



# **Engender submission to the Prostitution Law Reform (Scotland) Bill consultation: December 2015**

## **1. INTRODUCTION**

Engender welcomes the opportunity presented by this consultation to consider the ways in which Scotland might respond to the gendered social phenomenon of prostitution. The aim of the draft proposal is to “begin a debate on how to reform the law”, in the knowledge that a Bill cannot be introduced in this session of the Parliament. We have therefore chosen to offer some reflections on the criminal justice responses to the sale of sexual services, as set out in the consultation document, but also to attempt to think more widely around the issues it presents around women’s rights and gender relations.

It is difficult to essay any consideration of prostitution without mentioning the polarisation that exists in the discourse around it. For more than forty years, people and organisations have explicitly wrestled with the theoretical and practical implications of different responses to the sale and purchase of sex. There is no visible path to consensus, but we are cautiously hopeful about the possibilities that dialogue offers for developing the best possible Scottish response.

The different types of criminal justice response are named after the countries that have adopted them, giving us the Swedish model and the New Zealand model. Engender’s ambition is for a Scotland model, which extends far beyond a criminal justice response, and has at its heart the pursuit of the best outcomes for all women.

### **1.1 TERMINOLOGY**

The language around prostitution is itself contested, but we have endeavoured to respect the lived experience of different groups of women in the language

that we use. Throughout this response we use the terminology of the consultation paper itself, and refer to “prostitution” and to “selling sexual services” in various forms.

We talk about “women who sell sex”, to reflect the fact that women, including trans women, comprise the majority of the people involved in prostitution. We talk about “men who purchase sex”, to reflect the fact that men comprise the overwhelming majority of the purchasers of sex.

We talk about “women who identify as sex workers” and “women who identify as survivors [of prostitution]” in order to use the self-identifications that have arisen from some groups of women’s direct experiences of selling sexual services. There are women who do not use either of these descriptive terms to define their experiences, and we acknowledge this in our naming.

## **1.2 EVIDENCE BASE**

Engender works around women’s economic, political, and social and cultural equality with men.

The expertise that we draw on in making this submission is principally around gender itself, and also around women’s economic inequality and violence against women. We have done no recent work specifically looking at the system of prostitution.

The literature we draw on in reflecting on the detail of the proposals in the consultation is the report of the independent Prostitution Law Review Committee that was established in New Zealand to scrutinise the impact of the Prostitution Reform Act 2003<sup>1</sup>, and a small number of other pieces of literature that reflect on the Committee’s findings. We acknowledge that such limited reading will necessarily have an impact on the breadth of our current thinking.

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<sup>1</sup> Prostitution Law Review Committee (May 2008) *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003*

## 2. PROSTITUTION AND GENDER

The foreword to the consultation paper sets out an aspiration for the consultation process.

*I hope this consultation will generate a lively discussion on how best to keep sex workers safe, rather than another round of the tired discussions which centre round the feelings of those who would wish the sex industry away. It is time to move away from policy debates that exclude those most affected<sup>2</sup>.*

Engender has its own ambitions for the future of this process. Our central organisational aim is to see a Scotland where women have equal access to power, resources, and justice. We would like to see a collaborative, constructive engagement on prostitution that creates a Scotland model.

To do that, we need to engage with individual women's experiences of selling sex, but also prostitution as a gendered system. In this section we consider the gender dimensions of prostitution, and how the experiences of women who sell sex are shaped by other gendered structures.

### 2.1 EITHER/OR: A FALSE DICHOTOMY?

The sentences from the foreword above summarise the sense within the media and popular discourse that a policy solution to the system of prostitution must either prioritise the safety of women who sell sex (and implicitly endorse the continued existence of the sex industry), or must prioritise the dismantling of the sex industry (and be functionally indifferent to the experiences of women who sell sex).

The real-world experience of different legal and policy prostitution regimes suggests otherwise. In a comparative review of different international approaches, Kelly and others suggest that “[i]n reality most countries work with amalgams of at least two approaches<sup>3</sup>”. Even in those countries that have come to stand in for the polarised extremes, Sweden and New Zealand, there is complexity and nuance.

