

Questions

About you

(Note: Information entered in this “About You” section may be published with your response (unless it is “not for publication”), except where indicated in **bold**.)

1. Are you responding as:

- an individual – in which case go to Q2A
- on behalf of an organisation? – in which case go to Q2B

2A. Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose “Member of the public”.)

- Politician (MSP/MP/Peer/MEP/Councillor)
- Professional with experience in a relevant subject
- Academic with expertise in a relevant subject
- Member of the public

Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:

2B. Please select the category which best describes your organisation:

- Public sector body (Scottish/UK Government or agency, local authority, NDPB)
- Commercial organisation (company, business)
- Representative organisation (trade union, professional association)
- Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)
- Other (e.g., clubs, local groups, groups of individuals, etc.)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g., whether it is the view of particular officeholders or has been approved by the membership as a whole).

This response is on behalf of the Equally Safe Edinburgh Committee (ESEC) which is Edinburgh's Violence Against Women and Girls (VAWG) Partnership. The ESEC is a network of statutory, voluntary and independent

organisations, working to implement the Equally Safe strategy across Edinburgh. Our members are:

- The City of Edinburgh Council (Public Protection, Justice, Education, Alcohol and Drugs Partnership, Trauma, Housing)
- Police Scotland (Public Protection Unit, Domestic Abuse Investigation Unit)

3. Please choose one of the following:

- I am content for this response to be published and attributed to me or my organisation
- I would like this response to be published anonymously
- I would like this response to be considered, but not published (“not for publication”)

If you have requested anonymity or asked for your response not to be published, please give a reason. **(Note: your reason will not be published.)**

4. Please provide your name or the name of your organisation. **(Note: The name will not be published if you have asked for the response to be anonymous or “not for publication”.)**

Please provide a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. **(Note: We will not publish these contact details.)**

Data protection declaration

- I confirm that I have read and understood the [Privacy Notice](#) to this consultation which explains how my personal data will be used.

If you are under 12 and making a submission, we will need to contact you to ask your parent or guardian to confirm to us that they are happy for you to send us your views.

- Please ONLY place an x in the brackets if you are UNDER 12 years of age.

YOUR VIEWS ON THE PROPOSAL

1. What is your view of introducing a new criminal offence of paying for sexual services? (This is the only mandatory question)

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Don't want to express a view

Please explain the reasons for your response.

The ESEC is fully supportive of the introduction of a new criminal offence of paying for sexual services. As Edinburgh's Violence Against Women and Girls Partnership, the ESEC is the vehicle for the local implementation of the Equally Safe strategy. Equally Safe defines VAWG as the actual and threat of, among others, "commercial sexual exploitation (CSE), including prostitution, lap dancing, stripping [and] pornography". The ESEC supports that CSE is indeed an abuse of women's fundamental human rights and a form of exploitation, and therefore supports that this exploitation needs to be penalised in law.

2. What is your view of repealing section 46 of the Civic Government (Scotland) Act 1982: the offence of soliciting for the purposes of prostitution in a public place?

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

The ESEC fully supports this proposal. CSE is the exploitation of women's vulnerability and subsequently an abuse of their human rights. In our decades of experience supporting women affected by multiple and intersecting forms of violence and abuse, we know that exploitation through prostitution is hardly ever women's 'choice'.

Section 46 specifically applies to women who solicit in public places. This is one of the most vulnerable groups of women in Scotland, affected by a range of types of violence and abuse and often with multiple and complex needs - including complex trauma, substance misuse and domestic abuse. In the ESEC's experience, women who solicit for the purposes of prostitution do so as a last resort and at immense risk to their lives and wellbeing. On-street prostitution traps women in a cycle of violence and trauma that can be insurmountably challenging to escape. We firmly believe that women who solicit for prostitution are victims/survivors of exploitation, and the law needs to reflect this by removing any provisions that would further victimise them. Additionally, we believe that this needs to be reflected beyond Section 46 of the Civic Government (Scotland) Act 1982. Should the proposed Prostitution (Offences and Support) (Scotland) Bill become an Act, we would expect any intervention and response to women soliciting for prostitution to align with the understanding that women who solicit for prostitution are victims/survivors of exploitation and not criminals. This would include the understanding that women affected by CSE are seen as vulnerable witnesses and therefore automatically entitled to special measures when invited to provide evidence in court.

