

Submitted to Prostitution (Offences and Support) (Scotland) Bill
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3 What is your name?

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Organisation

Organisation details

1 Name of organisation

Name of organisation:
For Women Scotland

2 Information about your organisation

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For Women Scotland is a not-for-profit grassroots group campaigning to protect and strengthen women's rights in Scotland.

Question 1

1 The Bill proposes to create a new offence of paying for the performance of a sexual act by a person. The Bill (at section 1) includes details of the circumstances in which an offence would be committed. The Bill (at section 9) includes a definition of "a sexual act". The Bill states that activities such as striptease, pole dancing, lap dancing, or other erotic performances are not included in the definition of a "sexual act". What are your views on this proposal?

Please add your response in the box provided.:

Commercial Sexual Exploitation (CSE), in all forms, is violence against women. Buying human beings for sex is harmful, exploitative and can never be safe. It is inherently violent and contrary to fundamental human rights: as such, paying for sexual services should be punishable in law.

The women involved are at a disproportionate risk of violence and work in conditions which cannot conform to the most basic health and safety standards. In countries which use a decriminalised or liberalised model, rates of violence are significantly higher than in those which adopted the Nordic model
<https://nordicmodelnow.org/facts-about-prostitution/fact-buying-sex-makes-men-more-prone-to-violence-against-women/>

We support the Nordic Model approach as proposed by the Bill and would like to see new or strengthened legislation against pimping and all forms of profiteering from other people's prostitution, including advertising and facilitation services, whether on or off line. Legislation must be updated to make any form of profiting from another person's prostitution or CSE a criminal offence. We believe this is necessary to be compliant with CEDAW Article 6.

Legislation is undoubtedly required. Scotland's Prostitution laws are horribly outdated and place unjust onus on the victims of sexual violence, even though the Scottish Government has long recognised that prostitution is violence against women. It is absurd and illogical that men can be charged in Scotland for kerb-crawling but not for renting a person to engage in sexual acts in a house or hotel. We also need to outlaw pimping websites which facilitate sex trafficking and sexual exploitation.

The Scottish Government, historically, has not been averse to using legislation to shape social values. It is axiomatic that exploiting the bodies of women is wrong in a civilised society and materially damages the way women are viewed. Men who use prostitutes are often unable to form healthy relationships.

<https://www.theguardian.com/society/2010/jan/15/why-men-use-prostitutes#:~:text=I%20interviewed%2012%20of%20the,was%20never%20going%20to%20provi>

Two examples from the UK are instructive here.

Work to protect women and tackle prostitution in Ipswich was undertaken in the aftermath of the Steve Wright murders. The three pronged approach involved:

- (1) An end to targeting the women with criminal sanctions and providing them with substantial support to help them exit prostitution.
- (2) Tackling men's demand for prostitution using kerb-crawling legislation and number plate recognition technology to implement a zero-tolerance approach. Provided the men took responsibility for their behaviour and accepted a caution, they were not publicly named.
- (3) Preventative work with children at risk of being groomed into the sex trade to prevent another generation of women on the streets.

The police found that fears that this would drive prostitution underground were misplaced. In fact, Steve Wright had been considered "safe" as a regular punter. UEA assessed that the approach had more or less eliminated street prostitution in Ipswich.

<https://nordicmodelnow.org/2017/11/14/how-a-nordic-model-approach-to-tackling-prostitution-was-implemented-in-ipswich/>

In stark contrast, an experiment in Holbeck, Leeds, where there was a managed zone along the lines of decriminalisation until 2021, was described as "hell on earth". Local women were assaulted by men who assume that all women in the area are for sale. Attacks included those on women with learning disabilities, an 80 year old, and schoolgirls. The perception was that police did not investigate or charge assailants - in one case that did reach court, the attacker walked free after claiming as a defence that he believed the woman was a sex-worker. This bears out the international findings that laws do not just impact demand but shape social attitudes for good or ill.

<https://www.filia.org.uk/latest-news/2020/9/8/holbeck-a-case-study-of-hell>

The Nordic Model makes it clear that buying sex is wrong, and evidence from the international experience suggests that the biggest deterrent for men buying women is the fear of criminalisation. In countries like Sweden and France where the implementation has been thorough, the resultant change has been greater. Arguably, more importantly, the law has shifted social attitudes. Dr Ingeborg Kraus cites research which demonstrates that when Sweden introduced the Sex Purchase Ban in 1999 about 30% of the population was opposed to the practice of sex buying. As a consequence of the law, by 2020 about 70% of Swedes oppose buying sex.

