

Scot-Pep submission to ‘Equally Safe: A consultation on challenging men's demand for prostitution, working to reduce the harms associated with prostitution and helping women to exit’.

Introduction

Scot-Pep is a national sex worker-led charity, established in 1989. We advocate for the safety, rights and health of everyone who sells sex in Scotland, and we take a human rights-based approach to sex work.

We welcome the opportunity to engage with decision-makers about sex workers’ safety, but we are concerned about both the timing and the framing of this consultation. Many of the questions are leading, and the central premise favours the further criminalisation of sex work over a genuine consultative exercise which includes prioritising the voices of people who sell sex. We have been frustrated to see this consultation framed as anything other than a push for client criminalisation in Scotland, despite the Scottish Government’s insistence that it “does not commit to any particular course of action”. The Cross-Party Group on Commercial Sexual Exploitation is vocally advocating for the introduction of client criminalisation through this consultation¹, and the Cabinet Member who introduced the consultation to the Scottish Parliament has made it clear she supports client criminalisation as a model for Scotland.

Sex workers have found this consultation extremely challenging to respond to, and the challenges in getting sex workers to engage have also been partially acknowledged by the Scottish Government. In light of this difficulty Scot-Pep provided tools to support people who sell sex in particular to respond within the timeframe of the consultation. More than 1,000 responses have been submitted through our online action, which we see as clear evidence that people were struggling to respond without this guidance. We hope these difficulties and the challenging political context around sex work and criminalisation will be reflected in the consultation report when it’s published next year.

Throughout this consultation response, we refer to ‘sex workers’ and ‘people who sell sex, and we use these terms in recognition of the fact that not everybody who sells sex identifies as a ‘sex worker’. We do not use stigmatising terms such as ‘prostitute’ or ‘prostituted women’. We refer to ‘prostitution’ in reference to Scottish Government documents and approaches, such as Equally Safe.

¹ Cross-Party Group on Commercial Sexual Exploitation, 2020, [Contribute to Scottish Government consultation](#)

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?

We disagree with the Scottish Government’s current approach to prostitution, as it drives violence against women.

While we agree that gender-based violence is a consequence of gender inequality, we do not agree with the decision to define prostitution as ‘commercial sexual exploitation’ and, as such, a form of gender-based violence. Defining all sex work as sexual exploitation makes invisible specific instances of violence that sex workers experience, and allows organisations and state bodies to ignore or neglect interventions that specifically reduce violence against sex workers. The conflation of sex work and sexual exploitation creates a policy environment where organisations advocate for laws that demonstrably increase violence against sex workers, in pursuit of a broader goal of ‘ending exploitation’.

In its proposed approach to sex work in Scotland², the Encompass Network claims that sex work “cannot be made free of harm and risk”. The Scottish Government’s 2017 review of the impact of criminalisation³ categorises increased violence under the Swedish legal model as one of the “ongoing dangers associated with prostitution” rather than a result of the change in law. It goes on to say that sex workers’ feeling of increased danger is both “based on perception rather than evidence” and an example of the “dangers inherent in prostitution”. We find these claims both illogical and dismissive of the violence that sex workers face. We do not accept dismissing a *rise in violence* under new laws as ‘inherent’ to the sex trade. We support a policy approach that seeks to reduce violence against women who sell sex. Removing criminal penalties associated with sex work will not eliminate violence against sex workers in its own right, but it is the approach which goes the furthest towards reducing these harms.

Scotland’s approach to tackling violence against women references the UN definition which directly links this violence to gender inequality⁴. We agree with the UN definition of violence against women, and we agree with that violence against women is directly linked with gender inequality. However, the UN definition of violence against women does not include all sex work as a form of sexual exploitation or other gender-based violence. Several UN agencies take as a starting point that sex work should be decriminalised in order to protect sex workers’ safety and rights, including the Joint United Nations Programme on HIV/AIDS (UNAIDS)⁵, UNFPA, UNDP and the WHO⁶.

² The Encompass Network, 2018, [Preventing and eradicating prostitution: a proposed approach for Scotland](#)

³ Scottish Centre for Crime and Justice Research, 2017, [Evidence assessment of the impacts of the criminalisation of the purchase of sex: a review](#)

⁴ United Nations General Assembly resolution 48/104, 1993, [Declaration on the Elimination of Violence against Women](#)

⁵ UNAIDS, 2012, [Guidance Note on HIV and Sex Work](#)

⁶ WHO; UNFPA; UNAIDS; NSWP; World Bank; UNDP, 2013, [Implementing comprehensive HIV/STI programmes with sex workers: practical approaches from collaborative interventions](#)

The legal context around sex work in Scotland causes a number of problems for sex workers and is inconsistent with reducing violence against women who sell sex. Further, the ongoing criminalisation of women who sell sex through laws against soliciting and loitering for the purposes of prostitution, and laws against brothel-keeping, is at odds with the Government's own definition of sex work as a form of violence against women. Soliciting laws force women who sell sex outdoors to work in more isolated areas to avoid police. The fines given to women who sell sex outdoors force women to work more, and longer hours to pay them off. Laws against brothel-keeping force women to choose between working alone, with the clear increased risk to safety that this brings, or being arrested for selling sex.

Criminalisation also creates a significant barrier to sex workers accessing state services or mainstream NGO/state-funded services, due to stigma and the very real risk of being reported to landlords, social services and immigration services. Current immigration policy and approaches to tackling trafficking create a hostile environment where migrant sex workers and people who have been trafficked can be deported for engaging in sex work. Migrants are more likely to face destitution in Scotland and may turn to sex work as they have little to no recourse to public funds.

People who sell sex in Scotland, who note these problems and disagree with the definition of commercial sexual exploitation, are excluded from the decision-making process on these laws and policies. As the people who are materially impacted by the criminalisation of sex work, this is unacceptable. Further to this, organisations who do not agree with the definition are not able to access funding from the Scottish Government. This means that the Government cannot/will not fund peer-led services for sex workers, despite evidence that these are extremely effective.

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

The COVID-19 pandemic has had a profound impact on sex workers in Scotland, who faced a sharp and sudden drop in income. The consultation paper acknowledges that this drop in income led to women who sell sex “resorting to higher-risk practices, including... offering unprotected sex throughout lockdown”, and that this “could be caused by the general reduction in demand”.