Engender's expertise is not around prostitution, but our experience of working around policy across the broad sweep of gender inequalities informs our belief

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<sup>2</sup> Jean Urquhart MSP (2015) *Prostitution Law Reform (Scotland) Bill* Scottish Parliament: Edinburgh

<sup>3</sup> Kelly, L., Coy, M., and R. Davenport (2009) *Shifting Sands; A Comparison of Prostitution Regimes Across Nine Countries* CWASU, London Metropolitan University

that bold ambition and pragmatism are not wholly incompatible. To provide an example that is tangentially related to prostitution, Engender’s vision for the economy is to see women’s unpaid work counted and valued, gendered occupational segregation consigned to history, gendered norms around leadership shattered, and sufficient universal childcare and care provision to ensure that women and men “consent to care”. In pursuit of this vision we advocate for some measures of incremental progress that often appears very distant from our core goals, like the representation of women on private sector boards.

Kelly’s work reflects that responses to prostitution can be more finely grained than the policy prescriptions that currently seem to be on the menu. She says that while “philosophical positions on prostitution are incompatible, there are layers of consensus, in research and practice, that are too rarely acknowledged.”<sup>4</sup>

There is an obvious “layer of consensus” in the criminal justice response to prostitution, in that we, along with all women’s organisations whose position that we are aware of, wish to see women and men who sell sex decriminalised. We say more about this in section 3.2.1. With regard to the other proposals in the consultation paper, we have considerable doubts as to whether the criminal justice system is the place to start to explore system-wide solutions, and begin to find further consensus. The reason for that is rooted in the gendered nature of prostitution itself.

## **2.2 PROSTITUTION AS A GENDERED AGENDA**

### **2.2.1 A GENDERED PHENOMENON**

It is impossible to de-gender prostitution, because it sits at the nexus of a host of gendered structural inequalities. Various parts of the prostitution system depend on the relative impunity with which men can abuse and control women and girls, an economy-wide lack of good quality flexible or part-time work, women’s unequal responsibilities for unpaid care, occupational segregation, a system of social security that is increasingly failing to provide a

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<sup>4</sup> Kelly, L., Coy, M., and R. Davenport (2009) *Shifting Sands; A Comparison of Prostitution Regimes Across Nine Countries* CWASU, London Metropolitan University

safety net for women<sup>5</sup>, and a cultural acceptance of the centrality of men's sexual desires and expectations.

Within the prostitution system, women who sell sex are more likely to experience physical and sexual violence, abusive and coercive relationships with those who take on the role of a manager (of the sale of sex), sexual and other health problems from participating in unwanted sex<sup>6</sup>, and economic and social constraints on their ability to freely choose to stop selling sex and pursue work in the formal labour market.

### 2.2.2 AN INTERSECTIONALLY PROBLEMATIC PHENOMENON

Trans women, disabled women, and black and minority ethnic women's experience of selling sex is inflected by their other identities. The New Zealand Prostitution Law Review Committee inquiry into the impact of the Prostitution Reform Act 2003 determined that Pasifika and Māori women were significantly overrepresented among those who sold sex on the street.<sup>7</sup> The same report noted that "transgender people find it almost impossible to be employed in the brothel sector and report fewer employment alternatives to sex work."<sup>8</sup><sup>9</sup>

### 2.2.2 ON AGENCY

These aggregated effects do not mean that every individual woman who sells sex would describe her entry into the industry as anything but a free and (relatively) unconstrained choice, or that every woman would identify herself as having been harmed by selling sex. It is important to continue to listen to and acknowledge what women say about selling sex. This includes women who are clear that they do not experience it as harmful and that they like what they

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<sup>5</sup> Engender (2015) *A Widening Gap: Women and Welfare Reform*

<sup>6</sup> NHS Scotland (2009) *Commercial Sexual Exploitation*

<sup>7</sup> Prostitution Law Review Committee (May 2008) *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003* p.120

<sup>8</sup> *Ibid.* p.121

<sup>9</sup> This is significant because the Committee reflected on the fact that "hope was expressed that decriminalising brothel keeping would encourage street-based sex workers to work indoors", and the findings that "post decriminalisation, there is little movement between the street and indoor managed sectors of the industry." Its report went on to say that "the purpose of the Prostitution Reform Act, particularly in terms of promoting the welfare and occupational health and safety of sex workers, cannot be fully realised in the street-based sector," and that therefore the Committee "considers street-based sex workers should be encouraged to either move to a safer, indoor setting, or leave sex work altogether."

describe as their work, as well as women who experience prostitution as traumatic.

Feminist analysis does not make universal claims for women who sell sex, just as it makes few universal claims in other contexts. We are, for example, able to acknowledge individual women's agency in becoming mothers, and that of families to divide care between adults in a way that suits themselves, while critiquing the gendered assumptions and structural barriers that drive and underpin those choices. Similarly, we can acknowledge the agency of individual women who sell sex while critiquing the gendered structures that undergird the industry and its population-level harms.

