

Justice Committee

Abusive Behaviour and Sexual Harm (Scotland) Bill

Written submission from CARE for Scotland

Summary

- i. CARE for Scotland welcomed Equally Safe Scotland's Strategy for Preventing and Eradicating Violence against Women and Girls and now welcomes the intention to reform the criminal law through the Abusive Behaviour and Sexual Harm (Scotland) Bill to achieve the Strategy's aims.
- ii. CARE for Scotland particularly welcomes sections 7 and 8 of the Bill to enable prosecution in Scotland for sexual offences against children that have been committed elsewhere in the UK.
- iii. However, CARE for Scotland is disappointed that the Bill makes no proposals for reforming the laws on prostitution, one of the forms of violence against women identified by the Equally Safe Strategy. CARE for Scotland recommends that the Bill should recognise the sexual harm of prostitution and include a clause to criminalise the purchase of sexual services. Alongside this there should be greater provision of support services for those who wish to leave prostitution.
- iv. CARE (Christian Action Research and Education) is a well-established mainstream Christian charity providing resources and helping to bring Christian insight and experience to matters of public policy and practical caring initiatives across the UK. CARE for Scotland is supported by around 2,000 Christian households in Scotland.

Sections 7 & 8 – extra territorial offences against children

1. Although it may only apply in a small number of cases, CARE for Scotland supports the proposed extension of extra-territoriality in child sexual offences and believes that there would be considerable benefit from allowing Scottish Courts to prosecute sexual offences committed against children in England, Wales or Northern Ireland by residents of Scotland.

2. In particular CARE for Scotland believes that this would benefit children who have been victims of offences committed by a perpetrator as part of a pattern of behaviour across more than one jurisdiction.¹ Enabling a single prosecution in Scotland of all the offences would remove the need for a child to give evidence in more than one trial. It is well known that giving evidence can be extremely traumatising for children² and anything which can reduce this is to be welcomed.

Reducing demand for commercial sexual exploitation

3. CARE for Scotland is extremely disappointed that the Scottish Government has not acted on the recommendations of many respondents to the pre-legislative

¹ As noted by the Lord Advocate's evidence to the Public Petitions Committee Scottish Parliament Official Report, Public Petitions Committee 25 June 2013 col 1512

² As noted in the Scottish Courts Service Evidence and Procedure Review March 2015 available: <https://www.scotcourts.gov.uk/about-the-scottish-court-service/scs-news/2015/03/13/evidence-and-procedure-review-report>

consultation regarding commercial sexual exploitation.³ CARE for Scotland believes that this is a missed opportunity to address a key form of sexual harm in our society.

Prostitution as a form of violence against women

4. We welcome the recognition in the Scottish Government's *Equally Safe Scotland's Strategy for Preventing and Eradicating Violence against Women and Girls* published in 2014 that "commercial sexual exploitation such as prostitution, pornography and human trafficking" is a form of violence against women and girls which needs to be addressed.⁴

5. This principle is founded on strong evidence of the exploitative and harmful nature of selling sex as experienced by the majority of women engaged in it. For example:

- Evidence suggests that a significant number of individuals enter the sex industry **at a young age**. For example: a survey of 22 women involved in "off-street" prostitution in Glasgow (2010) found that eight of them had become involved before the age of 21 with the youngest beginning at 15 years old.⁵
- Research studies reveal that **abuse or violence in the home, homelessness, living in care, debt and substance abuse, are all common experiences prior to entering prostitution**.⁶ A comparative study of over 200 female drug users in Glasgow found that the women who were also involved in prostitution had higher rates of childhood abuse than the other female drug users (emotional abuse 47% compared with 36%, physical abuse 38% compared to 30%, sexual abuse 36% compared with 24%).⁷
- **Drugs are used by many in prostitution**. A survey with 33 women in street prostitution in Glasgow recorded an overwhelming majority (31/33) had increased their drug use since becoming involved in prostitution.⁸ Others enter prostitution in order to service an existing drug habit and, pimps often use drug dependency as a form of control.⁹
- **Prostitution is one of the most dangerous occupations in the world**. The Prostitution in Glasgow strategic review said women in "off-street"

³ Scottish Government Equally Safe – Reforming The Law To Address Domestic Abuse and Sexual Offences - Analysis of Consultation Responses, paragraphs 7.20 and 7.21. No reference to these responses is made in the Policy Memorandum to the Abusive Behaviour and Sexual Harm (Scotland) Bill.

