

Response from Nordic Model Now! to the Scottish Government's 2020 consultation on prostitution policy

November 2020

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?

Scotland's 'Equally Safe' strategy is impressive in its comprehensiveness and gendered analysis, its overarching aim of eradicating violence against women and girls ('VAWG'), and its focus on prevention and holding perpetrators to account, and we agree wholeheartedly with its understanding of commercial sexual exploitation ('CSE'), including prostitution, as a form of gender-based violence.

However, that understanding is not reflected in the description of Scotland's current approach to prostitution set out in the consultation paper. Nor is there recognition that prostitution and other forms of CSE tend to entrench women and girls' disadvantages and to contribute to the culture of male dominance and to make gender-based violence more likely.

Therefore, we do not agree that the outlined approach is sufficient to prevent VAWG. If Scotland is serious in its Equally Safe strategy and sees prostitution and other forms of CSE as gender-based violence, preventing and eradicating them and holding perpetrators to account must clearly be stated as key overarching strategic aims and must replace the much less ambitious, but much repeated, aim of simply reducing the "associated harms."

We support the Nordic Model approach combined with: (a) Measures to address all the factors that drive people into prostitution; and (b) 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. [1]

We also support the Encompass Network's seven-element proposal for preventing and eradicating prostitution in Scotland. [2]

We set out further reasoning under separate headings below.

EQUALLY SAFE

The Equally Safe document recognises that "gender stereotypes play a central role in male violence against women and girls, with individuals who hold discriminatory attitudes being more likely to tolerate violence and abuse against women." One of the Equally Safe strategic

priorities is to promote positive gender roles. And yet the consultation paper does not mention this and doesn't consider the role of prostitution and CSE in promoting and enforcing negative gender stereotypes and practices, and how they condone, reinforce and promote discriminatory attitudes.

These are the very attitudes that have been shown to underlie VAWG and research has shown that prostitution users are more likely to hold them.[3] These attitudes and practices also groom girls and young women into thinking that what's important is how they look, pleasing men and attracting male attention – which sets them up as fodder for entry into the sex trade. Another key priority set out in the Equally Safe document is that women and men should have equal access to power and resources.

A study conducted by the UCL Institute of Health [4] found that violence is a prominent feature in the lives of women involved in prostitution regardless of setting; a single year of engagement is likely to have the same impact on mental health as an entire life of experiences prior to involvement; and social exclusion is the leading cause of entrance and is often deepened as a result of engaging in it. This is borne out by testimony from survivors [5] and support workers.[6]

There is overwhelming evidence that the austerity policies implemented by the UK Government since May 2010 have had a profoundly negative impact on society, with a disproportionate impact on women in general, and lone mothers, and Black, Asian, and disabled women in particular. There is ample evidence that as a result, many women are being driven into prostitution and other forms of CSE (including webcamming and pornography) out of financial desperation and often in ignorance of the likely long-term consequences.[7]

And yet, the consultation paper does not consider that to prevent and eradicate prostitution and CSE, steps must be taken to address women's poverty and economic, social and cultural inequality and to ensure that ALL WOMEN, including lone mothers and migrant and disabled women, have adequate income and housing.

HUMAN TRAFFICKING AND PROSTITUTION

The internationally agreed definition of human trafficking is set out in the Palermo Trafficking Protocol [8]. The feminist legal scholar, Catharine MacKinnon, has explained that most, if not all, pimping falls within this definition of human trafficking – but many people try to redefine human trafficking to cover as few cases as possible, so that nothing has to change, and as a society we don't need to look at prostitution's central role in it. [9]

The Modern Slavery Act 2015, which is in force in England and Wales, is a case in point. It is not conformant with this definition and implicitly frames prostitution as a form of work

that can be ‘forced’, thereby normalising and trivialising it. As a result, there is systemic official failure to recognise and identify the vast majority of victims of human trafficking for the purposes of the exploitation of their prostitution and other forms of sexual exploitation (‘sex trafficking’). [10]

While the Human Trafficking and Exploitation (Scotland) Act 2015 (the ‘Act’) follows the Palermo Trafficking Protocol definition more closely than the Modern Slavery Act, it deviates from it in significant ways. It also seems that much of the understanding – or rather, misunderstanding – of sex trafficking that is prevalent in England and Wales has influenced Scotland’s understanding of human trafficking.

The NRM referral data provided in the consultation paper provides evidence for this, because it shows nearly three times more referrals for labour exploitation than sexual exploitation.

Analysis by Eurostat, Europol and UNODC has found that sex trafficking is the most common form of human trafficking in Europe. [11] It is improbable that not only is labour exploitation more common in Scotland than in Europe overall but is nearly three times more common.

This strongly suggests that most sex trafficking victims are unrecognised and unsupported and their traffickers have impunity.

The NRM mechanism and UK-wide guidance may be a factor in the underrepresentation of referrals for sex trafficking, but if Scotland is serious in its commitment to prevent and eradicate VAWG, it must find ways of addressing this and at the very least refuse to take the NRM referral data at face value.

Further evidence of the misunderstanding of sex trafficking can be seen in the Scottish Trafficking and Exploitation Strategy (the ‘strategy’) and its lack of a thorough gender analysis and understanding of the specific issues around sex trafficking, including its great prevalence. It does mention the Equally Safe strategy and that VAWG and gender inequality make women vulnerable to being trafficked but the strategy does not follow through this understanding in any meaningful way.

For example, on page 22, the strategy says: “The Scottish Government will continue to support measures that can help reduce the harm caused by prostitution and encourage the enforcement of existing laws against those who seek to exploit others through prostitution.”

Exploiting someone’s prostitution (i.e. profiting from it) usually does conform to the Palermo Protocol definition of sex trafficking because there is invariably an element of force, coercion, deceit or taking advantage of the victim’s vulnerability involved. And in fact, most cases would fall under Section 1 of the Act. Why then does the strategy not recommend using

the Act to hold perpetrators to account whenever possible and only using the lesser offences when absolutely necessary?

Why if prostitution is itself a form of gender-based violence as recognised by Equally Safe, does the strategy want to reduce its harm rather than prevent it and hold its perpetrators to account? What does reducing harm mean when referring to a practice that is inherently violent anyway?

Prostitution and sex trafficking cannot be separated in practice. There is no separate market for trafficked women and girls. They are on the same street corners and in the same brothels and ‘massage parlours’ and are bought by the same men as women who may have made some kind of choice to be there. But of the women who do make some kind of choice to be there, most do not make the choice out of a range of viable options but rather to escape poverty, homelessness, to feed a drug habit, or under the coercion of someone who feeds off her prostitution – who almost certainly fits the definition of a human trafficker. And moreover, as the UCL Institute of Health study mentioned earlier found, involvement in prostitution invariably entrenches the very disadvantages that lead to women’s involvement in the first place.

The Scottish Government correctly understands prostitution to be a form of VAWG and has the ambitious strategic aim of preventing and eradicating VAWG and holding perpetrators to account. It therefore makes no sense that the trafficking strategy aims only to “support measures that can help reduce the harm caused by prostitution” rather than aiming to prevent and eradicate it and to hold its perpetrators to account.