<https://nordicmodelnow.org/2021/09/18/the-nordic-model-of-prostitution-a-change-in-perspective-in-protection-of-human-dignity/>

<https://vancouverun.com/opinion/columnists/outlawing-the-purchase-of-sex-has-been-key-to-swedens-success-in-reducing-prostitution>

In Germany, where mega brothels are big business (worth ca £15bn pa), women are viewed as commodities and see very little of the money accrued by the big brothels. <https://s.telegraph.co.uk/graphics/projects/welcome-to-paradise/>

Organised crime has continued to profiteer from prostitution in Germany while the legalised model makes it harder to catch and charge the pimps, brothel owners and traffickers. Jurgon Rudloff, the "brothel king" was convicted in 2019 of aiding and abetting trafficking. Women at his "Paradise" clubs were "treated like animals".

<https://www.theguardian.com/global-development/2019/jun/22/trouble-in-paradise-rise-and-fall-of-germany-brothel-king-jurgen-rudloff>

In perhaps the most famous Red Light district in Amsterdam, abused and trafficked women have said that it is harder to get help as police and punters assume that they are there by their own free will.

<https://www.nzherald.co.nz/world/appalling-truth-about-amsterdams-red-light-district/A4RMWQUM5RWIAY6RNDHKRWJAQ4/>

A 2012 study published in World Development, Does Legalized Prostitution Increase Human Trafficking? found that:

- Countries with legalised prostitution are associated with higher human trafficking inflows than countries where prostitution is prohibited.
- The effect of legal prostitution on human trafficking inflows is stronger in high-income countries than middle-income countries. Because trafficking for the purpose of sexual exploitation requires that clients in a potential destination country have sufficient purchasing power, domestic supply acts as a constraint.
- Criminalisation of prostitution in Sweden resulted in the shrinking of the prostitution market and the decline of human trafficking inflows. Cross-country comparisons of Sweden with Denmark (where prostitution is decriminalised) and Germany (expanded legalisation of prostitution) are consistent with the quantitative analysis, showing that trafficking inflows decreased with criminalization and increased with legalisation.

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1986065

Question 2

2 The Bill proposes to repeal section 46 of the Civic Government (Scotland) Act 1982. Under this section of the 1982 Act, a person who is found guilty of loitering, soliciting or importuning in a public place for the purposes of prostitution commits an offence. What are your views on this proposal?

Please add your response in the box provided.:

The majority of women in prostitution are driven by necessity: it has been rightly said that prostitution is not a choice but the absence of a choice. Along with victims of trafficking, there are disproportionate numbers of women with a history of abuse and addiction. On the other hand, the men who use prostitutes are exercising their freedom and have chosen to exploit these women. It is shameful that victims have been criminalised while the men who abuse them go unpunished.

Testimony from survivors and studies of women and girls in prostitution show that many were in local authority care as children (33%); many started in prostitution before they were 18 (50%) or when they were homeless (50%); many were coerced into prostitution (50%); and the majority had been abused as children (72%).

<https://nordicmodelnow.org/facts-about-prostitution/fact-choice-is-complicated/>

This was also reflected in the work undertaken in Ipswich. Police found that the women did not wish to stay in prostitution but that there were obstacles to them leaving: many were homeless or had criminal records.

Question 3

3 The Bill proposes to quash historic convictions under section 46 of the Civic Government (Scotland) Act 1982, which relates to the offence of loitering, soliciting or importuning in a public place for the purposes of prostitution. What are your views on this proposal?

Please add your response in the box provided.:

All offences of soliciting to sell sex should be repealed and criminal records for such historic offences must be expunged or sealed. If we understand prostitution as a form of VAWG, it is wrong to penalise women for their involvement. Such criminal records are an obstacle to women finding alternative employment and participating in community activities – making it harder for them to leave the sex trade and move on with their lives.

Women like Fiona Broadfoot who was groomed, abused and forced into prostitution at the age of 15 are left with criminal records from their teenage years which have the potential to blight the rest of their lives. <https://www.bbc.co.uk/news/articles/c4gdl6jj8neo>

Testimony from other exited women shows how deeply such a criminal record can upend their lives:

"I gave up applying for jobs after that interview. It was like, What's the point? Why go and explain my life to someone when they just go: You're not good enough.

