbally tell people upfront, 'X, Y and Z is okay, this is not'. (Nancy, USA, independent)

When I started this job if a client said, 'Do this', I'd just do it, because I thought, 'They're paying and that's what you do'. And then you just learn what you will and won't do, and you have to just do it yourself. (Tess, UK, street-based)

The issue of experience is particularly important. Many independent sex workers in the USA and UK spoke about how they had engaged in risky practices when they first started working because they thought that they did not have a choice in the matter. Unlike brothel-based sex workers, they had no knowledge of sex work or the possibility of setting boundaries, which translated into little power in their negotiations. While independent sex workers talked about eventually getting to a place where they became more confident in negotiating their boundaries, this skill only came with time. The legislative environment that prevented them from communicating with other sex workers put them in a risky position during this initial learning period. Through (often many) unconsented experiences, they identified ways to set consensual boundaries and manage clients who attempted to violate those boundaries. In doing so, they developed their own informal norms on how to work that suited them.

Setting the Boundaries

In this study, most sex workers reported that their negotiations of consent took place prior to sexual encounters commencing. These discussions were important in establishing boundaries. The discussions functioned to manage clients' expectations and establish the terms of the sexual contract—for example, outlining the services they were willing to offer

and those that they would not consider providing. The associated costs were communicated, as well as the location (if they were not working in brothels), timing, and duration, alongside safety features such as condom use and dental dams. These negotiations formed the basis of the commercial arrangement. They established exactly what sex workers were prepared to consent to and their non-consent to all other activities. However, negotiations were more easily accomplished in some venues than in others, and this was clearly linked to the legislative environment.

There were two things that were always discussed in the negotiation process: payment and condom use. Payment is crucial to sex work as it is work—sex workers rely on payment to survive. The negotiated price is the first condition of consent, as argued by Carrie: “The payment is so significant to what I’m willing to do, and you know, even just seeing you, it’s like it’s payment for my time, you know, and if you don’t get paid you wouldn’t be here” (Carrie, ANZ, independent). A USA illegal escort also indicated, in our survey’s free-text box, that they placed most importance on getting paid:

There’s a saying, ‘Chalk it up to the game’, which basically means, you win some, you lose some in this unregulated industry due to the illicit nature of it. But that is why most SWs [sex workers] prefer to get their payments upfront. I personally will walk away from a date if not paid upfront. (Survey respondent, USA)

It could be argued that if full payment for the service is not received it negates the conditions of consent, which some sex workers argued was an offence: “Sex work is, you know, a job, and not paying for that service is a crime” (Sheryl, ANZ, independent). Sex workers who work in brothels seldom have to negotiate or accept direct payment from clients; payment is taken by management prior to the service. Independent sex workers are more susceptible to underpayment as they work on their own and must do their own payment negotiations. Independent workers in Aotearoa New Zealand can be paid by direct credit into their bank accounts. The client takes a screenshot of the deposit on their smart phone and shows this to the sex worker on their arrival, as proof of payment.

Sophia worked online as a webcam model in the UK and took deposits from clients prior to providing a session. She argued that she ran the risk of losing clients this way, but reasoned that this was a lesser threat than losing out on payment. She indicated that she would not experience such difficulties, and would be better able to maintain her safety, if sex work was decriminalised:

The only way we're going to be completely safe is decrim. The way I keep myself safe now is asking for personal info and taking deposits. I've just told my mate that's what she needs to do, and she's started taking deposits. But it's hard because you feel like you're losing a lot of business, but you're only losing the business of people who would do something. So I get a lot of texts where they go, 'I'm not paying a deposit'. And it's like, 'Well, it's on my profile, and the only reason you wouldn't pay a deposit is if you're a rapist'. (Sophia, UK, independent)