Would the Scottish Government aim only to reduce the harm of rape or domestic violence rather than to prevent and eradicate them and to hold perpetrators to account?

The emphasis on identifying and disrupting human trafficking in supply chains is welcome, along with the commitment to raising awareness and tackling these issues. However, the strategy for doing the same for sex trafficking is wholly inadequate. As sex trafficking disproportionately affects women and girls, this should be seen as sex discrimination and a violation of Article 17 of the Council of Europe Convention on Action against Trafficking in Human Beings (‘the CoE Convention’). [12]

Sex buyers do not have a good record of reporting sex trafficking victims. For example, a dedicated Crimestoppers trafficking helpline aimed at sex buyers received only three calls in an entire year. [13] Therefore, a strategy relying on sex buyers identifying sex trafficking victims is unlikely to be successful and this may help to explain the low numbers in the NRM data.

Prostitution is not as hidden as the strategy suggests – because the entire sex industry relies on sex buyers being able to find the women involved. This means that law enforcement agencies can also find them but need to be proactive in doing so.

The European Commission’s Study on the Gender Dimension of Trafficking in Human Beings [14] recommends the development of gender expertise in relevant cybertechnologies in order to proactively identify victims and traffickers, including the movement of their illicit profits. We urge the Scottish Government to follow these recommendations and implement them in both its trafficking and serious organised crime strategies.

Like the trafficking strategy, the Serious Organised Crime Strategy also lacks a thorough gendered analysis, a proactive approach to detecting sex trafficking and pimping and a commitment to preventing and eradicating prostitution. These failures must be urgently addressed.

LEGAL CONTEXT

The consultation paper provides little information on the legal context. For example, it doesn’t include a complete list of the Scottish acts in which the relevant legislation is included and it provides no data on recorded offences and prosecutions and convictions under them.

The Recorded Crime in Scotland, 2018-19 document [15] provides some data and claims that “the proportion of Sexual assault and Crimes associated with prostitution has fallen.”

However, the data is not disaggregated by offence type nor by sex and it is not clear whether there has actually been a fall in prostitution and associated crime or simply a fall in reporting and/or enforcement. As there is strong evidence of prostitution increasing in the UK [16] over the last few years, it is more likely to be the latter.

This conclusion is supported by the fact that there were only ten recorded brothel-keeping and five procurement offences recorded for 2018-19 – although the report doesn’t tell us how many of these were prosecuted or convicted.

A quick Google search turns up 19 brothels in Edinburgh and Glasgow alone and no doubt many more could be found by scouring the advert, message and review boards. So clearly most brothels are allowed to operate in plain sight and the current criminal law around prostitution in Scotland is not implemented with any kind of rigour.

There is clear evidence [17] that where prostitution, pimping and brothel keeping are tolerated, sex trafficking is higher. It follows that to reduce sex trafficking, there must be a zero-tolerance approach to pimping and brothel keeping. This is also required to be

conformant with CEDAW Article 6 [18] and because pimping usually does satisfy the elements of sex trafficking defined in the Palermo Protocol, as explained earlier.

The criminal law is not fit for purpose and it needs to be reviewed in the round, along with how it is policed and implemented. Separate sex disaggregated data needs to be maintained for each offence, showing numbers of reports, prosecutions and convictions. The police guidance must be updated so that prostitution and other forms of CSE are unambiguously understood as forms of VAWG and that preventing and eradicating them and holding perpetrators to account are the priorities, in line with the Equally Safe strategy.

The law needs to be addressed as follows:

1. Brothel keeping legislation should be redrafted so it focuses on profiteers and cannot be used against vulnerable women who might perform cleaning or reception duties or live or work together in pairs without profiting from each other's prostitution.
2. All offences of loitering and soliciting to sell sex should be repealed and criminal records for such historic offences must be expunged or sealed as a matter of urgency. If we understand prostitution as a form of VAWG, it is simply 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.
3. The legislation against loitering and soliciting to buy sex must be strengthened and made easy to enforce, including through the use of CCTV and number plate recognition technology.
4. Legislation must be updated to make any form of profiting from another person's prostitution or CSE a criminal offence, including through advertising, and online and other facilitation services. This is necessary to be compliant with CEDAW Article 6.
5. The human trafficking legislation should be revised to conform fully to the Palermo Protocol definition.
6. The purchase or attempted purchase of sex should be made a criminal offence in order to send out a clear message that this is unacceptable and to reduce the demand that drives sex trafficking.

Police, judiciary and prosecution service personnel must be fully trained in the new legislation, and the proactive enforcement of it must be fully resourced and prioritised.

CONCLUSION

Prostitution and CSE are both cause AND consequence of women's inequality and the wide-scale VAWG that we are currently witnessing. Without a clear and unambiguous strategy to prevent and eradicate prostitution and CSE, any attempts to keep women and girls safe will be doomed to failure.

If Scotland is serious about making its Equally Safe vision and strategy a reality, it must be bolder and more courageous and must unequivocally implement a strategy that unambiguously aims to prevent and eradicate prostitution and all forms of CSE and to hold perpetrators to account.

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

Dana Levy, an Israeli prostitution survivor, made the astute observation that the Covid-19 pandemic has exposed three fundamental facts about the sex trade that many feminists have been saying for years: (a) Men CAN survive without access to prostitution; (b) Evidence from all over the world shows that most women involved in prostitution are extremely poor and are often only one step away from destitution; and (c) The legalisation or decriminalisation of the sex trade provides little protection to the women involved. She argues that implementing a Nordic Model approach is the only long-term solution to these issues. [1]

The Nordic Model approach has the ultimate aim of bringing the system of prostitution to an end while providing support and alternatives to those caught up in it. It therefore fits perfectly with Scotland's Equally Safe strategy of wishing to prevent and eradicate VAWG. To be successful, it needs to be combined with the provision of genuine economic alternatives for all women. [2]

Evidence from Scotland supports Levy's assessment – including research by the Encompass Network into the experiences and needs of women in the sex industry as a result of the Covid-19 crisis.[3] The social security system was already inadequate but the sudden and huge increase in the numbers applying made it much worse – causing even more financial distress.

Linda Thompson of the Women's Support Project has talked about what women in Scotland said when asked why they got involved in prostitution. She said: "It was always money. Women never talked about an insatiable sex drive. They never talked about wanting to feel empowered. They didn't talk about it as, this is me reclaiming my sexual autonomy, my bodily autonomy. That never featured. What women talked about was an absolute drive to become involved based on a lack of money, based on poverty. And I remember asking each one of them: Did prostitution solve that for you? Did it solve the poverty and financial pressures? And from those women it was a resounding no, it didn't. In fact, if anything, it compounded the poverty and financial pressures they were under." [4]

If prostitution were a ‘normal job’ and a good economic solution for women as so many sex industry advocates claim, we would not be seeing reports of the vast majority of the women involved in prostitution finding that they had no money even for food and the most basic living costs within days of the start of the lockdown. These women had been living hand to mouth and had few if any resources to fall back on.