The causal relationship between a sharp reduction in income and increased harm to people who sell sex is exactly why we do not support an ‘end demand’ approach to sex work. These laws magnify existing inequalities and oppressions, harming people who sell sex whether they are doing this through choice, circumstance or coercion.

During the pandemic, UNAIDS noted that, globally, “[t]he criminalization of various aspects of sex work in the majority of countries serves to magnify the already precarious situation of sex workers in the informal economy”⁷. There have been stark differences between how different countries have handled the emerging needs of sex workers during the pandemic that provide useful insight.

⁷ UNAIDS, 2020, [Sex workers must not be left behind in the response to COVID-19](#)

In Norway, sex workers were instructed to stop working without being provided any financial support in its place. Police used advertising platforms to contact sex workers and tell them their work was now prohibited, threatening them with deportation if they did not (or were not able to) comply with these new rules⁸. Pro Sentret reported “great desperation and despair among service users”, and increased reports of violence from the sex workers they work with.

In New Zealand Aotearoa, where sex work is recognised as a form of work, sex workers were able to access government support available to workers in other industries. The New Zealand Prostitutes Collective advised the government on sex workers’ needs, and were able to work closely with sex workers on returning to work in line with other close contact occupations⁹.

In Britain, sex worker-led groups fundraised for and administered peer-led hardship funds for sex workers during the pandemic. The Sex Worker Advocacy and Resistance Movement (SWARM) distributed more than £250,000 to sex workers¹⁰, and Umbrella Lane distributed £7,200 in April and £10,050 in May.

These fundraising efforts were extremely effective, and able to reach sex workers much more effectively than mainstream women’s services have been able to during the pandemic. The groups were able to help at least 1,400 sex workers across the UK with some of their immediate financial needs. However, the need is still greater than these two funds were able to cover, and this need is ongoing. SWARM re-opened its hardship fund in November.

In May, the Scottish Government allocated £60,000 for women’s organisations to strengthen their staff capacity around service provision for sex workers, and to allow individual sex workers to ‘access support and trauma counselling’¹¹. We remain concerned about how this was administered and managed. The money has been distributed slowly, with the deadline for applications extended multiple times. The money has still not been fully spent almost seven months after the fund was announced, despite a high level of need.

A number of sex workers within the Scot-Pep network tried to access support through the scheme and found the process extremely difficult. There did not appear to be a standardised way to access support, with sex workers in different regions being asked different questions about their needs and given differing information on how the funds would be distributed. Sex workers reported to us they didn’t feel the administrators understood the scale of the financial pressures they were facing.

Several sex workers within our network were told by representatives of the fund that financial support for rent arrears would have to be given directly to their landlords. This is not an acceptable method given that this risks ‘outing’ them as sex workers to their landlords, potentially producing either eviction

⁸ Pro Sentret, 2020, [The exclusion of persons who sell sexual services in the handling of the COVID-19 pandemic](#)

⁹ NZPC, 2020, [COVID-19 Information](#)

¹⁰ SWARM, 2020, [How We Ran A Mutual Aid Fund](#)

¹¹ Scottish Government, 2020, [Support for women involved in prostitution](#)

or sexual harassment. Scot-Pep contacted the Encompass Network in August to raise these concerns and it was confirmed that grants can be paid directly to women who need them, and not paid to landlords directly. We remain concerned about the administration of the fund in light of this confusion.

One of the sex workers who was told this spent 4 months negotiating with the grant administrator, and was eventually referred to Victim Support to receive money to cover her rent arrears. She was later told she would receive a reduced amount towards her rent, as the grant was running out of money.

The consultation paper reports that during the pandemic “women perceived that their only option was to support themselves and their families through selling or exchanging sex, which poses/posed a public health risk but also put vulnerable women at a risk of harm”. The reality is that many sex workers did have no option but to support themselves and their families through selling sex. Women who sell sex tried to access mainstream support through this fund, and were not able to. The current Government approach to sex work means that sex workers cannot trust these services to engage with them respectfully, without stigma, and without legal consequences. People very often do not feel able to disclose that they sell sex to government or other mainstream services because sex work is currently criminalised, and because of the risk, or perceived risk, that these services will disclose their sex work without their consent.

People who sell sex fear this being disclosed to their landlords without their consent, as this puts them at risk of eviction, and sex workers who have children fear being reported to social services. Sex workers also fear being ‘outed’ to their friends, family, neighbours, and colleagues at other jobs.

Many migrants have no recourse to public funds¹², and people in the process of claiming asylum are afforded so little to live on¹³ that many face destitution. Forcing migrants to live in poverty drives sex work. Engaging in sex work can be grounds for deportation. There is no firewall between mainstream support services and immigration enforcement services. This is a cruelty built into our immigration system.

Many sex workers were unable to access mainstream hardship grants for freelance workers, as they were unable to prove their annual income as part of the informal/criminalised economy. Universal Credit is notoriously difficult to access, including forcing people to wait long periods of time to receive money, with sex workers facing stigma against them during the application process. These factors mean that many people had no choice but to continue to sell sex in order to survive.

We would strongly advise that the £100,000 allocated for the Addressing Prostitution as a Form of Gender-based Violence’ fund¹⁴, announced in March 2020, be re-allocated so as to reach sex workers directly. In light of the clear and immediate financial need that sex workers still have, and the position advocated by many services that sex workers should stop working if they can during the pandemic, we

¹² Immigration Act 1971, Section 3

¹³ [UK Government Asylum Support](#)

¹⁴ Scottish Government, 2020, [Supporting women involved in prostitution](#)

would suggest this could be given directly to women who sell sex through a peer-led service such as Umbrella Lane.

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?

We support the decriminalisation of sex work as the policy approach most effective in preventing and reducing violence against women who sell sex.

Scotland's laws

The removal of criminal penalties against women who sell sex should be an immediate priority for the Scottish Government. Criminalisation increases harm against people who sell sex by forcing them to work in isolated areas, and alone, in order to avoid being arrested. Continuing to criminalise women who sell sex under loitering and soliciting laws, and brothel-keeping laws, is at odds with the position that prostitution is a form of violence against women. Sex workers who are arrested are given fines, which means they will need to work more to pay it off, which is at odds with the Government aim of helping women who sell sex to 'exit'. Forcing women to work alone or face arrest increases the likelihood that sex workers will face violence including sexual assault and rape.

