Summary

1. The CVGR respectfully urges the UK Parliament to shift the burden of criminality from those who are exploited through prostitution to those who exploit them. This entails decriminalising the sale of sex and criminalising its purchase. This should be done alongside providing holistic services to those in prostitution, including support to leave prostitution for those who wish to do so.

2. This approach, often referred to as the ‘Nordic’ model, is gaining traction throughout Europe and North America and was enacted by Northern Ireland in 2014. It is directly aligned with the UK’s obligation under international and European law to address demand for exploitation and trafficking. It is core to promoting gender equality.

About the Centre for Gender and Violence Research (CGVR)

3. The CVGR, University of Bristol, conducts high quality research to inform policy, practice and action on gender-based violence. Areas of expertise include prostitution and sex trafficking as well as domestic violence, sexual violence, forced marriage, female genital mutilation (FGM) and so-called honour-based violence.

Evidence relating to the inquiry’s terms of reference

Whether criminal sanction in relation to prostitution should continue to fall more heavily on those who sell sex, rather than those who buy it.

4. Currently, the criminal burden in England and Wales falls more heavily on those who personally sell or are sold for sex. In 2013-14 over double the number of people were charged with soliciting/loitering (to sell sex) than kerb crawling.¹

5. Those in prostitution, i.e. individuals personally selling or being sold for sex, should not be punished in any way. Criminalisation of those exploited in prostitution results in the added punishment of individuals who, very often, are already victims of human rights violations, and increases the marginalisation they may already experience.

6. While we recognise that some individuals may voluntarily sell sexual services, we believe that the majority of those involved enter prostitution through a constrained interpretation of ‘choice’. And others have no choice at all.

7. The majority of those selling, or being sold for, sex in England and Wales are women. A significant minority of men are also engaged in prostitution. In almost all cases, it is men who are paying for sex:² men from diverse backgrounds of social class, ethnicity, age,

marital status or sexuality. It is imperative to recognise the gender dynamic of prostitution to appreciate the implications for gender equality.

8. Research carried out in the UK, echoing studies carried out in other countries, has documented the high levels of violence, exploitation and abuse experienced by people – mainly women – in both on-street and indoor prostitution. Those in street prostitution have been found to suffer a significantly higher mortality rate compared to women of similar age and backgrounds who are not in prostitution. A significant proportion entered prostitution before they were 18 years old. This is a good example of why ‘choice’ is a contested term. Several studies have found that women in street prostitution accessing services are suffering from substance misuse issues, and identified drug addiction as a main driver for entry.

9. UK research by the charity Eaves and London South Bank University found that the existence of criminal sanctions on those selling sex is a major barrier both to exiting and seeking assistance. As the report explains, ‘criminalisation stigmatises the women, acts as a barrier to finding employment, disrupts their lives and families, and creates debt’. Furthermore, ‘the use of Anti-Social Behaviour Orders (ASBOs) to manage women’s involvement in prostitution can often mean that women are excluded from the very support services that they require, as these are often located within ‘red light’ districts’.

10. Given that those women and men either selling, or being sold for sex, face disproportionate violence and harm, and since criminal sanctions may act as a barrier to exiting prostitution and even seeking assistance: they should not be criminalised in any way.

11. Those who buy sex however, exercise a fully free choice. In buying sexual access to those who are constrained or coerced, these buyers fuel exploitation, sex trafficking, gender inequality and social injustice.

12. International and European law oblige the UK to address the demand that fuels exploitation and trafficking.

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2 The most recent set of British National Surveys of Sexual Attitudes and Lifestyles (‘Natsal 3’, conducted between 2010-2012) carried out by researchers from University College London, the London School of Hygiene & Tropical Medicine and NatCen Social Research, asks the respondent whether they have ‘Paid for sex in the past 5 years’. Around 4% of men responded positively to this question and 0.1% of women. Research available at: [http://www.natsal.ac.uk/natsal-3.aspx](http://www.natsal.ac.uk/natsal-3.aspx).


