

CAUTIONS

Don't accept a caution. It is an admission of guilt and it stays on your record.

LEGAL AID

You should apply for legal aid. Legal aid entitles you to a solicitor and if necessary a barrister, paid by the State. You have as much right to choose your lawyers and to get them to do what you want as if you were paying the fees. Your lawyer will get you to fill in legal aid forms either at the police station or at the first appearance in court. If you are refused appeal as you may be successful. You are unlikely to get legal aid for offences where you cannot be sentenced to prison – loitering and soliciting for example.

LAWYERS

You shouldn't trust lawyers just because they are qualified. Their advice is not always right and many experts agree that the prostitution laws are open to many interpretations depending on one's sympathies. If you don't believe your solicitor or barrister is doing her/his job in your best interest, you can change her/him.

You can also represent yourself in court if you think you'll do it better than a barrister, which has often been true. Many cases have been won this way.

We are building a network of sympathetic lawyers who will not only give us the best legal advice but will represent us in the way we want. We hope this rights sheet will encourage such lawyers to come forward.

COURTS

Every offence starts in the Magistrates court. A case only gets sent to the Crown court if it is serious. Some offences can be tried in either place. In a Crown Court you will be tried by a jury of 12 people instead of by magistrates. You will stand a better chance of being acquitted. "Confiscation orders" (see above) can only be issued in the Crown court.

BAIL

The police must bring you to court within 24 hours (48 hours at weekends) on soliciting charges. If you decide to plead 'not guilty' your case will be remanded for no more than 21 days. Whatever your charges, your solicitor should apply for bail. It is unlikely you will be given bail if you can't give a stable address. If you're not granted bail the first time, you can apply again within seven days. If the second attempt is unsuccessful you can apply to the crown court.

SUPERVISION ORDERS

Supervision orders can vary from six months to two years. They can include orders to do unpaid work and a curfew. If the court wants to do a fast report on the same day as conviction, you should raise, or get your lawyer to raise, that more time is needed for details about your situation to be properly considered, such as if you have a history of illness or depression or caring responsibilities.

FINES

If you are fined you have the right to request to pay in instalments. You may be asked to fill in a form saying what your income and expenses are in the court. If you are on benefits you can ask for it to be taken from that – there is a limit to how much can be taken each week. If you don't pay a fine you can get sent down. If you are having trouble paying the fine you can ask court to reconsider or even ask for fines to be wiped out. If you were kept in custody for over 24 hours you can ask for the fine to be deemed served.

REHABILITATION

How long will a conviction stay on my record?

Prostitute cautions and loitering and soliciting charges should disappear from your record after a year although they will come up in an enhanced criminal records check.

For other offences it depends on the sentence. Prison sentences over two and a half years never disappear from your record. Prison sentences between six months and two and a half years stay on your record for 10 years. Sentences up to six months stay on your record for seven years. Community penalties stay on your record for five years and a conditional discharge will stay for the period specified by the court.

APPEAL

If you think your conviction or sentence was unfair, you can appeal against it. Cases are often won on appeal and sentences reduced or even quashed. Discuss it with your lawyer.

TAXES

Paying taxes doesn't protect you from prosecution. The taxman can take your money even though they say your work is illegal.

FOOTNOTE: We deal here with the prostitution laws in England and Wales. Similar laws operate in the North of Ireland and Scotland where prostitution itself (the exchange of sexual services for money) is not illegal, but associated activities (such as soliciting, operating a brothel and controlling prostitution) are criminal offences.

The main laws are: the Vagrancy Act of 1824; the Sexual Offences Act of 1956 and the Street Offences Act of 1959 (England and Wales); the Burgh Police (Scotland) Act of 1892 and the Sexual Offences (Scotland) Act of 1976, Sexual Offences Act 2003, Policing and Crime Act 2009, Crime and Disorder Act 1998, Anti-Social Behaviour Act 2002, Proceeds of Crime Act 2002.

© English Collective of Prostitutes
Crossroads Women's Centre
230A Kentish Town Road
London NW5 2AB
Tel: 020 7482 2496
Fax: 020 7209 4761
www.prostitutescollective.net, ecp@prostitutescollective.net

Produced with the financial assistance of



English Collective of Prostitutes The "Girls' Union"

We are a network of women who work or have worked in different areas of the sex industry – both on the streets and indoors.

Since 1975, we have been campaigning for decriminalisation and safety of sex workers. We help sex workers defend themselves against criminal charges and have won precedent legal cases like the first private prosecution for rape in England which put a serial rapist behind bars. We fight against having a criminal record which prevents us getting other jobs. And we fight for housing, higher benefits and wages so that any of us can leave prostitution if and when we want.

If you need our support or want to support our work please get in touch. You can also help by donating: by cheque or through our website. The prostitution laws are so unjust and devious that it is essential that sex workers no matter where we work, know the law, how to protect ourselves from arrest, how to defend ourselves if charged, and where to get help. The public also need to know about the laws which are passed in their name. Putting together our experience as sex workers with the experience of community workers and legal professionals, we can prevent the law from being misused against us at the same time as we campaign to get the laws abolished.