Advocacy by feminist organisations means that this structural analysis informs some of the policy and rights frames that have been used in respect of prostitution, and poses questions about how we develop a response to the system of prostitution.

## 2.3 PROSTITUTION AND WOMEN'S EQUALITY AND RIGHTS

### 2.3.1 VIOLENCE AGAINST WOMEN

Prostitution is named in Scotland's violence against women strategy, *Equally Safe*<sup>10</sup>, as a form of violence against women. It is principally referred to in the section of the strategy that focuses on preventing men's violence against women.

Prevention is an approach to ending violence against women that explicitly links women's experience of men's violence with a conducive context of women's economic inequality, women's underrepresentation in decision-making, and in the gender stereotyping that underpins the current framework of gender relations in Scotland. In *Equally Safe*, violence against women is acknowledged as a cause and a consequence of women's inequality.

The current situation, in which prostitution is acknowledged as violence against women and yet women are nonetheless criminalised for selling sex is profoundly contradictory. This contradiction should be resolved by decriminalising women who sell sex.

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<sup>10</sup> Scottish Government (June 2014) *Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls*

### 2.3.2 HUMAN RIGHTS

All of the gendered inequalities that form the conducive context for the prostitution system engage human rights, including economic and social rights and specifically enumerated women's rights.

Women's experience within the system of prostitution engages some of those same rights, including a number of economic and social rights such as women's right to the highest attainable standard of health, and housing. Proponents of approaches in which all who are involved with the system of prostitution are decriminalised argue that this better enables the progressive realisation of economic, social and labour rights. We will briefly consider this in section 3.2.1.

Specific reference to prostitution is minimal in international human rights obligations to which the UK is party. The UK has neither signed nor ratified the Convention for the Suppression of the Traffic in Person and of the Exploitation of the Prostitution of Others<sup>11</sup>. Other instruments that refer to trafficking and sexual exploitation are:

- The International Covenant on Economic, Cultural, and Social Rights, which covers trafficking for sexual exploitation in article 10. The Committee has included trafficking for sexual exploitation in the list of issues that it published in October 2015<sup>12</sup> in advance of the UK's examination in 2016.
- The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) includes the right not to experience the "exploitation of prostitution" in article 6. It is important to be clear that it does not require states party to CEDAW to take a particular course of action in realising this right.

The most immediate of all of the challenges of asserting women's rights, is that none of the rights referenced above is directly justiciable in Scotland. It is not possible, for example, to take the UK Government to court because the social

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<sup>11</sup> The Convention requires states party to take sanctions against any person who "procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person", "exploits the prostitution of another person, even with the consent of that person" (Art. 1), or runs a brothel or rents accommodations for the purposes of prostitution (Art. 2).

<sup>12</sup> UN Committee on Economic, Cultural and Social Rights (October 2015) *List of issues in relation to the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland*

security system that it has developed does not appear to comply with article 9 of the International Covenant on Economic, Social, and Cultural Rights.

### **2.3.3 LEGAL AND CRIMINAL JUSTICE RESPONSES**

In the absence of justiciable economic, social, and women's rights, advocates of women's equality must seek other legal frames. In Scotland, women can use anti-discrimination law in the form of the Equality Act 2010 to seek remedy when they have been treated less favourably than a man by an employer or provider of goods, facilities, or services. A range of laws governs the employment relationship, and compels employers to maintain standards with regards to employment contracts, health and safety, annual leave entitlements, sick pay and leave, and a range of other terms and conditions of work.

The New Zealand model attempts to enable women selling sex to be able to use domestic equality, human rights, and employment law to assert their rights. The findings of the independent Committee established to review the impact of the Prostitution Reform Act 2003 suggest that this is not unproblematic, and we briefly consider its impact in this regard in section 3.2.1.

## **2.4 CHALLENGES IN FINDING SOLUTIONS**

Before we offer some thoughts on the specific proposals set out in the consultation paper, it may be helpful to articulate some of the central tensions and challenges around the creation of a Scotland model.

### **2.4.1 WHO SPEAKS FOR WHOM?**

The quote from the consultation paper with which we opened this section averred that "it is time to move away from policy debates that exclude those most affected"<sup>13</sup>. Engender, along with other women's organisations, has always rooted our work in women's lived experience and women's analysis of that experience.

