Written evidence submitted by the Prison Reform Trust

Introduction

1. The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective prison system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform.

2. About 13,500 women are sent to prison in the UK every year, twice as many as twenty years ago, many on remand or to serve short sentences for non-violent crimes, often for a first offence. Although women are less than 5% of those in prison, they account for nearly a third of self harm incidents, an indication of the traumatic impact of imprisonment on many.

3. Women’s offending is commonly linked to underlying mental ill-health, drug and alcohol problems, coercive relationships, financial difficulties and debt. Over half the women in prison report having suffered domestic violence and one in three has experienced sexual abuse. Many of them have dependent children – an estimated 17,240 children are separated from their mothers by imprisonment every year and 31% of women in prison report having spent time in local authority care.

4. The Prison Reform Trust, supported by a major grant from the Big Lottery Fund, is renewing its drive to reduce women’s imprisonment across the UK and improve the governance of women’s justice. Key to this is a joined-up approach that links criminal justice polices to those addressing violence against women and girls and vulnerability to sexual exploitation.

5. Women’s involvement in prostitution is recognised to be a driver to their offending and support to exit prostitution is one of National Offender Management Service’s Nine Pathways to reduce reoffending. The Prison Reform Trust recommends that the Home Affairs Committee encourage the development of local multi-agency partnerships that enable women to exit prostitution. The case for this is set out in PRT’s Brighter Futures report (see below). The need for a ‘coherent funding strategy’ for women’s support services is also highlighted in the report Transforming Lives based on action- research by Soroptimist International GBI.

6. PRT welcomes the opportunity to contribute to this Inquiry, and as a member of Agenda (Alliance for Women and Girls at Risk) support their submission. PRT also have a long-standing association with Soroptimist International GBI and support their submission.

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

7. The Prison Reform Trust submits that criminal sanctions should be used less against those who ‘sell sex’ regardless of policy relating to those who ‘buy sex’. Those who sell sex tend to be more visible than those who buy sex, and consequently bear the burden of criminality. In a debate in the House of Commons on the 13 October 2015 it was suggested that despite a broad and publicly stated consensus among the police, the Crown Prosecution Service, the Home Office, survivors’ groups, health services and academics that women in prostitution should be diverted from the criminal justice system, those women are being targeted for prosecution - in some cases, at twice the rate of men.

   Too many vulnerable women with unmet health and other needs are being arrested and prosecuted in relation to prostitution, when they should be linked into appropriate support and health services.

8. Most of those who ‘sell sex’ are women and Prison Reform Trust is concerned that women can end up in prison for prostitution-related offences, compounding and exacerbating their problems. Often these women are prosecuted and sentenced for non-payment of fines, for loitering and soliciting charges, breaching Anti-Social Behaviour Orders, and other offences under the Proceeds of Crime Act 2002, rather than the criminal activity associated with prostitution (which is usually a caution in the first instance). At the point of arrest, PRT considers that women should usually be diverted to seek appropriate services and support to exit prostitution, as they are likely to have unmet health, family and housing needs as well as facing financial barriers.

What the implications are for prostitution-related offences of the Crown Prosecution Service’s recognition of prostitution as violence against women.
9. The implications are significant and PRT hopes that it will help deter the prosecution of women involved in prostitution. Guidance and training on the implications, and on the importance of gender-specific responses to women, will be needed to ensure that the policy is sensitively and effectively implemented. The report Transforming Lives makes findings and recommendations on the need for gender-sensitive responses to women in the criminal justice system that are relevant here.

10. There continue to be high levels of violence experienced by women involved in prostitution, and the fear of criminalisation and prejudicial attitudes can make women fearful to report violence or to seek support. There is a link between women’s experience of and vulnerability to physical and sexual violence and coercive relationships and their involvement in prostitution. This makes collaboration between criminal justice agencies and violence against women initiatives key to effective policy and law enforcement. PRT welcomed the Home Office Review of Effective Practice in Responding to Prostitution, developed with a view to "improving the safety of those involved in prostitution and reducing violence committed against them".

11. Prison Reform Trust's report Brighter Futures (2014) found that many women in the criminal justice system have reported involvement in prostitution. In one prison, 21% of the women reported involvement in prostitution, most linking it to drug addiction (74%) and over a quarter (26%) to having been abused. Women in prison are known to be vulnerable: in 2011-2012, 723 women referred to women's centres and assessed against the nine pathways to reducing reoffending were identified as needing support because of their involvement in prostitution. The reality is that many women engaged in prostitution use drugs and/or alcohol, offend to support a partner’s addiction, and become caught in a vicious cycle.

12. PRT recommends that clear guidance and more training be provided to police and prosecutors on the link between many women's histories of trauma and victimisation, their vulnerability to sexual exploitation and involvement in prosecution, and becoming involved in other kinds of offending.

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. Prison Reform Trust have yet to see data on the Modern Slavery Act's impact on trafficking for purposes of prostitution, and look forward to seeing evidence of this, including details of monitoring and evaluation being undertaken.

