

RESPONDING TO THE SCOTTISH GOVERNMENT'S 'EQUALLY SAFE' CONSULTATION

In September 2020, the Scottish Government announced a new consultation on 'challenging men's demand for prostitution, working to reduce the harms associated with prostitution and helping women to exit'.

The consultation closes on **Thursday 10 December 2020**. You can find all the information on the consultation on the Scottish Government website [here](#).

Why this matters for sex workers?

Scot-Pep is concerned that this consultation forms part of a push from the Scottish Government to introduce the criminalisation of clients. Within the consultation there is very little focus on how to keep sex workers safe, instead focusing on 'reducing demand' for sex and on men's attitudes towards prostitution.

There have been several attempts to introduce the criminalisation of clients in Scotland. We are calling on the Scottish Government to stop their push for further criminalisation of sex work. Sex workers strongly oppose the criminalisation of clients (whether it's called the 'Nordic Model' or the 'Scottish Model') because it increases violence against sex workers and forces us to work under more precarious conditions. We want to make sure their push for criminalisation is strongly opposed through this consultation and not re-introduced in the future.

Scot-Pep will submit a detailed response to the consultation, but we would also encourage sex workers, allies and interested members of the public to submit their own responses to the consultation. We have put together this document to outline our key messages in response to the consultation questions. You are welcome to use this as the basis of your response or to guide your answers, alongside other information you would like to include.

How to respond to the consultation

There are nine questions in the consultation, but you do not have to answer them all. If you are responding as an individual, you can submit your response anonymously. You do not have to live in Scotland to respond to this consultation.

Directly through the Scottish Government's website 'Citizen Space':

You can respond to the consultation directly through Citizen Space [here](#).

Directly by email

You can email your consultation response directly to vawgconsultations@gov.scot

By post

You can post your consultation response directly to:



Violence against Women and Girls and Barnahus Justice Unit,
Scottish Government,
GWR St Andrew's House,
Regent Road,
Edinburgh,
EH1 3DG

Scot Pep has also created an online tool to help individuals respond to the consultation, which you can find on our [website](#).

To respond to Scottish Government consultations, you will be asked to include a Respondent Information Form, which you can find in the consultation document as a pdf. If you use Citizen Space, this is included in the online form. **If you are responding as an individual, none of the information on this form is mandatory. You are allowed to submit your response anonymously if you are responding as an individual.**

You will be asked if you are happy for your response to be published with your name, without your name, or not published at all. If it is not published, the content of your response will still be analysed and the information you send in will still be considered. If you **do not** complete the Respondent Information Form your response will not be published.

A GUIDE TO RESPONDING TO THE SCOTTISH GOVERNMENT'S CONSULTATION ON 'CHALLENGING MEN'S DEMAND FOR PROSTITUTION, WORKING TO REDUCE THE HARMS ASSOCIATED WITH PROSTITUTION AND HELPING WOMEN TO 'EXIT'

Question 1. Do you agree or disagree that the Scottish Government's approach to tackling prostitution, as outlined in this section, is sufficient to prevent violence against women and girls?

The Scottish Government's approach to tackling prostitution, as outlined in this section of the consultation, can be summarised as:

- *Defining prostitution as a form of violence against women, and,*
- *Criminalising various aspects of prostitution, including soliciting, kerb-crawling, and brothel-keeping.*

We **disagree** with the Scottish Government's approach to preventing violence against women in this area.

You can use these two paragraphs below as a template. However, your response will be even stronger if you add anything in addition. For example, if you are (or have been) a sex worker, how do you feel about



services which define all sex work as violence against women? What have your experiences been with such services? You don't need to have ever worked in Scotland to answer.

The Scottish Government's approach to prostitution drives violence against women. The criminalisation of brothel-keeping forces sex workers to work alone, as they risk arrest for working with a friend – with clear negative implications for their safety. The criminalisation of soliciting and kerb-crawling mean that street-based sex workers have to rush their screening processes and work in hidden, isolated places in order to evade arrest for themselves or their clients. This makes street-based sex workers very vulnerable to violence. When street sex workers face criminalisation for soliciting, their need to pay their fine and their resulting criminal record both serve to trap them in prostitution. Far from being 'sufficient' to prevent violence against women, the Scottish Government's current approach creates the conditions in which violence against women who sell sex can thrive.