Laws against soliciting and loitering for the purposes of purchasing sex have a similar impact on women who sell sex to those criminalising them directly. Laws criminalising clients mean clients are nervous and trying to avoid arrest, and sex workers have to accommodate this by working in isolated places, and taking less time to 'assess' the clients in terms of safety. It has been shown over decades of research that while sex workers still need to make an income, they will continue to work under precarious and potentially dangerous conditions¹⁵. The Scottish Government's Expert Group on Prostitution warned against kerb-crawling legislation in 2004, citing concerns about the effect that displacement would have on sex workers' safety¹⁶. When 'kerb-crawling' laws were introduced in 2007, Scot-Pep recorded a 50% rise in violent attacks against street-based sex workers in the first six months of the law¹⁷. Sex workers still need to make an income, and as such take on the burden of risk on behalf of the buyer. We strongly advocate for the immediate removal of these laws in order to support the safety of people who sell sex outdoors.

Raids on sex workers workplaces are harmful to sex workers, and we are concerned to see these have continued throughout the COVID-19 pandemic. In 2013 there were a series of raids on workplaces in Edinburgh, which entailed police searching women while the women were only in their underwear. Women described this as 'traumatic' and a 'violation'. The police took women's phones and money, and it was never returned. The police used condoms and lubricant as evidence, which creates pressure on sex workers to substantially reduce the quantity of condoms and lubricant they have with them at work. For this reason, the use of condoms as evidence is contrary to World Health

¹⁵ For example, Hester et al., 2004, [Tackling Street Prostitution: Towards an holistic approach](#)

¹⁶ The Expert Group on Prostitution in Scotland, 2004, [Being Outside: Constructing a Response to Street Prostitution](#).

¹⁷ Scot-Pep, 2013, [Summary of proposed legislative changes](#)

Organization guidance¹⁸. The sudden closure of the raided workplaces meant that the women who had been working there were pushed into working in unfamiliar ways – potentially struggling to screen clients themselves while working alone in a flat, or switching to working on the street. In 2015, the NHS Lothian Women’s Clinic¹⁹ noted that sex workers were less able to negotiate condom use following the crackdown on workplaces, and that although there was no evidence that the number of sex workers in the city had gone down, the number of sex workers attending clinic services decreased for the first time in eight years. The NHS Women’s Clinic reported that “the problem of unprotected intercourse may have been precipitated by fear of being found by the police to be in possession of condoms”. The law in Scotland (and across the UK) defines a brothel as any space which more than one sex worker works from, which means that two sex workers sharing a flat for safety are at risk of arrest for brothel-keeping, even when neither is profiting from or controlling the work of the other. Sex workers are routinely arrested and sometimes prosecuted for this offence in Scotland, and the fear of such arrests and prosecutions pushes women to work alone. This has obvious negative implications for their safety.

Decriminalisation

The decriminalisation of sex work is the legal model which best protects and fulfils sex workers’ rights and safety. It is supported by hundreds of sex worker-led groups worldwide, and a significant number of international organisations, including the Joint United Nations Programme on HIV/AIDS (UNAIDS)²⁰, UNFPA, WHO and the World Bank²¹, Human Rights Watch²², the Global Commission on HIV and the Law²³, Open Society Foundations²⁴, Amnesty International²⁵, Platform for International Cooperation on Undocumented Migrants (PICUM)²⁶, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)²⁷, the Global Network of People Living with HIV²⁸, the International Women’s Health Coalition²⁹, the Association for Women in Development³⁰, the Global Alliance Against Traffic in Women (GAATW)³¹, The Lancet³², and the Royal College of Nursing³³.

¹⁸ WHO; UNFPA; UNAIDS; NSWP; World Bank; UNDP, 2013, [Implementing comprehensive HIV/STI programmes with sex workers: practical approaches from collaborative interventions](#), Chapter 4

¹⁹ Report to City of Edinburgh Council Health, Social Care and Housing Committee, 2015, Sex Work in Edinburgh – A Harm Reduction Framework – Year One Progress Report

²⁰ UNAIDS, 2012, [Guidance Note on HIV and Sex Work](#)

²¹ WHO; UNFPA; UNAIDS; NSWP; World Bank; UNDP, 2013, [Implementing comprehensive HIV/STI programmes with sex workers: practical approaches from collaborative interventions](#)

²² Human Rights Watch, 2019, [Why Sex Work Should Be Decriminalized](#)

²³ Global Commission on HIV and the Law, 2012, [Rights, Risks and Health](#)

²⁴ Open Society Foundations, 2015, [Ten Reasons to Decriminalize Sex Work](#)

²⁵ Amnesty International, 2016, [Policy On State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers](#)

²⁶ PICUM, 2019, [Safeguarding the Human Rights and Dignity of Undocumented Migrant Sex Workers](#)

²⁷ ILGA, 2019, [LGBTI organisations from across the world call for decriminalisation of sex work](#)

²⁸ GNP+, 2015, [GNP+ supports the decriminalisation of consensual adult sex work](#)

²⁹ IWHC, 2015, [Women’s Rights Organizations Call on Congress to Protect Sex Workers’ Rights in Fight to End Trafficking of Persons](#)

³⁰ AWID, 2014, [AWID Calls for the Voices of Sex Workers to be Heard by the European Parliament](#)

³¹ GAATW, 2013, [Written statement to the Human Rights Council 23rd session of the United Nations](#)

³² The Lancet, 2014, [HIV and sex workers](#)

³³ RCN, 2019, [Decriminalisation of prostitution](#)

Sex work in New Zealand Aotearoa was decriminalised for residents and citizens through the Prostitution Reform Act (2003)³⁴. The Act decriminalised living on the earnings of prostitution, soliciting, procuring, and brothel-keeping, and allows sex workers to work with the protection of laws on occupational health and safety.

