Written evidence submitted by SCOT-PEP

1. SCOT-PEP was established in 1989 and provided direct services to sex workers in Edinburgh for 20 years until funding ceased in 2009. SCOT-PEP has since evolved into a Scotland-wide advocacy and campaigning group, led by current and former sex workers.

2. SCOT-PEP adopts a rights-based approach to sex work and advocates for the safety, rights and health of everyone who sells sex in Scotland. We call for the decriminalisation of sex work along the lines of the New Zealand model, a legal framework which has been acclaimed as the best in the world for upholding sex worker safety and rights by bodies such as the World Health Organization, Amnesty International, Human Rights Watch, UNAIDS, and the Global Alliance Against Traffic in Women.

3. We argue that sex workers are a diverse group of people with varying experiences in sex work. We centre those who are most marginalised in our work. We do not believe that sex work is inherently harmful nor do we believe that it is inherently empowering. We believe that anyone who wants to exit the industry should be supported to do so, while those who continue to sell sex have the right to do this as safely as possible and without being criminalised.

Preliminary comments

4. We want to begin our submission by saying that the questions posed by this inquiry are, in our view, very badly framed. The wording of question 1 assumes that criminalisation of prostitution is an inevitability and the only concern is where the criminal sanction should fall. We challenge this assumption and argue that sex work should be decriminalised. We also dispute the assumptions made in question 4 that exiting and discouraging demand are two of the key indicators of a successful prostitution policy. We believe a better test for a successful sex work policy would be one that increases the safety of people who sell sex, and supports and enhances their ability to make their own decisions about what’s best for them. Nevertheless, we will respond to your questions as framed.

Question 1: Whether criminal sanction in relation to prostitution should continue to fall more heavily on those who sell sex, rather than those who buy it.

5. SCOT-PEP campaigns for the decriminalisation of sex work and as such we believe that there should be no criminal sanction on either those who sell sex or those who buy it. Instead we believe that criminal sanction should fall on those who mistreat, abuse and exploit sex workers. There is a wealth of academic evidence which shows that criminal sanctions, whether targeted at purchaser or seller, seriously inhibit sex workers’ safety. We know that academic submissions will be made to the inquiry so we will not use this submission to cite the relevant evidence.
6. Where a person’s experience of selling sex is negative and causing them harm, it makes absolutely no sense to criminalise what they are currently doing to survive. All this does is further entrench marginalisation and harm. It is often argued that shifting the criminal sanction to the purchaser of sex will somehow improve the lives of people who sell sex. This is a dangerous fallacy. The criminalisation of purchasers puts sex workers in greater danger; it inhibit sex workers’ ability to support themselves financially, and pushes them into riskier situations in order to earn money. Evidence from Sweden, which was the first country to introduce laws criminalising the purchase of sex, shows the harmful effects of laws against sex buyers on sex workers.

7. Numerous studies show that sex workers in Sweden have reported an increase in fear of violence as well as an increase in actual experience of violence since the introduction of the ‘sex buyer law’ (sexköpslagen). (Dodillet and Östergren 2011: 23; Norwegian Ministry 2004: 12-14; Östergren 2004: 2, 5). The law reduces the time street-based sex workers have to negotiate with clients, a crucial safety measure, because clients are fearful of arrest (Levy and Jakobsson 2014). The clients of indoor workers are reluctant to give any contact information to sex workers, which means they are untraceable in the event that they do commit acts of violence (Levy and Jakobsson 2014). This makes prosecuting crimes against sex workers extremely difficult. A researcher reports speaking to a woman who, “having been forced to take anonymous clients following the sexköpslagen … [she] had lost count of the number of times she had been raped and assaulted by men who were thus untraceable. She had not been raped in the context of her sex selling before 1999.” (Levy 2014: 7)

8. In Sweden condoms are used as evidence to prosecute clients, meaning that there is a disincentive among sex workers and clients to use them (Jordan 2012: 12–13) and authorities in Sweden, notably in Stockholm, refuse to distribute condoms to sex workers, because they believe this would be “promoting” sex work (Levy and Jakobsson 2014). This has serious consequences for the health of sex workers. The most recent research report on the ‘sex buyer law’ in Sweden prepared by Malmö University and commissioned by the Swedish Association for Sexuality Education (RFSU), concludes again that claims of the policy’s success have been greatly exaggerated and that “the law has instead led to increased vulnerability for sex workers.” UNAIDS observed that “The approach of criminalising the client has been shown to backfire on sex workers. In Sweden, sex workers who were unable to work indoors were left on the street with the most dangerous clients and little choice but to accept them.” (UNAIDS 2011)

9. If there is a serious concern with improving the lives of people who sell sex then the focus should be on ensuring that there are economically viable alternatives for sex workers and ensuring that wealth is more fairly distributed in our society. People almost invariably sell sex for financial need, and tackling sex workers’ economic precarity should be the priority, not reducing the demand for commercial sex. We favour a “reduce supply”
approach that focuses on ensuring that people no longer feel compelled to work in the sex industry because of financial need, and that they have access to a range of other sustainable economic opportunities.

