

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(Note: Information entered in this “About You” section may be published with your response (unless it is “not for publication”), except where indicated in **bold**.)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

I am an Associate Professor in Criminology with 25 years of experience researching sex work and human trafficking in Australia, Asia-Pacific, and the UK. As a British Academy Innovation Fellow (2023), I worked in partnership with POW Nottingham (a local charity providing services for sex workers) to develop an alternative crime reporting system for sex workers that will be piloted at the organisation from October 2024 to April 2025. I am a leading scholar on sex work and human trafficking in Australia and Asia-Pacific and have a PhD in Gender, Sexuality and Culture from the Australian National University, with my research exploring sex work in Cambodia. I held a Vice Chancellor's Postdoctoral Research Fellowship at Flinders University (Adelaide, Kaurana Country, Australia) where I researched Cambodia's human trafficking laws and the impacts on sex work and sex workers. While a Senior Lecturer in Criminology and Justice Studies at RMIT University (Melbourne, Wurundjeri and Boon Wurrung Country, Australia), I completed a large-scale project on the career development needs of sex workers in Victoria, which included working with a team of peer researchers as well as documenting best practice in this area of service provision.

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).

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 global evidence base recommends the decriminalisation of sex work to achieve better public health and human rights outcomes and address exploitation. In 2006 UNAIDS and the UN High Commissioner of Human Rights recommended decriminalisation to protect sex workers' human rights and health (OHCHR & UNAIDS, 2006). In addition, UNDP Asia-Pacific (Godwin, 2012), the Global Commission on HIV and the Law (2012) and UN Special Rapporteur on Health and Human Rights (UN, 2010) have all recommended the decriminalisation of sex work. In 2016, Amnesty International recommended decriminalisation of all aspects of consensual adult sex work as they said this was 'grounded in the principles of harm reduction, gender equality, recognition of the personal agency of sex workers, and general international human rights principles' (2016a, p.2). It is also supported by key organisations like the Network of Sex Work Projects (NSWP), UK NSWP, National Ugly Mugs (NUM), Scarlet Alliance (Australia), Asia Pacific Network of Sex Workers (APNSW), New Zealand Prostitutes Collective (NZPC), English Collective of Prostitutes (EPC), Global Alliance Against Trafficking in Women (GAATW) and so on. Further, Das and Horton document where sex work is decriminalised, 'the focus of policing is on reducing violence, protecting sex workers, and supporting effective [public health] programming' (2015, p.3). The proposed model maintains stigma and discrimination and does not give sex workers the same rights and access to justice and social benefits as other working people (Levy & Jakobsson, 2014). The proposed approach does not respect, protect, and fulfil sex workers rights as in countries where client criminalisation has been enacted (e.g., Norway), sex workers have experienced violations of their rights to housing, security of person, equal protection under the law, health, non-discrimination and privacy (Amnesty International, 2016b).

**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.**

I support the full repeal of Section 46 of the Civic Government (Scotland) Act (1982). Sex work decriminalisation is a globally recognised best practice approach to sex industry regulation. This is essential legislative reform that will improve sex workers access to health, safety and justice. These laws often target street-based sex workers, some of whom are among the most vulnerable members of the sex work community. The laws on solicitation force many workers in unsafe situations and subject them to client and police violence and abuse and impact on their ability to access health care and other services and justice. Solicitation laws perpetuate stigma and discrimination and result in the violation of sex workers human rights and can result in workers having criminal records, which places restrictions on opportunities (e.g., housing, education, employment) and has an impact on accessing justice. Evidence shows that decriminalisation of street-based sex work in New Zealand did not lead to an increase in the number of on-street workers (Abel, Fitzgerald & Brunton, 2009). Further, a 2007 study with street-based sex workers showed positive changes in relationships between sex workers and police after decriminalisation (Abel, Fitzgerald & Brunton, 2007).

**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.**

All convictions should be expunged. Spent convictions legalisation may be necessary to remove all convictions retained by sex workers under criminalisation. The stigma of criminalisation and having a criminal record can impact on opportunities like accessing employment, housing and education and the right to vote (Heydon & Naylor, 2018). The erasure of criminal records is essential in allowing successful transitions for workers who want to leave sex work or engage in dual careers to gain employment or undertake studies or choose to remain in sex work.

**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.**

Sex worker support groups and peer organisations provide essential services. These organisations should be funded consistently and through public funds, and not be reliant on donations, grants and other organisations. The approach in providing support must be rights-based and aimed at increasing labour rights and health and safety through wide-ranging supportive services. Any support for this provision would need to be under equality legislation, recognising sex work as a protected characteristic, thereby ensuring protection and safety for workers under the principles and framework of non-discrimination.

The Scottish government has created a new national support pathway, and it is important this pathway utilises and funds peer-based projects that provide services to support and protect workers health and safety. This includes, for example, National Ugly Mugs (NUM), a UK-wide sex worker support organisation that provides vocational support workshops and casework as part of their 'Leaving the Game' project (NUM, 2024).

Stigma remains a barrier for sex workers accessing healthcare and other services, which suggests the need for improvement in service delivery before this measure be adopted (hence 'neutral' support). Based on a large-scale

study of sex workers' experiences accessing healthcare services in Birmingham, a more compassionate approach is necessary as workers were discriminated against and marginalised when accessing mainstream services based on their profession (Bradbury-Jones et al, 2024). Best practice approaches in service provision give voice to sex workers about their needs, and it is important that a needs assessment be carried out with workers to ensure sex workers needs and priorities are reflected in any services and work is undertaken to challenge stigmatising and discriminatory attitudes held by some service providers (Sandy, Meenagh & Nes-ladicola, 2019).