Decriminalisation has led to improved relationships between sex workers and police, with sex workers more likely to try to access police support³⁵. Street-based sex workers feel more able to report violence against them, as police no longer having the power to arrest them under soliciting laws when they come forward³⁶. Decriminalisation also led to sex workers having greater awareness of their legal, health and safety and employment rights, which has led to sex workers feeling safer at work³⁷.

Removing criminal penalties for sex work is the first step to supporting better workplace protections for sex workers. In criminalised workplaces, workers have no access to employment rights of any kind. This means that workers can, for example, be fired for being LGBTQ, or be made to work overly long shifts. Where sex workers' workplaces are decriminalised, their managers can be subject to employment law. This means sex workers gain access to employment protections such as paid annual leave, guaranteed pay for all hours worked, the right to take maternity or sick leave without the risk of termination, protection against workplace harassment and the right to organise through a trade union. In New Zealand, workplaces are decriminalised, which means those who manage sex workers are subject to employment law. In 2014 in New Zealand, a sex worker in a brothel took her manager to a tribunal for workplace sexual harassment, and won. The tribunal judgement reads "Sex workers are as much entitled to protection from sexual harassment as those working in other occupations ... Sex workers have the same human rights as other workers"³⁸. Such an outcome would be impossible in a context where the workplace was criminalised.

While the New Zealand model cannot be exported directly onto Scotland, the practice of removing criminal penalties would have direct benefits for sex workers. The New Zealand model has not extended the benefits of decriminalisation to migrant sex workers, who face deportation for engaging in sex work. We would advocate for decriminalisation to be extended to migrant sex workers so that they can be protected under the law.

Impact of the criminalisation of clients

The criminalisation of clients, referred to as 'prohibitionism' in table 3.1 of the consultation, has been shown to create a great deal of harm for people who sell sex in the countries that have adopted this

³⁴ New Zealand Government, 2003, "[Prostitution Reform Act 2003](#)"

³⁵ Armstrong, 2016, [From Law Enforcement to Protection? Interactions between Sex Workers and Police in a Decriminalized Street-Based Sex Industry](#)

³⁶ Armstrong, 2016, [From Law Enforcement to Protection? Interactions between Sex Workers and Police in a Decriminalized Street-Based Sex Industry](#)

³⁷ Abel et al., 2007, [The Impact of the Prostitution Reform Act on the Health and Safety Practices of Sex Workers](#)

³⁸ Max Harris, 2014, '[Sex Workers Equally Protected from Sexual Harassment as Other Workers – Says New Zealand Case](#)'

model. In Sweden, people who sell sex technically do not face any legal penalties for selling sex, but in reality they face a range of punitive measures from State authorities.

We know from sex workers in Sweden that one of the biggest consequences of the 1999 law is increased stigma³⁹. Stigma is an integral, intentional component of the Swedish model of criminalisation. Swedish authorities say this increased stigma “must be viewed as positive from the perspective that the purpose of the law is indeed to combat prostitution.”⁴⁰ This increased stigma is a form of structural violence against people who sell sex in Sweden⁴¹.

Sex workers are denied agency in their own lives as a result of these laws. The violence of this was perhaps most clearly demonstrated in the case of Eva Maree. Eva Maree was a Swedish woman who sold sex for two weeks to make money after leaving an abusive relationship, and as a consequence had her children forcibly removed from her care by social services. The children were placed with Eva’s abusive former partner, and she was forced to spend years trying to engage with social services to be able to see her children again. She was repeatedly told by social services that she was “romanticising prostitution” by refusing to accept her sex work as a form of self-harm. When she was finally allowed to visit her children, it was only allowed in a joint visitation with her former partner. He stabbed her to death during this visit in 2013.

Similarly, sex workers in Norway are not technically criminalised under the 2009 laws criminalising the purchase of sex, but Amnesty International notes that:

“... many sex workers are subject to a high level of policing in Norway and are targeted by police in multiple, intersecting ways; through public nuisance policing, anti-sex work and anti-trafficking operations and immigration enforcement, as a means to reduce and/or eradicate commercial sex.”⁴²

The report goes on to note that this approach of ‘preventative policing’ has led to sex workers being surveilled by police in a way that is “completely different way to the rest of the population”.

In many countries that have adopted laws criminalising sex workers’ clients, people who sell sex remain criminalised. Brothel-keeping remains criminalised in Northern Ireland, where the laws were opposed by 98% of sex workers before they were introduced⁴³. In Canada, sex work remains partially criminalised through laws against certain types of soliciting and advertising⁴⁴.

³⁹ Fuckförbundet, 2019, [Twenty Years of Failing Sex Workers: A Community Report on the Impact of the 1999 Swedish Sex Purchase Act](#)

⁴⁰ Cited in Fuckförbundet, 2019, [Twenty Years of Failing Sex Workers: A Community Report on the Impact of the 1999 Swedish Sex Purchase Act](#)

⁴¹ Discussed in International Committee on the Rights of Sex Workers in Europe, 2015, [Community Report on Structural Violence](#)

⁴² Amnesty International, 2016, [The Human Cost of Crushing the Market: Criminalization of Sex Work in Norway](#)

⁴³ Huschke et al., 2014, [Research into Prostitution in Northern Ireland](#)

⁴⁴ [Protection of Communities and Exploited Persons Act](#), 2014

In the Republic of Ireland, people selling sex from the same property was already criminalised under laws against brothel-keeping, but the penalties were increased when laws criminalising clients were introduced in 2017⁴⁵. One study has shown that between 2009-2018, 165 sex workers have been convicted of brothel-keeping in Ireland. 95% of those convicted were women, and 100% were migrants. This was described as “a clear example that the law is failing” by Senator Lynn Ruane last year⁴⁶. In 2019, two migrant sex workers - one of whom was pregnant - were sentenced to 9-month prison sentences under these amended brothel-keeping laws, despite no clients being present and no large amount of money found on the premises when it was raided by police. The women requested to pay a fine instead of serving prison time, and this request was rejected by the judge as “they weren’t forced into this position”.

Increased violence

The links between criminalisation and increased violence against sex workers are well-documented.