6 See eg, Hester and Westmarland (2004), 81.

7 Hester and Westmarland (2004), 79-80.

8 Hester and Westmarland (2004), 77-80.

9 Bindel et al. (2012).

13. The introduction in 2010 in England and Wales (and Northern Ireland) of a strict liability offence of purchasing sex from someone when a third person has used ‘exploitative conduct’ against them, was a step in the right direction. However, it was a compromise measure that has been poorly implemented. We agree with the 2014 recommendation of the APPG on Prostitution and the Global Sex Trade, following its extensive inquiry, that the law be changed to fully criminalise the purchase of sex, in all circumstances.

14. In various studies, the majority of men who buy sex have stated that greater criminal penalties would deter them in future.

15. Research undertaken by the Child and Woman Abuse Studies Unit at London Metropolitan University with 137 men who bought sex with women concluded that ‘the accounts of men who had paid for sex overseas confirm that legality contributes to normalisation, which in turn increases the likelihood of paying for sex.’

16. Alongside criminal sanctions, we need a national education campaign to raise awareness of the new legal measures and to explain why the measures are important both in safeguarding people from harm and in promoting gender equality. The law should provide for training of criminal justice system professionals, both on the practical implementation of the law as well as its rationale.

17. We note that the Home Office report Tackling the Demand for Prostitution: A Review published in November 2008 identified some support among the public for adopting the ‘Swedish’ approach, but acknowledged that cultural attitudes were unfavourable:

“[T]he Government needs to work to challenge the attitudes of sex buyers and the public as a whole before criminalising the purchase of sex per se becomes a viable option” (Home Office, 2008, p.13).

We would suggest that attitudes are shifting and that this is an example of symbolic law, often required in pushing equality agenda forward, where Parliament leads public opinion.

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15 A law to decriminalise the sellers of sex and criminalise the buyers of sex was implemented by Sweden in 1999: Norway, Finland and Iceland adopted similar provisions in the following decade leading commentators to talk of a ‘Swedish’ or ‘Nordic’ model.
18. Northern Ireland was the first country in the UK to take this approach, through the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.

19. There is a growing trend in Europe and North America towards the Nordic model: in addition to Sweden and Northern Ireland, it has also been implemented in Norway, Iceland and – with caveat – in Canada. The parliaments of the Republic of Ireland and France are currently considering draft legislation to this end and the approach is under discussion in Lithuania and Latvia’s parliaments.

20. The Council of Europe Parliamentary Assembly’s April 2014 resolution on Prostitution, trafficking and modern slavery in Europe emphasises the close links between prostitution, human trafficking and gender equality. The resolution calls on the Council of Europe’s 47 member states, which includes the UK, to ‘consider criminalising the purchase of sexual services, based on the Swedish model, as the most effective tool for preventing and combating trafficking in human beings’ (emphasis added).

21. The European Parliament’s February 2014 resolution on Sexual exploitation and prostitution and its impact on gender equality, representing the official position of the 766-member European Parliament, also emphasises the links between these phenomena, and recommends the 28 EU Member States to consider the Nordic model as one way to combat prostitution and sex trafficking and to promote gender equality.

What the implications are for prostitution-related offences of the Crown Prosecution Service's recognition of prostitution as violence against women.

22. The CGVR fully supports the Crown Prosecution Service’s recognition of prostitution as violence against women.

23. The CPS approach is consistent with the policy of the Mayor’s Office for Policing and Crime and the Scottish Government.

24. The CPS’s recognition of prostitution as violence against women and its emphasis on shifting the criminal burden from those in prostitution to buyers is not currently reflected in the laws of England and Wales or Scotland. We would suggest that the volume of enforcement has been focused on public decency – through sanctioning loitering, soliciting and kerb-crawling. This leaves sex buyers to engage with impunity in 16 The Protection of Communities and Exploited Persons Act (2014) fully criminalised the purchase of sex and for the most part decriminalised its sale, but allowed for the maintaining of sanctions against selling sex in particular public places.


the majority of prostitution operated through massage parlours, brothels, private flats, organised parties and some escort services, where exploitation, coercion and constraint may also occur.

25. We note too that although the CPS advises that children under 18 accused of selling sex should be treated as victims of abuse, their guidance also states that: “Only where there is a persistent and voluntary return to prostitution, and where there is a genuine choice, should a prosecution be considered”. We believe that those under 18 should never be charged with a prostitution offence.

