Written evidence submitted by Equality Now

Summary

Equality Now respectfully urges the UK Parliament to criminalise the purchase of sex and decriminalise and provide support services – including to leave prostitution – to those selling or sold for sex.

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

About Equality Now

Equality Now is an international human rights organisation dedicated to ending violence and discrimination against women and girls around the world. We work to end trafficking in women and girls and partner with many grassroots organisations, several of which are survivor-led, to end the commercial sexual exploitation of women and girls. Our other areas of focus include working to end sexual violence, female genital mutilation (FGM) and sex discriminatory laws.

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.

1. Those involved in prostitution, i.e. those selling or sold for sex, should not be criminalised. Those who exploit people in prostitution – including buyers of sex, pimps, traffickers and brothel-keepers, should bear the criminal burden in relation to prostitution.

2. Prostitution is based on, and sustains gender and other inequalities in society: the vast majority of people in prostitution are women and the vast majority of those paying for sex are men. Laws criminalising the purchase of sex, while decriminalising and providing services to those selling sex, send the clear message that women and girls are not for sale for use by men, thereby promoting gender equality.

3. Equality Now’s partners, based on their own experiences as survivors of prostitution and trafficking or on many years of work providing direct services to people in prostitution, have indicated that prostitution is largely not entered into out of choice, but rather through lack of choice.

4. UK research has found that a majority of women in street prostitution accessing services are suffering from substance misuse issues, and identified drug addiction as a main driver for entering particularly street prostitution. While much research has focused on women in street prostitution, recent UK research has found significant similarities among women in indoor and on-street prostitution, including in terms of substance misuse/addiction and histories of past/childhood abuse.

1 See e.g. http://www.equalitynow.org/survivorstories.
3 Hester and Westmarland (2004), 77-80.
4 Bindel et al. (2012).
5. Research carried out in the UK⁵, echoing studies carried out in other countries⁶, 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 prostitution⁷; a significant proportion entered prostitution before they were 18 years old⁸.

6. Women groomed into prostitution as children or teenagers, as well as those entering as adults, often discuss the frequent lack of self-worth experienced by women in the sex trade. This is then confirmed by laws which punish them rather than the buyers.

7. As UK research by the charity Eaves and London South Bank University⁹ found, 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’.

8. Sweden decriminalised the selling of sex and criminalised it purchase in 1999. Evidence suggests that since the introduction of the law, the number of women involved in street prostitution significantly decreased (while increasing dramatically in Sweden’s neighbours). There is no evidence of these women having merely moved to indoor prostitution or to prostitution advertised online¹⁰.

9. Currently, the criminal burden in England and Wales falls more heavily on those who 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 crawling¹¹. This must change.

10. By moving the criminal sanction to the buyers of sex, the law helps transfer the stigma of wrong-doing from those in prostitution whose narrow life options often leave them with few choices to those with the power to choose whether or not to buy sexual access to others.

11. In 2015, Northern Ireland became the first nation in the UK to take this approach, through the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland).

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⁶ See eg Kelly et al. (2009).


⁸ See eg, Hester and Westmarland (2004), 55, 61.

⁹ Bindel et al. (2012).

¹⁰ Swedish Ministry of Justice, English summary of the Evaluation of the ban on purchase of sexual services (1999-2008) (2010). The report acknowledges the limitations in trying to determine the prevalence of illegal activities (such as trafficking and the purchase of sexual services), but even with these limitations, it is confident in the statements listed above. See also: Waltman, M, “Prohibiting Sex Purchasing and Ending Trafficking: The Swedish Prostitution Law,” Michigan Journal of International Law 133, 133-57 (2011), 146-148.

12. There is a growing trend in Europe and North America towards this approach, often referred to as the Nordic model: in addition to Sweden and Northern Ireland, it has also been implemented in Norway, Iceland and – with a caveat – in Canada\(^\text{(12)}\). 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.

13. The Council of Europe Parliamentary Assembly’s April 2014 resolution on *Prostitution, trafficking and modern slavery in Europe*\(^\text{(13)}\) emphasises the close links between prostitution, human trafficking and gender equality. The resolution calls on the Council of Europe’s 47 member states 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).

14. The European Parliament’s February 2014 resolution on *Sexual exploitation and prostitution and its impact on gender equality*\(^\text{(14)}\), 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\(^\text{(15)}\).