A 2018 meta-analysis of sex work and policing in 33 countries⁴⁷ showed that criminalisation, including under the ‘Nordic model’, creates and normalises violence against sex workers, and ‘reinforces gender, racial, economic and other inequalities’⁴⁸. Where sex workers face repressive policing, including arrest, prison, workplace raids, extortion or violence, sex workers are up to three times more likely to experience violence - from anyone, including clients and partners⁴⁹. In Norway, sex workers have reported only contacting the police if their lives are in immediate, serious danger:

“If a customer is bad you need to manage it yourself to the end. You only call the police if you think you’re going to die. If you call the police – you risk losing everything.”⁵⁰

The Norwegian Ministry of Justice and Public Security said: “the Swedish street prostitutes experience a tougher time. They are more frequently exposed to violent clients... they have less time to assess the client as the deal takes place very hurriedly due to fear on the part of the client.”

In France, sex workers are criminalised under laws against brothel-keeping, advertising and loitering⁵¹. Sex workers have faced a sharp increase in violence against them since laws criminalising clients were introduced. At least ten sex workers were murdered in the first six months of 2019. Sex workers

⁴⁵ Criminal Law (Sexual Offences) Act 2017, Section 25(f).

⁴⁶ Irish Independent, 2019, [Law change urged as migrant women overwhelmingly convicted of brothel keeping](#)

⁴⁷ Platt et al. 2018, [Associations between sex work laws and sex workers’ health: A systematic review and meta-analysis of quantitative and qualitative studies](#)

⁴⁸ LSHTM, 2018, [Criminalisation and repressive policing of sex work linked to increased risk of violence, HIV and sexually transmitted infections](#)

⁴⁹ Platt et al. 2018, [Associations between sex work laws and sex workers’ health: A systematic review and meta-analysis of quantitative and qualitative studies](#)

⁵⁰ Cited in Amnesty International, 2016, [The Human Cost of Crushing the Market: Criminalization Of Sex Work In Norway](#)

⁵¹ Loi n° 2016-444, 2016, [Visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées](#)

report increased violence from clients, a deterioration in their living conditions, and difficulties negotiating condom use⁵².

In Ireland, violent crime against sex workers increased by 92% following the introduction of client criminalisation⁵³. A 2019 review of the law in Northern Ireland⁵⁴ showed an increase in anti-social behavior and stigma towards sex workers, and higher anxiety and fear of crime among sex workers. The report noted that criminalisation had made sex work “much riskier and more underground than it was previously with both clients and sex workers taking steps to avoid detection.” The report criticised the laws, saying they had “subjected many women (and of course male sex workers) to a highly unsafe work context, resulting in a heightened state of anxiety.”

Housing

Norway criminalised the purchase of sex in 2009, but letting premises to sex workers is criminalised. Landlords who know their tenants are sex workers or are ‘grossly negligent in this respect’ can face up to six years in prison⁵⁵. Amnesty International has reported on the rights violations faced by sex workers in Norway under these laws⁵⁶, including systematic forced evictions as part of a state operation known as ‘Operation Homeless’⁵⁷. Operation Homeless was a strategic police operation aiming to rapidly and systematically evict sex workers from their homes and workplaces. Between 2007-2009, police evicted sex workers from 150 apartments and raided and closed workplaces. Between 2007-2014, police closed at least 400 apartments used by sex workers. Operation Homeless was wound down in 2011, but the practice of evicting sex workers has been effectively ‘mainstreamed’ by the Norwegian Government. Policing continues to target migrant sex workers, with a representative of Oslo police confirming to Amnesty International that they “focused exclusively on foreign prostitutes”⁵⁸.

In its concluding observations on the ninth periodic report of Norway⁵⁹, the Committee on the Elimination of Discrimination against Women (CEDAW) noted the negative impact of client criminalisation on women who sell sex:

“The Committee is concerned at the unintended consequences of the criminalization since 2009 of the purchase of sexual activity or a sexual act from adults, in particular the higher risk for the personal safety and physical integrity of women in prostitution as reflected in the low reporting rate of physical and sexual violence, exploitation and harassment; and the risk of being evicted from their premises when used for prostitution. The Committee is further concerned that a 2014 evaluation of the effects of the introduction of the “Nordic model” in the

⁵² Médecins du Monde, 2018, [What do sex workers think about the French Prostitution Act?](#)

⁵³ Uglymugs.ie, 2019, [Crime has almost doubled in the two years since new law came in](#)

⁵⁴ Ellison et al., 2019, [A Review of the Criminalisation of Paying for Sexual Services in Northern Ireland](#)

⁵⁵ Norwegian Penal Code, [Section 213: ‘Controlling and facilitating prostitution’](#)

⁵⁶ Amnesty International, 2016, [The Human Cost of Crushing the Market: Criminalization of Sex Work in Norway](#)

⁵⁷ ‘Operasjon Husløs’.

⁵⁸ Amnesty International, 2016, [The Human Cost of Crushing the Market: Criminalization of Sex Work in Norway](#)

⁵⁹ CEDAW, 2017, [Concluding observations on the ninth periodic report of Norway](#).

State party has not been followed up with the formulation of new policies for the protection of the rights of women in prostitution.”

The Committee went on to recommend that:

“The Committee recommends that the State party:

- (a) Accelerate the tabling of the white paper on prostitution to Parliament in order to formulate a comprehensive policy, legislative, and regulatory framework that ensures the legal protection from exploitation for women who engage in prostitution and ensure that they are not prosecuted for the selling of sexual activity and sexual acts, including for acts that currently amount to criminal acts of “promotion of prostitution”;
- (b) Conduct or fund long-term research that provides evidence-based knowledge about the living conditions of women in prostitution in Norway in order to design programmes to better safeguard their human rights, including to protection against violence, to health, and to access to social security;
- (c) Strengthen exit programmes for women who wish to leave prostitution.”

These laws should not be seen as an exemplar. Sweden has actively taken up what it calls a “diplomatic offensive” to encourage other countries to implement the criminalisation of clients⁶⁰, despite researchers showing that “all that is occurring is the transfer of rhetoric and ideology”⁶¹. The Swedish Government does not routinely collect data on commercial sex⁶², and does not prioritise research on or provision of services for sex workers’ health and wellbeing⁶³.

