

# **Sex Work**

## Policy Consultation Paper

Consultation Paper 126  
**Autumn Conference 2016**

## **Background**

This consultation paper is presented as the first stage in the development of new Party policy in relation to sex work. It does not represent agreed Party policy. It is designed to stimulate debate and discussion within the Party and outside; based on the response generated and on the deliberations of the working group a full nuclear weapons policy paper will be drawn up and presented to Conference for debate.

The paper has been drawn up by a working group appointed by the Federal Policy Committee and chaired by Dr. Belinda Brooks-Gordon. Members of the group are prepared to speak on the paper to outside bodies and to discussion meetings organised within the Party.

Comments on the paper, and requests for speakers, should be addressed to: Rachael Clarke at Policy Unit, Liberal Democrats, 8 - 10 Great George Street, London, SW1P 3AE or [policy.consultations@libdems.org.uk](mailto:policy.consultations@libdems.org.uk).

Comments should reach us as soon as possible and no later than Friday October 28th 2016.

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# Introduction

- 1.1 Liberal Democrats champion the human rights, freedom, dignity, safety, and well-being of individuals. We acknowledge and respect individual choice and uphold the principle of a tolerant open society. We work to reduce intersecting forms of discrimination and structural inequalities domestically and internationally.
- 1.2 In recent decades, great strides have been made in our society in the direction of tolerance and respect for the life choices of others and many people are less constrained by harmful gender or sexual stereotypes that have historically been imposed on them.
- 1.3 Despite this progress, stigma, suspicion, prejudice is still experienced by people with more openly unconventional sex lives. People who participate in sex work face judgement and blame for being seen to transgress social or sexual norms. They are forced to operate on the margins of society in hidden and dangerous places where they are poorly protected by the state. Subsequently they are subject to abuse or violence in crimes against them that go unreported and under-investigated allowing perpetrators to offend again. The law, as it stands, forms a prominent barrier to the realization of sex workers' human rights.
- 1.4 The conference motion that formed the basis of this paper, long-standing party policy, and the evidence we have taken so far leads us to the conclusion that we can only propose a regulatory system that is based on full realisation of sex workers' human rights and underlines the states' obligations to address them. This means one that has decriminalisation at its heart.
- 1.5 Decriminalisation is as much about protection as it is about freedom. Aside from the liberal right to live your life as you

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choose, it is an issue of failed state policy. The murder and assault rates on sex workers remain persistently high. Criminalisation presents a significant barrier to moving on to other work, and can present a downward spiral into other activities when legitimate work is closed off. And the threat of prosecution encourages increasingly risky and dangerous behaviour. What's more, there is no evidence that such criminalisation reduces the prevalence or incidence of sex work.

- 1.6 We believe that people who voluntarily opt for paid activity in this way should have the same employment and civil rights as any other person and be freed from discrimination by legal, health, and financial institutions. We also believe that those who provide their support services, whether as employers, agents, owners of premises or in any other capacity should be able to do so legally, just as applies to any other business.
- 1.7 This consultation, therefore, focuses on the different kinds of sex work, and the problems that currently exist in various parts of the industry. We also want to take ideas on how best to reduce stigma, and how the law should work to best protect people in the sex industry. Finally, we are keen to hear about how decriminalisation should work in practice.

### Questions

1. *Do you agree with a policy grounded in the harm reduction and gender equality approach? If not, what approach do you think we should take?*