The challenge with regards to hearing women who sell sex is three-fold. First, the majority of women who sell sex neither become active participants in a

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<sup>13</sup> Jean Urquhart MSP (2015) *Prostitution Law Reform (Scotland) Bill* Scottish Parliament: Edinburgh

group of self-defined sex workers, nor become active participants in a group of self-defined survivors of prostitution. Many of the women who exchange sex for money or survival do not identify either as sex-workers or as women involved in prostitution. Second, the stigma that pervades the prostitution system, and the trauma that women who experience prostitution as exploitation and violence sustain, means that only the most determined, privileged, or supported women are likely to be heard. Third, based on figures from New Zealand, women do not expect to remain in the industry for very long. Only 15 per cent of people who sell sex in New Zealand expect to sell sex for longer than five years<sup>14</sup>. This means that there may be a difficulty in engaging individuals on policy if they perceive themselves as selling sex only in the short or medium term, and their identity as sex-worker as a transient or conditional one.

The polarisation of voices that these constraints prompt, combined with the ethical and practical quandaries inherent in engaging with women with direct lived experience of selling sex, means that policymakers are dependent on a small number of organisations and a handful of women to sense check their thinking with. These same factors make participatory approaches to policy development much more challenging.

This does not mean that the creative thinking that self-described sex worker or survivor organisations have done should be discounted, but does mean that it needs to be contextualised. One way of doing this may be through the Encompass Network of projects that support women who have experienced exploitation in prostitution. Women's, disabled people's, and trans people's organisations may also wish to collate disclosures from women who have sold sex, and the context of this experience. Finding an approach to bringing these voices together is necessary to inform the development of a Scotland model.

#### **2.4.2 EVIDENCE BASED POLICY MAKING?**

A further challenge is that significant knowledge gaps abound around prostitution. The forthcoming work that Scottish Government has commissioned to provide a richer sense of the Scottish context around

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<sup>14</sup> Prostitution Law Review Committee (May 2008) *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003* p.65

prostitution is to be welcomed, but the evidence base is weak in all countries, with what Kelly has described as “critical gaps”<sup>15</sup>.

A discussion that moves beyond well-rehearsed positions is not currently taking place in Scotland. Most organisations and policymakers that work around policy areas that overlap with the prostitution system, such as social security, childcare, employability and the labour market, and housing, have no knowledge of it. Engender is aware from speaking to some civil society organisations that the polarisation within the debate, and the perceived reputational and operational risks of developing any kind of public position on the issue, has had a chilling effect on dialogue. Organisations that may have valuable evidence to add are simply not taking part in the discussion.

The contested evidence base and lack of clarity about the impact of particular policy prescriptions has perhaps also encouraged path dependence in thinking about policy solutions. The history of prostitution is studded with attempts to influence women who sell sex and men who buy sex through the blunt tool of criminalisation. This focus on the criminal justice system as a lever of change remains, to the possible exclusion of other, better approaches.

To create a model that enables women to avoid, exit, and maximise their enjoyment of rights while they are within the prostitution system requires the best possible evidence. However, we must acknowledge the limits of the capacity of any individual research study to entirely illuminate this terrain, or to answer the political and ideological questions at its core.

## **2.5 RECOMMENDATIONS FOR DEVELOPING A SCOTLAND MODEL**

Engender suggests that the development of a Scotland model needs to:

- Include the voices of women who identify as sex workers, the women who identify as survivors of prostitution, and the voices of women who have sold or sell sex but do not identify as belonging to either group;
- Bring in expertise around gender, women’s experience of poverty in Scotland, housing, employability and women’s experience of the labour market, childcare and social care, and the social security system;

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<sup>15</sup> Kelly, L., Coy, M., and R. Davenport (2009) *Shifting Sands; A Comparison of Prostitution Regimes Across Nine Countries* CWASU, London Metropolitan University p.52

- Align with Scotland’s stated policy ambitions for women’s equality, and ending violence against women, as well as international obligations that Scotland is committed to implement;
- Consider supply as well as demand, and particularly the women made vulnerable to exploitation by poverty, gender based violence, and precarious employment.

### 3. ADOPTING THE NEW ZEALAND MODEL IN SCOTLAND

The consultation paper’s concrete proposal is that Scotland should adopt a decriminalising approach to all of the actors in the prostitution system, including women who sell sex, managers and controllers of women who sell sex, and men who buy sex. The consultation paper proposes that Scotland enacts a piece of law that is essentially the same as New Zealand’s Prostitution Reform Act 2003.