The vast amounts of money in the sex trade generally does not end up in the pockets of the women involved, but travels upwards to the pimps, traffickers, brothel owners, and drug dealers (who are often pimps who use the women’s drug addiction as a means of control).

Research by the Women’s Budget Group has shown that working-class women are the population group that has been the worst affected by the lockdowns and other emergency measures and, as a result, many are suffering catastrophic financial consequences. [5]

As a consequence of the lockdowns and other Covid-19 measures, many additional women are now, for the first time, turning to prostitution or online forms of commercial sexual exploitation (‘CSE’), such as webcamming and selling intimate images through OnlyFans and similar, in a desperate attempt to put food on the table and keep a roof over their family’s heads.

Many women who were involved in prostitution before the Covid-19 crisis, have now also turned to these online non-contact forms of CSE. This means that these online markets are now saturated with women trying to make enough money to survive – which has reduced their bargaining power even further – and so men are making ever more extreme demands on them and they have little choice but to comply, such is their desperate need for money.

Webcamming and selling intimate images to strange men are not easy, benign options, but are fraught with dangers for women, including the risk of profound psychological and emotional harms, and men stealing their images/videos and sharing them elsewhere (‘revenge porn’) and harassing and stalking them – all of which can make it harder, if not impossible, for women to subsequently gain alternative employment. Moreover, just like with prostitution, the online platforms cream off a large proportion of the women’s takings, meaning that for the vast majority of women involved, it is hard to make much money.[6]

It should not be forgotten that these practices feed men’s entitlement and all the attitudes that underlie male violence against women and children – meaning that they directly contribute to the culture that makes VAWG more likely. That large numbers of women are turning to these solutions in an attempt to survive should cause grave concern to anyone who is serious about Scotland’s commitment to eradicating VAWG and improving equality between the sexes.

We believe that the assertion in the consultation paper that it is ‘stigma’ or ‘feeling stigmatised’ that prevented women engaging with services during the Covid-19 crisis is an oversimplification.

Many women have long testified about receiving negative and judgemental responses along with a lack of understanding of prostitution’s traumatic nature from mainstream service providers on disclosure of involvement in it. Surely this shows a lack of appropriate training and guidelines within those services rather than simply ‘stigma.’

For this reason, we fully support the Encompass Network’s seven-point model for preventing and eradicating prostitution in Scotland – one of whose key points is “Capacity-building so that staff in mainstream and specialist services have the right skills to meet the needs of those involved in prostitution.” [7]

However, the situation during the Covid-19 crisis has been complicated by the fact that many services were closed to face-to-face contact and the emergency legislation made many activities that are not normally illegal into criminal offences. So, women have been put in the hideous position of having no options for the money for survival of themselves and their children except by breaking the law and without access (or with reduced access) to the services they depend on for sexual health care, including supplies of condoms. This was entirely predictable and a grave dereliction of the authorities’ duties under the public sector equality duty. To explain the resulting problems as ‘stigma’ is to somehow suggest that this is due to people having the wrong attitudes. This is entirely unsatisfactory.

The consultation paper says that Police Scotland has a statutory duty to uphold the law, including in relation to prostitution. It also mentions a reduction in recorded crime associated with prostitution in May 2020. However, as mentioned in answer to Question 1, the Recorded Crime in Scotland, 2018-19 document [8] suggests that prostitution offences are mostly not enforced and the data does not support its claim that “the proportion of Sexual assault and Crimes associated with prostitution has fallen.” The data only supports the claim that the recording and enforcement of these crimes have fallen, which is not the same thing at all. The same applies to the claim in the consultation paper.

It is profoundly disturbing that the risks to women in prostitution only seem to be taken seriously while the Covid-19 outbreak has put the male clients at risk. Every day women involved in prostitution are at risk of infectious diseases, including Syphilis, Gonorrhoea and HIV, along with risks of unwanted pregnancy, violation of their dignity and sense of self-worth, verbal abuse and harassment, trauma injuries, and physical violence up to and including death. [9]

Prostitution can never meet even the most basic workplace health and safety standards. [10] It is unconscionable that it should ever be considered an acceptable solution to women's poverty during a pandemic or at any other time.

Survivors of prostitution have talked extensively about how punters continually push their boundaries. [11] Anything that moves the balance of power further from the woman and towards the male client is likely to make this worse and lead to more higher risk practices because the woman has less bargaining power. During the Covid-19 crisis, women's desperation for money for survival and men's improved financial status relative to women shifted the balance towards the men.

Another factor tipping the balance of power towards the men is that prostitution clients are usually relatively anonymous, which means that they were able to threaten to report the women to the police whereas women would not be able to report clients without exposing themselves.

The closing of face to face contact with sexual health clinics and support services that distribute condoms was likely another factor in the increase in unprotected sex.

The emergency funding provided to the Encompass Network to distribute to women involved in the sex trade was welcome, but it was too little.

The Covid-19 crisis has shone a spotlight on the extreme and desperate poverty of huge numbers of women in Scotland. Prostitution is not a solution to women's poverty and if the Scottish Government is serious about preventing and eradicating VAWG, it must seriously address women's poverty and ensure that never again will any woman in Scotland have no alternative but prostitution or other forms of CSE (including webcamming and similar) as a way of obtaining the resources for basic survival.

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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?

The Consultation paper uses a categorisation of prostitution policy approaches devised in 2005. This is a curious and unfortunate decision, because since then a number of European countries (Norway, Iceland, France, Northern Ireland and the Republic of Ireland), have adopted a Nordic Model approach (which we support) – and the key elements of this approach are not clearly set out in the table. [1]

The table claims that Sweden’s policy is a form of ‘Prohibitionism’ but this is misleading because only the purchase of sexual services and profiteering from another’s prostitution are prohibited.

The Scottish Government rightly accepts that prostitution is a form of gender-based violence against women and girls (‘VAWG’). As such it can never be made safe. It can never conform to even the most basic health and safety standards. It is intrinsically violent and women involved in prostitution are at the highest risk of murder of any social group, almost entirely at the hands of punters and pimps. Moreover, prostitution tends to entrench women’s disadvantages and promotes male entitlement, lack of empathy and all the attitudes that are associated with VAWG. [2]

The idea that you can make prostitution safe (as claimed by some sex trade advocates) or that you can reduce the harms associated with it to an acceptable level (as suggested by the consultation paper) are pipe dreams.

If the Scottish Government is serious about preventing and eradicating all violence against women and girls, it MUST therefore develop policies to reduce the amount of prostitution that happens and provide real, practical alternative employment for women along with a more robust social security system or even a universal basic income.

The Nordic Model is the ONLY approach that has the potential to achieve these policy aims and then only when combined with other holistic measures – for example, as set out in Encompass Network’s seven-element proposal for preventing and eradicating prostitution in Scotland. [3] This is the approach that we support.

The Nordic Model is not simply a matter of making the purchase of sex a criminal offence and repealing legislation that targets those in prostitution. It must also include ring-fenced permanent funding for high quality services for all those involved in prostitution, including harm reduction services and individually tailored exiting services that are trauma informed and include housing, training, psycho-social support, child care, employment, benefit and legal advice, and help with escaping from pimps, etc. It also needs to clamp down on all forms of profiteering from another’s prostitution, including pimping, and advertising and facilitation, whether online or offline.