**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.**

My full support for the provision of these services is conditional upon the program supporting sex workers' choices, including the choice to remain in sex work. In this area of service provision, a 2019 review of evidence-based best practices found that it is important for these programs to adopt a career transitions/career development framework (Sandy, Meenagh & Nes-ladicola, 2019). As the UK Network of Sex Work Projects (UK NSWP) suggests, these services need to be an 'option within a range of non-judgemental, holistic, harm reduction services offered to sex workers' (2008, p.3).

Research shows that a strict requirement stipulating sex workers need to be seeking to leave or reducing their hours worked in the sex industry to access services can create an access barrier (Ouspenski, 2014; Sandy, Meenagh & Nes ladicola, 2019; UK NSWP, 2008). For example, some sex workers may not be able to consider leaving sex work until more pressing needs (e.g., housing) are met, while for others once these needs are met, they may find that they wish to stay in sex work or work in different ways (e.g., dual careers). For some workers, the evidence suggests they 'must first be in touch with flexible, crisis-led harm reduction services if they are ever to be engaged with a process of more substantial change' (UK NSWP, 2008, p.3). It is recommended that these services be provided as part of generalist support services.

Career transition services should be offered as one of the services available, but it is recommended that 'exiting' the industry or leaving sex work should not be the main goal of the program as this should be supporting sex workers choices.

It is essential that the program is developed with the direct involvement of sex workers at all stages and employs peer workers who have a lived experience of sex work. Best practice reports see this as gold standard in service provision (WHO, 2013; UNAIDS, 2012). The program must recognise the diversity of experiences in transitioning and the varied strategies sex workers may use to facilitate transitions and the complex nature of this. It is recommended the program develops a coherent theory base (an integrated model could adapt on the UK NSWP Cycles of Change model (2008) or Baker and colleagues Integration model (2010)) and needs to incorporate the concepts of 'duality' (Bowen, 2015), 'sexiting' (Ouspenski, 2014) and 'yo-yoing' (Sanders, 2007). The program needs to be flexible in service provision with the overall goal of supporting sex workers to make informed decisions.

It is recommended that the program is developed based on long-and short-term programmatic focuses and considers using community health-based and peer-learning approaches and workshops alongside a case management approach (Sandy, Meenagh & Nes-ladicola, 2019). In following the WHO Ottawa Charter (1986) it is vital that the program is developed by sex workers themselves and that it provides holistic services and so includes a diverse range of services and activities that respond to sex workers' needs.

**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?**

No new offences should be introduced; therefore, no new enforcement techniques are needed.

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

No new offences should be introduced; therefore, no new policing powers are needed. As Abel and Fitzgerald (2010) argue, it is important to take the crime out of sex work and a liberal feminist, sex workers' rights and public health approach would not advocate for new or increased policing powers. This proposal fails to adequately reflect on or understand police abuse and misconduct in relation to the control of sex

work (Sandy, 2014; Stardust et al., 2021). UK research has documented policing practices that often fail to assist workers who are crime victims (Bowen et al., 2021; Campbell, 2014; Klambauer, 2018; Sexton et al., 2024). This includes not responding to victims, minimising the seriousness of their victimisation, blaming victims for their experiences and harassing them when they seek assistance. International sex work research has shown how punitive policing produces greater risks and where the purchase of sex is criminalised (as in these proposals), this has led to poor relationships with the police and increased attempts to avoid them (Ellison, Dhónaill & Early, 2019; Krüsi et al., 2014).

**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.**

Service provision must be from a rights-based approach that is aimed at increasing labour rights and health and safety through wide-ranging supportive services. Peer workers must be a core part of program staffing as direct support from peer workers who have lived experience with sex work and know some of the issues sex workers face is identified as gold standard in best practice reports (e.g., see Sandy, Meenagh & Nes-Iadicola, 2019; WHO, 2013, UNAIDS, 2012, UK NSWP, 2008). The employment of peers who reflect client backgrounds (racial/sexual identity/work sector) as well as lived experience (e.g. people who use drugs and/or are living with a mental illness) is also essential.

**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)
- Other (please give details)

**Please explain the reasons for your response.**

No new offences should be created, so there is no need to raise awareness of any new offences.

**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 global evidence shows that the Scottish government should regulate the sex industry through existing employment and labour laws, and all laws criminalising sex work should be repealed and the full decriminalisation of sex work introduced. New legislation is not required to effectively regulate sex work.

## **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.**

N/A - no new offences should be introduced.

## **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.**

Research from Norway (Bjørndahl, 2012) and Sweden (Fuckförbundet, 2019) shows that the introduction of new offences like those being proposed led to increased violence from the police, immigration authorities and clients as well as stigma and discrimination. This was particularly so for more economically marginalised workers or those who were multiply marginalised – those who face social exclusion and marginalisation are most vulnerable to harm under the proposed new offences.

As Scot-PEP (2019), a Scottish sex worker-led charity argues, Scottish society cannot achieve gender equality if sex workers are less safe and silenced because of fear of the ramifications for their lives experienced with any form of criminalisation. Gains for equality can only be made when sex workers are at the table – this includes the diverse sexualities and genders of all sex workers and their clients. In the words of Scot-PEP: 'no society can achieve gender equality by enacting laws which make women who sell sex less safe. The immediate safety of women who sell sex cannot be collateral damage in some wider project of 'gender equality' – any gender equality built on such a foundation would be a sham' (Scot-PEP, 2019, p.2).

## **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?**

N/A – I do not recommend the introduction of any new sex

work offences.