Street-based sex workers are particularly vulnerable to non-payment for services, as they rely on cash from the client, often once they've completed the sexual service. When they or their clients are criminalised, they cannot take the time to negotiate for too long before getting in the car, in case they are spotted by police (Amnesty International, 2016b; Krüsi, 2014; Landsberg et al., 2017; Östergren, 2006). Clients also try to negotiate the price down, knowing that sometimes the sex worker might be desperate. A UK street-based sex worker provided the following free-text comment in our survey:

They are always trying to pay you less — I just tell them to go to someone else — I'm not doing it for that, but when you are desperate to score they will try and pay you less. And it's worse since they stopped the managed area zone because there are dodgier people about. There's been fake money going around lately. It's one or two groups of men but they try to pass it on. (Survey respondent, UK)

Respondents also explicitly defined condom use as a condition of consent to sexual services. Condoms signify the professional nature of sex work and are one of the boundary markers between private and work sex (Day, 1994). It offers a physical and psychological barrier (Sanders,

2002) between sex workers' public and personal lives and is mandatory in legal brothels. Not wearing a condom, or removing a condom, was seen as a reason to reject a client, although some interviewees did mention times when they were pressured or where other sex workers might be vulnerable to accepting for financial reasons:

Some girls are so desperate and it's sad to say and I'm not calling them, I'm not saying I'm better than them, because I'm not, but it's sad. They just need educating on the dangers of doing it without a condom, you know? (Anna, UK, street-based)

In ANZ, Sect. 9 of the Prostitution Reform Act (PRA) deals with safer sex practices and stipulates that sex workers and clients need to take all reasonable steps to ensure a prophylactic sheath or other appropriate barrier is used if services involve vaginal, anal or oral penetration (Prostitution Reform Act, 2003). If anyone contravenes Sect. 9, they may be liable, on conviction, to a fine of up to NZ\$2000. This law is a useful tool, as sex workers can draw on it in negotiating condom use with clients (Abel, 2014). There have been some arguments, however, that this section be removed from the PRA as it can be used to entrap sex workers. As argued in Chapter 2, police may also prosecute the non-use or removal of a condom by a client under this section, when the action may be better aligned with rape given that condom use is a condition of consent. Nevertheless, as Kat argues below, the existence of this section does provide physical and mental protection. It also placed her in a position of power when negotiating with clients, as she could draw on the law to reinforce condom use:

I know that some people want to remove that law, but I completely disagree with that because I think that it has, it has a place and it's important, and it gives sex workers lots of power as well. Like, you know, you can have it in the room and be like, 'Well actually, it's against the law to not use a condom', you know. ... And I think it protects us, not just physically, but I think mentally as well, knowing that that's, that's protecting you. I think that's a really big thing for pretty much everyone, you know, like, to know that they can quote that law or just use it whenever they, you know, whenever they need to, and they can get rid of a client cause

they're like, 'You don't want to use that law, then see you. Like, my health is more important than you getting off'. (Kat, ANZ, various)

Some ANZ sex workers in this study had experienced stealthing. One of them had successfully taken this to court, not under contravention of Sect. 9, but as a rape charge under the Crimes Act (see Chapter 2 discussion on *R v Campos* (R v Campos [2021] NZDC 7422)). This was possible because Sect. 17 gives sex workers the right to withdraw consent. The importance of this case clearly played an important communicative role in helping other sex workers understand that they can and should report stealthing:

And because I'd seen it and me and my girlfriend were in the motel room reading about it, and I'd read about it like two days before, and I was like, and when I jumped back, I guess, yeah, like when I jumped back, I was just like, 'Oh my God, no way'. ... Having that news and having my friend and think about all the times that I hadn't reported fellows, and how that makes me sick thinking about what they would have done, or what they have done since to me. (Erihapeti, ANZ, independent)

It seemed that some brothels in ANZ “took care to make sure that new people knew about the laws around it [sex work] and just helpful information” (Jane, ANZ, brothel). Kat indicated that management were supportive of her being able to work within the parameters of the legislation set out in Sects. 16 and 17 of the PRA and “say no to a client, and you can choose whatever service you want to do. You can change your mind halfway through a booking” (Kat, ANZ, various). Section 17 was included in the PRA to combat the assumption that payment equals consent, and it has bolstered sex workers' understanding that they can say 'no'. These ANZ sex workers perceived that the law was on their side and would, if necessary, protect their rights; and their knowledge of the law translated into power in setting the boundaries of their service.