3. What is your view of repealing previous convictions under section 46 of the Civic Government (Scotland) Act 1982: the offence of soliciting for the purposes of prostitution in a public place?

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

The ESEC is fully supportive of the expungement of any previous Section 46 convictions for soliciting for prostitution for women. We would specifically want to clarify that we would see any previous convictions expunged rather than listed as 'spent', as this can have long-term negative impacts on women. Seeking employment that requires enhanced PVG disclosures checks might disclose prior Section 46 offences and this can prevent women not only finding employment, but also exiting prostitution altogether. The only way to ensure that

women can exit prostitution and not be trapped in a cycle of abuse is to minimise barriers to alternative employment as much as possible, and the expungement of prior Section 46 offences is, in our view, the only way to achieve this.

4. **What is your view of giving people in prostitution the legal right to support?**

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

Anyone who has been exploited through prostitution should have their rights to the right support enshrined in legislation. In our view, this should apply to everyone equally, including women with No Recourse to Public Funds (NRPF)

5. **What is your view of including provisions for exiting services in the bill?**

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

We fully support that there needs to be specialist exiting service provision for women exploited through prostitution in the proposed Bill. Currently, Scotland experiences a 'postcode lottery' in terms of where VAWG services are located, and this landscape becomes increasingly challenging when seeking specialist support to exit prostitution given the complexities and sensitivities involved in any work on CSE. However, the increasingly challenging funding landscape has seen existing specialist services operating on ever-decreasing resources and struggling to provide the comprehensive and holistic support that women require in order to exit prostitution. This is further

complicated by the current funding review for Delivering Equally Safe. To provide the support women need to exit, there needs to be flexible access to funding for new and emerging services. There also needs to be considerable investment in existing specialist exiting services, as well as investment in non-specialist VAWG services to be able to identify exploitation through prostitution and provide appropriate support, referrals and signposting. Resources would be hugely appreciated if used to create standard best practice guidance on CSE for all specialist and non-specialist services beyond VAWG services.

The Scottish Government's current strategy 'Prostitution - challenging and deterring men's demand' aims to minimise harm to women by creating a coordinated local and national response to the needs of women exiting prostitution. Although we agree that coordination is essential in this work, we do not feel that this current proposal adequately challenges men's demand for prostitution. However, we also don't entirely agree with the proposal's explanation that 'a harm reduction approach in relation to prostitution is [...] questionable' (p.32). Harm reduction cannot be the only way forward, but there is a place for it - for example in using proceeds from fines against those purchasing sex and sexual services to supplement the cost of delivering specialist exiting services to women.

However, the ESEC would urge for scrutiny in the administration of any funding for exiting services for women exploited through prostitution. This is to ensure that any work taking place aligns with the principles of Equally Safe and is committed to ending CSE in Scotland rather than supporting the decriminalisation of activities relating to CSE.

6. How should the proposed offence be enforced. Are there any particular techniques which you think should be used or obstacles which might need to be overcome?

As with the introduction of any new legislation, the ESEC anticipates that should this Bill be enacted, specialist training and information will be disseminated to VAWG partners to raise awareness of the provisions within the legislation. We would also anticipate that special consideration will need to be made around the sensitivities in enforcing the offence. Should police attend when someone is purchasing sexual services, it is possible that the victim might obstruct the arrest due to the fear of losing income or due to other risks against them (or their family), leading them to become potentially

hostile and violent. This is particularly true if the victim has been coerced into CSE by an abusive partner or a criminal network. This could include human trafficking networks who may be exerting control on the victim through abusing or controlling their family or loved ones.

It is therefore extremely important that there is a recognition and acceptance that those selling sex, particularly women, are victims of a crime and their reactions and responses be treated as trauma responses rather than wilful (criminal) conduct. We recognise that this can be challenging, especially given the current discourse around commercial sexual exploitation, which views the sale of sex as a choice, rather than a form of violence and exploitation.

Further, as people selling sex are victims of exploitation, their end-to-end journey with the justice system (should they be called to provide witness accounts to the crime) should be treated as evidence gathering rather than intelligence gathering. This can be a particular challenge if the investigation into the crime of purchasing sexual services uncovers wider criminality, for example, if the victim is also the victim of human trafficking or is controlled by serious organised crime groups (and this includes control of members of their family).