The Scottish Government's definition of prostitution as a form of violence against women is not fit for purpose. Women's sector organisations have to sign up to this definition in order to access Scottish Government funding around service provision, despite the fact that sex workers often report that this attitude leads to stigmatising or inadequate service provision. It also locks out sex worker-led organisations from accessing Scottish Government funding to tackle violence against women – even though peer support and service provision informed by sex workers' own expertise is internationally-recognised best practice.

Question 2. What are your observations as to the impact of the coronavirus outbreak on women involved in prostitution in Scotland?

You can use these paragraphs as a template. However, your response will be even stronger if you add something of your own. If you are a sex worker, how have you been impacted by COVID-19? What has been difficult, and what would have made those difficulties easier?

Sex workers are informal, precarious workers, who live and work in a context of stigma and the fear of criminalisation. Many sex workers have little-to-no savings. Universal credit and the UK government's self-employment income support scheme both present specific barriers for sex workers, who may fear stigma about having to disclose sex work as a condition of accessing these forms of support – or sanctions, prosecution or the stigma of being branded a 'benefits cheat' if they access this support and return to sex work. Sex workers often fear that a disclosure of sex work to a mainstream support service or the jobcentre could put them at risk of sexual harassment, eviction, or loss of child custody. All this is compounded for migrant sex workers, who may not be eligible for any financial support from the government and who may risk their right to stay in the UK if they make a disclosure of sex work. This means that the pandemic has hit sex workers, particularly migrant sex workers, particularly hard.

Lockdown represented a huge 'reduction in demand' and the result for sex workers was disastrous, as the consultation document itself acknowledges. The consultation document notes the likely link between this drop in demand and "higher-risk practices, including increased reports of women offering unprotected sex throughout lockdown". Making sex workers more desperate, and therefore less able to turn away clients who seem dangerous, or to refuse requests for unprotected sex, is *the function* of



'targeting demand'. It is appalling that the Scottish Government can look at this outcome and consider enacting policies that aim to reduce demand.

What sex workers in Scotland need now is money and tangible support, not new criminal law targeting their means of survival. Sex worker communities themselves stepped up during lockdown to offer much-needed financial support, with sex worker organisation SWARM running its own hardship fund. This project funded more than £250,000 of public donations and distributed funds directly to 1,250 sex workers across the UK (including Scotland). Umbrella Lane, which is based in Glasgow, ran a similar hardship fund, distributing £7,200 in April and £10,050 in May. These hardship funds barely scratched the surface of the need that was out there. It is striking that it is sex worker-led groups that reacted fastest and most effectively, giving direct financial aid to sex workers regardless of immigration status and without bureaucratic barriers. The Scottish Government should fund sex worker-led projects, not further criminalise what people are doing to survive.

Question 3. Which of the policy approaches (or aspects of these) outlined in Table 3.1 do you believe is most effective in preventing violence against women and girls?

You can use these paragraphs as a template, but your response will be stronger if you add personalised content too. If you're a member of the public, you could talk about why you feel that increasing harms to sex workers cannot be a 'feminist' response to the sex industry. If you're a sex worker, talk about how the criminalisation of clients would impact your safety.

Decriminalisation is the policy approach that best prevents violence against people who sell sex, who are disproportionately women. Decriminalisation in a Scottish legal context would mean the removal of laws targeting soliciting, kerb-crawling and brothel-keeping, as well as changes in housing law to ensure that no one can be evicted on the basis of sex work, and a moratorium on immigration enforcement targeting migrant sex workers. Laws targeting harm such as violence or abuse would remain. Decriminalisation is supported by international bodies such as the World Health Organization and UNAIDS as well as by NGOs such as Amnesty International, Human Rights Watch and the Global Alliance Against Traffic in Women. Fear of arrest drives violence against sex workers as perpetrators know that these workers are likely to be working in isolated ways and unlikely to feel able to report them. Decriminalisation is therefore a crucial piece of the puzzle in challenging violence against people who sell sex, and it needs to come with well-funded health and support services for sex workers, and measures to reduce poverty for everybody in Scotland – particularly women, LGBTQ people, and migrants.