14. Prison Reform Trust published No Way Out with Hibiscus in January 2012 a briefing on foreign national women who have been trafficked or coerced into offending. There is still insufficient awareness of, and policy focus on these women, the offences for which they are imprisoned and the ways to respond to them justly and effectively. There is however an international consensus about policies and best practice in responding to victims of human trafficking. The Protocol to Prevent Trafficking in Persons, Especially Women and Children defines trafficking as:

"The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs... The consent of a victim of trafficking in persons to the intended exploitation set forth [above] shall be irrelevant where any of the means set forth [above] have been used."

This protocol requires States to protect people who have been trafficked, ensuring that trafficked persons are not punished for any offences or activities related to their having been trafficked, such as prostitution and immigration violations. Rule 66 of the UN Bangkok Rules encourages States, “to provide maximum protection to victims of trafficking in order to avoid secondary victimization of many foreign-national women.”

15. Worrying cases have been highlighted of women being trafficked into the UK and being forced into accepting work in illegal activities. These circumstances meet the United Nations definition of human
trafficking, and the UK government has ratified the European Convention on Trafficking, with its emphasis on victim protection, but to date there have been limited attempts by justice agencies to identify evidence of exploitation or persecution, or of women acting under duress. Anecdotal evidence suggests that women are commonly advised that there is no option but to plead guilty on the immigration related charges. They may therefore be sentenced with the assumption of deportation, before they can disclose the necessary information to be assessed as victims or asylum seekers. Failure to provide legal advice on immigration issues in the early stages of the criminal justice system may prejudice an application for asylum or residency as they are slotted into the category of “foreign criminals”.

16. Identifying victims of trafficking and ensuring their safety depends on a range of practical measures. This needs to include screening of and support for foreign national women in prisons, as recommended by the Cambridge Institute of Criminology report, The Criminalisation of Migrant Women15. The latest Bromley Briefing Prison Factfile reports that 12% of women in prison are foreign nationals from 88 different countries, and a significant number have been coerced or trafficked into offending.16 Research published by the Association of Chief Police Officers (ACPO) in 2010 found that around 17,000 of the estimated 30,000 women involved in off-street prostitution in England and Wales are migrants, and that approximately half come from Eastern Europe, and a third from Asia. Asian women, primarily from China, were also more likely to be victims of trafficking, representing 85% of all migrant women deemed to have been trafficked.17

17. Prison Reform Trust's response to Draft Modern Slavery Bill (February 2014) noted that knowledge about the extent of the crime of slavery is limited and that victims need to have trust in the welfare and criminal justice system that are supporting them.18 This is still a significant need for vulnerable women in the criminal justice system. The report of the All Party Parliamentary Group on Prostitution and Global Sex Trade report, ‘Shifting the Burden’ (March 2014), found that the fear of criminality for individuals involved in selling sexual services is a serious barrier to exiting.

18. The appointment of Kevin Hyland OBE, as the UK's first independent Anti-Slavery Commissioner is welcome, and PRT recommends that his efforts to tackle slavery and human trafficking, including women forced into prostitution, should include as a priority the production of guidance on the vulnerabilities of many foreign national women in the criminal justice system.19 We recommend that the Commissioner should work with the Criminal Cases Review Commission (CCRC) to investigate the barriers for women in accessing its services.

19. PRT welcomes the recognition in the new Sentencing Council guideline on Theft Offences that coercion, intimidation, or exploitation can reduce an ‘offender’s’ culpability’.20 However, more needs to be done to increase understanding and recognition at every stage in the criminal justice system, and in guidance, of trafficking, coercion, and exploitation as drivers of those offences for which foreign national women, men and children are most commonly charged - e.g. use of false documentation and cannabis production - as they do for drug importation.21

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

20. Our response here focuses on the need for more measures to assist those involved in prostitution exit from it. The Women's Justice Taskforce report Reforming Women's Justice (2011) found that tackling problems at an early stage in order to prevent women being drawn into the criminal justice system is key to reducing the number of women in custody. Becoming involved in an abusive relationship, for example, may lead to self-medication and the development of drug and/or alcohol addiction. If the woman has a job she may lose it as a result of her addiction and turn to crime, such as minor theft or prostitution, to continue supporting it.22

21. PRT recommends that the Home Affairs Committee seek details from NOMS and from the providers of probation services, Community Rehabilitation Companies and the National Probation Service, about the support being provided to women to enable them to exit prostitution. The HM Inspectorate of Probation may also be able to provide information from their current inspection of services for women offenders.23
22. As noted earlier, the National Offender Management Service recognises women's involvement in prostitution as both an indicator of victimisation and a pathway to offending. Support for women to exit prostitution should therefore be a core element of preventive and rehabilitation strategies.

23. The Offender Rehabilitation Act came into force on 1 February 2015 and underpins the government’s Transforming Rehabilitation programme, extending statutory supervision to those who are released from short term prison sentences. Importantly for women in contact with the criminal justice system, the Act includes a requirement that the Secretary of State must identify arrangements that “meet the particular needs of female offenders” and comply with the Equality Act 2010 as it relates to women who have offended (section 10 ORA 2014, now s.3 Offender Management Act).