To be effective it must be championed at the highest levels; include high-quality training for the police, prosecution, judiciary, and all other relevant public service providers; a public information campaign and education about the harms of prostitution in schools and colleges; and real measures to address women’s poverty and disadvantage and ensuring that never again will any woman in Scotland have no option other than prostitution and other forms of CSE (including webcamming and similar) to obtain the money needed for survival.

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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 ‘Challenging Men’s Demand for Prostitution in Scotland’ study asked male Scottish prostitution-buyers what would deter them from buying sex. The responses were unequivocal: only things that would significantly impact their own lives would be likely to change their behaviour, such as being added to the sex offender registry, being outed as a sex

buyer in public, or a criminal penalty. They were also clear that the current kerb crawling laws were not a deterrent because they knew they were extremely unlikely to be caught under them because the police don't implement them rigorously or at all. [1]

This is probably the reason that the Nordic Model approach has had limited success in countries, such as Ireland and Northern Ireland, that have introduced it but not arrested significant numbers of sex buyers. However, even in Northern Ireland where the implementation of the approach has been particularly inadequate, there has been a statistically significant reduction in men's demand for prostitution. [2]

In Sweden and France, which have both been more thorough in their implementation of the approach, there has been a greater change in men's behaviour and attitudes. The recent official assessment of the approach in France found that the law has been successful in regions where it has been thoroughly implemented. [3] Assessment of the law in Sweden found that it has contributed to widespread change in attitudes and is supported by the majority of the public. In addition, its prostitution markets are much smaller than in neighbouring Denmark, which tolerates prostitution-buying. [4]

The dramatic change in men's prostitution using behaviour during the first months of lockdown provides additional evidence that men will change their behaviour when they perceive a real risk of negative consequences to themselves.

All of this makes it clear that the only way to change men's attitudes and behaviour towards prostitution-buying is to make buying sex a criminal offence and to implement it rigorously so that men understand that there is a real risk that they will be caught and face real consequences.

This is why we support the Nordic Model approach, but the legislation needs to be carefully drafted to cover both the purchase and the attempted purchase of sex, and to make it easy to enforce.

In Sweden, police do not have to prove a sex act has taken place, simply arranging a prostitution appointment is sufficient to be guilty of the criminal offence. Although in Sweden the maximum sentence is one-year imprisonment, if the man pleads guilty and it's his first offence and there are no aggravating features, he generally receives a fine, the level of which is dependent on his income and is potentially quite hefty. Therefore, it is feasible for the police to catch sufficient numbers of sex buyers to make being caught a significant statistical risk. This together with the penalty means the law acts as a real deterrent. [5]

To be successful, the ban on sex purchase must be framed and understood as a key part of the Scottish Government's strategy to prevent and eradicate sex inequality and gender-based violence against women and girls ('VAWG') and must be championed at the highest level.

There needs to be high-quality training in the approach for police, prosecution staff and the judiciary, and the enforcement of the legislation needs to be fully funded and prioritised at all levels.

The ban must be accompanied with a widespread and hard-hitting public information campaign perhaps similar to the very successful ones that preceded the introduction of the UK ban on smoking in public places in 2006.

The ban on sex purchase must also be accompanied by the repeal of any laws that target those selling sex and the provision of high-quality, trauma-informed services for them, along with genuine alternatives and routes out.

It would be unreasonable to ban the purchase of sex while women are still driven into prostitution and other forms of CSE (including webcamming and sharing sexualised images) under the coercion of extreme poverty and lack of viable alternatives, or under the coercion of pimps and traffickers. These issues must therefore be directly and proactively tackled alongside the introduction of the sex purchase ban.

As the consultation paper suggests, men's pornography and prostitution use are linked. Many men struggle to give up their pornography use and the same is likely to be true with prostitution. It would therefore make sense for the Scottish Government to provide high-quality free or affordable services to men to help them with this. This should be offered to men convicted of sex purchase offences but should also be available to all men on the basis of self-referral.

The consultation paper suggests that if a man has not purchased sex by the age of 25, he is less likely to do so in the future. This, and the connection between pornography and prostitution use, means that age restrictions on online porn must be introduced as a matter of urgency to limit, if not prevent, under-18 years olds from viewing it. Similarly, boys and young men should be given assistance in understanding pornography, prostitution and all forms of CSE as gender-based violence, and in developing strategies for resisting and challenging peer pressure to engage in pornography and prostitution and other forms of CSE, such as frequenting lap dancing venues. This could be done not only through schools and colleges but also youth centres and young offender programmes, etc.

Harvard University recently completed a study on men's life satisfaction.[6] Led by Robert Waldinger, it was one of the largest studies of its kind ever undertaken, tracking 700 men over 75 years. Its overwhelming conclusion was that it was the quality and warmth of personal, family and community relationships throughout their lives that was the single most important factor in determining the men's happiness and life satisfaction, and even their physical health and financial stability.

This suggests that working to end men and boys' use of porn, prostitution and other forms of CSE would actually be in men's best interests because these things are well documented to corrode their ability to form mutually satisfying relationships of all kinds.

Implementing all of the above would be a huge undertaking and would undoubtedly involve significant public resources. However, evidence from Ipswich suggests that investment in such a strategy would quickly pay for itself. [7] And it would lead to a safer, more equitable and stable society.

NOTES IN RESPONSE TO PAGES 16-18 OF THE CONSULTATION PAPER

Nordic Model Now! responded to the 2017 Scottish Government's research into prostitution at the time, pointing out many shortcomings in the research and the Scottish Government would be well advised to study our responses and reflect on them again. Much of what we said then is applicable to claims in the consultation paper. [8]

For example, we challenged the notion that indoor prostitution is 'hidden.' The entire system of prostitution is dependent on men being able to find women who are involved in prostitution without undue difficulty. If men can find the women, it is clearly possible for researchers, law enforcement and service providers to find them too. However, to be successful, they must take a proactive approach.

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

The Scottish Government should be applauded for its intention to educate children “about prostitution in terms of the law, social attitudes and harm to individuals.” However, the ‘Key Messages for Young People on Healthy Relationships and Consent’ document does not mention prostitution, and paying for sex is not mentioned clearly and unambiguously.

While it is important that prostitution is framed as a form of sexual exploitation, replacing the word ‘prostitution’ with ‘sexual exploitation’ has unintended consequences, particularly in the current context.

Sex industry advocates have unfortunately been successful in getting the term ‘sex work’ into mainstream and almost ubiquitous use. ‘Sex work’ is a powerful euphemism that normalises prostitution and obscures its real harms.

The word ‘prostitution’ is well understood to mean that a succession of men pay for sexual access usually to a woman or child, and that all or much of the payment goes into the pocket of a third party (the pimp). All of this information is conveyed in the word ‘prostitution.’

‘Sexual exploitation’ on the other hand is not clearly understood and it obscures the role and presence of the punters and pimps, leaving the focus on the victim. To add to the confusion, the term is now often used for almost any and every type of sexual abuse.

