



**UKNSWP RESPONSE TO: “Consultation on Human
Trafficking and Exploitation (Further Provisions and
Support for Victims) Bill”**



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UK Network of Sex Work Projects
Unit 114, Cariocca Business Park
Sawley Road
Miles Platting
Manchester M40 8BB
Tel: 0161 629 9861
Fax: 0161 205 3036
Email: admin@uknswp.org.uk
www.uknswp.org.uk



FURTHER INFORMATION

If you wish to discuss this response further please contact one of the following Board members of UKNSWP:

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| Lorraine Galatowicz (Chair, UKNSWP) | chair@uknswp.org.uk |
| Mary Laing or Jane Pitcher (Academic Representatives to the UKNSWP Board) | academic@uknswp.org.uk |

INTRODUCTION: UK NETWORK OF SEX WORK PROJECTS

This response is an organisational rather than an individual response. We wish the contents in this letter to be made public and included in any summary or statistical analysis of findings.

The UK Network of Sex Work Projects is a voluntary sector umbrella organisation to which projects providing support services to sex workers can affiliate. UKNSWP is a charity which aims to facilitate networking and the sharing of good practice in the provision of support services for sex workers. The aim of the UKNSWP is:

“To promote the health, safety, civil and human rights of sex workers, including their rights to live free from violence, intimidation, coercion or exploitation, to engage in the work as safely as possible, and to receive high quality health and other services in conditions of trust and confidentiality, without discrimination on the grounds of gender, sexual orientation, disability, race, culture or religion”

Our criteria for assessing policy and law relating to prostitution are that it should enhance the health, safety, civil and human rights of sex workers and enable the provision of accessible, quality & needs based support services.

UKNSWP has more than 60 member projects across the UK which offer frontline support services to, and have direct contact with, thousands of female and male sex workers throughout the UK. UKNSWP facilitates the sharing of good practice in the provision of support services for sex workers and promotes the health and safety of sex workers. Members are well placed to observe the impact of laws and policies on sex workers and on targeted services themselves. We hope that the views of experienced health and social care professionals working within our member projects will be given due consideration, as they are based on professional practice-based experience of working with people involved in prostitution in a range of sectors. UKNSWP also has a strong Associate member affiliation which consists of many key academics with a solid background of empirical ethically conducted research on prostitution in the UK.

The UKNSWP has not responded to all of the questions in the consultation as some of them are beyond our remit and/or expertise. We have also offered a response to groups of questions rather than responding individually. This is clearly indicated below.

Response to question 1, and responses to questions on consent and aggravating factors (p6-10)

Part one

- The bill purports to cover Human Trafficking Offences in their broadest sense under both the Sexual Offences Act 2003 and the Asylum and Immigration Act 2004. It is therefore questionable as to where there is a specific focus on sexual exploitation and why the criminalisation of the purchase of sex is included in this bill. If it is to consider trafficking in its wider sense – why is not other trafficking related legislation covered – e.g. around domestic servitude, forced manual labour – why is there the focus on commercial sexual exploitation, as the bill purports to have a wider focus?
- Based on this - what does this proposed legislation add to existing legislation around trafficking? Are there substantive changes? Is this extra legislation required or is it criminalising the purchase of sex through the back door?
- Part One, section 1 (2) which looks at consent states that the consent of a 'victim' of trafficking is irrelevant if there is coercion evident, or if payment has been made. The work of Dr Nicola Mai has clearly indicated that there is evidence of people paying to be moved to work in the sex industry and other jobs and that rather than identifying as victims of trafficking, those doing this are often economic illegal or legal migrants - how will this group be treated under this legislation? The research also suggests that legal status is actually the most important concern of migrants (whether free, forced or somewhere in between) the bill does not address this - it only states that they will be supported for 3 months - what happened after this time period and why 3 months?
- Also how will coercion, deception etc. be proven? These terms are vague, and vague legislation can be dangerous and hinder rather than help victims.
- UKNSWP member projects report that many independent off-street sex workers (female, male and transgender) may often travel to Dublin and Belfast for 'working holidays' - they do this of their own free will and will spend a week or two working

from a hotel room, often advertising through adult websites or forums - will the proposed legislation interpret this as a form of trafficking?

- In addition the bill concentrates in offering support to victims of trafficking - there should be provision made so that support is offered to all sex workers who need it - not just those who have been trafficked.

