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Dear Ms Grant,

I am responding to your consultation as a private individual with a broad interest in sex work and in the personal safety and well-being of sex workers. I hold a degree in sociology with gender studies, and worked as a project worker at Scot-PEP¹ in Edinburgh [Redacted], providing support to around 500 sex workers per year. During this period I delivered outreach services two nights a week to street-based sex workers, and visited sex workers in saunas, massage parlours and flats at least once a week. I also implemented Scot-PEP's internet outreach service and was the worker responsible for meeting migrant sex workers' needs. I attended conferences held by the UK Network of Sex Work Projects² and the Europe-wide network TAMPEP³, and liaised with colleagues at sex work outreach projects in Vienna and Hamburg. I continue to take an active interest in sex work research and policy, to work with TAMPEP member organisations, and to liaise with sex workers and service providers around the world. In keeping with my former role, my principal concern is harm reduction.

Unfortunately I feel compelled to prelude my response to the consultation questions by noting some general concerns about the conduct of the debate in Scotland thus far. I note that individual sex workers are regularly written off by campaigners and policy makers as not being sufficiently 'representative' - an impossible burden to place on anyone given the diversity of the sex industry. When legislation is set to affect all members of a specific group, it worries me greatly that any objections they raise are dismissed based on whether or not they conform to a far narrower set of criteria. If these unfair conditions are to persist, I hope that the large numbers of sex workers with whom I have had contact will at least count for something here.

Q1: Do you support the general aim of the proposed Bill? Please indicate "yes/no/undecided" and explain the reasons for your response.

No. I reject both the aim of the proposed Bill, and the assumptions on which the aim is based. My reasons are as follows:

- I. Harm reduction measures would be severely impacted by implementation of the proposed legislation, affecting all those who presently work in the sex industry and putting their health and well-being at risk.
- II. Crucially, the effects of this would be most felt by those who already experience the sex industry as harmful; the legislation would compound their disempowerment and vulnerability.
- III. In conflating consensual activity with exploitation, the starting point of the

1 <http://www.scot-pep.org.uk/sex-workers-toolkit/advocacy/scot-peps-history>

2 <http://www.uknswp.org/>

3 <http://tampep.eu/>

proposed Bill is also flawed. The sex industry has been misrepresented in the service of tackling problems which are present in some, but not all, corners of it - and regardless of how 'representative', or not, those problems might be, the proposed legislation would not solve them.

- IV. The language used in the consultation paper is offensive and disrespectful towards sex workers, dehumanising them by presenting them as 'commodities'.
- V. The research cited in the consultation paper is inadequate and in some cases unethical⁴ - inexcusable given that a vast amount of far superior research exists, particularly from a practical, harm reduction angle. The aim would seem to be the promotion of ideology rather than practical considerations.
- VI. The proposed Bill privileges an ideological agenda over the diverse needs and interests of those involved in the sex industry.

I absolutely believe that legislation is needed to protect sex workers, but regrettably this proposed Bill, regardless of its rhetoric, would do the opposite. Laws already exist against exploitation, trafficking and violence. Meanwhile, sex workers across the board - at each end of the empowerment/disempowerment spectrum and everywhere in between - continue to be disadvantaged by legislation which victimises and criminalises them, preventing them from working in the safest conditions possible. Yet again, we are faced with legislation which disregards their safety and well-being. When the main aim of legislation is to 'send a message', we can expect no improvement in the lives and working conditions of sex workers, who are being used merely as political pawns in the service of other people's ideology.

What is of paramount importance here, and regardless of how each of us defines or thinks of sex work, is the actual danger likely to be imposed by this proposed Bill.

Q2: What do you believe would be the effects of legislating to criminalise the purchase of sex (as outlined above)? Please provide evidence to support your answer.