**Question 2: What the implications are for prostitution-related offences of the Crown Prosecution Service’s recognition of prostitution as violence against women.**

10. We believe that the discursive framing of prostitution as violence against women is dangerous and harmful. Whilst we are based in Scotland and not under the jurisdiction of the Crown Prosecution Service, the Scottish criminal justice system has a similar policy approach. While people who sell sex (of all genders, not just women) do experience worryingly high levels of violence, we reject the assertion that prostitution is inherently a form of violence.

11. The key harms fostered by the conflation of sex work with commercial sexual exploitation, and violence against women, are that this conflation:

   a) **Makes invisible the violence that sex workers themselves define, meaning there is no incentive to pursue policies that reduce that violence.** For example, we have elsewhere argued that to conflate all sex work with violence “… if sex work is violence, and so is sexual assault, then disrupting a sex worker’s workplace can be presented as ‘tackling violence’ in the same way that preventing or punishing sexual assault is. That’s despite the fact that limiting or displacing a sex worker’s ability to sell sexual services, or disrupting their workplace, might force them to seek out unfamiliar or risky work venues, making them more vulnerable to violent individuals.”

   b) **Provides political justification to push for policies that demonstrably increase violence against sex workers, as defined by sex workers themselves.** We have elsewhere noted, “The things that sex workers define as violence against them – robberies, assaults, sexual violence, as well as harassment from members of the public, and things such as the threat of eviction from landlords – all increase when anti-prostitution policies are implemented.” Furthermore, ‘end demand’ approaches such as that implicitly endorsed by the terms of this inquiry have been extensively shown to increase sex workers’ vulnerability to violence; for instance, with a 2006 UK Home Office study stating: “Police operations can have the effect of reducing the number of men seeking prostitutes in an area. Women, sometimes desperate to earn money to fund drug use, will still go out on the streets, often at a later hour, remaining there for longer, thus increasing their vulnerability.” Attempting to reduce prostitution through police operations that target clients is acknowledged as increasing sex workers’ vulnerability, which to us cannot be an acceptable policy outcome.
c) Impedes harm reduction strategies, by positioning harm reduction – such as non-judgemental health services – as akin to condoning the ‘violence’ that is sex work. For example, ‘ugly mugs’ schemes have existed among sex working communities for decades as a way for workers to warn each other about violent people, and have in recent years become more formalised in the UK through the establishment of National Ugly Mugs, a charitable organisation. In 2006, a high-profile journalist wrote that “such schemes... can be seen as a way to maintain women in the sex industry, as opposed to assisting their exit from it”. We have argued that this raises as a spectre the idea that warning women about potential perpetrators of violence is of questionable value if those women continue to sell sex, and implies that increased levels of violence against sex workers is acceptable if intended to deter the selling of sex.

d) Excludes sex workers from policy-making around sex work, as participation in policy discussion requires pre-emptive ‘agreement’ with the definition of sex work as violence against women. We have argued that the Scottish Government’s definition of sex work as intrinsically a form of violence means that “sex workers – who inevitably speak from a huge diversity of experiences – are automatically disqualified from participation in sex work-related policy-making in Scotland, unless they adhere to the Scottish government’s definition. Participation that is premised on only being listened to if you say the ‘right’ thing is not real participation. The World Health Organization states that sex workers should not only participate in, but lead in policy discussions around sex work, emphasising: ‘a [sex worker] community-led approach to planning, delivering and monitoring services for sex workers is essential’. Because sex workers are not permitted into policy discussions about sex work in Scotland, they have no opportunity to challenge the definition that keeps them excluded. As a result, sex workers in Scotland have no meaningful input into planning, delivering, or monitoring services for sex workers. If sex workers had meaningful input into policy spaces that discuss their ‘needs’, it seems unlikely that organisations such as the Edinburgh Violence Against Women Partnership would respond supportively to police raids that sex workers described as ‘violating’. In excluding sex workers and sex worker-led groups – even when those groups are already doing service delivery – from the discussion, the Scottish Government is in violation of the WHO’s minimum global standards, as well as in violation of basic justice and common sense.” (All references associated with our arguments in this section to be found here.)

12. Instead of arguing that all commercial sex is violence against women we believe that the Crown Prosecution Service should listen to sex workers’ own views on the violence they experience in the industry and what is needed to reduce this, and that they should bring perpetrators to justice. We know that sex workers are reluctant to report violence
against them to the police because of fear of harassment, arrest and prosecution. Stating that prostitution is a form of violence against women does not make it easier for sex workers to report violence. Only decriminalisation of sex work does that because it eliminates the fear of arrest as a disincentive to report.