The negative impact of criminalisation on sex workers is an essential, intentional component of these laws. Many proponents of these laws accept that they will increase harm against sex workers, and that this is a necessary step towards a society where prostitution no longer exists. For example, Ann Martin, head of Sweden’s anti-trafficking unit, said: “I think of course the law has negative consequences for women in prostitution but that’s also some of the effect that we wanted to achieve with the law. It shouldn’t be as easy as it was before to go out and sell sex.”⁶⁴ When the client criminalisation Bill was discussed at the Canadian Senate Committee on Legal and Constitutional Affairs in 2014, shortly before it was enacted into law, MP Donald Plett said: “... we don’t want to make life safe for prostitutes, we want to do away with prostitution. That’s the intent of the Bill.”⁶⁵

⁶⁰ Swedish Ministry of Foreign Affairs, 2019, [We’re taking up the fight against prostitution](#)

⁶¹ Kingston, Thomas, 2019, [No model in practice: a ‘Nordic model’ to respond to prostitution?](#)

⁶² Swedish National Board of Health and Welfare, 2003, [Prostitution in Sweden: Knowledge, Beliefs & Attitudes Of Key Informants](#)

⁶³ Fuckförbundet, 2019, [Twenty Years of Failing Sex Workers: A Community Report on the Impact of the 1999 Swedish Sex Purchase Act](#)

⁶⁴ Cited in LRB, Costa-Kostritsky, 2014, [On Malmkillnadsgatan](#)

⁶⁵ Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs, 2014, [Issue 15 - Evidence](#)

As feminists we cannot accept increased violence against women as a necessary part of a process towards an end to prostitution. We reject any interventions which have been shown to increase violence against women who sell sex.

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?

The focus from the Scottish Government on ‘challenging men’s demand’ for sex work is a harmful distraction from the material needs of women who sell sex. Sex work is primarily an income generating activity, and interventions should focus on reducing harm, and reducing the need for people to sell sex by increasing their options to survive without selling sex.

Many women find themselves excluded from mainstream economies due to disability, caring responsibilities, and lack of reemployment opportunities. This exclusion, combined with the burden of low income and poverty that is borne disproportionately by women⁶⁶, is what creates the conditions where women sell sex. The ‘supply’ of sex work is driven by poverty, the legacies of deprivation and austerity, lack of social support and a benefits system which is often punitive and not fit for purpose. Focusing on the more abstract attitudes of men distracts from the material reality of women who sell sex.

The consultation paper references several studies on men’s attitudes to buying sex that have been largely discredited. The main study referenced in section 4 was sharply criticised by a range of academics shortly after it was published in 2008⁶⁷, in particular citing that the research “violate[d] fundamental principles of human research ethics”, was “not grounded in empirical research ethics”, and concluding “the report is not of an acceptable academic standard”. A 2017 Scottish Government report on prostitution⁶⁸ refers to this study as an example of research that has “a number of problems (methodological and ethical)”, and cites it “by way of context rather than as central to the evidence review”.

Internationally there is very little evidence that laws criminalising the purchase of sex have any deterrent effect on clients⁶⁹. A 2019 review of the law in Northern Ireland, commissioned by the Department of Justice from Queen’s University Belfast, showed that stigma against sex workers has increased since the introduction of the laws, and that there is ‘no evidence’ that the law has led to a decrease in demand for sexual services, and has had a ‘limited deterrent effect on client behaviour’⁷⁰.

⁶⁶ Women’s Budget Group, 2018, [The Female Face of Poverty](#)

⁶⁷ Sanders et al., 2008, [Commentary on ‘Challenging Men’s Demand for Prostitution in Scotland’](#)

⁶⁸ Scottish Centre for Crime and Justice Research, 2017, [Evidence assessment of the impacts of the criminalisation of the purchase of sex: a review](#)

⁶⁹ UNAIDS, 2012, [Guidance Note on HIV and Sex Work](#)

⁷⁰ Ellison et al., 2019, [A Review of the Criminalisation of Paying for Sexual Services in Northern Ireland](#)

The report goes on to say:

“It may be disappointing for proponents of this legislation that the research did not uncover more evidence of a reduction in prostitution in Northern Ireland, particularly since this was hailed as such a success in Sweden, and one of the main reasons why the Nordic model (so termed) has been exported internationally. However, we would respond by suggesting that the evidence base from Sweden and the Nordic countries generally is simply not strong enough to support the proposition that sex purchase legislation has led to the massive decreases in prostitution and human trafficking that are alleged to have occurred in those jurisdictions. We... are not aware of any prevalence studies from the Nordic regions relating to before and after the legislation was introduced... Certainly, the evidence from Northern Ireland based on a comparison of the before and after data suggests very strongly that Article 64A has had minimal to no effect on the demand for prostitution, the number of active sex workers in the jurisdiction and on levels of human trafficking for sexual exploitation.”

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?

Sex and Relationship Education forms a vital pillar of a healthy education system, providing students with access to baseline understandings of consent and healthy relationships. However, PSHE and sex education has often failed LGBT students, as well as taking inadequate or victim-blaming approaches to conversations around consent, and furthering stigma around sexually transmitted infections. We are alarmed by the direction the Scottish Government is currently travelling in. In particular, the choice to replace guidance produced by LGBT Youth Scotland on supporting transgender and non-binary learners – as a result of lobbying by transphobic groups – risks repeating the mistakes of Section 2A (or section 28 as it was known in England and Wales).

We are concerned about the way that schools in Scotland are currently addressing prostitution. Teaching school children, or anyone, that purchasing sex is in itself an act of sexual violence is likely to backfire on sex workers. It means that someone paying for sex may not see any difference between paying for sex and respecting the sex workers' stated boundaries, and paying for sex and assaulting the sex worker. As outlined in previous sections, we are concerned that defining all sex work as violence contributed to flattening the definition of violence against sex workers which is at odds with meaningful conversations about consent and violence.

Sex working parents (particularly mothers) in our network are concerned that these schools resources will create stigma for sex workers. We are alarmed to see the resource 'Prostitution/Paying for Sex'⁷¹ making use of material from Nordic model lobby groups. Evidence from Sweden shows that increased efforts to stigmatise men who pay for sex lead to increased stigma against *women who sell sex*. Several years into the implementation of the 'sex buyer's law' criminalising clients, Swedish people are

⁷¹ Relationships, Sexual Health and Parenthood, 2019, [Prostitution/Paying For Sex](#)

more likely to support the criminalisation of women who sell sex than they were before the law was introduced⁷².