If the term ‘prostitution’ is not explicitly used and stated within the RSHP curriculum, there is a very real danger that children and young people will assume that ‘sexual exploitation’ does not cover ‘sex work’ (i.e. prostitution) because of its cultural image as benign and a form of normal work, and even a man’s right to consume it.

Many people, perhaps most, innocently think that the ‘sex work’ term is more respectful of the women involved and believe that any criticism of ‘sex work’ implies a criticism of the women involved – because the way the term is used invariably frames it as a woman’s choice. Teachers are not immune to these influences and without explicit guidance and training there is a real risk that they will inadvertently reproduce these dominant cultural messages in the classroom rather than challenging them and framing prostitution and other forms of sexual exploitation within the context of systemic structural inequality and endemic male violence against women and children.

The section on consent in the ‘Key Messages for Young People on Healthy Relationships and Consent’ document does not explicitly discuss whether consent is possible in a sexual relationship when one party is paid by the other. Given the cultural acceptance of the ‘sex work is normal work’ ideology and the likelihood that most if not all children will have been exposed to it and influenced by it, it is imperative that teachers have detailed and clear guidance on the importance of using the ‘prostitution’ term (while framing it as sexual exploitation) and enabling children to consider its implications for their understanding of consent in sexual relationships.[1]

Both boys and girls need to understand the very real dangers that prostitution (and other forms of sexual exploitation, including pornography and webcamming) cause to individuals, equality between the sexes, and to the community at large, and to be able to discuss these issues in a safe environment. They need help with resisting pressures to participate in such activities and need to know where to go for help if they find themselves at risk of being sucked in.

Boys in particular, but girls as well, must be taught that any form of profiting from another person’s prostitution contravenes binding international human rights conventions [2] and in many, if not most, cases meets the definition of human trafficking, which is a human rights abuse.[3] There should be opportunities for children to consider the ethics of such behaviour in the context of the poverty, sometimes extreme, in Scottish communities.

In view of the above, teachers need specific and detailed guidance, training and support for delivering effective education about prostitution and other forms of sexual exploitation for the various age groups.

In Sweden, where the Nordic Model has been in place since 1999, there has been a cultural shift in the way that men and boys view prostitution compared to a generation ago. Education in schools has been a key part of this shift.

Simon Häggström was a Swedish Detective Inspector in the Prostitution Unit enforcing the Sex Purchase Law in Stockholm, and now leads the Swedish Police Trafficking Unit. He says that all political parties now stand behind the Nordic Model system, even those who opposed it when it was introduced, as they have seen how successfully it works. There is a general attitude that only ‘losers’ buy sex. This means that in Sweden a generation of young men are less likely to buy sex and most people consider the notion abhorrent and shameful and understand the risks of being caught and fined are high. [4]

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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?

Explaining women's reluctance to engage with mainstream services and/or to disclose to service providers their current or previous involvement in prostitution cannot simply be understood as feeling stigmatised and fear of a lack of confidentiality – although these are clearly aspects.

Fiona Broadfoot has talked about the distress of having men scrutinise her historic criminal records for soliciting – even though many were from when she was a trafficked child.[1]

Most women intuitively understand that revealing involvement in prostitution to men can put you in real danger – because of the cultural norms that see prostitution as a woman's 'choice' and therefore her fault, meaning that many men see you as fair game for sexual assault and harassment or worse. For this reason, we do not believe that women should ever be subjected to compulsory questions about involvement in prostitution – particularly by men.

Many women who have been involved in prostitution say that one of the things holding back their recovery is a lack of understanding among mainstream service providers that prostitution is inherently traumatising.

For example, one woman who wants to remain anonymous said: "I worked as a stripper and prostitute for three years from ages 17 to 20. I have been exited ten years and have had chronic PTSD since then. I have recently started counselling and am finding it very hard. I feel like I have no right to feel traumatised for what I went through. If what those men did to me was recognised as a crime (e.g. Nordic Model) then I might feel more validated in my pain and be able to move on. Right now, however, I feel like I am being gaslit by society."

[2]

Harriet said: "I am in therapy now (mainly to address the childhood trauma). When I have talked about the so-called sex work to the therapist, I get a lot of "why didn't you...?" (I get it about the assault too.) And I leave therapy feeling invalidated and, on bad days, like things were my fault." [3]

Another woman told us that her GP would not refer her to trauma counselling on the basis of her many years in the sex trade but would on the basis that she was raped as a teenager.

Other women have talked about being open about their current involvement in prostitution when attending services over many years and no one ever suggesting that they might like to consider alternatives. This can make women feel as if prostitution is all they are good for.

While women should not be forced to exit prostitution and wanting to exit should never be made a condition of accessing services, women should always be given the possibility of exiting and information about services to help them do that.

We support the Encompass Network's proposals for preventing and eradicating prostitution in Scotland. This has seven elements, one of which is capacity-building so that staff in mainstream and specialist services have the right skills to meet the needs of those involved in prostitution: "A comprehensive national programme of training and capacity-building is needed for all relevant frontline services and agencies. This would promote understanding of the system of prostitution and its relationship to gender and other inequalities; the impact and trauma of prostitution on the individuals involved; their support, health and other needs; and good practice in supporting those affected." [4]

Over recent years there has been an erosion of women-only services in areas like homeless hostels, addiction and mental health. This can be particularly catastrophic for women who are or have been involved in prostitution. Their needs are often acute and can be very different from those of men. Furthermore, their trauma has been caused by the actions of men.

Living in a hostel with homeless men, is inappropriate for all vulnerable women but even more so for women with lived experience of prostitution. Participating in group work with men is often counter-productive for women who are or have been involved in prostitution. Therefore, it is imperative that mainstream services, particularly homelessness, addiction and mental health services, provide women-only facilities – particularly for group work and all residential facilities. This understanding needs to be built into the commissioning of services.

Mainstream services should also be alert to the role they can provide in preventing women entering prostitution in the first place. As extreme poverty, homelessness, addictions and the coercive control of male partners are often key drivers in women becoming involved in prostitution, the provision of adequate social security, job and training opportunities, affordable housing, addiction services and practical support to escape abusive partners must be seen as high priority and funded accordingly.

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

For most women who are involved in prostitution, the most immediate barriers to exiting are (a) the lack of an adequate alternative income; (b) drug addiction; (c) being under the control of a pimp or trafficker, who is often their ‘boyfriend’ or intimate partner; and/or (d) homelessness. Other longer-term issues can include physical and mental ill-health, including PTSD and crippling anxiety, and the lack of a social network outside of the prostitution milieu.

Research carried out in the UK by the late Roger Matthews and others found that the majority of women can leave prostitution relatively quickly given support and motivation that is positive, proactive, and includes practical help with addressing the immediate barriers mentioned above. [1]

Women-only residential drug rehabilitation should be available for those with intractable drug addictions, and women-only refuges for women who need to escape abusive and controlling partners and pimps.