Any intelligence gathering must be voluntary, and with the utmost care taken to ensure that the victim is protected and supported throughout the process, and this would involve ensuring that they are referred to appropriate services and organisations for support. For this to be effective, local Police divisions need to ensure that there are good working relationships and partnership agreements in place with local support organisations and women's services in their local areas. Many ESEC partners went as far as to state that these positive relationships and a supportive and sympathetic approach to victims is of paramount importance when the police respond to VAWG crimes.

To ensure the best possible outcomes for victims of commercial sexual exploitation, the opposite is also true. People who may be facing wider risks, multiple and complex needs or control and abuse by serious organised crime groups might find themselves in additional danger, should a sex buyer be arrested in their presence. To prevent such risks escalating, it needs to be made clear, at the point of arrest, that this is a state decision, and not based on a report by the victim. This should hopefully provide a level of protection to any victims who are affected by other types of crime or control by criminal groups.

- 7. Do you believe that there are any new policing powers that would be necessary or beneficial for enforcing this offence?**

We believe that for this legislation to be effectively implemented, it needs to be preceded by a cultural shift that recognises people affected by CSE as victims of crime, rather than the sale of sex being a 'choice', or worse, a crime. We believe that this cultural shift, which will require considerable awareness raising and publicity, will provide the most fertile ground for the implementation of legislation that criminalises the purchase of sex.

In terms of policing powers, we are aware of good practice taking place, with an increased understanding of the vulnerabilities and risks affecting people selling or exchanging sex. In Edinburgh, the approach to people affected by CSE demonstrates good practice in its reliance on trauma-informed practice and health principles and emphasising supportive communication to promote access to support services and ultimately, hopefully exiting.

However, we also want to express caution around additional policing powers for covert observation/surveillance without the need for additional authorisation. Although we agree that it would be useful for police officers to be able to observe premises where the sale of sex or brothel-keeping are suspected, we would like to highlight that such a provision carries with it the risk of exploitation. We would urge special consideration about the justification and evidence level required for police to be able to carry out covert observations. On the one hand, we believe that police officers should be able to act on reliable intelligence and a reasonable level of suspicion in order to prevent and deter CSE. However, we also believe that there needs to be strict guidance and clear legislation as to how this type of observation will differ from other types of observation and surveillance that Police Scotland can currently carry out, as well as the criteria for carrying out observation or surveillance of premises.

Ultimately, we believe that criteria and threshold required for observation and surveillance to take place need to be clearly defined and stipulated in legislation.

8. Please indicate which of the following forms of support and/or services you think should be provided for people in prostitution and exiting prostitution (place an x into the brackets of as many options as you agree with):

- Exiting support workers
- Drop in services
- Outreach visits to brothels, saunas and other similar premises
- Specialist medical consultations
- Access to drug and alcohol services
- Access to counselling and psychological treatment services

- Specialist housing schemes for women in crisis
- Support to access education, training or work
- Financial advice, debt support etc
- Other (please give details)

Please explain the reasons for your response and provide examples of best practice.

The ESEC would suggest that Outreach services would be hugely beneficial to women selling or exchanging sex on-street. Our experience has taught us that traditional service provision can be challenging for women to access, and often it is more productive for services to go to the women rather than the other way around. However, shifts in the trends in prostitution might also make this challenging. Over the past 10 years, we have seen a decrease in the numbers of women exploited through street prostitution or selling sex in saunas and an increase in the numbers of women selling sex from private flats, hotel rooms and advertising online. To address the needs of women selling sex from premises other than on-street or saunas and brothels, we may need to think creatively about how outreach services might reach them, especially given the challenge that often these premises are short-term lets.

Additionally, in terms of other services that we feel would be necessary for women, we would like to highlight court advocacy such as EDDACS and Rape Crisis provides to women affected by domestic abuse and sexual violence respectively. At this point, we would also reiterate that we would wish to see women exploited through prostitution automatically qualifying for special measures in court as they would qualify as vulnerable witnesses.

9. Please indicate which of the following ways of raising awareness of the new offence you believe to be most effective (choose as many as you agree with):

- Internet and social media advertising
- TV advertising
- Print media advertising
- Billboards in public places and transport
- Leaflets to households
- Materials to support and exiting services for people involved in prostitution
- Materials targeted at areas where prostitution is known to occur
- Materials to health and mental health services
- Materials to further education sector
- Inclusion in secondary education (Relationship, Sexual Health, Parenting classes)

[X] Other (please give details)

Please explain the reasons for your response.