We have no wish to defend men who pay for sex, but we are concerned that the children of sex workers will be in these classrooms. Given how fraught this is and how important it is to get right, RSHP guidance on how to teach this topic should involve input from sex worker-led organisations as well as organisations which take a different view. This consultation is not an adequate way to address this: the way that the consultation is designed makes it very unlikely that the Scottish Government will get substantial engagement from education professionals and people who specialise in designing sex education curricula, as these professionals are unlikely to see a consultation about prostitution as relevant to them. This does not seem like an effective way to grapple with the issues raised by this question, or to gather the views of sex education specialists.

Ultimately, we want to ensure that sex workers and the children of sex workers are not stigmatised or otherwise harmed by the way this topic is taught. The current approach is harmful and stigmatising, but we do not think this consultation will produce enough of the thoughtful, in-depth expertise needed to fix this.

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?

There are numerous barriers to sex workers attempting to access mainstream support in Scotland. The criminalisation of sex work is one of the principal barriers.

Women who sell sex are often unwilling or unable to disclose their work because they worry this disclosure will be shared with law enforcement, immigration enforcement, social services, and housing providers. This means that many workers will not access adequate specialised healthcare and support. International evidence and guidance, particularly from the HIV sector, has shone a light on the impossibility of providing adequate mainstream health services while sex work is criminalised. A global study on HIV and sex work showed that decriminalisation could prevent between 33% and 46% of all new HIV infections over the next ten years, due to the resulting reduction in violence and police harassment, and safer working environments⁷³.

UNAIDS' Guidance Note on HIV and Sex Work states:

“States should move away from criminalising sex work or activities associated with it. Decriminalisation of sex work should include removing criminal laws and penalties for

⁷² Cited in Kuosmanen, 2010, [Attitudes and perceptions about legislation prohibiting the purchase of sexual services in Sweden](#)

⁷³ Shannon, 2014, [Global epidemiology of HIV among female sex workers: influence of structural determinants](#)

purchase and sale of sex, management of sex workers and brothels, and other activities related to sex work.”⁷⁴

Sex workers consistently report feeling patronised, stigmatised and disempowered when they attempt to access mainstream services in Scotland. The consultation document acknowledges that “feeling stigmatised was a recurrent theme for lack of engagement with mainstream support services” and that many sex workers won’t disclose that they sell sex due to stigma within these settings⁷⁵.

Mainstream women’s services acknowledge that they find it difficult to get sex workers to engage with them, while also openly pushing for the further criminalisation of sex work. For example, the manager of Routes Out, a Scottish Government funded service in Glasgow, told a reporter that “We don’t wait until [prostitutes] say they want to exit and we share all our info with police ... We try everything to engage with them. That could be a [criminal] charge, which puts them in a system where they have support”⁷⁶. Another support service, Vice-Versa in Dundee, collaborated with the police – who, it should be emphasised, routinely arrest sex workers – to ‘visit’ indoor sex workers’ workplaces. The manager of this service told the local newspaper: “Right now, a lot of these women are hard to reach because they are off the street, so it’s difficult for us to know where to go to provide them with help”⁷⁷.

It is clear that these services are not successfully engaging sex workers. Many sex workers are concerned about stigma, disclosure of their sex work without consent to police, and immigration enforcement. That women’s services are accompanying the police on raids of sex workers’ workplaces in order to ‘engage’ them in mainstream services is confirmation that sex workers’ concerns are legitimate. Working with the police to give these women a criminal charge or to raid their homes and workplaces is part of *why* women are reluctant to engage; it is not the *solution* to this lack of engagement.

These are services which take a single approach to sex work, viewing it as a form of violence against women due to the strict definition in Equally Safe. Based on what these services themselves say about the fact that they struggle to ‘engage’ with women who sell sex, this approach is clearly not working. Equally Safe closes off the possibility that different services might usefully take different approaches, or even that a single service might want to take a range of different approaches to best reflect the experiences and goals of each individual woman that the service is working with. Defining sex work as a form of violence against women also closes off the possibility of funding sex worker-led services, which puts Scotland substantially at odds with World Health Organization guidance in this area⁷⁸. It is painfully ironic that the Scottish Government precludes sex worker-led services from

⁷⁴ UNAIDS, 2012, [Guidance Note on HIV and Sex Work](#)

⁷⁵ Scottish Government, 2020, [Equally Safe: A consultation on challenging men's demand for prostitution, working to reduce the harms associated with prostitution and helping women to exit](#), page 12

⁷⁶ The Guardian, 2013, Tough or tolerant? [Scotland turns up heat on prostitution debate](#)

⁷⁷ Dundee Evening Telegraph, 2015, [Dundee project helps highlight the problem of prostitution](#)

⁷⁸ WHO, UNFPA, UNAIDS, NSWP, World Bank & UNDP, 2013, [Implementing Comprehensive HIV/STI Programmes with Sex Workers: Practical Approaches from Collaborative Interventions](#)

accessing funding but does not preclude funding services which seek to have women who sell sex arrested.

Sex workers are not merely beneficiaries of services, but should be meaningfully involved in the design, delivery and evaluation of services for them. Services are most effective when they are peer-led and co-produced, and where sex workers have a choice about whether or not they engage⁷⁹. We note that this cannot be achieved while sex work is criminalised, and sex workers face punitive consequences for disclosing that they sell sex.

To improve the current provision of mainstream support for sex workers, the Scottish Government and service providers should:

- implement a firewall between mainstream services and police/immigration enforcement;
- work with sex worker groups such as National Ugly Mugs to agree a non-enforcement policy for brothel-keeping and an end to brothel-raids;
- amend Equally Safe to acknowledge that while sex workers may experience violence, sex work is not intrinsically violence against women. This would enable services to take a more person-centred approach and peer-led services would be able to access violence against women funding.

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

The process of ‘exiting’ sex work can be complicated. We encourage any initiative designed to support women to ‘exit’ to start from the perspective that sex work is primarily an income-generating activity. The main reason people find it difficult to exit sex work is because they need to make money (this is also one of the main reasons people enter sex work). Poverty is a driver of sex work, as is acknowledged in the consultation document (“the main reasons given as barriers to women exiting prostitution, as reported by support services, were financial reasons and a lack of choice, with poverty being the main driver”⁸⁰). Services designed to support women to stop doing sex work must provide a replacement for this income as a starting point.