15. Importantly, this is the approach advocated for by many survivors of commercial sexual exploitation worldwide\(^\text{(16)}\).

\(\text{What the implications are for prostitution-related offences of the Crown Prosecution Service's recognition of prostitution as violence against women.}\)

16. Equality Now fully supports the Crown Prosecution Service’s (CPS’s) recognition of prostitution as violence against women. Please refer to paragraph 5 above regarding the high rates of violence experienced by women and girls in prostitution.

17. The CPS approach is consistent with the policy of the London Mayor’s Office for Policing and Crime and the Scottish Government\(^\text{(17)}\).

18. The CPS’s recognition of prostitution as violence against women and its emphasis on shifting the criminal burden from those in prostitution to buyers\(^\text{(18)}\) is not currently reflected in the laws of England and Wales (just as the Scottish government’s similar approach is not reflected in Scotland’s laws). Women can face criminal sanction through

\(^{12}\) 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.


\(^{16}\) See e.g. www.spaceinternational.ie.


soliciting and loitering offences, while those who ultimately drive their exploitation - sex buyers - are permitted to do so by the law in most circumstances.

19. In order to bring laws in line with the CPS’s approach, England and Wales should fully criminalise the purchase of sex and decriminalise its sale (lift sanctions from those in prostitution). (Scotland should do the same to bring its laws in line with the Scottish government’s approach.)

20. This would help to bring much-needed coherence to prostitution law and policy in the UK. This is lacking at the moment and results in those implementing the law, including police, prosecutors and judges, not being given a clear message as to what they should be enforcing and why. 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.’

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.

21. We do not hold information relating to the impact of the Modern Slavery Act to date. However, the Act does not contain any provisions on demand and thereby fails to address the demand from sex buyers which drives the trafficking of women and girls into prostitution.

22. Addressing demand for prostitution is critical to ending the trafficking of women and girls int o the sex trade. Without demand for paid sex, there would be no profit to be made by traffickers and no ‘need’ to constantly ensure a supply for sex buyers through trafficking (see also paragraphs 38-42 below).

23. There is evidence that, since criminalising the purchase of sex in 1999, Sweden has become a more hostile destination for traffickers. An evaluation of the law by the Swedish Government reported that ‘[a]ccording to the National Criminal Police, it is clear that the ban on the purchase of sexual services acts as a barrier to human traffickers and procurers considering establishing themselves in Sweden.’

24. The purchase of sex must be criminalised throughout the UK in order to discourage the demand that fuels commercial sexual exploitation and trafficking for purposes of prostitution.

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

- Assist those involved in prostitution to exit from it

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

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26. These services should be placed on statutory footing and their adequate and sustained funding guaranteed.

27. 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.

28. We encourage the Committee and the UK Parliament to consider the life circumstances and lack of viable alternatives of many of those entering prostitution and to consult broadly including with survivors of prostitution, to devise early interventions to increase the life choices of those most vulnerable to entering prostitution.

- Increase the extent to which exploiters are held to account

29. Those exploiting people in prostitution include pimps, traffickers, brothel-keepers and those who buy sex.

30. 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, and 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 combined.”

31. As opposed to those selling or sold for sex, those who buy sex exercise a fully free choice in deciding whether or not to buy sexual access to individuals who are frequently among the most disadvantaged in society with few real livelihood choices. In doing so, they fuel sex inequality, exploitation and sex trafficking.

32. The most effective way, therefore, to reduce demand for prostitution and hold buyers accountable, is through criminalising the purchase of sex. In Sweden, from 1996 (before the law criminalising the purchase of sex) until 2008, the number of reported male sex buyers in Sweden decreased from 13.6% to 7.9%.

33. In various studies, men who buy sex have stated that greater criminal penalties, including having to spend time in prison, and public notification of their use of a woman in prostitution, such as having a letter sent to their home stating that they were arrested for soliciting/using a person in prostitution, would deter them from buying sex. In a survey carried out in Scotland, 79% of the male respondents said that having to spend time in prison would deter them from buying sex and 72% said that greater criminal penalties

would do so\textsuperscript{25}. Similarly, in a US survey of 113 men who had paid for sex in the Chicago area, 83% said that jail time would deter them from buying sex and 75% said greater criminal penalties in general would do so\textsuperscript{26}.