This rights sheet was researched and written with help from many working girls, male sex workers and others. We can't list all the names as so many of us have to remain anonymous until the laws are abolished.

LOITERING AND SOLICITING

What happens if the police stop you in the street?

The police can stop anyone under suspicion of "loitering or soliciting in a street or public place for the purposes of offering services as a prostitute." They may try to search you. Try to stop them. A search is only legal if they suspect

that you are likely to commit an offence or are carrying a weapon.

The label "common prostitute" has been abolished but prostitute cautions continue. You have to be cautioned twice, on two separate occasions, before you can be charged for the first time. The cautions are recorded at the

police station and you don't have to admit guilt to get one. If you are arrested ask to see evidence of the caution/s. Be sure to ask for the dates. If the police can't show proof of your cautions, they'll have to drop the charges. The right to appeal a caution has been abolished.

If you are convicted of soliciting you can be forced to agree to an "Engagement and Support Order" or the court may try to persuade you saying it is an alternative to a fine. This order means you have to attend three meetings with a supervisor (usually a probation officer or a project outreach worker) to address the "causes of your offending". There is no requirement for the supervisor to provide help with benefits, income, housing, debt or anything practical. Many sex workers object to this waste of their time. If you breach the order, you can be arrested, held for 72 hours, brought back to court and fined.

The maximum fine for loitering and soliciting is £500 for a first offence and £1000 for a second offence. The offence should be taken off your record after a year.

ASBO – Anti-Social Behaviour Orders

These civil orders are issued for allegedly causing “harassment, alarm or distress to one or more persons”. The first penalty is a ban from a particular area or from a particular kind of activity but if you breach the order you commit a criminal offence and can be sentenced to up to five years in prison. Hearsay evidence is allowed. That is no witnesses come to court to give evidence, only police officers who claim to be reporting on what they were told by anonymous people. Such ‘evidence’ is often inaccurate, exaggerated and even fabricated. You can get legal aid to challenge ASBOs.

The caution system doesn’t apply to Scotland.

BROTHEL KEEPING, MASSAGE PARLOURS, SAUNAS

What is a brothel?

Two or more prostitutes living together or sharing premises for work constitutes a brothel. You don’t have to be there at the same time, it is still a brothel if two or more women work on different days. Brothel-keeping prosecutions are increasing so it is crucial that you know your rights.

Don’t let the police in without a warrant and don’t give a statement. The police have to show that the place is a brothel – that more than one woman is working there. They also need evidence of sexual activity and to show that whoever they accuse of running the brothel knew sex was being offered. If they find work rotas, menus of sexual services, etc., this can be used as evidence against you. If the premises or the bills are in your name, or they find evidence that you pay other girls, you are more likely to be prosecuted and found guilty. The police can take any computers and your phone if you are arrested.

Some women have been found not guilty by showing that the flat was run in a collective way with no one woman being overall in charge. Some women have brought evidence to court to show they had to work with other women for safety.

What to do if there is a raid

The police cannot come in without a warrant so don’t let them in. Write down the name and number of all the officers. Insist on being present in every room they search. Do not let them take photographs or film footage of you. Insist on a receipt for all monies and other items taken. Take your own pictures as they open any safe to find any money. It is common for money to disappear during a raid.

If you are arrested you’ll be taken to the police station for questioning -- don’t panic. Ask for a lawyer immediately. Say as little as possible. You may be kept overnight (or up to 48 hours).

Can a landlord let premises to a prostitute?

Yes, to one prostitute alone. But s/he can’t let the premises knowing that they’ll be used as a brothel (more than one sex worker). Selling sex may be a breach of your tenancy agreement (many have bans on ‘illegal’ or ‘immoral’ use). But you can’t be evicted overnight -- the landlord will have

to take you to court. It is illegal for a tenant to allow their flat etc. to be used for habitual prostitution (even by one sex worker).

The maximum fine for brothel-keeping is six months in prison if the case is heard in a magistrates court and seven years in prison if heard in the crown court.

CLOSURE ORDERS

What powers do the police and courts have to close down premises?

The police or local authority can slap a closure notice on the door of a flat or house if they suspect that the premises are being used for “specified prostitution or pornography offences.” Then they must apply to the court within 48 hours for a closure order. Anyone who lives there or who has an interest in the premises can oppose the order. Women have won against closure orders by challenging police evidence which is nearly always hearsay (no witnesses come to court, the police just reported what they ‘had been told’) and is often inaccurate, exaggerated or even fabricated. The orders last for three months.

CAUSING, INCITING AND CONTROLLING PROSTITUTION FOR GAIN

What counts as “controlling a prostitute”?

This offence is quite wide. Not only is it used against managers it has also been used against women working together who have been charged with controlling each other. The police have to show that you organised someone’s work and got money for it, so renting premises, organising a work rota, paying bills, hiring and firing can count as evidence. No evidence of force is needed to get a conviction.