The ESEC recognises that exploitation through prostitution overwhelmingly affects women, with those purchasing sexual services being overwhelmingly men and boys. As such, awareness needs to be raised primarily with men and boys to deter them from purchasing sexual services, in tandem with raising awareness for women and girls that they have a legal right to support and that they will not be criminalised for selling sex.

We believe that all of the above forums for raising awareness would be appropriate, but we would also wish to add that the legislation should compel 'pimping websites' to include information about the legislation, or at the very least, information about support services for women who advertise/are advertised on those websites for sexual services. This would include escorting agencies and sauna websites.

We would also suggest that the content of awareness raising materials should be adapted based on the target audience, the medium through which they will be communicated and the location where they will be placed. In Edinburgh, we feel that it would be appropriate for material to be distributed to our Justice Centres, Police Stations and VAWG services for example, although the content of the material should be appropriate for each of those venues and the people who are likely to access them.

10. Do you think legislation is required, or are there are other ways in which the Bill's aims could be achieved more effectively?

Please explain the reasons for your response.

The ESEC supports that legislation is required to address the exploitation of women and girls through prostitution. Edinburgh has been extremely fortunate to be the home of a diverse range of VAWG services, including two specialist services for women exploited through prostitution. All services and organisations who are member of the ESEC agree that legislation would be essential to challenge men's demand for prostitution and to support women to exit because it provides the foundation and framework for the work that needs to be carried out.

We think that the proposal to remove Section 46 from the Civic Government (Scotland) Act 1982 and the expungement of previous Section 46 offences from women's criminal records will be particularly helpful in helping women to move on and exit CSE. Our discussion did highlight a

potential unintended consequence, in that removing Section 46 from the Civic Government (Scotland) Act 1982 might increase incidences of women being exploited through prostitution in the context of abusive relationships (for example where an abusive partner/family member pushes a girl/woman into prostitution using the argument that there will be no legal consequences against her). However, we also believe that this might provide women with the opportunity to report and seek support for domestic abuse in the context of receiving exiting support.

In spite of this concern, we believe that the impact of legislation is likely to be overwhelmingly positive as it is more likely to increase reporting and provide women with necessary avenues to support. The ESEC is fully supportive of the proposal for legislation in this area.

Resource implications

11. Taking into account all those likely to be affected (including public sector bodies, businesses and individuals etc), is the proposed Bill likely to lead to:

- a significant increase in costs
- some increase in costs
- no overall change in costs
- some reduction in costs
- a significant reduction in costs
- do not wish to express a view

Please indicate where you would expect the impact identified to fall (including public sector bodies, businesses and individuals etc). You may also wish to suggest ways in which the aims of the Bill could be delivered more cost-effectively.

The ESEC believes that, as with any change, the introduction of legislation criminalising the purchase of sexual services, establishing legal rights to support and supporting specialist exiting services will incur some costs. Although we appreciate that costs have to be considered in any new legislative proposal, it is incumbent on us to highlight that putting measures in place to prevent and eradicate the exploitation of vulnerable women and girls is not just a matter for legislation, but an ethical responsibility we hold as a society. We support that any cost that is incurred towards combating VAWG, preventing exploitation and creating a fairer world for women and girls is, in our view, justified.

At the same time, our partnership also supports that there

are ways in which costs can be mitigated so that any funding is used efficiently and effectively:

a. Although we fully support resourcing specialist exiting services, we would also argue that instead of brand new services being established where there may be duplication (as would be the case in Edinburgh), there is investment in training and upskilling staff in existing VAWG services (such as domestic abuse services, rape and sexual abuse support services and others) as well as general welfare services (such as Citizens Advice and Social Work) to be able to respond to the needs of women exploited through prostitution.

b. As the conviction for purchasing sexual services will include a fine for perpetrators, a significant proportion of this fine could be used to further the implementation of this legislation and to sustain specialist services for women.

c. Given the impacts of prostitution on women and girls, families, communities and society at large, we believe that an increase in costs to address this issue is justified. By challenging men's demand for prostitution, we believe that the financial cost of bringing about attitudinal and cultural change will lead to considerable savings in other areas, including health and police services. We further believe that enabling women to access education, training, volunteering and employment opportunities will lead to significant contributions to the economy.