Non-use of condoms is illegal in Nevada brothels and these sex workers, like their ANZ counterparts, drew on this formal law when it came to condom negotiation.

A lot of times, guys will try to bribe you to take off the condom. I personally cannot be bribed. I've started letting people know that in my negotiations: 'There's no amount of money you can offer me to take off the condom. It is illegal for us to remove it, and to keep pushing is not only frustrating but it's also illegal'. That is one we have to deal with a lot here. (River, USA, various)

Sex workers in these Nevada brothels, did not talk about their rights, but they knew that they had backup if clients did not stick to the agreed boundaries of the service. Jessica had a "three strikes then you're out" policy which was backed up by the informal norms of the brothel:

I go over that [setting boundaries] before anything goes on or begins, and I let them know. They usually ask before this what my do's and don'ts are, and I tell them what my don'ts are and I let them know that first I give them a warning. (Jessica, USA, various)

All clients received the same preamble. Roxanne described her negotiations as a "process" and she made sure there was no contact between her and the clients before negotiations were mutually agreed:

I take him back to my room, and the whole time he should not be trying to touch me. He should not be trying to do anything. We haven't agreed to anything yet. ... I figure out what they can pay. They figure out what my prices are for time and certain activities. I have a pricing menu. ... So that's how they know what I'm consenting to and they're also consenting to those activities. And we just have like a 10 to 15 minute conversation about it, and I make sure that I'm not sitting on their lap or anything, like I'm sitting on a chair; he's sitting on the bed usually. So I make sure that we're not feeling up on each other before things are agreed upon. (Roxanne, USA, Nevada legal brothel)

Some sex workers said they were also careful to not offer services that their workmates did not consider acceptable so that they did not raise clients' expectations that this was a service that other sex workers in the brothel would provide:

I mean certain things I just knew that I wouldn't be okay with, but I think you definitely also learn from your surroundings. So, for example, in the brothel I would see what was sort of, some things were frowned upon. Like, for example, okay, this isn't something I would have provided anyways, but men ejaculating on a woman's face. That was like something brothel workers would not like if other brothel workers were doing, because then you would all feel like, well, 'We all have to provide this'. (Chrissie, USA, various)

While it appears that brothels offer the most safety for sex workers, many in legal or decriminalised settings make the decision not to work under a system of management, for a variety of reasons—including not wanting a proportion of their earnings going to management, wanting more flexibility in when and for how long they work, and wanting to set their own prices (Abel & Ludeke, 2021a). Talia elaborated:

I like working independently because I am in control of pretty much everything to do with the business. So, I set my own hours, I set my own days, I set my own rates. I can decline a customer readily, just by the way that they're communicating over the phone with me. I get to choose what locations I work from. (Talia, ANZ, brothel)

Independent workers usually advertise online for clients and generally they stipulate the services that they offer in their adverts. This means that clients can make a choice based on who will provide the experience that they are looking for, and so avoid conflict because of unmet expectations. By offering some clarity around price and services, adverts were described by our study participants as helping to reduce space for uncertainty, manage clients' expectations, and avoid time wasters. It allowed sex workers to establish clear boundaries with regard to services they did not want to undertake. Sex workers can work independently by themselves in the UK, and those who advertised online pointed to detailed profiles that outlined services that they were willing to offer, or, as one sex worker noted, "try":

On my AdlWork [online platform] it's the longest because I have to explain everything in great detail. So, on my AdlWork profile, there

should be no questions for them to ask, and most of my clients have said, 'I have no questions after reading it'. So, there's a section on there that says escort services, and it says, 'In a 30-minute booking this is what's included', 'In an hour or more booking this is what's included' and 'In an overnight this is what's included.' (Sophia, UK, independent)