However, it is well known that many women – especially those who have been in prostitution for some time – have difficulty sustaining a life outside prostitution over time. [2]

Services therefore need to provide long-term support, including practical assistance and psychosocial support for as long as necessary, as happens in Sweden. [3]

Services must be women-only, welcoming, non-judgemental, trauma-informed, and free. Funding must be ring-fenced and permanent so that expertise and trust can be developed, collaboration with other services established, and there can be long-term planning.

The provision of exiting services must be combined with the repeal of laws against soliciting and loitering to sell sex and the expunging of any criminal records for the same. The Scottish Government rightly understands prostitution to be a symptom of systemic and structural

inequality between the sexes and a form of gender-based violence. It therefore makes no sense to criminalise women for their involvement nor to penalise them for their historic convictions for the same. Furthermore, this is counterproductive because it makes it harder to get alternative employment or to participate in community activities. Prostitution-related criminal records therefore serve to trap women in prostitution.

We are not convinced that the generic provisions regarding criminal records set out in the consultation paper are sufficient. We believe additional specific measures need to be taken specifically for women's criminal records for loitering and soliciting to sell sex.

Proactive prevention work is also needed to prevent women who are leaving care, prison or abusive relationships from falling into prostitution. It is well known that all of these transitions often trigger women's entry into prostitution, generally through the absence of alternative options.

While the provision of such services would be expensive, we are confident that they will quickly pay for themselves in terms of savings on other services, particularly the criminal justice system and social services.

There need to be concomitant efforts to address women's poverty, and to invest in decent well-paid jobs, and apprenticeships and training for women. Similarly the inadequacies in the benefit system need to be fixed, and the travesty of the no recourse to public fund rule for migrant women must be abolished.

Israel has a very successful initiative called 'Turning the tables' that provides training and employment in fashion for women who are exiting the sex trade. There is more on this initiative and services in Israel below. There are examples of similar initiatives in the UK that are not specifically aimed at women exiting prostitution but they provide a model that could be developed for women exiting prostitution. For example: The Wren Bakery in Leeds provides training and employment opportunities to disadvantaged women; [4] and the Timpson Foundation is an ethical business that pro-actively employs ex-offenders. [5]

Below we provide more information about approaches in Ipswich, Israel and France.

IPSWICH

Probably the best UK example of a successful initiative to support women to exit prostitution comes from Ipswich. This started after a punter brutally murdered five young women who were involved in street prostitution in 2006, just three years after a different local man had murdered another young woman involved in street prostitution. The town was deeply shocked by the murders and realised that the previous strategy of clamping down on the women soliciting had been ineffective in reducing street prostitution, because it effectively

trapped the women in prostitution. They would get fines and have to return to the street to raise the money to pay them, and they would then would get more fines, and so on, *ad infinitum*.

The multi-agency strategic group that was set up after the murders came up with a three-pronged strategy that broadly corresponds to the Nordic Model approach: [6]

1. An end to targeting the women with criminal sanctions and ASBOs and instead providing them with substantial support to help them exit prostitution and rebuild their lives.
2. Tackling men's demand for prostitution.
3. Preventative work with children at risk of being groomed into the sex trade to prevent another generation of women on the streets.

A review of the approach was undertaken by the University of East Anglia in 2012. It found that: the strategy had been successful in eliminating street prostitution and kerb crawling from the town and there was no evidence it had been displaced elsewhere; the women had been helped to rebuild their lives outside prostitution; successful inroads had been made in preventing young people getting involved in prostitution; and costs to the criminal justice system were significantly reduced. The report ended with the following paragraph:

“The evaluation highlighted the central importance of a joint commitment of criminal justice, social, health and voluntary agencies and their sustained relationships with the local community in developing a shared change in attitude towards prostitution and those involved in it. Finally, it concluded that there is much to commend this collaborative strategy both to other regions of the UK and to other countries, as an innovative, effective and cost-effective means of achieving justice for all stakeholders.” [7]

There were several key features of the approach that contributed to its success. Firstly, the approach was led by a multi-agency strategic group consisting of key local agencies, including the local borough and county councils, police, probation service, NHS Primary Care Trust, drug and alcohol team, and the mental health partnership and it had enthusiastic and wholehearted support at the highest level of these organisations.

Secondly, the women were given long-term individualised support by specialist support workers who also worked with other mainstream agencies. For a more on this, see the interview with Helen Hepburn, who managed the exiting services that were put in place, on the Nordic Model Now! website. [8]

Thirdly, to tackle the demand for prostitution, the police used the kerb crawling legislation and number plate recognition technology to implement a zero-tolerance approach. They

found the majority of the punters they arrested were married or in long-term relationships, often with children and good jobs. The police made a strategic decision to avoid naming and shaming the men because they felt this would have a negative impact on their families. So provided the men took responsibility for their behaviour and accepted a caution, they were not publicly named. The vast majority of the men who were arrested accepted this approach.

Finally, efforts were made to explain the approach to the local community and listen to their concerns. There was hostility from local residents at first, not least because their lives had been badly affected by the prostitution-related activity, especially by men driving round the area looking for women to pick up. However, regular community meetings meant that those running the scheme were able to explain the approach and advocate for the women and help people to understand why they were on the streets. In time the local residents came to see the effectiveness of the approach and most became enthusiastic supporters.

Unfortunately, as key people have retired or moved on and the original impetus has dissipated, we understand that the approach is no longer in full operation. Nevertheless, it provides an excellent practical example of what can be achieved when all the agencies pull together and there is support for the approach at the highest level, and we would urge the Scottish Government to learn from it.

ISRAEL

Israel has recently introduced a Nordic Model approach. Although the entire approach is new, work on support and exiting services is relatively well developed. Israel has a population of nine million and four large cities: Tel Aviv, Jerusalem, Beer Sheva and Haifa. Luba Fein, a feminist abolitionist activist from Israel provided us with a summary of what is available. [9] These are in addition to services for women who are recognised as victims of human trafficking.

The Government and municipalities fund rehabilitation/exiting hostels and emergency centres in Haifa, Beer Sheva and Tel Aviv, mobile clinics in Haifa and Tel Aviv, and a specialist youth organisation.

Each rehabilitation hostel has 20 beds, and each woman can stay there for a year. The hostels provide the women with psychosocial support, vocational training, classes, workshops, and opportunities to socialise. Some women return for another year. If a woman has a drug addiction, she has the opportunity to enter drug rehabilitation first and must complete this before being accepted on the hostel rehabilitation programme.

The emergency centres are open 24/7 for women who are currently involved in prostitution. These centres provide facilities for women to shower, eat, watch TV, change clothes, get new clothes, rest and talk to a social worker. They also operate support groups, which have an

underlying aim of encouraging (but not forcing) women to enter a rehabilitative setting and exit prostitution.

These centres are close to the hostels but are not in the same building. The staff consider this important because mixing the two populations can demoralize the women who are going through the rehabilitation process.

The mobile clinics are aimed at women in both indoor and on-street prostitution and offer medical tests, psychosocial support, and help with accessing social security, disability benefits, public housing, etc.

The youth organisation serves young people up to the age of 26 and operates through 15 centres across the country. It serves all young people who are in distress but has a separate specialist section for young people who are involved in prostitution. Services provided include emergency accommodation and a mobile clinic, and delivering training to local authority social workers.