Sex workers will face the following obstacles:

- i) Clients will seek to make contact with sex workers in less visible locations⁵⁶, disrupting sex workers' contact with outreach services and by extension their access to safer sex supplies, drug harm reduction materials, and referrals to specialised services (including those which could assist them to exit the sex industry should they wish to).
- ii) A drop in client numbers will lead desperate sex workers to accept clients they would previously have turned down, to agree to provide services they would previously have refused, and to drop their prices⁷⁸⁹¹⁰. Those clients who are

4 Teela Sanders et al, *A Commentary on 'Challenging Men's Demand for Prostitution in Scotland'*, [http://scot-pep.org.uk/sites/default/files/download-](http://scot-pep.org.uk/sites/default/files/download-files/a%20commentary%20on%20challenging%20mens%20demand%20for%20prostitution%20in%20scotland.pdf)

[files/a commentary on challenging mens demand for prostitution in scotland.pdf](http://scot-pep.org.uk/sites/default/files/download-files/a%20commentary%20on%20challenging%20mens%20demand%20for%20prostitution%20in%20scotland.pdf)

5 BBC News, 'Girls Will Now Take More Risks', http://news.bbc.co.uk/2/hi/uk_news/scotland/7045355.stm

6 Wendy Lyon, *The Oslo Report on Violence Against Sex Workers*, [http://feministire.wordpress.com/2012/07/01/the-](http://feministire.wordpress.com/2012/07/01/the-oslo-report-on-violence-against-sex-workers/)

[oslo-report-on-violence-against-sex-workers/](http://feministire.wordpress.com/2012/07/01/the-oslo-report-on-violence-against-sex-workers/)

7 Ibid.

deterred by criminalisation are more likely to be those clients with whom sex workers would have preferred to do business¹¹¹². Sex workers in desperate circumstances - particularly those urgently trying to make money to fund a drug habit - are liable to be exploited by clients who see an opportunity to negotiate cheaper or riskier sexual services, and/or to commit acts of violence¹³¹⁴.

- iii) Negotiations between street-based sex workers and clients will be less likely to take place before the sex worker has entered the vehicle, due to clients' need to leave the area before attracting police attention¹⁵¹⁶¹⁷¹⁸. This will increase sex workers' vulnerability, allowing them less capacity to make a risk assessment. (This has already been in effect since the Prostitution (Public Places) (Scotland) Act came into being. I anticipate that implementation of a new law, with its accompanying media fanfare, would lead to police crackdowns exacerbating this situation.)
- iv) Dispersal of sex workers to accommodate clients' increased need for discretion will disrupt peer support networks, preventing the sharing of information among sex workers on precisely the violent and exploitative clients whose relative numbers will have increased¹⁹. Rather than enhancing safety and combating violence against women, this will have the opposite effect.
- v) Clients who encounter individuals who they suspect to be underage, trafficked or otherwise exploited will be less likely to pass on their concerns to police, due to fears that they will face prosecution themselves²⁰²¹. This will leave the most vulnerable - those who are controlled by third parties and have limited or no contact with the general population - with decreased access to a way out, compounding their exploitation.

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- 8 Petra Ostergren, *Sexworkers Critique of Swedish Prostitution Policy*, http://petraostergren.com/pages.aspx?r_id=40716
 - 9 Paul Mitchell, *Safety Before Ideology: Comments on the Swedish Model*, http://www.theskinny.co.uk/deviance/features/42967-safety_before_ideology_comments_the_swedish_model
 - 10 Nine, *Taking Ideology to the Streets: Sex Work and How to Make Bad Things Worse*, <https://feministire.wordpress.com/2012/11/23/taking-ideology-to-the-streets-sex-work-and-how-to-make-bad-things-worse/>
 - 11 Wendy Lyon, *The Oslo Report on Violence Against Sex Workers*, <http://feministire.wordpress.com/2012/07/01/the-oslo-report-on-violence-against-sex-workers/>
 - 12 Petra Ostergren, *Sexworkers Critique of Swedish Prostitution Policy*, http://petraostergren.com/pages.aspx?r_id=40716
 - 13 Dana McCauley, *St Kilda Sex Workers Angry at Police Crack Down*, <http://port-phillip-leader.whereilive.com.au/news/story/have-your-say-police-putting-st-kilda-sex-workers-at-risk/>
 - 14 Nine, *Taking Ideology to the Streets: Sex Work and How to Make Bad Things Worse*, <https://feministire.wordpress.com/2012/11/23/taking-ideology-to-the-streets-sex-work-and-how-to-make-bad-things-worse/>
 - 15 Dana McCauley, *St Kilda Sex Workers Angry at Police Crack Down*, <http://port-phillip-leader.whereilive.com.au/news/story/have-your-say-police-putting-st-kilda-sex-workers-at-risk/>
 - 16 Wendy Lyon, *The Oslo Report on Violence Against Sex Workers*, <http://feministire.wordpress.com/2012/07/01/the-oslo-report-on-violence-against-sex-workers/>
 - 17 Petra Ostergren, *Sexworkers Critique of Swedish Prostitution Policy*, http://petraostergren.com/pages.aspx?r_id=40716
 - 18 Paul Mitchell, *Safety Before Ideology: Comments on the Swedish Model*, http://www.theskinny.co.uk/deviance/features/42967-safety_before_ideology_comments_the_swedish_model
 - 19 Petra Ostergren, *Sexworkers Critique of Swedish Prostitution Policy*, http://petraostergren.com/pages.aspx?r_id=40716
 - 20 Ibid.
 - 21 INDOORS Project, *Pictures of a Reality*, http://www.indoors-project.eu/documents/Pictures_of_a_reality-Indoors_2.pdf