I just tell them straight up. Usually it has it on my advert, if I've got an advert up, it will tell them what I do, don't do, things I might try. And then I'll have the set list of prices as well, so then there's none of that awkwardness. (Emily, UK, various)

The online stuff, it is stated quite clearly and it's just beforehand and, you know, it's whether or not you can afford to say, 'I want you to do this'. And I'm going to say, 'No'. And he's going to say, 'Okay, I don't want the booking'. And I'll go, 'Fine, fuck off'. I'm in a very lucky position where I know there's more clients. (Queen, UK, various)

Most independent sex workers, like Paul for example, negotiated with individual clients in addition to what was mentioned in the adverts:

A lot of the information is on my online profile, and then there's obviously a little bit of about what they would like to be involved in the session and whether that's something that I want to do ... It's usually text based before meeting, either email or messages on the site or WhatsApp ... It's much easier for me to do things by text. (Paul, UK, independent)

When clients requested services that workers were not comfortable with providing or sought a lower price, a common reaction was to refuse or terminate discussions before meeting them. As Abuya shows, sex workers' ability to challenge clients is based on experience:

...if [they] deviate from this, hang up and move on to next one. Yes, my profile is very detailed, if they call me and ask me things that I don't do I just hang up, but I know that a lot of girls are under pressure to do things that I know that, the girls, they don't want to. It doesn't bother me because I'm like, 'Okay maybe just ... move on to the next one'. It doesn't bother me; it doesn't really make me scared or anything because you cannot be everybody's favourite. They're so obvious when they call you and they're not going to respect you, so why would you consider it? (Abuya, UK, independent)

In the USA, outside of legal brothels, the criminalised environment made it very difficult to provide too much information, both in online advertising and in-person negotiations, and this had implications for safety. Workers could potentially be entrapped by police and arrested for sex-work-related activities and so some thought that the less said the better. Some free-text comments in the survey spoke about this: “I don’t like to list my services. It’s incriminating” (Survey respondent, USA), and “Since it’s not legal to sell sex, I don’t allow any discussion of what I will or won’t do, but I don’t allow clients to do just whatever they want” (Survey respondent, USA). And one participant indicated that decriminalisation would make negotiations much easier and consequently safer: “Decrim would allow me to post more specific services, or talk about services, before meeting with a client. So everyone is understanding what’s going to happen and no one will be confused or angry or underpaid” (Survey respondent, USA).

Cody said that she did try providing some information online but tended to do most of the negotiation once she is face-to-face with the client:

Ultimately, I try to be, without being incriminating, open [on the website] that I do provide intimacy and a safe place for exploration. But I’d really wait until we’re face to face to negotiate specific boundaries, and I try to adhere to an informed, enthusiastic consent model. (Cody, USA, independent)

These sex workers had relatively little power in negotiations when compared to sex workers who were working legally. They learned with experience how to set clear boundaries and benchmarks around which clients were acceptable, how to manoeuvre out of difficult situations, and how to remove individuals.

Workers in the USA and UK did not discuss formal law nor did they think that they could (or would) report any breach of boundaries. For instance, Chrissie (USA, various) said “There was really nowhere to report ... You’re breaking the law with what you’re doing. You’re not going to want to go to the law for help” and Abigail (USA, Nevada legal brothel) claimed that “[outside of work] there aren’t very many

resources communicated to us ... I wouldn't really know what to do if I was sexually assaulted". These sex workers relied solely on their own informal norms developed through experience. In contrast, ANZ and Nevada brothel-based sex workers drew on the law to maintain power in their negotiations, as well as the informal policies and workplace culture within brothels, and their fellow sex workers. They went through the negotiation process that they were taught, which had the backup of the brothel management.