26. In order to bring laws in line with the CPS’s approach, England and Wales and Scotland should fully criminalise the purchase of sex and decriminalise its sale.

27. This would also help to bring much-needed coherence to prostitution law and policy in the UK, which has developed piecemeal over decades. Unity of purpose is currently lacking and results in uneven implementation. As the All-Party Parliamentary Group on Prostitution has noted, at present ‘the law is incoherent at best and detrimental at worst. The legal settlement around prostitution [in England and Wales] sends no clear signals to women who sell sex, men who purchase it, courts and the criminal justice system, the police or local authorities.”

28. What impact the Modern Slavery Act 2015 has had to date on trafficking for purposes of prostitution, what further action is planned, and how effectively the impact is being measured.

29. That demand facilitates prostitution and trafficking has been emphasised in the above-cited Council of Europe Parliamentary Assembly and European Parliament resolutions (see paragraphs 20-21), and has been expressed numerous times by EU officials.

30. The Modern Slavery Act does not contain any provisions on demand and thereby fails to address a key facilitator of the trafficking of women and girls into prostitution.

What impact the Modern Slavery Act 2015 has had to date on trafficking for purposes of prostitution, what further action is planned, and how effectively the impact is being measured.

22. As noted, addressing demand for prostitution is critical to ending the trafficking of women, men and children in to the sex trade. Without demand for paid sex, there would be no profit to be made by traffickers.

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30. The Modern Slavery Act does not contain any provisions on demand and thereby fails to address a key facilitator of the trafficking of women and girls into prostitution.

Whether further measures are necessary, including legal reforms, to:

- Assist those involved in prostitution to exit from it

31. As noted, in addition to criminalising the buyers and decriminalising the sellers of sex, the law should ensure that services are offered to help individuals wishing to exit

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prostitution, providing them with alternatives and support across a range of disciplines relating to health, housing, training and other services.

32. These services should be placed on a statutory footing and their adequate and sustained funding guaranteed. Too often such provision is expected to be absorbed by already stretched local and statutory services.

33. Findings from the above-mentioned research carried out by Eaves and London Southbank University indicate that women can and do wish to leave prostitution and have expressed the need for both formal and informal forms of support to do so. In addition, providing dedicated support to help women who want to exit was found to be an extremely cost-effective way of preventing further physical or emotional harm associated with their continued involvement in prostitution.24 It can also have an inter-generational benefit for their children.25

- Increase the extent to which exploiters are held to account

34. As Gavin Shuker MP reported to Parliament on 13 October 2015:

‘(...) between 2008-09 and 2013-14 there was a nearly 50% drop in prosecutions for pimping, a 35% drop in prosecutions for kerb crawling and a 74% drop in prosecutions for advertising prostitution. All of the above offences concern the people who create the demand for, or exploit, the most vulnerable in the transaction—women who sell sex. (...) In 2014-15, more than double the number of prosecutions were initiated for soliciting and loitering—offences committed by and large by women—than for kerb crawling, which is committed almost exclusively by men. In fact, in the past two years there have been more prosecutions for loitering and soliciting than for pimping, brothel keeping, kerb crawling and advertising prostitution combined26.

35. The Nordic model entails not only decriminalising those in prostitution and criminalising those buying sex, but also criminalising other exploiters including pimps and brothel-keepers.

36. This approach sends a clear message to criminal justice system professionals to free up enforcement resources previously spent on those selling, or being sold for sex, to focus sanctions on those involved in exploitation and perpetuating demand.

- Discourage demand which drives commercial sexual exploitation

37. In addition to criminalising the purchase of sex, there needs to be an education campaign within schools and among the public to raise awareness of the issues of, and

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25 See the example of Naomi House in Bristol, a residential project established to support pregnant and new mums to tackle addiction, address past trauma and keep their children: http://archive.c4eo.org.uk/themes/earlyintervention/vlpdetails.aspx?lpid=290

relationships between, sex trafficking, commercial sexual exploitation, and gender equality broadly.

Declaration of interests
The Centre for Gender and Violence Research is a research institution and has no conflicting interests to declare.

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