"But it wasn't just job interviews. I had to go on work placements and I've had to reveal my convictions in front of men and they think it's funny that you're one of those kinds of girls.

"I couldn't even go into my kids' school to help out. You have to have a DBS check to do that. Who wants people to know that?"

<https://nordicmodelnow.org/2020/11/29/about-time-womens-criminal-records-for-soliciting-will-no-longer-always-be-disclosed-to-employers/>

Quashing or sealing convictions would also recognise the historic imbalance in law where patriarchal assumptions frequently permeate legislation and judgements. Although we might believe society has moved on, the attitudes displayed in the Victorian era, and highlighted by the work of campaigners like of Josephine Butler and William Stead, persist into this century with exploited women and children - however young - seen to have agency and to be complicit by police or social services.

<https://www.theguardian.com/society/2000/may/24/childrensservices.guardiansocietysupplement>

<https://lawandhistoryreview.org/article/laura-lammasniemi-the-age-of-consent-in-the-19th-century-trustworthiness-and-capacity-on-trial/>

Question 4

4 The Bill proposes (at section 6) to place a duty on the Scottish Ministers to ensure that a person who is or has been in prostitution is provided with assistance and support. The Bill sets out a non-exhaustive list of the types of assistance and support that may be provided. What are your views on this proposal?

Please add your response in the box provided.:

The root causes of prostitution: poverty, addiction, domestic abuse or coercion need to be addressed.

Ideally, centres should be provided in the main cities in Scotland which, in addition to housing facilities for women to shower, eat, watch TV, change clothes, rest, etc could provide information on how to access practical help - including benefits, housing and legal advice, etc. These services could be provided by existing services, perhaps pooling experts from a range of agencies.

Workers would need to be proactive in reaching out to women involved in prostitution in rural and remote areas.

Translation services are vital as many of the women are trafficked.

The trauma experienced by women in prostitution is often profound. This is not helped by the narrative that this was their choice. We believe that if society recognised this as abuse, trauma services and counselling might be better informed. It is critical that survivors of sexual violence and commercial sexual exploitation have the legal right to trauma informed support. Women only services - especially for homeless or abused women - are also key.

Funded services should fully support the Equally Safe understanding of commercial sexual exploitation as a form of gender-based violence. Services should not promote full decriminalisation of the sex trade and this should be a condition of Equally Safe funding going forward.

Question 5

5 Do you have any other comments on the Bill which you have not already covered elsewhere?

Please add your response in the box provided.:

1. Training for police and others: A key lesson from other countries is that implementation of the Nordic Model is most effective when accompanied by in-depth training for the police, judiciary, Crown Prosecution Service, and frontline workers in education, social services, local government, the NHS, etc. All partners involved in criminal justice, support, and health services, should take part in specialised training programmes and build coordinated trauma informed responses.

Police in Ipswich used kerb-crawling legislation and number plate recognition technology for their zero-tolerance approach. They reported that the majority of the punters they arrested in this way were "ordinary" men - many married or in long-term relationships, often with children and good jobs. The police decided not to name and shame them as long as the men took responsibility for their behaviour and accepted a caution. The vast majority of the men who were arrested accepted this approach (further infractions would be treated more seriously). The evidence from Sweden suggests that concerns about public shame have been key in reducing demand for prostitution. According to a 2010 government report, "Police officers and social workers report that buyers of sexual services have become more cautious and that the ban has led to a decrease in demand, at least for street prostitution, as a result of criminalization. According to the police, buyers are afraid to be caught, but they are more concerned about the possibility that the offence of which they are suspected will become known to family and acquaintances than about the penalties they risk."

<http://www.xn--ntverketpris-gcb.se/DiverseTexter/TheBanAgainstThePurchaseOfSexualServices-AnEvaluation1999-2008.pdf>

A study, carried out by the Women's Support Project in 2008 asked 110 men who had bought sex what would deter them from purchasing sex. They responded as follows:

89% - being added to the sex offender register

79% - spending time in jail

72% - increased criminal penalties

Evidence from Sweden also shows that the combined threat of fines, arrest, police registers and prison sentences reduced street prostitution by half.

