Written evidence submitted by The All Party Parliamentary Group (APPG) on Prostitution and the Global Sex Trade

The APPG on Prostitution and the Global Sex Trade exists to raise awareness of the impact of the sale of sexual services on those involved and develop proposals for government action; to tackle individuals who create demand for sexual services and those who control prostitution; to protect prostituted women, helping them to exit prostitution; and to prevent girls entering prostitution.

As officers of the APPG and through our 2014 legislative review Shifting the Burden, we have developed a substantial knowledge and understanding of the content and operation of the law relating to prostitution. We submit our conclusions as written evidence to the Home Affairs Select Committee inquiry into prostitution and would welcome the opportunity to give further evidence.

Throughout this submission we use the language of the most normative sexual transaction in prostitution, where men purchase the sexual services of women, highlighting the highly gendered nature of this trade.

Submitted by Gavin Shuker MP on behalf of the APPG.

Summary

1. This evidence encompasses four sections relating to the inadequacy of how prostitution law operates in England and Wales, and then gives a number of recommendations about how the law might be reformed.

   The four areas of the law are:
   i. Legislation
   ii. Policing and enforcement
   iii. Entry into and exit from prostitution
   iv. Cultural attitudes

Introduction

2. The last major government consideration of prostitution law was the Home Office Review on Tackling Demand for Prostitution in 2008, which was followed by the changes brought in by the Policing and Crime Act 2009. Since then, the focus of government has been on practical approaches rather than on the law. Whilst identifying and sharing good practice is a valuable exercise, more must be done at a legislative level to address the gendered imbalance of harm that exists within prostitution.

3. The APPG Inquiry received 413 submissions of evidence from individuals including those with personal experience of prostitution, those who are working to provide support through agencies and organisations, and members of Police forces and local councils.

4. When asked about the current legal settlement, only 7% of respondents to the question considered the current laws on prostitution to be effective and consistent in safeguarding those involved in prostitution.

5. The following evidence is a summary of how the law operates at four critical levels: legislation, policing and enforcement, entry into and exit from prostitution, and cultural attitudes.

6. The law is incoherent at best and detrimental at worst. The legal settlement around prostitution sends no clear signals to women who sell sex, men who purchase it, courts and the criminal justice system, the police or local authorities. In practice, those who sell sexual services carry the burden of criminality despite being those who are most vulnerable to coercion and violence. This serves to normalise the purchase and stigmatise the sale of sexual services - and undermines efforts to minimise entry into and promote exit from prostitution. Moreover, legislation does not adequately address the gendered imbalance of harm within prostitution, and as such is detrimental to wider strategies which pursue gender equality.

Legislation

7. At present, legislation is complicated and confusing; prostitution is legal but many associated activities are criminalised. There is no clear political strategy. The law simultaneously condones and condemns prostitution.

8. Legislation fails to protect the vulnerable. Individuals who solicit for the sale of sexual services tend to be the most visible, and therefore bear the burden of criminality. The
law does not go far enough in protecting those under the age of 18. Although there is a strict liability offence for purchasing sexual services from a child under the age of 13, when the child is aged 14-17 the law allows perpetrators to use the defence of reasonable belief that the child was over 18. Despite near pandemic levels of violence experienced by women in prostitution, the criminalisation of activities related to the sale of sex makes women reluctant to report incidences of violence.

9. The law fails to target perpetrators. In practice, Section 14 of the Policing and Crime Act 2009 is ineffective in reflecting the complexity of coercion, meaning the level of prosecutions is low. There are inadequate deterrents for individuals controlling others in prostitution for gain, and for those driving the demand for the sex trade. This promotes the UK as a lucrative destination for trafficking with the purpose of sexual exploitation both domestically and internationally.

Policing and Enforcement

10. The inconsistent and confusing nature of the law is demonstrated most clearly in its enforcement. Enforcement of the law is inhibited by strict evidentiary requirements to prove exploitation. Section 14 of the Policing and Crime Act 2009 is an insufficient measure for protecting victims because coercion is too difficult to prove. The offence of purchasing sexual services from a child is ineffective because the defence to reasonable belief frequently makes it difficult for prosecutions to take place.

