1. This submission is written in a personal capacity by the above, residents of England and Northern Ireland respectively. Both being advocates of women’s’ rights and an end to modern slavery; of which prostitution often being an indicator. This submission is intended to address a number of the issues prescribed in this inquiry. We aim to present and evidence opinion, commenting on both the societal and legislative framework surrounding prostitution. We do this in recognition of the opportunity to increase legislated safeguards to best protect the most vulnerable and those working in the sex trade.

2. The format and summary of this submission is as follows

- Criminal sanctions and how they are weighed upon numerous parties, particularly upon the supply, buy and sell roles within prostitution.

- The Violence Against Women strategy developed and implemented by The Crown Prosecution Service, and the implications of recognising prostitution-related offences as violence against women.

- Suggestions for further measures, including the legal provision of exit strategies, increased accountability to exploiters and offenders so to discourage demand and deter repeat offences, and the development and provision of therapy and counselling services to all involved in and affected by prostitution.

3. The weighing of criminal sanctions for prostitution-related offences should fall heaviest on those in the supply position. Those who approach, incite and facilitate prostitution for financial gain should be charged and sentenced with the highest severity out of the three highlighted parties, the other two being buyers, or customers and sellers, or prostitutes. Where a trafficking offence cannot be applied to a case, the absolute minimum should imprisonment of up to 7 years as prescribed by the CPS. Penalties should fall heaviest where a trafficking-related offence can be applied, trafficking being defined by both the Modern Slavery Act and the Trafficking Protocol to the Convention against Transnational Organised Crime. Those in management and operation of brothels should remain under the offence of inciting prostitution for financial gain, unless such persons are also guilty of the transport and receipt of a person, where they should be indicted under the MSA and CTOC for engaging in trafficking-related offences. We recognise there is a blur between both the
classification of severity and legal penalty for these two offences and appreciate the individual circumstances of each case.

The second heaviest weighing of criminal sanctions should fall on those involved in the monetary or otherwise purchase of sexual services. We agree that accosting or soliciting for the purchase of sexual services in a public place should be illegal as a broader restriction on the 1985 ban on kerb-crawling. Furthermore, we support the additional classification of making or promising payment for sexual services if the person in prostitution is or has been subjected to exploitative conduct. We strongly affirm that this remain a strict liability offence, waiving any plea of ignorance or misinformation. However, we believe that the offence should also cover the purchase, promised or otherwise, of sexual services in a building, business or residence. This would bring current English legislation to parity with that of Northern Ireland. The Human Trafficking & Exploitation (Criminal Justice & Support for Victims) Act (2015) criminalises the purchase of sexual services, purchase being defined as payment or promised payment; either by an individual or a third party with an individual having knowledge of such made or promised payment. Furthermore, the ‘services’ are defined as being in the physical presence of, physical touch and sexual contact. The prohibition of purchasing any of the above preserves dignity and the penalty of up to a year imprisonment and a fine up to the statutory maximum serves as a deterrent to repeat offenders whilst discouraging demand in Northern Ireland. We would recommend the close monitoring and implementation of this relatively new legislation and investigate the feasibility and possible impact of drafting similar legislation in England. The study of the Kvinnofrid Law (1998) in Sweden and the overall Nordic Model provide useful statistics and insight into the effectiveness of legislation regarding prostitution.

‘According to 2010 research from the Swedish government the law has halved street prostitution, while the number of men paying for sex declined from 12.7% in 1996 to 7.6% in 2008. The law also changed society’s opinion about buying sex: in 1996, 45% of women and 20% of men supported criminalising the buying of sex, but by 2008 numbers had grown to 79% and 60% respectively.’

As in Sweden, we believe that rather than drive the underground industry farther into realms of the unseen, it will empower and strengthen dynamics with law enforcement. Nearly 60% of 130 who the Prostitution Centre in Stockholm had contact with over three years sought assistance to exit the industry and some went on to assist in the prosecution of buyers who not only has purchased sexual service, but also committed crimes such as
rape, assault and child sexual exploitation; certainly a triumph for justice.
(Bellas Vänner representatives, a NGO working with young women escaping prostitution and sexual exploitation, personal conversation, June 16, 2002).

4. The CPS, in their legal guidance surrounding prostitution and sexual exploitation, state that

‘those who abuse and exploit those involved in prostitution should be rigorously investigated and prosecuted, and enforcement activity focused on those who create the demand for on-street sex, such as kerb crawlers [...] prostitutes or sex workers as victims of crime; the guidance is brief but provides links to other guidance which highlights the relevant measures which should be considered. Violence can occur from clients and pimps, with sex workers being targets for physical attacks, robbery or sexual assaults including rape. They may also be victims of domestic violence.’

We agree with and fully support this approach and strategy for investigation and prosecution of those exploiting individuals and groups for financial gain and/or control. We submit that prostitution is a means of physical and emotion control over an individual, often exercised through the use of threats and violence but at the core of the offence is also financial coercion implemented by the promise or issue of financial reward for working as a prostitute. This legal guidance also points to strong links between prostitution and trafficking:

‘The increase in human trafficking for sexual exploitation is also fuelling the market for prostitution in the UK, although this is largely confined to off-street and residential premises such as brothels, massage parlours, saunas and in residential flats. This is a lucrative business and is often linked with other organised criminal activity such as immigration crime, violence, drug abuse and money laundering. Women may be vulnerable to exploitation because of their immigration status, economic situation or, more often, because they are subjected to abuse, coercion and violence. However, there is evidence now that trafficked women are also working on the street.’
The viewpoint that prostitution is fundamentally violence against men and women who work in the sex trade is indeed a strong stance, but one that must be widely adopted. Even if consent is present, the exchange of sexual services for payment, monetary or otherwise, is an impingement on human rights, dignity and freedom. In order to work towards gender equality, the purchase and sale of one group of individuals is a direct impingement to such an effort and as such, we believe the law will have positive normative effects on society. We also argue that the exploitative practice of trafficking is unlikely to be eliminated until the international community act in solidarity with substantial measures to combat the purchase of sexual service.

5. The public interest aims and considerations offered by the CPS, and their bearing in mind, should be supported and encouraged as a finding from this Committee inquiry. In particular, the aim ‘To encourage prostitutes to find routes out of prostitution and to deter those who create the demand for it’ should be investigated on a legislative level. To have legally created, implemented and protected exit and support strategies, we believe, will have a great impact on the issue of prostitution in the UK. We welcome the efforts in Northern Ireland to develop new exit and support programmes which are not conditional on giving witness testimony in a prosecution. The first report of this research and development is expected on the 1st of April 2016 and we encourage this Committee to use these findings in their inquiry to further research how to best help victims exit prostitution. We strongly advocate the provision of therapy and counselling services to not only those working as prostitutes, but all involved including those inciting and buying in the sex trade. Of course, this should not be in lieu of prosecution and sentencing, but should serve as a rehabilitation and education to deter further offence and discourage demand on all levels within the sex trade. The possibility of a database akin to the Sex Offenders Register, to act as a further societal sanction and deterrent is a further measure we offer to this Committee for consideration. We would also suggest a training programme for law enforcement to better equip and imbue a deeper understanding of the legislation to officers to increase prosecution efficiency.

6. In closing, we would like to thank the Home Affairs Committee for the launch this inquiry into the legislative and judicial treatment of prostitution.