

## **Criminalisation of the Purchase and Sale of Sex (Scotland) Bill**

Public Consultation Response - February 2011

### **Engender**

#### **Introduction**

Engender is a membership organisation working on an anti-sexist agenda in Scotland and Europe to increase women's power and influence and make visible the impact of sexism on women, men and society. We provide a wide range of information and support to individuals, organisations and institutions who seek to achieve equality and justice.

We welcome the opportunity to respond to the current public consultation on the Criminalisation of the Purchase and Sale of Sex (Scotland) Bill lodged by Trish Godman MSP.

Engender identifies prostitution as a form of violence against women. The vast majority of women in prostitution have suffered childhood neglect, violence and abuse. We believe that it is never appropriate to accept that women should be "made available" for sex.

Prostitution is not natural or inevitable; it is abuse and exploitation of women and girls that results from structural inequality between women and men on a world scale. These structural inequalities stem from the gender pay gap, occupational segregation, violence against women and paucity in political positions.

It is the buyers of sex who are exercising their free choice and therefore should be sanctioned. What is needed is a change in attitude, so that buying sex is seen as unacceptable. We agree with Trish Godman, that new legislation is required to send out this message and so reduce long-term demand.

**1. Which option do you favour? Please explain the reasons for your choices.**

Engender supports option 2 that criminalises only the purchaser. We support the decriminalisation of women in all kinds of prostitution, especially street prostitution as this is where many of the most vulnerable women are exploited. By ending the stigma that surrounds women in prostitution, the stigma can shift instead to the purchaser who is the only free actor in the situation. We will then be able to understand women involved in the prostitution as victims and the development of prevention and exit programmes can begin.

Decriminalisation must be accompanied by proactive services that help women get out of prostitution such as safe accommodation, education, drug rehabilitation and on going support (exit programmes).

**2. What penalties would have a deterrent effect for the purchaser/seller?**

A recent Scottish study, carried out by the Women's Support Project in 2008 asked 110 men who had bought sex what would deter them from purchasing sex; 89% stated "being added to the sex offender register", 79% answered "spending time in jail" and 72% affirmed "increase criminal penalties" (McLeod, 2008).

The threat of arrest, being added to the sex offender register and spending time in jail would all be sufficient punishments to tackle most of the demand for prostitution.

**3. What are the barriers to policing and enforcing a prohibition on advertising?**

Legislative measures that tackle advertising may prove to be a challenge but are crucial. In countries that have criminalized the purchase of sex, such as Sweden, there has been an increase in internet prostitution (European Women's Lobby). However this trend can be seen in many countries and highlights the need for effective policing and prohibition on advertising.

**4. What penalties are the appropriate for those who advertise brothels or prostitution, bearing in mind these may range from individuals such as prostitutes to organised crime gang members?**

There should be no such penalties for the women involved in prostitution as they are the victims in these matters.

As for the punishment for others involved with the advertising of brothels or prostitution, the punishment for these individuals or groups should match the nature and severity of the crime. These punishments should also be severe enough that they will act as a sufficient deterrent against conducting this kind of activity in Scotland.

**5. What are the barriers to policing and enforcing this aspect of the proposal?**

**6. What penalties are appropriate for those that facilitate prostitution, bearing in mind these might be individuals such as prostitutes or organised crime gang members?**

As we stated in question 4, Engender believe that the penalties should match the severity of the crime and the impact their actions and the sexual exploitation of individuals has had on the community. Facilitators are as responsible for sexual exploitation as the advertiser and purchaser and therefore deserve the same level of penalty.

**7. What other costs might arise as a consequence of this proposal?**

Additional resources are going to be required for exit programmes for individuals involved in prostitution. This will be outweighed, in the medium term with a reduction in the level of services required from the health, substance abuse, or child services. Also, in the long term, by the amount of savings from the overall drop in crime levels, as Scotland becomes an unattractive market for traffickers

and for becoming involved in any aspect of prostitution. Supporting women's human rights, however, should not depend on a cost-benefit analysis.

**8. Are there any equality issues that arise from this proposal?**

Prostitution is a manifestation of women's inequality and Scotland's failure to grant equal opportunities to women and men. The proposed legislation is a step forward to holding perpetrators accountable for their part in this harmful and violent form of violence against women. The legislation is also a powerful statement, challenging our culture's attitudes that normalises the commodification of women.