**At this point, Engender would wish to see women decriminalised, but would want any further decisions made about criminal justice responses to the prostitution system to sit within the development a Scotland model. This would include policy, programme, and service responses that did not fall within the criminal justice system.**

We defer to women’s organisations that work around commercial sexual exploitation in their consideration of the detail, but would wish to make some broad points.

We reiterate that the literature we draw on in reflecting on the detail of the proposals in the consultation is the report of the independent Prostitution Law Review Committee that was established in New Zealand to scrutinise the impact of the Prostitution Reform Act 2003<sup>16</sup>, and a small number of other pieces of literature that reflect on the Committee’s findings. We acknowledge that such limited reading will necessarily have an impact on the breadth of our current thinking.

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<sup>16</sup> Prostitution Law Review Committee (May 2008) *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003*

## 3.1 BORROWING POLICY

The consultation paper proposes that Scotland adopts the key principles from New Zealand’s Prostitution Reform Act 2003. It is exceptionally difficult to adopt legislation, or even policy, from another jurisdiction. While New Zealand has shared legal ancestry with England, its criminal justice system, regulatory culture, public sector architecture, employment law, and approach to tackling gender based violence is distinct from Scotland’s.

It is also worth noting, apropos of the possible impact on the size and dimensions of the industry, that New Zealand is an extremely geographically remote country, with very strict immigration controls. Even if a review of the law’s implementation had produced exceptional results in terms of increasing women’s access to healthcare and labour rights, reducing violence within the prostitution system, while somehow reducing women’s inequality, this would not necessarily recommend its wholesale adoption to Scotland.

## 3.2 DETAILED PROPOSALS

### 3.2.1 DECRIMINALISING WOMEN

Engender strongly supports the complete decriminalisation of women and men who sell sex. As part of this process, we would advocate for criminal records to be expunged of any mention of any offences related to selling sex. We would also propose that measures should be put in place to enable sanctions to be taken against any organisation that shares information about a woman’s history of selling sex that is not proportionate means of achieving a legitimate aim.

We would also suggest that consideration be given to adding “people who sell sex” as an additional characteristic to the Scotland-specific regulations that enable the performance of the public sector equality duty in Scotland. The Scotland Bill will enable the regulations to be extended in this way.

From the New Zealand experience, we note that:

- Some women who sold sex identified that they felt “safer” following decriminalisation, because “if it wasn’t legal, then, you know, [a client]

could use that against me or threaten me with something, or you know. But now that it's legal, they can't do that."<sup>17</sup>

- Women identified an “improved sense of well-being due to sex work no longer being ‘criminal’, [and being able to] go about their business without fear of being arrested by an ‘undercover cop’.”<sup>18</sup>

However, it is important to be clear that complete decriminalisation of the system of prostitution in New Zealand appears to have delivered only limited benefits for women who sell sex.

The Committee's report set out the purpose of New Zealand's law.

The purpose of the PRA was to decriminalise prostitution (while not endorsing or morally sanctioning prostitution or its use); create a framework to safeguard the human rights of sex workers and protect them from exploitation; promote the welfare and occupational health and safety of sex workers; contribute to public health; and prohibit the use in prostitution of persons under 18 years of age.

The following quotes from the Committee's report suggest that its success on its own terms has been limited.

- “The Committee is very concerned that it appears there are still some managed **sex workers who are being required by brothel operators to provide commercial sexual services against their will on occasion**” (p.14);
- “Research indicates that there is a high level of awareness of Occupational Safety and Health (OSH) requirements in the sex industry, but **compliance cannot be measured** as there is no system of regular inspections of brothels by Medical Officers of Health, and the Department of Labour” (p.14);
- The PRA has only the most marginal influence on brothel owners' willingness to create employment relationships with women. Instead, most insist that sex workers are self-employed, which functionally removes women's capacity to use employment law to secure more favourable conditions. Of those who do issue contracts some “retain

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<sup>17</sup> Prostitution Law Review Committee (May 2008) *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003* p.44

<sup>18</sup> *Ibid.* p.49

many of the exploitative practices of the pre-decriminalisation era” (p.157);

- “The majority of sex workers interviewed felt that the PRA could do **little about violence** that occurred” (p.14);
- “The Committee recognises the danger street work poses to sex workers, and acknowledges the concern and upset it causes communities. **The Committee considers street based sex workers should be encouraged to either move to a safer, indoor setting, or leave sex work altogether**” (p. 16);
- “Research indicates that there has been some improvement in employment conditions, but this is by no means universal. **Generally, brothels which had treated their workers fairly prior to the enactment of the PRA continued to do so, and those which had unfair management practices continued with them.**[...] The enactment of the PRA has empowered sex workers by removing the taint of criminality from their occupation, and **part of that empowerment is to take control of their employment relationships**” (p.17);
- “There is **conflicting evidence on whether violence is reported more often since decriminalisation**, but clearly there is still a marked reluctance amongst sex workers to follow through on complaints” (p.58).