Maintaining the Boundaries

At times, clients directly violate the terms of consent by engaging in acts that are explicitly identified as non-consensual prior to the start of the booking. Clients sometimes engaged in acts and behaviours that were not formerly discussed or failed to explicitly give a 'warning' or make requests about engaging in certain acts during sexual services. Some sex workers, like Cody and Jessica, firmly enforced their boundaries and argued that they would warn a client and then terminate a booking if they overstepped what had been consented to:

Obviously, boundary pushers exist and boundary violations happen, as much as I don't want them to. But they also happen outside of sex work as well. It's a human experience. But if it's through writing — we're not actually in the same room together — I try to give them [boundary pushers] a written warning like, 'Hey, I'm not comfortable discussing that with you' or 'Please review my website; I've detailed that restriction. This is your one and only warning'. ... If they pursue the conversation, I cut it off, and if they've already paid a deposit I say, 'I'm happy to return your deposit to you but I'm no longer interested in moving forward with booking the reservation'. If the boundary pushing happens in person, I will say no, which is a full sentence but I will say, 'No, I don't do that'. I really resent having to say why, so I try to just leave it at that: 'We're not doing that today, let's move on'. But if they continue to press the issue, I de-escalate and end the session as quickly as possible and remove them from my space or I try to safely exit from their space. (Cody, USA, independent)

Sometimes there's not much you can do to prevent it [boundary pushing]. Sometimes they're just that type of people. That was the plan to do something like that. ... If they don't listen to what I'm saying, and then after the warning, I'm going to firmly say it again, and sternly instill it in them. (Jessica, USA, various)

There is a level of security within brothels that is not possible to achieve in other locations for sex work (Abel, 2010; Brewis & Linstead, 2000). This provides such sex workers with an advantage over independent sex workers when it comes to maintaining the boundaries set in the negotiations. Most brothels have panic buttons in the rooms that, when pressed, bring security guards or other workers and managers rushing in: "There's one [panic button] under the massage table now, and one at the door, and you just pull it" (Alice, ANZ, various). There are also people in other rooms who could hear the sex worker if they called out:

If there's a struggle going on, or something's going on, the lady next door to you is going to hear something. It's just more likely because you're working with a bunch of people, whereas when you're working independently, it's just you in a hotel room. And everybody kind of minds their business. (Jessica, USA, various)

Brothel norms help sex workers to maintain control when a client does attempt to breach the boundaries. Clients learn what they can expect in a particular brothel and this reduces breaches. In ANZ, when Chanelle had a bad experience at a strip club, she moved to a brothel where she found more supportive management, which enabled her to keep her boundaries:

We've got amazing clientele at my place that we're at. I think it's just 'cause of the level of respect that they do have to have, and 'We won't have them if they do step out of line', and it's really, really nice, actually. They're all pretty good. I've only had like a couple of dudes that tried to push my boundaries, but very light pushing of boundaries ... It's really good, and we're able to say, 'Hey, look, like we can end this booking now?', and we know that our boss will come in and be like, 'No, that's it'. So, it's really nice just to know you've got the back-up and we're also

in a quite safe place to be like, 'Hey, like, yeah, you can't do that to me'. (Chanelle, ANZ, various)

Clients in brothels may still try and push the boundaries but having firm boundaries within a safe environment, as well as knowledge of formal laws or informal norms, gave the brothel-based sex workers in our study the confidence to enforce their negotiated conditions:

It goes really well in negotiations and then I feel like the line of consent tries to be crossed more once you get back to your room or get back to your suite or wherever you're going. That's when they want to cross that line. ... and you have to just tell them, 'Hey this is not what we agreed upon. This wasn't in your price range. This wasn't anything I'm comfortable with'. (Cielo, USA, Nevada legal brothel)

I feel like I'm pretty privileged so I'm able to have firm and clear boundaries, whereas if you're working on the street or barely scraping by, your boundaries might be more fluid. Not because you want them to be, but because they have to be. (Chrissie, USA, various)