The policy position to define sex work as an intrinsic form of violence against women creates a barrier to effectively helping women to exit. It creates a model where any form of work is seen as better than sex work. This leads service providers to advocate for inappropriate, one-size-fits-all ‘solutions’ (including arrest, as discussed in question 6) that fail to address women’s need to earn a living.

Criminalising clients makes women who sell sex poorer and more isolated, which makes it harder for women to leave sex work (if that’s what they want to do). Countries which have criminalised clients

⁷⁹ For example, Open Society Foundations, 2016, [No Turning Back](#); NSWP, 2014, [Good Practice in Sex Worker-Led HIV Programming](#)

⁸⁰ Scottish Government, 2020, [Equally Safe: A consultation on challenging men's demand for prostitution, working to reduce the harms associated with prostitution and helping women to exit](#), page 7.

have not seen a noticeable increase in women exiting prostitution. The Swedish National Board of Health and Welfare writes: “It is ... difficult to discern any clear trend of development: has the extent of prostitution increased or decreased? We cannot give any unambiguous answer to that question”⁸¹.

Proponents of client criminalisation sometimes claim that the Nordic model is “the only” legal model which guarantees services for people in prostitution, but these countries have failed to put in place adequate or effective services for people in prostitution nor for people exiting. The French Government put in place a support service to help people to exit when they introduced client criminalisation, but researchers found that very few sex workers were able to access the service. Excluding Paris, the region with the highest number of service-users was Toulouse, where, two years after the implementation of client criminalisation law, had supported a total of eighteen sex workers to exit. In the greater Paris region, the number of sex workers who has accessed the scheme after two years was fifty-seven⁸². These numbers are extremely small. The researchers write “other regions, including those with large cities, have accepted few to no applications”⁸³.

Language such as “people with convictions can turn their lives around”⁸⁴ places people who sell sex in a criminal context rather than suggesting support. The criminalisation of sex work in itself creates a direct barrier to people exiting sex work. Criminalisation means women have to work more to pay off fines for soliciting and loitering, and laws criminalising clients mean women have to work longer hours to make the same amount of money as before. Criminal records lock people into sex work, and even if convictions are closed the criminalisation and threat of a criminal record remain as barriers to women leaving sex work, as it creates fear being ‘outed’ to employers and potential employers.

The most effective way to help people exit sex work – if that is what they want – is a combination of financial support (which should prioritise money, not vouchers – which are patronising and bureaucratic) and other support which is holistic, non-judgmental, and optional. Where people are selling sex in order to pay for drugs, it would be helpful to take a harm-reduction approach and give them a prescription for the drugs they are using (even with the understanding that the prescription is going to be used ‘recreationally’). In New Zealand, sex workers who wish to leave sex work have the right to access benefits immediately (without the three-month wait that they would have if they had ‘voluntarily’ left another job). Although benefits in the UK are not sufficient for a dignified life, are administered in a punitive and bureaucratic way, and not available to everyone who needs them, the New Zealand approach of quick, simple financial support suggests one element of an effective system.

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

⁸¹ Swedish National Board of Health and Welfare, 2007, [Prostitution in Sweden](#).

⁸² La préfecture et les services de l’État en région Île-de-France, 2018, [Lutte contre les violences faites aux femmes : sortir de la prostitution](#)

⁸³ Open Democracy, 2019, [Searching for the entrance to France’s ‘prostitution exit programme’](#)

⁸⁴ Scottish Government, 2020, [Equally Safe: A consultation on challenging men's demand for prostitution, working to reduce the harms associated with prostitution and helping women to exit](#)

throughout Scotland who are engaged in prostitution be met, noting that prostitution is not solely an urban issue?

There are many problems with existing service provision for sex workers across Scotland, as we have outlined in detail in question 6. Much of this is compounded for people who sell sex in smaller cities or rural areas, where people generally have less access to key services including healthcare⁸⁵.

We know that people living in rural areas also have limited opportunities to earn adequate income compared to urban areas, and the cost of living is generally higher⁸⁶. These are drivers of poverty, and poverty is a driver of sex work. Many women begin to sell sex after becoming in debt or losing their job, and it can be a 'flexible' way to make money for people who are in otherwise precarious situations. We must take as our starting point that sex work is primarily an income-generating activity.

It is important to note that people associate sex work with urban areas because there is generally less street-based sex work in rural areas, and a lot of sex work regulation stems from a desire to restrict the visibility of prostitution. Sex workers in rural areas are likely to be impacted by laws against brothel-keeping than laws against soliciting and loitering. Legislation in Australia which decriminalised aspects of sex work but mandated brothels be regulated by the state led to increased surveillance and harassment of independent sex workers in rural areas, relative to sex workers in urban areas⁸⁷.

Confidentiality can be a particular concern for sex workers in more rural areas, and stigma can be more acute, particularly in small communities. As we know stigma is already a huge barrier to sex workers accessing services within the four main cities in Scotland, mainstream services will need to drastically improve their approach to delivery to reduce the stigma around sex work, if it is to reach women who sell sex in more rural areas.

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

While we understand that prostitution is dealt with under the violence against women directorate of the Scottish Government, people of other genders who sell sex will still be impacted by changes to legislation or new policy initiatives. We are concerned to see the consultation paper refer to women in prostitution, and, as a secondary acknowledgement, men and "people who are transgender" who sell sex. This does not reflect a sufficient understanding of what the word 'transgender' means, and trans people should not be referred to as a distinct gender alongside male and female in this way. It is particularly unclear whether or not the needs of transgender women who sell sex will be adequately addressed through this consultation. This is a huge concern given trans people face greater levels of poverty and violence.

⁸⁵ Scottish Government, 2016, [Rural Deprivation: Evidence Summary](#)

⁸⁶ Scottish Government, 2016, [Rural Deprivation: Evidence Summary](#)

⁸⁷ Scott et al., 2006, Sex Outside the City: Sex Work in Rural and Regional New South Wales