Last but not least, we want to highlight that 'costs and benefits' cannot only be considered in financial terms. The costs of exploitation through prostitution are considerable: they are physical, emotional, financial, social, and intergenerational. Consequently, the benefits of implementing the proposed legislation are going to extend to those dimensions. We have seen from other countries where the 'Nordic' model has been implemented that this has led to wider social change and a shift in attitudes towards more gender equality. A key example is Sweden, where this model was implemented in 1999, and less than 20 years later (2017) 63% of the population stated that they believed that purchasing sex is wrong and should be illegal (Johnsson, S. and Jakobsson, N. (2017): Is buying sex morally wrong? Comparing attitudes toward prostitution using individual level data across eight Western European countries. Women's Studies International Forum, Vol. 61, March-April 2017, pp.58-69). We believe that the short-term cost of implementing new legislation and services to support women to exit exploitation through prostitution pales in significance when compared to the long-term benefits of implementing gender equality, preventing VAWG and eradicating the intergenerational trauma of CSE.

Equalities

12: Any new law can have an impact on different individuals and groups in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation. What impact could this proposal have on particular people if it became law?

Please explain the reasons for your answer and if there are any ways you think the proposal could avoid negative impacts on particular people.

The ESEC believes that the implementation of legislation criminalising the purchase of sex, decriminalising the sale of sex and establishing a legal right to support for women and girls exploited through prostitution will have positive impacts on all of society, if applied appropriately and in tandem with the resourcing of services for those being/at risk of being exploited through prostitution.

Our partnership knows through both research and professional experience, that CSE is harmful to everyone in society. All aspects of the sex industry disadvantage people, particularly women and girls, people from diverse ethnic and cultural backgrounds, transgender people, people of all ages and people with disabilities. We also know that beyond protected characteristics, CSE disproportionately affects people who face a range of vulnerabilities such as the risk of poverty/deprivation, homelessness, no recourse to public funds, domestic abuse, trauma and substance misuse.

In our view, the only group that might feel 'adversely' impacted by this proposed legislation comprises people who pay for sexual services, meaning primarily men and boys. This is important to raise in order to highlight the power difference between women and girls (who will overwhelmingly benefit from this legislation) and men and boys, some of whom will experience this legislation as a challenge to what they see as a 'right' to pay for sexual services. In the context of raising this however, we must also highlight that it is the same sense of male 'entitlement' to female bodies that we seek to challenge by supporting this Bill.

Male entitlement is the result of unequal distribution of power, in other words, the direct result of gender inequality in society, which is a cause and consequence of VAWG. Seen in this context, we feel justified in supporting legislation that penalises the perpetuation of VAWG and gender inequality, as this proposed Bill would be sending a message that the exploitation of the vulnerability of an oppressed group that does not enjoy

the same rights, freedoms, opportunities and choices as another group is a step towards social progress.

Sustainability

13. **Any new law can impact on work to protect and enhance the environment, achieve a sustainable economy, and create a strong, healthy, and just society for future generations. Do you think the proposal could impact in any of these areas?**

The ESEC could not identify any environmental impacts as a result of this proposed Bill. However, we believe that the impacts on the economy will be positive, and that the Bill can help create a strong, health and just society for future generations. When women and girls, who comprise the majority of Scotland's population, live free from exploitation and the gender inequality that causes and follows VAWG, they will be more confident and they will enjoy more (equal) opportunities.

Consequently they will be better equipped and more able to take advantage of educational and employment opportunities, thus more positively contributing to the economy.

As we have mentioned throughout our response to this Consultation, this proposed Bill challenges the status quo, which supports male entitlement to female bodies for sexual exploitation. For over 10 years, the Equally Safe strategy has recognised prostitution and CSE as a form of VAWG, yet very little has been done on a strategic level to prevent and eradicate this type of violence. Criminalising the purchase of sexual services would send a very strong message to current and future generations that humans are not for sale. We believe that this proposed Bill gives us an opportunity to create lasting change by challenging gender inequality and breaking the cycle of intergenerational trauma. We fully support that this opportunity is taken to create a fairer, healthier and more productive Scotland for future generations.