Some sex workers provide a girlfriend experience, which gives the client an illusion of a genuine reciprocal connection. Abbey said that this sometimes created the context for boundary pushing, but she was prepared to lose a client rather than give in:

They're like, 'Oh my god, you're giving me the girlfriend experience and actually making me feel like your boyfriend — let's not use condoms'. It's called experience. You don't get the full enchilada. ... 'It's not on the menu, sir' ... Especially with some long-term clients... I actually fired one because he wanted to text me all the fucking time. And I'm like 'Are you going to pay me? If this is a fetish chat, that's sexting and it's this much per minute'. ... you have to maintain boundaries: 'Just because I'm friendly, doesn't mean we're friends'. (Abbey, USA, independent)

Other sex workers use tactics like distraction or threats of ending a service to ward off boundary crossings:

I like to redirect their energies into something that I'm more interested in doing [when boundaries are pushed] and often that usually works. If it's a situation where they are truly getting stuck on something that we didn't pre-negotiate, then I'll actually be like, 'Yeah, actually that's not my jam. If that's what you're interested in then I'd be happy to transfer you to somebody else that might be a better fit for you'. And oftentimes they usually drop it because when they see my boundaries can't really be broken in that regard, usually they realise that I am actually the one in control of the situation. (Sebastian, USA, various)

Some interviewees recognised that others may be more pressured to accept conditions (both the price and/or sex acts) when they are less experienced or when their own circumstances mean the money is more important than their safety or boundaries. Interviewees talked about how compromises to expectations and boundaries were part of the job. For instance, Paul talked of times when he had let things happen but also of other times when he was confident to say no. In part, this is an assessment of the likelihood of violence (relative size of the client, the levels of physical isolation) but he also talks of the power that regular clients hold—because of their relative rarity and the security they afford (“I didn't want to disrupt the relationship because regular clients are like gold”). A lot of decisions ended up being made in situ:

It's not happened very often. It depends on the client and how comfortable I feel. It depends on the situation at the time. There has been times where I've just let it happen and then broached the subject afterwards and said, 'Look, that was not appropriate', and then there's been other times where I have felt confident enough in the moment to say something there and then. (Paul, UK, independent)

Paul argued that sometimes “we have to compromise on the job, just for the satisfaction of your customer or the client”; and, similarly, Abbey would weigh things up as to whether she felt comfortable enough to offer a service that had not been pre-arranged:

I'm not great at maintaining boundaries. ... It has happened that somebody has paid for XYZ and then in the middle decided that they want to

sprinkle in some extra shit and I just let it happen. Because I don't want to kill the mood; I don't want to lose the client potentially as a long-term client. And also depends on my comfort level because this person wants this extra thing that we never discussed. Is it a big deal to me, is it not a big deal? How much of a safety risk is it, is it not? (Abbey, USA, independent)

Similarly, a brothel-based sex worker in ANZ talked of unwanted sexual contact such as “a finger in your butt”, which she positioned as inevitable and part of the job. This could be solved by asking for more money, as it was a service that she would offer if pre-negotiated:

I couldn't tell you how many times someone's like licked or kissed or whatever, and there's, you know, an expectation that we laugh it off or whatever ... Unfortunately, that's the reality of that job, but I think I manage it pretty well now. But yeah, if someone does that, I will say, 'Okay, so that's my extra price'. ... Stuff that I offer anyway. Like, you know, like, they might just all of a sudden, like, put a finger in your butt or something, and I was, like, 'Wow, okay. Like, you could have asked. Like, I do offer it anyway'. (Kat, ANZ, various)

For some sex workers in our study, therefore, boundaries were hard, while for others they were fluid, if it fitted with what they were willing to provide.