⁴ Scottish Government, Equally Safe Scotland's Strategy for Preventing and Eradicating Violence against Women and Girls, 2014, page 8

⁵ Matthews, R. and Easton, H. (2010) Prostitution in Glasgow: A strategic review pp 27-37. Other similar findings include Bindel, J. et al, Breaking down the barriers: A study of how women exit prostitution, Eaves/LSBU <http://i1.cmsfiles.com/eaves/2012/11/Breaking-down-the-barriers-a37d80.pdf> 2012 page 4

⁶ For example: Paying the Price: A Consultation paper on prostitution, Home Office, July 2004; Jane Dodsworth Pathways into Sexual Exploitation and Sex Work: The experience of victimhood and agency Palgrave Macmillan 2015;; Kesia Reeve & Elaine Batty The hidden truth about homelessness – Experiences of single homelessness in England , CRESR/Crisis, 2011

⁷ [Gilchrist, G. and Gruer, L. and Atkinson, J. \(2005\) Comparison of drug use and psychiatric morbidity between prostitute and non-prostitute female drug users in Glasgow, Scotland. Addictive Behaviors 30\(5\):pp. 1019-1023.](#)

⁸ Matthews, R. and Easton, H. Prostitution in Glasgow – a strategic review 2010 , page 29

⁹ Roger Matthews, Prostitution, politics and policy, Routledge-Cavendish, 2008, page 48

prostitution faced actions “*directly dangerous to their physical health*”¹⁰ and 21 of 33 women interviewed for the review reported that they had experienced violence from men purchasing sex.¹¹

- Prostitution often has **seriously detrimental impact on a person’s mental health**. A comparative study of female drug users in Glasgow found that the women who were engaged in prostitution (in addition to being drug users) were more likely to show current neurotic symptoms than those drug users not in prostitution. In particular that group was more likely to report depression and depressive ideas.¹²

Reducing demand

6. CARE for Scotland believes that reducing the harm of prostitution can be achieved most effectively by reducing demand.

7. Research with those who buy sex in Scotland has demonstrated that imposition of a “greater criminal penalty” would be the most effective way to change behaviour and reduce demand for prostitution – far more effective than education or awareness campaigns.¹³

8. Criminalising the purchase of sexual services has been used successfully in other countries to reduce demand and improve gender equality. Evidence from Sweden suggests:

- **Overall prostitution levels are significantly lower than they would be otherwise:** An evaluation conducted in 2010 concluded that the number of persons, mainly women, exploited in street prostitution in Sweden had been halved since 1999; and found no evidence of an increase in off-street prostitution whilst general prostitution levels in neighbouring countries had risen.¹⁴ An independent evaluation of the law in Norway in 2014 found “*The ban on purchasing sexual services has reduced demand for sex and thus contribute[d] to reduce the extent of prostitution in Norway.*”¹⁵
- **Deterrent effect on men purchasing sex:** From 1996 to 2008 the number of men reporting the experience of purchasing sex fell from 13.6 per cent to 8 per cent.¹⁶
- **Deterrent effect on trafficking:** The Swedish National Rapporteur stated in 2009 that “*It has been discovered through wiretapping and surveillance that traffickers consider Sweden a bad market.*”¹⁷ The Norwegian

¹⁰ Matthews and Easton, 2010 *Op Cit*, p46

¹¹ Ibid, page 30

¹² Gilchrist, G. and Gruer, L. and Atkinson, J. 2005 *Op Cit*

¹³ Macleod, J. et al, Challenging men’s demand for prostitution in Scotland, Women’s Support Project 2008, page 27

¹⁴ *Swedish Government Report SOU 2010:49 The Ban against the Purchase of Sexual Services. An evaluation 1999-2008, English Summary.* Available here:

<http://www.government.se/content/1/c6/11/98/61/73d97eb9.pdf>

¹⁵ [Norwegian Evaluation](#), Evaluering av forbudet mot kjøp av seksuelle tjenester - English Summary August 2014, pages 11-14

¹⁶ Holmström & Skilbrei eds. (2009), Prostitution in the Nordic Countries Conference report, p 29

¹⁷ Report from the European Conference on Human Trafficking, December 2009. Statement by Kajsa Wählberg, the Swedish national Rapporteur on Trafficking in Human Beings, Conference

evaluation concluded the law had “*reduced the extent of human trafficking in Norway in comparison to a situation without a law.*”¹⁸ Authors reviewing the data on prostitution and trafficking across the world have concluded that “*countries that implement harsher laws regarding prostitution seem to get a lower prevalence of trafficking.*”¹⁹

- **Change in public attitudes on paying for sex:** In 1996, before the law was passed, a survey showed that only 45% of women and 20% of men were in favour of such a change.²⁰ In 1999, the year the law was passed, support increased dramatically with 81% of women and 70% of men being in favour and public support continues to be strong.²¹ Notably 80% of all respondents to a consultation by Rhoda Grant MSP in 2013 expressed support for the proposal to criminalise the purchase of sexual services in Scotland.²²

9. This so-called “Nordic” approach has received substantial international support as one of the most effective approaches to addressing demand for prostitution, exploitation, human trafficking and gender equality.