24. The National Offender Management Service (NOMS) Commissioning Principles for Women Offenders, Better Outcomes for Women Offenders (Sept 2015) “are based on the best available evidence of what works in helping women who offend to live safe, offence free lives…and helping women to exit sex work.”(p.3) It recognises that “being involved in sex work is associated with a number of negative health outcomes.”xxiv A decade ago the Corston Review (2007) recommended solutions tailored to the needs of the individual and delivered by a supervisor with expertise in working with women in prostitution.xxv More action is needed to promote the development of local multi-agency partnerships that deliver this support and enable women to exit prostitution.

25. Assistance is needed from the police and sentencers to enable women to find a route out of prostitution, such as diverting women to women’s centres. An evaluation of the Anawim support programme in Birmingham for women involved in prostitution, and their children, showed positive outcomes. Nearly half of women who were or had been involved in prostitution had exited sex work, and 29% had maintained non-offending status and 59% had reduced offending.xxv,xxvi The role of women’s centres and services charities is key to helping vulnerable women exit prostitution by giving them the support, confidence, skills and options to do so.

26. Charities such as Street Talk and London Exiting Advocacy (LEA) help women who have been victims of trafficking and those women involved in or exiting street based prostitution. Services like these should be available nationwide. LEA works with women over 18 who are seeking to exit prostitution across London. A mixture of services is available, ranging from advice on housing, welfare benefits, legal advice, drug and alcohol support, and specialist counselling. LEA also supports women to access workshops and groups such as employment training, education, volunteer, and gaining sustainable employment. Meanwhile Eaves and the Poppy Project (which supported many women victims of trafficking) closed in October 2015.

27. PRT notes with concern that in answer to a Parliamentary Question on Women's Centres (HL5633), the government expressed the view that:

“The Government believes that future funding for women’s centres should lie at the local level, as local experts know what works in their community and how best to deliver services. We are encouraging and supporting areas to bring together local agencies in the criminal justice, statutory and third sectors to develop a joined-up, multi-agency approach to address the often complex needs of female offenders.”xxvii

However, central Government has a responsibility to ensure compliance with s.10 ORA and should ensure through governance and funding mechanisms that there is national provision of women's centres, projects and services to deliver improved outcomes for women in contact with the criminal justice system. Joined-up working at national and local levels, driven by clear goals and leadership, would see a reduction in the exploitation and abuse of women that contributes to their offending.

28. Prison Reform Trust Brighter Futures (2014) reported on the Bedfordshire Integrated Offender Management (IOM) exit programme, which was set up in response to concerns about the impact of street-based prostitution in the local community. The programme aimed at supporting women to leave sex work and lead crime-free, healthy lives. The staff are able to access existing services that are co-located, or work closely with, IOM (including accommodation, education, training and employment, mental and physical health and mentoring) its delivery model has been tailored to meet the individual needs of female service users, we support a roll out national wide of this whole system approach.xxviii
Other pilots and pathfinders of this kind across England and Wales merit support and wider application.

29. The NOMS guidance referred to above notes that “having the means to be self-reliant through employment is thought to be important in helping women exit street work”. Prison Reform Trust’s Working it Out briefing (2015) found that women’s employment outcomes following imprisonment are three times worse than men’s. It quotes former governor of HMP Holloway as saying “It’s a sad fact that most women in Holloway are there because of the men they associate with, so by helping them become financially independent you transform their lives.” Criminal records can be a major obstacle for women seeking employment to help them exit prostitution, with stigmatisation undermining women’s efforts to exit from prostitution. Prison Reform Trust welcomes the Prime Minister’s commitment to “banning the box” that required a person to declare criminal convictions at job application stage, but more needs to be done to improve employment opportunities for women wanting to exit prostitution and stay out of trouble.

Reducing Women’s Imprisonment Programme
Prison Reform Trust
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i Prison Reform Trust (2015), Why focus on reducing women’s imprisonment?, (PRT: London)
ii Prison Reform Trust (2015), Bromley Briefings (PRT: London)
iii Prison Reform Trust (2014), Transforming Lives: reducing women’s imprisonment
iv HC Deb 13 October 2015 vol 600 cc58-64 WH
v Data from English Collective of Prostitutes
vii Prison Reform Trust (2015), Brighter Futures, (PRT: London)
ix Prison Reform Trust (2014), Transforming Lives: reducing women’s imprisonment
xii Prison Reform Trust welcomes the Prime Minister’s commitment to “banning the box” that required a person to declare criminal convictions at job application stage, but more needs to be done to improve employment opportunities for women wanting to exit prostitution and stay out of trouble.

Prison Reform Trust (2015), Better Outcomes for Women Offenders, p.8

xxvi Rubus Services Ltd: Worcester
xxviii Prison Reform Trust response to HM Inspectorate of Probation’s call for evidence on work with women offenders, (PRT: London)
xxix NOMS (2015), Better Outcomes for Women Offenders