In addition to the above, an organization called 'Turning the tables' operates in Tel Aviv and Haifa and provides women who have been involved in prostitution with training in fashion and life skills and advice and practical assistance in applying for social security benefits and similar. This organisation started as a private initiative but has now received significant public funding.

There are also NGOs providing practical assistance to women who have lived experience of prostitution. For example, 'The College' provides training in ten different careers and 'Don't Stand By' provides emergency assistance – for example, they helped with rent during the Covid-19 lockdown.

All of these services provide trauma-informed care and real practical help. For example, many prostitution survivors are unable to work while they recover from the trauma of their experiences but applying for disability payments is complicated and difficult (as in the UK). The centres provide case workers to support and accompany women through this process. Similarly, case workers help women who have unmanageable debts agree restructured repayment plans or have them written off.

The introduction of the Nordic Model approach led to public funding for support and exiting services being tripled and additional schemes are opening or in the pipeline. A list of what is available can be found online (in Hebrew). [10]

FRANCE

France introduced a Nordic Model approach in April 2016. It recently underwent an official evaluation, the report of which was published earlier this year. [11] While the evaluation found that the approach had not been implemented as fully and as widely as hoped, there were some very encouraging results, including that nearly 400 individuals have been helped to exit prostitution and nearly 5,000 men have been arrested under the sex purchase offense.

It is to be hoped that after this promising start, renewed efforts will be made to find solutions to the issues that were identified as contributing to the lack of full implementation. One key feature in regions where implementation was less successful was a lack of support for the approach from key high-level officials, including prosecutors and *préfets*.

Where high-level officials saw the approach as important, the implementation tended to move steadily forward – but where they didn't, progress has been sluggish. Other factors hindering effective implementation include lack of funds, inflexibility in granting women resident permits, and local by-laws and similar that penalise soliciting.

Interesting aspects of the French approach are that exiting services are separate from the general services for prostituted women, like in Israel, and that the funds that pimps gain from exploiting women's prostitution can be seized and used to support and compensate victims.

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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?

Prostitution is inherently unsafe and nothing can change that. Therefore, the primary aim of prostitution policy must be: to reduce the amount that happens (by changing attitudes, challenging men’s demand, and cracking down on pimps and profiteers); to prevent women and girls getting sucked into it; and to provide those that do with real alternatives and genuine routes out.

However, while prostitution exists, there must also be harm reduction services. Some countries, including Israel and France, provide harm reduction services separately from exiting services, as we explained in our response to Question 7 and there are compelling arguments for this approach.

All the main cities in Scotland should have centres that are open and staffed 24/7 – providing harm reduction facilities for women to shower, eat, watch TV, change clothes, rest, talk, and get condoms, and benefits, housing and legal advice, etc. While commitment to exiting should not be mandatory, exiting services must also be available – either in the same premises or separately – and women should always be made aware of these services.

These centres could have workers (or mobile units) that travel to outlying areas as needed. Workers would need to be proactive in reaching out to women involved in prostitution in rural and remote areas, but this is necessary everywhere now that most prostitution takes place indoors.

Another option would be the provision of hostels in the main population hubs where women from rural and remote areas could stay while they access services.

As Ipswich [1] has shown, investing in high quality exiting services for women involved in prostitution and proactive prevention work with children and women leaving prison pays for itself in the medium and long term – because there are lower criminal justice system and social services costs. It therefore makes sense to invest in services throughout Scotland.

The Scottish Government should not directly or indirectly fund services provided by organisations that do not fully support the Equally Safe understanding of commercial sexual exploitation ('CSE'), including prostitution, as a form of gender-based violence or who are ideologically committed to the full decriminalisation of the sex trade, including pimps. Services that are underpinned by these attitudes usually serve to prolong women's involvement in the industry and to maintain a thriving sex trade.

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

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 more detail.

We welcome Scotland's Equally Safe strategy and its understanding of all forms of commercial sexual exploitation ('CSE'), including prostitution, to be part of the system that keeps women subordinated to men and a form of gender-based violence against women and girls ('VAWG'). We strongly encourage the Scottish Government to be bold and now put that understanding into practice for the benefit of all of Scotland's citizens.

Northern Ireland has shown that passing Nordic Model-style legislation is not sufficient to bring about significant change. It was strongly resisted by the almost all authorities. The police hardly arrested any sex buyers or pimps; there was no investment in high-quality exit services; and there were no accompanying measures to address women's poverty, inequality and disadvantage and to provide real alternatives. Not to mention that there was no attempt to use education and training to change the current culture that grooms girls to see themselves as sex objects for the entertainment of men, and grooms boys to be abusers and exploiters. As a result, in Northern Ireland all the same forces continue to push women into prostitution and allow men to continue to see their use of prostitution as a right. [1]

If Scotland wants to do better, it must have a joined-up approach and this must be championed at the highest level in all the relevant institutions. Ipswich has shown that when this happens, real change quickly follows. [2]

The Covid-19 pandemic and the ensuing lockdowns have shown that men CAN survive without access to prostitution but that most women involved in prostitution are seldom more than one step away from destitution and that without the money from prostitution they face catastrophe. Online forms of CSE, such as webcamming and sharing private images through OnlyFans and similar, are fraught with danger for women, and they should never be officially condoned or encouraged. This needs to be understood as a matter of urgency – before they become institutionalised as the option of choice for destitute women. [3]

It must therefore be a priority to address the poverty that so many women in Scotland are suffering and to ensure that no woman in Scotland is ever in the position that her only choices are destitution or prostitution, webcamming or other forms of CSE. This means improving the social security system, investing in women's centres, and real jobs and apprenticeships for women. The Women's Budget Group has done work on how the economy could be made to work better for women and has shown that this has widespread public support. [4] We urge the Scottish Government to look into and learn from their important work.

We have noted throughout our responses to the previous questions how many of the strategies and policies that are in place in various areas in Scotland (e.g. trafficking, policing, etc.) pay lip service to Equally Safe but do not follow through its understanding of prostitution and CSE as forms of gender-based violence.

This is hardly surprising given that a misleading sanitised, 'sex work is normal work' and 'happy hooker' narrative now dominates the mainstream media and popular culture and that many people have accepted and internalised these views.

This means that many of those who hold power in all the various institutions, including policy making, exhibit confirmation bias – which means that they search for, interpret, favour and recall information in a way that confirms their pre-existing beliefs, such as, for example, that women are involved in prostitution through free choice and a high sex drive – even though all the evidence makes it clear that this is simply not the case. Most women enter prostitution through lack of other options and by coercion and grooming (by the culture if not by an individual). [5]

We believe that many men resist this truth because it would mean facing up to the fact that they get off on women's subordination and that their own status depends on women's subordinate status and material position. And some women support it because they intuitively know that challenging prostitution makes men uncomfortable and they have been groomed by the culture to always put men's needs before their own. This needs to be addressed by investing in experts in the mainstreaming of equality between the sexes.