The criminalisation of clients, like the criminalisation of sex work as a whole, has been shown all over the world to increase the harms that sex workers experience. When clients are criminalised (a legal model often referred to as the Nordic model), sex workers have to rush or skip screening processes, including allowing jumpy clients to be entirely anonymous. Sex workers have to meet with clients in a place where the client feels safely hidden from police, with obvious negative implications for sex workers' safety. Research in Ireland, which introduced the Nordic model in 2016, found that since the change in the law, reports of violence against sex workers have jumped by 92% (Ugly Mugs.ie, 2019). France introduced the Nordic model in 2016 and health NGO Medecins du Monde found that, as a result of the law, "the vast majority of those interviewed reported that they had far less control over their working conditions" and that "the law [criminalising clients] has had a detrimental effect on sex workers safety, health, and overall living conditions". (Médecins du Monde, 2018). Far from 'reducing harm', the criminalisation of clients increases harms such as violence, poverty and HIV transmission.



Criminalisation of clients has been wholly rejected by sex workers and sex workers' rights groups around the world. When the law was introduced in Northern Ireland, it was opposed by 98% of sex workers (as reported in the Guardian, October 2014), and sex workers in Scotland have responded to previous consultations in opposition of the Nordic model. The government should not push forward with a legal model that is strongly opposed by the people it purports to help, but instead work with sex workers to bring about changes that fulfill and protect their human rights.

Question 4. What measures would help to shift the attitudes of men relating to the purchase of sex? Do you have any examples of good practice either in a domestic or an international context?

We have rejected the Scottish Government's focus on 'men's attitudes' here and have tried to draw attention to sex workers' material conditions. Do you have additional suggestions for how the Scottish Government could improve sex workers' material conditions? If so, please add them to the template response below.

Sex workers in Scotland care deeply about challenging men's violence. The claim that the purchase of sex is inherently violent enables governments to refuse to see *which* legal contexts produce more or less violence against sex workers, and to refuse to derive policy lessons from that. We/I would prefer to see greater focus from the Scottish Government on improving sex workers' material conditions, instead of focusing on 'shifting men's attitudes relating to the purchase of sex' - this is a harmful distraction from the real issues affecting sex workers in Scotland.

The criminalisation of sex workers themselves, of their clients, and of their workplaces, shapes people's attitudes towards sex workers, and produces and enables violence against sex workers (as discussed in detail in question three). Street-based sex workers in Scotland fear arrest for soliciting. Indoor sex workers in Scotland are forced to work alone because they risk arrest for brothel-keeping if they work with a friend. The knowledge that sex workers must work alone or risk being arrested for brothel-keeping is a gift to violent clients.

Question 5. Taking into account the above, how can the education system help to raise awareness and promote positive attitudes and behaviours amongst young people in relation to consent and healthy relationships?

You can use these two paragraphs as a template, but your response will be stronger if you add something of your own.

Homophobic and transphobic bullying are still sadly rife in schools, as is sexual harassment, 'revenge porn' and misinformation about sexual health. We believe that much more must be done to challenge anti-LGBTQ attitudes, empower girls and young women, and embed good consent practices in young peoples' lives.

Stigma around sex work has a profound impact on both people who sell sex and their families, including their children. Any attempt by the Scottish Government to promote consent and healthy relationships through the education system must take great care to not contribute to stigma against people who sell sex. We urge the Scottish Government to remember that the children of sex workers will be in classrooms where the sex education curriculum is being taught.

Question 6. How can the different needs of women involved in prostitution (in terms of their health and wellbeing) be better recognised in the provision of mainstream support?



You can use these two paragraphs as your response, but it will be stronger if you add something of your own. What different needs might sex workers have, and how can support services best respond to them? Are there any good or bad examples of support services that are local to you?

The context in which women in prostitution are best able to access healthcare is decriminalisation. Criminalisation endangers the health of people who sell sex by constraining the measures they might want to take at work to stay safe – for example, Police Scotland used condoms and lubricant as evidence of sex work when they raided saunas in Edinburgh in 2013, with the result that sex workers felt pushed to choose between protecting their health and hiding from police raids. Criminalisation also drives people who sell sex away from healthcare and support by making sex workers fearful of approaching services, especially when those services work closely with the police. The World Health Organization has repeatedly called for the decriminalisation of sex work as a vital measure to protect sex workers' health, and this link between sex workers access to healthcare and support services and the need for decriminalisation has been detailed in the British Medical Journal and the Lancet. The criminalisation of clients obstructs sex workers' access to healthcare and support services – research by HIV Ireland on the criminalisation of clients in the republic found that “following the introduction of the new laws, sex workers now perceive themselves to be more vulnerable to health risks and to have limited access to health supports and interventions” (HIV Ireland, 2020).

