INTRODUCTION

1. NAT (National AIDS Trust) is the UK’s leading policy and campaigning charity on HIV. We welcome the Home Affairs Committee’s examination of legislation relating to sex work and its impetus towards action to limit harm to sex workers, and we further welcome the opportunity to submit evidence to the inquiry.

2. Beyond the immediate scope of the inquiry identified by the committee, NAT believes that sound evidence-based measures to address sex work should constitute an integral component of an effective, comprehensive response to HIV in England.

3. We would like to acknowledge the work of HIV Scotland on the matters covered by this inquiry, particularly in relation to their response to the ‘Prostitution Law Reform (Scotland) Bill’ consultation, on which much of our response is based.

EFFECTIVENESS OF CRIMINAL SANCTIONS

4. NAT strongly believes that people who sell sex should not be subject to criminal sanction, but instead should be supported to maintain their rights, safety and health.

5. Attending to the rights, safety and health of sex workers benefits individuals but also has broader implications for public health and public order. Supporting sex workers to stabilise their lives is the most likely method of preventing their involvement in sex work.

6. There is little evidence to suggest that criminal laws related to sex work prevent demand for sex or reduce the number of sex workers. Rather, criminalisation risks creating an environment of fear and marginalisation for sex workers, who may have to work in remote and unsafe locations to avoid arrest of themselves or their clients. As such, the World Health Organisation [WHO] has made a clear recommendation that: “Countries should work toward decriminalization of sex work and elimination of the unjust application of non-criminal laws and regulations against sex workers.”

7. We wish to be absolutely clear that a policy goal of decriminalisation does not extend to include minors or any person who has been trafficked or otherwise coerced into the sex industry. Trafficking into sex work is a profound human rights violation that demands effective and comprehensive international action. NAT fully supports work to ensure stringent and robust law against coercion in the sex industry. All people selling sex must be protected from violence, coercion and other forms of abuse, and be ensured of their rights to legal assistance and access to justice.

1 UNAIDS, Guidance Note on HIV and Sex Work, 2012

2 World Health Organisation [WHO], Consolidated Guidelines on HIV prevention, diagnosis, treatment and care for key populations, July 2014,
http://apps.who.int/iris/bitstream/10665/128048/1/9789241507431_eng.pdf?ua=1&ua=1
8. However, concerns that decriminalising sex work will lead to an increase in trafficking are unfounded. Jurisdictions that decriminalise sex work can not only retain, but also strengthen, criminal prohibitions on trafficking, sexual coercion, and the prostitution of minors. ³

9. In fact, when not themselves under the threat of criminal penalties, sex workers and their organisations can work with law enforcement and be a strong asset in combating trafficking. For example, UNAIDS highlights sex worker organisations as best positioned to refer women and children who are victims of trafficking to appropriate services.⁴

CRIMINAL SANCTIONS AND HIV

10. Criminalising sex work undermines HIV prevention and treatment for a high-risk population, which risks further destabilising the lives of those involved and potentially cementing their position in relation to the sex industry. This runs entirely contradictory to the aim of providing individuals opportunities to exit from sex work, as well as broader aims for public health and public order.

11. The World Health Organisation (WHO) has identified sex workers among the groups that “due to specific higher-risk behaviours, are at increased risk of HIV irrespective of the epidemic type or local context.”⁵ Globally, sex workers are disproportionally affected by HIV. In 110 countries with available data, the prevalence of HIV infection is almost 12 times higher among sex workers than for the population as a whole.⁶

12. Criminalisation of sex work increases the risk of HIV transmission. Punitive environments have been shown to limit the availability, access and uptake of HIV prevention, treatment, care and support for sex workers and their clients.⁷

13. Criminalisation also has an indirect effect on HIV transmission among sex workers as it renders them more vulnerable. Street based sex workers, in particular, are more likely to be put in situations that inhibit their ability to negotiate condom use with clients and reduce the risk of violence or abuse. In one study, 25% of street-based workers reported being pressured by clients to have sex without a condom. Those who worked in remote areas (such as industrial parks) to escape local policing were three times more likely to report being pressured into having sex without a condom than the study population overall. The study goes on to demonstrate that decriminalisation of sex work could have the greatest effect on the course of HIV epidemics across all settings, averting 33–46% of HIV infections worldwide in the next decade.⁸

FURTHER MEASURES TO SUPPORT EXITING SEX WORK AND SAFER SEX WORK

14. Alongside measures to improve working conditions for sex workers, tackling broader structural conditions would assist those who aim to exit sex work. Programmes should be deployed to

⁴ UNAIDS, 2012, ibid.
⁵ WHO, 2014, ibid.
⁷ op cit.
support sex workers to acquire the life, education and vocational skills and training they need to make informed decisions and have meaningful choices about their lives. Sex workers must also have access to a meaningful and comprehensive set of alternatives to sex work that respond to workers’ individual circumstances. In devising meaningful alternatives to sex work, programmes should address issues such as drug dependency, family rejection, mental health and financial and legal problems.