Currently Scotland is not fully compliant with its obligations under international treaties, including CEDAW,[6] the Palermo Trafficking Protocol [7] and the Council of Europe Convention on Action against Trafficking in Human Beings ('the CoE Convention').[8] This also needs to be urgently addressed.

The CEDAW Committee has repeatedly urged the UK and its constituent nations to fully incorporate the provisions of CEDAW into its domestic legislation. In its latest report, the CEDAW Committee also urges improvements in the national machinery for women, bringing the trafficking legislation into line with the Palermo Protocol, addressing women's increasing poverty so that they are not left with the awful choice between destitution and prostitution or

‘sex for rent,’ improving employment, housing and social security for women, introducing effective measures to reduce men’s demand for prostitution, revising legislation to decriminalise women in prostitution and to clear their criminal records for the same, and the provision of specialist services to assist women in exiting prostitution and the provision of educational and employment opportunities for them, amongst many other significant and important recommendations. We urge the Scottish Government to study their report and to implement the recommendations in full. [9]

The public sector equality duty (‘PSED’) which was introduced in the Equality Act 2010 places an obligation on public bodies to have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation; to advance the equality of opportunity between people who share a protected characteristic and those who don’t; and to foster good relations between those who share a protected characteristic and those who don’t.

To comply with the duty, equality issues must be thoroughly considered throughout the development, review and assessment of policy, legislation, budgets, etc. The more the measure being considered affects discrimination, equality of opportunity, good relations, and historic disadvantages, the more important it is that the PSED is fully implemented. [10] As this clearly applies to prostitution and CSE, the PSED is of particular relevance.

And yet there is considerable evidence that the PSED is not implemented fully in Scotland in terms of prostitution-related policy. For example, the Police Scotland Prostitution Policy [11] does not display an understanding of prostitution as a form of gender-based violence nor of the obligation under CEDAW Article 6 to “suppress all forms traffic in women and the exploitation of the prostitution of women.” The “exploitation of the prostitution of women” means third parties obtaining any financial or other benefit from a woman’s prostitution.[12]

The Police Policy waters this down. For example, the first point of focus is: “Protection of individuals and communities from threat, risk and harm, including exploitation caused by prostitution.” This is a very curious statement because prostitution does not cause exploitation. Prostitution IS exploitative and huge numbers of third parties feed off (i.e. exploit) women’s prostitution.

The policy goes on to suggest that they can eliminate “the harm that can be caused through prostitution” by partnership working and that policy and law can make it “safer for individuals involved in on and off street prostitution.”

The Scottish Government rightly understands prostitution to be a form of gender-based violence. How can something that is inherently violent be made safer? What level of violence is to be considered safe? Would an institution that causes the equivalent level of violence to men and boys be considered acceptable and rather than attempting to prevent and eliminate it, would there simply be half-hearted attempts to make it a bit less awful?

The policy claims to have had an equality impact assessment, but we could find no record of it on the Scottish Police Authority website. It is hard to understand how the policy could comply with the duty to eliminate the unlawful discrimination, harassment and victimisation of women, to advance the equality of opportunity between women and men and young and old, and to foster good relations between women and men and young and old.

Police Scotland's Prostitution Policy is just one small example of the work that needs to be done if Scotland is to make good on its Equally Safe promise. It is inevitable that Police Scotland is influenced by the UK-wide NPCC Guidance on Policing Prostitution, which CLAIMS to be uninfluenced by 'moral judgements' while accepting the sex industry as a given, as if it is a necessary part of society and not inherently harmful – which is a very clear moral judgement. The NPCC Guidance doesn't mention the legislation that can be used to address men's demand for prostitution, it explicitly advises AGAINST encouraging women to exit prostitution, and it is woolly on addressing profiteers. [13]

A freedom of information request revealed that the only named individual or organisation that advised the NPCC in the development of its guidance was National Ugly Mugs. This organisation not only campaigns for the full decriminalisation of the sex trade, including pimps and punters, but also against prostitution being understood as a form of gender-based violence. In light of this, it is not surprising that the NPCC Guidance takes the line it does. [13]

This reveals the danger of allowing partisan organisations, including those that may have links to powerful vested interests, advising on national policy. We understand that National Ugly Mugs are funded by contributions from police forces all over the UK. If the Scottish Government is serious in its Equally Safe strategy and understanding of prostitution and CSE being forms of gender-based violence, it should NOT fund (directly or indirectly through the police) any organisations whose aims contradict that understanding.

This is particularly important when funding organisations that provide services to those in prostitution. Services that are driven by the notion that 'sex work is normal work' and that are focused solely on 'harm reduction' can often prolong women's involvement in the industry and serve to trap them ever deeper in it.

Under the Palermo Trafficking Protocol and CoE Convention, Scotland has a binding obligation to reduce the poverty and inequality that make people, especially women and children, vulnerable and easy to exploit, and to reduce men's demand for prostitution that drives sex trafficking. Furthermore Article 17 of the CoE Convention directs that the implementation of the convention "should be done with the aim to promote gender equality and use gender mainstreaming in the development, implementation and assessment of the measures."

We urge the Scottish Government to commit to meeting these binding obligations in full and to implement a gender mainstreaming approach in all aspects of its prostitution and CSE policy and legislation, including policing and human trafficking and serious organised crime strategies. To this aim, we recommend the European Commission's 'Study on the Gender Dimension of Trafficking in Human Beings.' [14]

The Scottish Government must also improve data collection on all crimes related to prostitution. We would urge at the very least that sex disaggregated data is maintained separately for every offence (to include, reports, prosecutions and convictions) and that crimes against women involved in prostitution (for example, violent attacks, rapes and murders) are identified in the database so that they can be extracted and analysed. Similarly, all reports from the community about disturbance from brothels and other prostitution related activity should be recorded in such a way that they can be identified as being prostitution related so that they too can be extracted and analysed.

Attention also needs to be given to the police and official understanding of the connections between both coercive control and drug dealing with pimping women in prostitution. Many drug dealers operate as pimps and it is common for them to deliberately get girls and young women addicted to Class A drugs as a means of control. Anna who was in street prostitution in Leeds in the 1990s described how drug dealers started becoming pimps and vice versa: "There was no money in pimping then. There was more money in being a crack dealer – because if I'm a pimp, the girl I've got working is going to go to the crack dealer to buy coke, rather than bring money home to me. So that's when the pimps started being dealers. They'd give you some and let you owe them for it. They had a load of girls that owed them money like that." [15]

It is well documented that a disproportionate number of women involved in prostitution throughout the UK are recent migrants, many of whom may be sex trafficked. It is abhorrent that these women are being used and abused by British men and yet have so little protection, and often have no recourse to public funds and are at risk of deportation by the immigration system. We urge the Scottish Government to ensure that they have equal access to services as Scottish women and to end the brutal no recourse to public funds rule and to push for changes in the immigration system so that they can be granted residency.

Finally, we would like to remind the Scottish Government that the law in England and Wales that makes buying sex from someone who has been coerced or forced, etc has been an utter failure. We believe that while this law is an important line in the sand, its failure is one of the strongest arguments for a law against purchasing or attempting to purchase sex *per se* along the lines of the Swedish law as we explain in our answer to Question 4. [16]

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