Q3: Are you aware of any unintended consequences or loopholes caused by the offence? Please provide evidence to support your answer.

Please see also my answer to Question 2, above.

The consultation paper has failed to outline how sex workers might expect to make money should the proposed legislation succeed in reducing their client base, and has certainly not addressed how they might be protected when their preferred clients are replaced by abusive ones.

Q4: What are the advantages or disadvantages in using the definitions outlined above?

I cannot condone the proposed legislation whatsoever as it would be harmful to sex workers. I suspect however that use of a vague and broad definition of sexual activity could also lead to legal cases impacting on individuals who were never intended to be targeted by the proposed law.

Q5: What do you think the appropriate penalty should be for the offence? Please provide reasons for your answer.

I do not think any penalty is appropriate because the purchase of sexual services should not be an offence.

Q6: How should a new offence provision be enforced? Are there any techniques which might be used or obstacles which might need to be overcome?

A new offence should not be created at all, let alone enforced.

Q7: What is your assessment of the likely financial implications of the proposed Bill to you or your organisation; if possible please provide evidence to support your view? What (if any) other significant financial implications are likely to arise?

The financial implications for sex workers have been entirely overlooked. Regardless of whether client activities are legal or not, sex workers will continue to need to earn money. It is remarkably naïve to expect these needs to simply go away, and that risks will not be taken in an increasingly desperate economic climate.

It is also significant that sex workers, whose safety is already severely compromised by legislation such as the criminalisation of brothels, are expected to pay taxes to the same state that takes so little interest in their well-being. This is illustrated by HMRC's pursuit of escorts and even visits to saunas. This shameful and hypocritical situation should not be further compounded by the most damaging legislation yet.

Q8: Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

The consultation paper includes statements such as "Gender equality cannot be achieved in a society where one person can buy another." Such rhetoric replaces the actual, practical concerns of gender equality with hyperbole and gross generalisation.

Given this definition of what it means to 'buy' a person, to further the cause of equality we should also seek to outlaw the employment of all people who use their bodies for financial gain, such as hairdressers and barbers, massage therapists, dancers and miners.

Gender equality will not be achieved by legislation which renders sex workers - predominantly women - more vulnerable to exploitation and violence.

The proposed Bill and the ideology behind it also hinder the cause of gender equality in promoting the notion of women in the sex industry as victims with no agency or voices of their own.

Throughout this proposed Bill's progress, little if any effort appears to have been made to represent the views of actual sex workers, despite the fact that they will be the people most affected by it. (This is reflected in the fact that only one sex worker is quoted in the consultation paper, whose comment was on the experience of being charged by police while her clients were not. Far from indicating support for the terms of the proposed Bill, her remark would seem primarily to be an expression of displeasure at being treated as a criminal herself.)

I will be interested to see how much weight, if any, sex workers' opinions will be afforded in the summary of responses to this consultation. The general absence of dialogue with sex workers while simultaneously making declarations about what is best for them points to substantial inequality.

The negative implications of this proposed Bill could easily be avoided, by scrapping it altogether. Any legislation professing to protect sex workers must only go through if it is welcomed by sex workers themselves. In the words of Ann Jordan, director of the Program on Human Trafficking and Forced Labor at the Center for Human Rights and Humanitarian Law, American University Washington College of Law: "To develop effective, evidence-based, do-no-harm policies, advocates and policy makers must work collaboratively with persons who may be helped or harmed by the proposed laws and policies."²² I don't think this is too much to ask.

Many thanks for your time and consideration. I look forward to reading the summary of consultation responses.

Yours sincerely

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²² Ann Jordan, *Sex Trafficking: The Abolitionist Fallacy*
http://www.fpif.org/articles/sex_trafficking_the_abolitionist_fallacy