The sentence can vary from probation to seven years depending on the seriousness.

Causing or Inciting is used against anyone who encourages someone (over the age of 18) into prostitution or makes the practice of prostitution easier.

ESCORT AGENCIES AND NIGHT CLUBS

How do agencies and clubs get closed down for prostitution?

Bosses of agencies providing outcalls could get busted for controlling if the police show that women are providing sexual services with the knowledge of the management.

DOING BUSINESS IN HOTELS

What do you do if you are stopped by the security?

If you are visiting a client, phone the client through the house phone and ask him to come down for you. If security ask you into another room refuse to go. The only power they have is to ask you to leave. If you are resident at the hotel and they accuse you of prostitution ask why. You are allowed to have guests.

LAPDANCING/STRIPPING

Strip clubs are now classified as “sexual entertainment venues”, the cost of licenses has increased and local authorities have been given greater powers to control the number of clubs in a particular area or ban them altogether. Dancers are protesting against the closures of clubs and the increased monitoring and regulation of dancers by management.

TRAFFICKING

The laws that are supposed to protect victims of trafficking are often used to deport immigrant sex workers and to justify raids on flats where no-one is being trafficked or coerced.

Most people understand trafficking as bringing people into the country by force or deception, coercing them to work and keeping them captive by threats and violence. But the law on trafficking for sexual exploitation in the UK (unlike most other countries) criminalises anyone who helps a person to come to, leave or move around the UK, if she then ends up working in the sex industry, regardless of whether there is any force, threats or coercion. Immigrant sex workers have been convicted for giving another sex worker a lift from the airport.

Some women who have been held captive and forced to have sex for money have escaped with the help of sex workers. They have learned some English and got help to stash away some money so when they were ready to escape they could survive without going to the authorities who they feared would deport them. Laws against trafficking (like laws on soliciting, controlling and brothel-keeping) discourage sex workers from working together and helping each other.

Even though under trafficking law the police don’t have to show that anyone was forced or coerced, guidelines for prosecutors do state that trafficking is only present if the victim is being forced, so anything that shows a non-coercive relationship between you and anyone you are accused of trafficking is helpful to your defence.

ADVERTISING

Is it legal to advertise?

No. It’s against the law to advertise sexual services on the web, in shop windows, newspapers, contact magazines, etc. Some sex workers do advertise using ‘escort’, ‘model’, etc. You can advertise in this way and work legally from your place as long as you are alone. Putting cards in phone boxes is illegal.

PROCEEDS OF CRIME LAW

This law is being used a lot against sex workers. It seems to be a primary reason that prosecutions have increased. It is used to seize savings, assets (like your house, car, jewellery) and demand payment of any income you have made as a result of what they judge to be criminal activity.

What is particularly unfair is that the burden of proof is reversed so you have to prove that your money did not come from criminal activity.

It is proceeds of a crime not profit of a crime so if you made £200 a week and spent £50 a week on expenses you owe £200. Confiscation orders can extend to family, partners and jointly owned businesses and investigators can go back six years.

You usually get six months to pay and if you don’t pay you can face imprisonment. Unlike other fines, when you come out of prison you will still have to pay to amount of the order.

You don’t have to use the same lawyer for POCA as you did for the criminal case.

CLIENTS

Is asking a woman for sex on the street legal?

No. Clients soliciting for sex and kerb-crawling can be arrested on their first offence and the police don’t have to show that they caused a nuisance. If convicted they may be offered a ‘rehabilitation’ course (John’s school) or fined up to £1000. They can also be disqualified from driving or have their car confiscated.

A new offence of “paying for sex with a prostitute subject to force and coercion” was introduced in 2010. The client can get convicted whether or not he knew the sex worker was being forced, and regardless of what efforts he made to find out. In court, the police have to show that the sex worker was coerced or exploited. The maximum sentence is six months or a fine of £1000.

ARREST

What to do if you are arrested.

1) You are entitled to make one phone call and to contact a lawyer. If you don’t know a solicitor it’s the duty of the police to find you one. The police may tell you that you no longer have the right to silence because “if you fail to mention now something that you later rely on in court” it will be used against you. Generally it is best not to give a statement – many sex workers are convicted purely on the information they give to the police.

2) Apply for legal aid (See Legal Aid.)

WHAT TO PLEAD

Beware of threats and promises. Never plead guilty to something you haven’t done. Many women are advised to plead guilty by the police with the promise that they’ll be let off with a lighter sentence or with the threat of publicity if they don’t plead guilty. Mothers have been threatened with having their children put in care, and immigrant women with deportation. In this way many sex workers who are not guilty get convicted. Publicity does not always depend on how you plead. There is no guarantee that you’ll get publicity if you plead not guilty or that you won’t get it if you plead guilty. It is worth fighting your case in order not to have a conviction. If in doubt plead ‘not guilty’. You can change your plea later after talking with your lawyer. You may think you’re guilty, but legal advice may show that you’re not. It’s also possible that the police will not be able to produce satisfactory evidence and your case will be dismissed.