The different needs of sex workers can best be recognised through service provision that respects sex workers' own self-determination about what that person needs. This has to entail not only emotional support where needed, but also, crucially, material support – for example, many of the most precarious sex workers will need access to stable, secure housing where they are safe from the threat of eviction. Sex workers who use drugs may need to access the drugs they use on prescription, rather than paying street prices for drugs of varying strength and quality. Peer-led support has been shown all over the world to increase sex workers' access to services and the Scottish Government should fund sex worker-led harm reduction services such as Umbrella Lane. Services should investigate the 'sex worker community hardship fund model' and consider making easy-to-access grants of money directly to sex workers facing crisis or hardship.

Question 7. In your opinion, drawing on any international or domestic examples, what programmes or initiatives best supports women to safely exit prostitution?

You can use these two paragraphs below as they are, but your response will be stronger if you add something of your own. Are there any initiatives local to you that you think are particularly good or bad? If you are a sex worker, what would help you exit, if that's what you wanted to do? If you are a former sex worker, what helped you exit – and what didn't help?

'Exiting' sex work is a complex process. It requires services to take a holistic approach and to prioritise gaining trust, listening and relationship-building with the person they are working with. This has to mean a focus on the goals that the person identifies for themselves, not on goals pre-determined by the service. This might mean helping someone while they stay in sex work – for example with healthcare, or to regularise their immigration status, or with a housing problem. It might mean helping them while they reduce or change the way they do sex work. This support has to come without the service pushing 'exit' onto the person they are working with. It also requires engaging with the reality that it is, to a large extent, economic factors which keep people in sex work, and unless the support service can help make a concrete plan for how to replace the income that someone was gaining from sex work, any move to exit is likely to be unsuccessful.

The criminalisation of clients does not help people 'exit'. Making people poorer and making their lives more dangerous is not a good way to help anyone to take a step which requires safety and trust. Well-



funded, non-judgmental, peer-led services are what help people to exit (if that's what they want), and the criminalisation of clients not only doesn't provide that, it actively impedes the existence of those services by intensifying stigma against sex workers which blocks people from accessing support. Evidence from France, Sweden and Canada has shown that client criminalisation increases stigma against sex workers when they access service provision (as one Swedish social worker told researcher Jay Levy in 2014, "if they make so much money, perhaps they could buy their own condoms"). In Canada, large budgets were allocated to 'exit' programmes, but sex workers found them hard to access as it was often a requirement that they stop working altogether from the point of accessing the service. There are also numerous examples of stigmatising comments made by social workers, police and others in relation to sex workers accessing state services. Researchers in France found that racism coupled with anti-sex work stigma was causing social workers to block Black women from the exit scheme, and that applications from Nigerian women were being systematically blocked.

Question 8. Support services are primarily focussed within four of Scotland's main cities – Aberdeen, Dundee, Edinburgh and Glasgow – how can the needs of women throughout Scotland who are engaged in prostitution be met, noting that prostitution is not solely an urban issue?

You can use these two paragraphs below as a template. However, your response will be even stronger if you add anything in addition.

In order to meet the needs of women who sell sex in Scotland, the Scottish Government should prioritise funding peer-led support services that accept sex work as work. A greater level of funding should be allocated to women's services in general, with expertise on sex work being provided by sex worker-led organisations with the skills to provide non-stigmatising support and advice. This should be prioritised across Scotland with advice from sex worker-led organisations, such as Scot Pep and Umbrella Lane, and National Ugly Mugs.

At a policy level, the Scottish Government needs to take prostitution and other forms of sex work out of the definition of violence against women in *Equally Safe*. This inclusion creates stigma for sex workers accessing services, and erases sex workers' own experiences with selling sex. By defining all sex work as violence, this policy flattens all experiences with selling sex - including experiences of violence and exploitation - into one definition. If all sex work is defined as violence, it becomes difficult, if not impossible, for sex workers to seek support when they experience specific instances of violence at work.

Question 9. If there are any further comments you would like to make, which have not been addressed in the questions above, please use the space below to provide

If you have anything else you want to say about the themes raised in the consultation, please add this here.

If you have any questions about Scot Pep's response to this consultation, please contact us at voice@scot-pep.org.uk.