- Resolution 2013/2103 passed by the European Parliament in 2014 “*Recognises that prostitution and forced prostitution can have an impact on violence against women in general, [...] as research on sex buyers shows that men who buy sex have a degrading image of women;*” affirms criminalisation of the purchase of sexual services as a way of “*combating the trafficking of women and under-age females for sexual exploitation and improving gender equality*” and “*suggests to the competent national authorities, therefore, that the ban on the purchase of sexual services should be accompanied by a campaign to raise awareness among men.*”²³
- Resolution 1983 of the Council of Europe passed in 2014 states that “*Forced prostitution and sexual exploitation should be considered as violations of human dignity and, as women are disproportionately represented among victims, as an obstacle to gender equality.*” The Resolution also states that “*trafficking in human beings and prostitution are closely linked,*” that “*legislation and policies on prostitution are indispensable anti-trafficking tools*” and recommends “*criminalising the purchase of sexual services, based on the Swedish model, as the most effective tool for preventing and combating trafficking in human beings.*”²⁴

on the “Preventing and Combating Trafficking in Human Beings and Reducing Prostitution and Sexual Exploitation”, Czech Republic, 3 June 2009, page 20

¹⁸ Norwegian Evaluation Op. Cit. page 13

¹⁹ Niklas Jakobsson and Andreas Kotsadam, The Law and Economics of International Sex Slavery: Prostitution laws and trafficking for sexual exploitation, Working Papers in Economics No 458, University of Gothenburg, June 2010, Revised May 2013, page 15, page 17

²⁰ Sven-Axel Månsson (2000). Commercial Sexuality. In Bo Lewin (Ed.), Sex in Sweden: On the Swedish sexual life 1996 (pp. 235–263) cited in Waltman (2011)

²¹ *Ibid*

²² Rhoda Grant Summary of consultation responses Proposed Criminalisation of the Purchase of Sex (Scotland) Bill (2) 2013

²³ European Parliament resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality ([2013/2103\(INI\)](#))

²⁴ Prostitution, trafficking and modern slavery in Europe, Resolution 1983 (2014), Committee Report 8 April 2014, paragraphs 6, 12.1.1 and 12.1.5 <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=20716>

- A similar law came into effect in Northern Ireland earlier in 2015 and the Government of the Republic of Ireland has now introduced a Bill to do the same.²⁵

Supporting people to exit

10. Academic evidence has shown that a large percentage of women in prostitution would like to exit if they could but that there are *significant barriers faced* by these individuals and few specialist programmes to help them.²⁶

11. The European Parliament and Council of Europe resolutions referred to above also called for practical support for those who wish to leave prostitution²⁷ and that the exit programmes should be “*aimed at rehabilitation and based on a holistic approach including mental health and health-care services, housing support, education and training and employment services*”.²⁸

12. The individual case-management approach supported by multi-agency working as implemented by the Routes Out programme of Community Safety Glasgow provides a good model for such services.²⁹

Conclusion

13. CARE for Scotland welcomes the Abusive Behaviour and Sexual Harm (Scotland) Bill and the determination of the Scottish Government to take action on sexual exploitation. We are disappointed that the Government has not included measures to address demand for commercial sexual exploitation in this Bill. Such measures would greatly enhance progress towards achieving a reduction in this form of violence identified in the Government’s Equally Safe Strategy. In its Stage 1 Report on the Human Trafficking and Exploitation Bill, the Justice Committee stated “*While we note that this issue may be worthy of further review and detailed consultation, we are of the view that this Bill is not the correct vehicle for taking the matter forward. The criminalisation of the purchase sex would have implications beyond the matters dealt with in this Bill.*” It is CARE for Scotland’s opinion that the Abusive Behaviour and Sexual Harm (Scotland) Bill is an appropriate context for such a provision. Indeed in light of the Bill’s focus on addressing sexual harm and exploitation it is difficult to imagine a Bill that would offer a more fitting context for such a measure.

Gordon Macdonald
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16 November 2015

²⁵ <http://www.justice.ie/en/JELR/Pages/PR15000487>

²⁶ Roger Matthews, Helen Easton, Lisa Young, & Julie Bindel. *Exiting Prostitution*, Palgrave Macmillan, September 2014,

²⁷ See para 27 of (2013/2103(INI)) and para 12.1.5 of Resolution 1983 (2014), *Op Cit*

²⁸ Resolution 1983 (2014), *Op Cit*, paragraphs 12.1.1 and 12.1.5

²⁹ Matthews and Easton (2010) *Op Cit*; see also Matthews et al (2014) *Op.Cit.*