11. Policing and enforcement is unevenly prioritised and resourced. The lack of a centralised political strategy has resulted in disparate local enforcement. Within London alone, one borough may be diverting women into exiting services whilst another is focused on clean ups and crack downs. Policing of prostitution is inconsistent because enforcement of legislation is resource intensive. It rarely becomes a policing priority unless an extremely serious case is reported.

12. This strategy further marginalises the most vulnerable. Target-driven police forces focus on those involved in selling sexual services. Under current legislation, targeting those purchasing sex or controlling others for gain is far too difficult and therefore far too resource intensive. Despite significant violence experienced by those who provide sexual services, the fear of prosecution causes reporting rates to remain worryingly low.

Entry and Exit

13. Efforts to prevent entry and promote exit are hindered because the law assumes that coercion is the exception to the rule. Section 14 of the Policing and Crime Act 2009 fails to account for the complex nature of coercion. Coercion is often a subtle and manipulative process. The language of ‘choice’ assumes a range of options. More often the decision to enter prostitution is led by poverty, drug or alcohol dependency, or patterns of abusive behaviour.

14. The law is inconsistent with efforts to promote exit schemes. The law hinders efforts to support women seeking to exit prostitution by criminalising the women, creating practical barriers to exiting and remaining out. Legislation is incoherent with exiting strategies. By failing to address demand, the law inadvertently sanctions sexual exploitation of women by men.

Culture

15. There is need for a political strategy that recognises the law’s influence on cultural attitudes. At present the law normalises the acceptability of purchasing sexual services whilst stigmatising and penalising those providing sexual service. The imbalance of the law and its enforcement serves to communicate that it is acceptable to demand but unacceptable to provide sexual services. Criminalisation of those involved in prostitution perpetuates experiences of social stigma and marginalisation.

16. Currently the law fails to recognise prostitution as a form of violence against women and girls. Women in prostitution can expect to experience a high level of harm – often being subjected to physical violence, sexual abuse and emotional control, and suffering poor physical and mental health. By failing to account for the imbalance of harm within the prostitution transaction, the law facilitates the acceptability of violence against women and girls.

17. The law fails to acknowledge the impact of prostitution upon gender equality. The law condones a power imbalance in prostitution that does not exist in non-commercial sexual transactions: despite receiving payment, the cost to the seller is much greater than to the
buyer in terms of violence, and poor mental and physical health. The failure of legislation to reflect the gender imbalance within prostitution encourages assumptions that men have a ‘right’ to purchase sexual services from women. The law is detrimental to other strategies that promote gender equality.

Recommendations

18. The legal settlement should be reviewed with a view to reducing the demand for sexual services, by transferring the burden of criminality from those selling sexual services onto those who facilitate or create the demand for its sale.

We therefore recommend consolidating legislation in a single Act with the following clear principles underpinning it:

i. The burden of criminality should weigh heaviest on those who purchase sex – who create demand – and not on those who provide sexual services.

ii. Given the harm experienced by women involved in prostitution, it is entirely legitimate to seek to reduce instances of the sale of sexual services.

iii. The law should help, not hinder, the efforts of those who wish to exit prostitution.

iv. Prostitution is incompatible with attempts to tackle gender inequality, and inconsistent with measures to tackle human trafficking.

Consequent and related measures:

i. Removing soliciting offences that target women involved in prostitution from statute and instead dealing with persistent anti-social behaviour under ASB legislation.

ii. Wherever possible women should be diverted from the criminal justice system.

iii. Increasing penalties for those controlling individuals in prostitution, at the same time as reviewing the law to prevent the prosecution of individuals independently selling sexual services on the same premises for the purpose of their safety.

iv. Amending the strict liability offence for purchasing sexual services from a child by raising the age at which strict liability is established from 13 to 16.

v. Requiring government to conduct a financial assessment of the social cost of prostitution, and to enable reporting of government spending on programmes to reduce entry into and promote exit from prostitution.

vi. Requiring government funded service providers to make available, or provide information about, programmes which facilitate exit from prostitution, with funding allocated to those services which meet this criteria most effectively.

vii. Requiring child safeguarding boards to identify children, including those aged 16-18, at a heightened risk of commercial sexual exploitation in order to provide targeted intervention.

viii. Adopting all measures and language that demonstrate prostitution to be a form of violence against women and girls, both within government and the police, with a statutory duty for local authorities to have a reduction-focused violence against women and girls strategy.

ix. Introducing a general offence for the purchase of sexual services.