The Committee’s report does not speak to women’s security of housing, social security, access to childcare or care services, or health outside of sexual health, and does not describe any interventions designed to enable women to avoid prostitution.

The complete failure of decriminalisation to realise benefits for women, including trans women, selling sex on the street should be considered as part of the development of a Scottish model, along with evidence from other jurisdictions.

### **3.2.2 ENABLING WOMEN TO SELL SEX IN A SHARED SPACE**

The Prostitution Reform Act 2003 provides for two types of brothel. One is a small operator-owned brother (SOOB), which enables up to four women to sell sex together. None of the women (or men) must influence how the others sell

sex. The other type is a brothel that has more than four women selling sex from it, and which is (lightly) regulated<sup>19</sup>. This is perhaps beyond the scope of this response, but the independent Committee who reviewed the operation of the law set out its view that brothel regulation could only ever be very narrowly drawn, as otherwise brothel operators would simply ignore it and a two-tier system of legal and illegal brothels would emerge.

The safety and wellbeing of women is of paramount importance to Engender, whether those women are at risk of being exploited within prostitution or are already within the system of prostitution.

We would want to carefully consider how enabling women to sell sex in a shared space might be realised, and what the impact of different options for enabling this might have on the system of prostitution. Given the population-level harms of the industry, our current thinking is that we would wish to see a Scotland model that enables women to avoid, exit, and maximise their enjoyment of rights while they are within the prostitution system. However, we see no possible public interest in prosecuting small groups of women who are selling sex from shared premises in order to maximise their safety.

Some of the findings from the New Zealand Committee's review of the operation of their law around small owner-operated brothels (SOOBs), in which a maximum of four women can work together as peers, are concerning.

For example:

- 29 per cent of women working indoors [in a SOOB] felt they had to accept a client when they didn't want to in the last 12 months;
- 8 per cent of women working indoors had refused to accept a client and were penalised; and
- 4 per cent of women working indoors had been made to work by someone<sup>20</sup>.

This suggests that some degree of peer or management control or coercion over the sale of sex is operating even in a context specifically designed to avoid

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<sup>19</sup> One of the brothel owners quoted in the Committee's report described the operator certificate thus: "I used to be a car dealer and to get a licence was really hard. For this, there is no training, no interview, no asking what you know. What's the point? (p.91)

<sup>20</sup> Prostitution Law Review Committee (May 2008) *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003* p.91

that. A detailed consideration of possible approaches is required as part of the development of a Scotland model.

### 3.4 CONCLUSION

Engender recognises the sale of sex as something that sits at the nexus of a host of gendered structural inequalities. Various parts of the prostitution system depend on the relative impunity with which men can abuse and control women and girls, an economy-wide lack of good quality flexible or part-time work, women's unequal responsibilities for unpaid care, occupational segregation, a system of social security that is increasingly failing to provide a safety net for women<sup>21</sup>, and a cultural acceptance of the centrality of men's sexual desires and expectations.

**Engender would wish to see women and men who sell sex decriminalised, but would want any further decisions made about criminal justice responses to the prostitution system to sit within the development a Scotland model. This would include policy, programme, and service responses that do not fall within the criminal justice system.**

As we said in our introduction, we are cautiously hopeful about the possibilities that dialogue offers for developing the best possible Scottish model.

We suggest that the development of a Scotland model needs to:

- Include the voices of women who identify as sex workers, the women who identify as survivors of prostitution, and the voices of women who have sold or sell sex but do not identify as belonging to either group;
- Bring in expertise around gender, women's experience of poverty in Scotland, housing, employability and women's experience of the labour market, childcare and social care, and the social security system;
- Align with Scotland's stated policy ambitions for women's equality, and ending violence against women, as well as international obligations that Scotland is committed to implement;

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<sup>21</sup> Engender (2015) *A Widening Gap: Women and Welfare Reform*

- Consider supply as well as demand, and particularly the women made vulnerable to exploitation by poverty, gender based violence, and precarious employment.

As Engender, we commit to involving women across Scotland to think creatively about how we might do that.