34. 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’\textsuperscript{27}.

35. As our partners attest, their experience indicates buying sexual services is more about the exertion of power and control of another individual than physical gratification. Even as physical gratification, the acceptability of the notion that women are objects to be used by men who can buy sexual access to them, harms women and the promotion of sex equality. Importantly, there is no human right to be provided with sex.

36. Criminalising those who buy sex, pimps and brothel-keepers shifts the criminal focus – and therefore the stigma of wrongdoing – from those being exploited in prostitution to those exploiting them. It sends a clear message to criminal justice system professionals about who is to be enforced against and who is not at fault and should be offered assistance. It furthermore frees up resources previously spent on enforcing against people in prostitution to instead be spent on those exploiting them.

37. In order for exploiters to be effectively held to account, law enforcers must be equipped with adequate knowledge and awareness. To this end, the law should provide for training of criminal justice system professionals, both on the practical implementation of the law and the rationale behind it.

\begin{itemize}
  \item \textit{Discourage demand which drives commercial sexual exploitation}
  \item Criminalising the purchase of sex is a crucial component of reducing commercial sexual exploitation and sex trafficking.
  \item International and European law oblige the UK to address the demand that fuels exploitation and trafficking. Specifically:
    \begin{itemize}
      \item Article 9(5) of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children\textsuperscript{28} states that, ‘States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking’\textsuperscript{29}.
      \item The Convention to Eliminate All forms of Discrimination Against Women (CEDAW) requires state parties to ‘take all appropriate measures, including
    \end{itemize}
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\textsuperscript{26} CAASE, Deconstructing the Demand for Prostitution: Preliminary Insights from Interviews with Men who Buy Sex, May 2008, available at: \url{http://g.virbcdn.com/_f/files/40/FileItem-149406-DeconstructingtheDemandForProstitution.pdf}
Article 6 of the Council of Europe Convention on Action against Trafficking in Human Beings requires member states to ‘discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking’.

Article 18 of the European Union (EU) Directive on trafficking in human beings requires member states to take action to reduce demand in order to prevent trafficking.

The introduction in 2010 in England and Wales (and Northern Ireland) of the 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, in order to be more effective, 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.

Buyers of sex fuel prostitution and sex trafficking. Prostitution and sex trafficking are inextricably linked: without the prostitution market, there would be nowhere to traffic victims into and no profit to be made by traffickers. It is therefore crucial to reduce the demand for prostitution.

The link between prostitution and sex trafficking and the importance of targeting demand for prostitution as such has been recognised by the CEDAW Committee, the above-cited resolutions from the Council of Europe Parliamentary Assembly and European Parliament, and EU officials.

The most effective way to reduce demand for prostitution, and therefore also sex trafficking, is to criminalise the purchase of sex.

In addition to criminalising the purchase of sex, there should be education in schools and public awareness raising campaigns on sex trafficking, commercial sexual exploitation, and gender equality broadly. These should emphasise equality between women and men.

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35 Equality Now highlight the following recommendations issued by the CEDAW Committee: CEDAW Committee, Concluding Observations: Republic of Korea, para. 23(f), U.N. Doc.CEDAW/C/KOR/CO/7 (2011) (calling on the Republic of Korea to “[t]ake appropriate measures to suppress the exploitation of prostitution of women, including by discouraging the demand for prostitution”); CEDAW Committee, Concluding Observations: Botswana, para. 28, U.N. Doc. CEDAW/C/BOT/CO/3 (2010) (calling on Botswana to “take appropriate measures to suppress the exploitation of prostitution of women, including through the discouragement of the demand for prostitution”); CEDAW Committee, Concluding Observations: Denmark, para. 35, U.N. Doc. CEDAW/C/DEN/CO/7 (2009) (calling on Denmark to “strengthen measures aimed at addressing the exploitation of prostitution in the country and, in particular, the demand for prostitution”).

healthy relationships, consent and related issues and get across the message that it is unacceptable to buy sexual access to human beings.

Conclusion
With Northern Ireland having recently criminalised the purchase of sex and decriminalised its sale, now is an opportune time for the rest of the UK to do the same and to send the message that the exploitation of the most vulnerable in society will not be tolerated across the territory of the UK.

Declaration of interests
Equality Now is a charity working for the protection and promotion of the rights of women and girls around the world and has no conflicting interests to declare.