Questions on making paying for sexual services in Northern Ireland illegal (p13-14)

‘Do you agree that paying for sexual services of a prostitute should be illegal?’ ‘Do you agree that promising to pay for sexual services of a prostitute should be illegal, even if the act as [sic] not taken place?’

The answer to both questions is No, for the following reasons:

There are numerous concerns around this:

- Research has shown that criminalisation of either the client or sex worker can result in negative, dangerous and sometimes fatal consequences for sex workers, especially those engaged in street working. In the case of street sex work, criminalisation often leads to displacement resulting in sex workers often working in darker, more dangerous and less well known areas. This increases possibilities of violence and makes those working in street sex industries more vulnerable to exploitation.
- The majority of sex workers have made an informed decision to sell sex (Sanders, O’Neill and Pitcher, 2009). Those most affected by this legislation will be male, female and transgender sex workers in Northern Ireland working of their own volition and often within the law (the sale and purchase of sex by consenting adults is not currently illegal in the UK). Many lives could be worsened through loss of business and income, through increased stigma due to criminalisation of the purchase of sex. People will be working in fear of engaging in criminal acts when they are in fact selling and having sex with other consenting adults. People selling sex in outdoor environments will disappear from known areas of street sex work and meet clients in less well known and less safe areas which could impact on levels of violence.

- Methods of deterrence including the criminalisation of the purchase of sex are usually ineffective. Sex workers and their clients will work in different ways to avoid criminalisation. In addition much commercial sex is now sold via the Internet - how is it possible to police and enforce against this? Any deterrence relating to the criminal justice process would ultimately put those involved in selling at risk, especially those selling sex on the street, for the reasons detailed above. It will also deter sex workers from reporting violence committed against them due to concerns of being implicated in criminal activity, thus making a marginalised, stigmatised group more vulnerable to exploitation.
- There are several barriers in terms of policing and enforcing a prohibition on the purchase of sex. The police are already experiencing cuts in the current climate of austerity - is this offence even police-able - especially given that a significant proportion of sex workers now operate online? To what extent is it desirable to police this offence given that evidence suggests that sex work often involves consenting adults? Policing this is likely to be an impossible, as well as undesirable task. It also brings the law into disrepute by introducing legislation that cannot be enacted.
- Drawing on this - what will the police-able offence be and how will prostitution be defined in this context? Many commercial sexual transactions do not involve sexual acts - some do not even involve touch.
- Punishing clients would not be beneficial to sex workers – of course targeting violent clients is important, but targeting all clients ultimately erodes the human rights of sex workers to health and safety. Commercial sex is not inherently violent and much can be done to make it safer (Sanders and Campbell, 2007).
- The proposed legislation will further stigmatise sex workers and their clients, rendering a vulnerable group more vulnerable. It also promotes the message that sex work always constitutes violence against women – which is a falsehood given the international movement for sex workers’ rights and evidence from countries (e.g. New Zealand) where sex workers work within a decriminalised system and have access to the criminal justice system - rather than being excluded from it.

- The law infantilises sex workers and their clients by taking away power and autonomy in the sex industry context.
- Evidence from Sweden where the purchase of sex has been criminalised has resulted in :
 - classic displacement of sex workers
 - Women working off-street, through networks (taxi drivers etc) made vulnerable to different types of harm and economic exploitation.
 - Low conviction rates (500 in 10 years)
 - Majority of investigations discontinued - insufficient evidence, few proceeded to court.
 - Rather than tackling demand – restructured patterns of sex working – such as moving off-street.
 - Negative impact on most socially marginalised sex industry workers
 - Greater policing
 - Drop in custom - lower prices charged by sex workers, less choice in clients and clients pressing for quicker and therefore more risky transactions due to the concerns over criminalisation.
 - Greater risk taking and greater stress and danger due to the above
 - The legislation has had a paradoxical effect as it has resulted in higher levels of risk and danger to the most vulnerable - street based sex workers (Scoular, 2010)
- There also needs to be consideration to ensure that those selling sex are not criminalised through the new bill as this could increase vulnerability.
- The proposed bill is also problematic in that all sex workers are positioned as victims within it. How will this impact on those male, female and transgender sex workers who wish to continue working in the sex industry but also require assistance from criminal justice agencies?

References

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