15. Beyond assisting people to exit from sex work, NAT believes that reducing gender inequality will help limit entry to sex work. Globally, the vast majority of sex workers are female. With unequal access to education, employment, credit or financial support outside marriage, some women might come to see sex work as one of the few options available to support themselves.\(^9\) Evidence-based measures need to be taken to address unequal relations where gender inequality persists.

16. UNAIDS asserts that the epidemiological data on HIV infection rates among sex workers and their clients reflects the failure to adequately respond to their human rights and public health needs.\(^10\) Decriminalisation alone will not secure improved safety and health of sex workers, and broader public health advances. Rather the matters of stigma and discrimination, gender inequality and violence (against people of all genders) must be addressed as part of a broader cultural shift to a rights-based approach to sex work.

17. A number of initiatives could work towards improving conditions for sex workers wanting to stay within their profession. The UNAIDS Guidance Note on HIV and Sex Work provides clarification and direction regarding approaches to reduce HIV risk for sex workers. It has a policy and programmatic emphasis that rests on three interdependent pillars: (a) access to HIV prevention, treatment, care and support for all sex workers and their clients; (b) supportive environments and partnerships that facilitate universal access to needed services; and (c) action to address structural issues related to HIV and sex work. It is firmly built on human rights principles - supporting the right of people to make informed choices about their lives, in a supportive environment that empowers them to make such choices free from coercion, violence and fear.

18. Enabling sex workers to organise would promote safer working conditions. Collectively, sex workers can better address risk factors in their workplaces and insist upon improved conditions. Where sex workers are able to assert control over their working environments and insist on safer sex, evidence indicates that HIV risk and vulnerability can be sharply reduced.\(^11\) Legislation in this area would need to be supported by sustained and well-resourced action to build the capacity of sex workers. This could include the provision of funding and training for sex-worker groups to develop and sustain organisational strength and expertise and to share good practice.

19. While some sex work settings have served as excellent venues for HIV-prevention programmes, many others neither promote safer sex nor protect sex workers from violence.\(^12\) Placing a statutory duty on brothel operators to ensure safer sex supplies are made available, alongside condom promotion programmes, would help empower sex workers to assert their rights and hold duty bearers to account.

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\(^11\) *op cit.*

\(^12\) *op cit.*
RECOGNISING DIVERSITY AMONG SEX WORKERS

20. Whether measures are aimed at encouraging people to exit sex work or to practice sex work in the safest possible manner, it is vital to recognise the breadth of people involved in order to target interventions effectively. The profession is dominated by women, but NAT accepts the UNAIDS/WHO definition of sex workers as “female, male and transgender adults aged over 18 years who sell consensual sexual services in return for cash or payment in kind, and who may sell sex formally or informally, regularly or occasionally.”

21. Male sex workers and trans* sex workers have some common experience with cisgender female sex workers (unfortunately violence against sex workers is a common theme across genders), but also experience different HIV risks and support needs. Trans* women sex workers have a disproportionate risk of acquiring HIV compared with other sex workers due to a combination of biological, personal and structural factors, not least systematic stigma, discrimination and subjection to violence. Cisgender male sex workers are also at considerable risk because, regardless of their own sexual orientation, they mainly offer sex to other men and, among the general population, men who have sex with men have a high incidence of HIV.

22. Thus, as well as being victimised by discriminatory gender-based attitudes, violence, and sexual exploitation, membership in other populations that are prone to HIV exposure creates different vulnerabilities and different service requirements. Policies to address sex work must recognise and respond to the social diversity of sex workers and the intersectionality this entails.

CREATING EFFECTIVE POLICY

23. An evidence based approach which seeks to ensure the safety and rights of sex workers should be guided by what people who are currently selling sex say that they need. Debates on sex work rarely feature a range of voices from those with direct experience of the sex industry. While this may not be straightforward, it is the only way to generate engagement within the community of sex workers, and to create the necessary level of awareness amongst policy makers and service providers of why people enter the various sex work markets, why they might continue working there and how best to protect the most vulnerable.

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14 Das and Horton, Bringing sex workers to the centre of the HIV response, The Lancet Volume 385, No. 9962, p1-2, 3 January 2015 (published online July 2014)

15 Poteat et al, HIV risk and preventive interventions in transgender women sex workers, The Lancet Volume 385, No. 9962, p88-100, 3 January 2015 (published online July 2014)

16 Baral et al, Male sex workers: practices, contexts and vulnerabilities for HIV acquisition and transmission, The Lancet Volume 385, No. 9962, p74-87, 3 January 2015 (published online July 2014)