Question 3: 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.

13. No response.

Question 4: Whether further measures are necessary, including legal reforms, to:
- Assist those involved in prostitution to exit from it
- Increase the extent to which exploiters are held to account
- Discourage demand which drives commercial sexual exploitation

Assist those involved in prostitution to exit from it

14. We strongly believe that anyone who wants to leave sex work should be supported to do so. When we were funded to provide services, we supported people who wished to leave sex work to do so, through help with housing, social security, employment and health. Ultimately, we believe that the way to support people to leave sex work effectively is to address the massive wealth inequalities that exist in our society and globally. It is shortsighted and disingenuous to focus attention on the legal structures around sex work. A meta-study that looked at 681 sex work articles found that legal structures have, in fact, very little impact on the numbers of people working in the industry. The researchers state “only in the most extreme social situations, such as the Cultural Revolution in 1960s China and the Taliban regime in Afghanistan, has commercial sex probably been quantitatively suppressed. Typically social and legal sanctions against sex workers merely succeed in displacing the activity into other localities or into a different kind of working arrangement.” (C Harcourt, B Donovan: 2005: 201).

15. Sex work is an economic activity and the need for money is generally what pushes people into sex work: if you want to design a policy to encourage people to leave sex work, you need to offer people ways of making equally as good or better money, that they judge to be as good or better for them than selling sex. Making sex work more dangerous (for instance, through criminalisation and ‘end demand’ approaches) is arguably one way to attempt to change sex workers’ calculus as to what is best for them, in that if sex work becomes more dangerous, those with sufficient resources to leave may do so as a result. However, making sex work more dangerous – increasing sex workers’ vulnerability to rape, robbery, attack, harassment or eviction, to name some examples – cannot be a morally acceptable policy goal. Furthermore, such an approach will disproportionately harm the
most marginalised, who will have fewest resources to either leave sex work at all or leave sex work quickly, and as such will be stuck selling sex in a context that has been made deliberately more dangerous for them.

16. In addition to addressing wealth inequalities we would also like to see holistic, well-resourced and non-judgemental support services that help sex workers transition out of the industry if they choose to do so. These services must not be premised on accepting that prostitution is inherently harmful or a form of violence against women.

17. We also believe that decriminalising sex work will better assist people to exit. Prostitution-related convictions act as a significant barrier for those who seek employment outside of the industry. Decriminalising sex work and ensuring that any prior prostitution related convictions are expunged from people’s records should be a priority.

**Increase extent to which exploiters are held to account**

18. Policy-makers, the police, and prosecution services should focus on ensuring that those who exploit sex workers are held to account. The most effective way to do this is for the state authorities to listen to sex workers’ experiences and ideas on how best to deal with exploitation. It is impossible to address exploitation in sex work without the cooperation and trust of people who currently sell sex. This should be the government’s priority, rather than introducing yet more legislation that harms sex workers.

**Discourage demand which drives commercial sexual exploitation**

19. We question the assumption that reducing demand for paid sex is a valid policy aim. Rather than trying to discourage demand (which will ultimately harm sex workers – see above) the focus should instead be on tackling exploitation through strengthening and upholding sex workers’ rights – for instance, the right to unionise at work, in addition to measures which “reduce supply”, as set out above.

20. There is absolutely no evidence to suggest that ‘discouraging demand’ (most often done by criminalising the purchase of sex) actually reduces incidences of human trafficking or ‘commercial sexual exploitation’. Claims about a reduction in trafficking are easily challenged, given the lack of reliable figures on sex work and on the extent of trafficking in Sweden prior to the ‘sex buyer law’ being introduced (Huschke 2014: 174). Studies that attempt to compare levels of trafficking between countries that have the ‘sex buyer law’ and countries that do not are notoriously unreliable, given the different methods deployed in different countries for defining trafficking and counting numbers of victims. The Swedish government itself admits that it does not have “reliable knowledge about the occurrence of human trafficking for sexual purposes in Sweden” (Swedish Government 2010: 35) and
does not know whether there has been any change in the number of ‘exploited sex workers’ (Swedish Government 2010: 29).

21. In Sweden, where the ‘sex buyer law’ originated, the government themselves have conceded that “it is difficult to discern any clear trend of development: has the extent of prostitution increased or decreased? We cannot give any unambiguous answer to that question” (Swedish National Board 2007: 63), concluding that “no causal connections can be proven between legislation and changes in prostitution” (Swedish National Board 2007: 46).

Concluding Remarks

22. In addition to our policy recommendations, we would urge the Home Affairs Committee to ensure that it invites sex workers to give oral evidence before it. This may require changes to its normal procedures e.g. having closed evidence sessions where sex workers can give evidence without risk of being outed. You cannot make policy on prostitution without speaking to people who have first hand experience of selling sex. It is incumbent on the committee to facilitate a process of this sort and make it accessible to sex workers.

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