2. Wider Benefits: In areas where prostitution is common, there is usually a corresponding increase in other crimes, especially theft and drug dealing. Residents in Holbeck reported increases in:

□ Anti-social behaviour

□ Sexual activity on streets

□ Men approaching women and children, including school girls and elderly women, for sex

□ Kerb-crawling

Prostitutes are at much higher risk of violent crime. A reduction in demand will be beneficial to individuals and communities.

<https://www.leeds-live.co.uk/news/leeds-news/scared-families-demand-end-leeds-19744585>

3. It is important to address some of the myths and false narratives about prostitution:

i) "Sex workers" oppose the Nordic Model - Platforms and individuals who profit from the ongoing exploitation of women are very keen to keep the income flow going. It is telling that most argue for legalisation or decriminalisation which benefits the pimps and the Brothel owners but makes the lives of the women more dangerous. Conversely, most survivor groups and exited women support the Nordic Model.

ii) It's a matter of personal choice - As demonstrated in the answer to Question 2, the overwhelming number of women involved in the sex trade are there due to negative forces. Even if a minority do elect to do it, it does not and cannot mitigate the extreme harms for which there is all too much evidence (and it certainly doesn't automatically make it feminist). Even so-called "high end" escorts put their lives on the line. In fact, as Diane who was trafficked to wealthy men overseas has testified, women in these situations are completely at the mercy of very powerful individuals.

<https://www.amodelforscotland.org/survivors-voices>

iii) The Nordic Model denies agency and increases stigma - The Nordic Model restricts buyers, not those in prostitution. The Model doesn't discount the possibility of prostitution by "choice" (for the tiny minority in ii above) but establishes that the buying of women is something that the state should discourage. The stigma is reserved for the newly criminalised men, not the women who no longer have a record.

iv) The Nordic Model pushes prostitution "underground". - While this claim is often made, it is made without evidence. Research commissioned by the Swedish government for its official review showed that street prostitution had halved. Trafficking to Sweden is 4 times lower than to neighbouring Denmark which has adopted a decrim model.

<https://humantraffickingsearch.org/resource/prohibiting-sex-purchasing-and-ending-trafficking-the-swedish-prostitution-law/>

<https://www.gov.scot/publications/evidence-assessment-impacts-criminalisation-purchase-sex-review/pages/8/>

<https://pulitzercenter.org/stories/sweden-prostitution-nearly-invisible>

<https://repository.lib.fsu.edu/islandora/object/fsu:759894/datastream/PDF/view>

v) Nordic Model deprives desperate women of a living - Ironically, this myth is an admission that it is a falsehood and that the model does indeed work as intended: it can only deprive women of a living if it does reduce the demand for prostitution. Added to which, exit programs are critical in assisting women get alternative employment (also giving the lie to myth ii). In fact we have always restricted people from working in dangerous conditions (see vi). Most people oppose sweat shops or sending children up chimneys however desperate they may be for work.

vi) "Sex work is work" and a job like any other - In the UK workplaces are governed by Health and Safety requirements. Where there is a risk of exposure to body fluids, workers are required to wear masks, gloves, goggles, and protective clothing. Violence and extreme acts are a feature of prostitution - in no other "workplace" would this be tolerated. Workers in the UK have redress if discriminated against based on age, race, disability etc. Women in

prostitution become less valuable as they age (and gain "experience") and are selected or rejected based on physical characteristics.

<https://nordicmodelnow.org/myths-about-prostitution/myth-regulation-makes-prostitution-safe/>

vii) "Good" Punters will be discouraged and only the "bad" will remain - As mentioned previously, the serial killer Steve Wright was considered a "safe" punter. In fact, the murder rate for prostitutes in Sweden is non-existent (1 killed since 1999 and then by an ex partner). In the UK, there were 153 murders of prostitutes between 1990-2016. Evidence from sites like Puntersnet show that men do not respect the women they buy and if they do not meet their standards they will subject them to misogynistic abuse. Worse, the men themselves are all too open about their disgust if the girl is plainly in distress or averse to them.

<https://nordicmodelnow.org/facts-about-prostitution/fact-prostitution-is-inherently-violent/>

<https://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/prostitution/oral/30023.html>

<https://nordicmodelnow.org/myths-about-prostitution/myth-punters-care-about-the-women-they-buy/>

<https://nordicmodelnow.org/myths-about-prostitution/myth-the-nordic-model-is-more-dangerous-for-sex-workers-than-decriminalisation/>

Nordic Model Now has covered many other myths here: <https://nordicmodelnow.org/myths-about-prostitution/>