Conclusion

This chapter raises two important issues for sex workers and their ability to effectively negotiate consensual commercial sex. Firstly, information and communication are important for effective negotiation and, therefore, key contributors to the health and safety of sex workers. Negotiation sets the boundaries of consent. Clients sometimes have unrealistic expectations of what sex workers will provide in a booking and do not always acknowledge that sexual consent for services needs to be given. Significantly, sex workers who are new to the industry are better placed to get the information they need to keep safe from peers, whether this be other

sex workers or sex worker organisations, if they are operating in decriminalised or legalised settings. This chapter highlighted that sex workers in Aotearoa New Zealand and in Nevada brothels were far better prepared to undertake negotiations with clients and communicate the boundaries of what they were and were not prepared to provide in a service. They were also better able to maintain boundaries as they had the security of having others nearby to intervene if necessary. This contrasted with sex workers who were criminalised and who had to learn by experience. They were more vulnerable to unwanted sexual contact, especially when they were new to sex work. Learning by experience means learning through bad experiences and trying to prevent these in the future by acting differently. The harms caused by these experiences may, however, prove too damaging. Criminalisation, in any of its forms, does not allow appropriate communication in order to protect new sex workers from harm.

Secondly, formal statutory law and informal rules and norms are important in informing the level of power sex workers have in their negotiations with clients. Hertogh (2009) has argued that rather than official law, unofficial law sometimes plays a more important role in people's lives. In this chapter, we looked at sex workers' knowledge and perceptions of formal law as it pertains to sex work, and also what they consider important regardless of the law; in other words, how they develop norms or a way of negotiating which works for them. It is evident that sex workers are more aware of their legal rights in a decriminalised environment. On the face of it, sex work in ANZ is seen as an occupation like any other, although still stigmatised (Abel & Ludeke, 2021b). ANZ sex workers' discourses were subtly different from their counterparts in other countries. Most of the interviewed ANZ sex workers had a good knowledge of the contents of the PRA—in particular, the sections of the Act that were relevant to their interactions with clients and brothel operators, i.e. Sections 9, 16 and 17. They used this knowledge as a tool in their negotiations with clients: the fact that they were citing the law gave them more power in the negotiation process. Knowledge of the law, however, does not necessarily translate into action to achieve justice. Although sex work has been decriminalised for over 20 years in ANZ, some sex workers are still hesitant to report violations of consent.

However, perceptions of the law and what it could do for them are slowly changing in the wake of some successful convictions for non-consensual acts committed against sex workers. People's views of the law are often shaped by the way they believe "officials understand and apply the law" (Hertogh, 2023, p. 306). Media confirmation of a successful court case in ANZ affected other sex workers' legal consciousness because they then felt that they could rely on the enforcement of the law. Certainly, some sex workers we interviewed felt more empowered in their negotiations by the news. This does not necessarily follow that they would report a non-consensual act to the authorities, but they believe that they could and, most importantly, they believe that they could get justice.

Legal brothel workers in Nevada that we interviewed understood that they were 'legal' and could report violations to the police and they also understood that condom use was mandatory in the brothels. However, other than that, they did not articulate knowledge of any other formal sex work, workplace, or sexual violence law that may protect their rights in commercial sex transactions. The law in Nevada currently does not explicitly recognise conditional consent or explicitly recognise the ability of consent to be revoked at any time. The sex workers in the Nevada brothels relied on informal norms, which stems from brothel culture, to reinforce their rights in negotiation and get justice when boundaries were crossed.

Independent sex workers in the USA and UK had very little knowledge of formal law and most—particularly USA illegal sex workers—perceived that there was nothing that the law could offer. They accepted that they could have had experiences in a commercial sex transaction and that, through these experiences, they would develop their own informal norms to prevent future boundary crossings.

In conclusion, negotiating power is vital for the health and safety of sex workers. In this chapter we identified two conditions that contributed to increased negotiating power: (1) the ability to communicate with other sex workers to gain knowledge on how to set conditions of consent; and (2) the knowledge and belief that the law, whether this was formal law or informal norms, would back them up if the conditions of consent were breached.

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