# The current state of sex work

## 2.1 What is sex work

- 2.1.1 Sex work is a term used to describe a wide range of activities relating to the exchange of money (or its equivalent) for the provision of a sexual service between consenting adults within the terms agreed by the seller and the buyer. These services may be divided into two categories by Harcourt and Donovan (2005) who refer to direct and indirect sex work. Direct sex work refers to services, such as indoor and outdoor prostitution and escort services, which typically involve the exchange of sexual contact for a fee. Indirect sex work refers to services, such as lap dancing and stripping, where sexual contact is less common but a fee is still charged.
- 2.1.2 Sex work from a Liberal Democrat perspective therefore covers a wide span of activity – from phone-line operators and webcam broadcasters to dancers in sex entertainment venues such as strip clubs and actors in and producers of pornography to indoor and outdoor prostitution and escort services.
- 2.1.3 Recent changes to wider society have also changed the scope and operation of sex work. For instance, alongside increased use of mobile technology and the internet there has been a reduction in street-based sex work. Related to this, there has also been a degree of cultural mainstreaming of the sex industry, particularly via increased ease of finding people, services, and venues, websites, and smartphone apps where sellers of services can reach a wider audience than previously. These changes have helped to further blur the line between personal relationships and sex work.
- 2.1.4 Public opinion has for nearly a decade pointed in the direction of decriminalisation of sex work. The Government Equalities

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Office commissioned, in 2008, two polls on public opinion on prostitution by Ipsos MORI. There was a definite slant to the questions – such as asking respondents whether they would feel ‘ashamed’ if a family member was working as a ‘prostitute’, and portraying sex work solely as cisgendered women ‘selling sex’ to men. Even with such bias, the first poll returned results from a representative sample of 1,012 people showing that 59% agreed with the statement that ‘prostitution is a perfectly reasonable choice that women should be free to make’. The second poll showed that 51% believed that the selling of sex ‘by women’ should be legal,

- 2.1.5 More recently YouGov presented a improved balance of questions to a larger sample of 1,696 people. Results showed 54% of people thought consensual prostitution should be fully decriminalised (with 25% don’t know, and only 23% opposed). The most powerful argument being that it would: ‘empower prostitutes to be insistent about healthy sex and sex they are comfortable with’. The second most powerful argument was that: ‘it reduces the stigma of prostitution, making it easier to go to the police in cases of abuse’.

## 2.2 Who are sex workers

- 2.2.1 **Demographics.** Figures from the ONS give the total number of sex workers in the UK to be 72,816. The demographics of sex workers varies by region, with the biggest differences between London and other areas. Gender is highly relevant with the majority of sex workers are cis gender women, when examined on a per capita basis, a larger proportion of the transgender community is involved in sex work compared to the proportion of the population of cisgender women who are workers.

- 2.2.2 Analysis has shown that at an EU level, 86% of sex workers are female, 8% male, and 6% trans. There are regional

variations but it is estimated that as many as 20% of sex workers are male.

- 2.2.3 **Types of sex work.** Contemporary research shows that, street-based workers account for between 5- 8% of sex workers. The most prevalent category of workers are female off-street (middle income) workers, who account for 50% of sex workers. There are also a significant number of male and trans workers (30% of total workers) who work independently, often advertising on specialist websites and with transgender workers often saving up for treatment during transition.
- 2.2.4 **Migration.** Sex work in the UK has a significant number of migrant workers, though noticeably lower than the sex industries of other comparable EU countries. In the UK and NI, 41% of sex workers are estimated to be migrants, increasing to 80% in London. This compares to countries such as Italy and Spain where migrants account for 80% to 90% of sex workers.
- 2.2.5 **Regional variation.** ONS figures also reveal some disparity between the numbers of sex workers in London (31,990) and other states and regions of the UK. With the exception of the North West (with over 9000 sex workers) and North Ireland (under 1000), sex workers are populated relatively evenly between regions.
- 2.2.6 **Earnings.** Earnings range widely, depending on region, working practices and type of work – estimates suggest that while a street worker outside London earns an average of £11,000 a year, a high income female off street worker based in London earns up to £264,000 a year. Estimates for the ONS indicate that direct sex work generates £3.8 – £5 billion a year for the UK economy, a significant portion of which is currently likely to go untaxed.



## **2.3 Why people enter sex work**

- 2.3.1 Attempts to identify common experiences or backgrounds within the sex worker population have led to a vast oversimplification, often negative, of those in sex work. As with any type of work, the people in it have a variety of reasons for choosing to work in it.
- 2.3.2 Sex workers who gave evidence cited flexibility and pay as two of the main influences on their choice of work. Several mentioned that there are no other occupations where women [and men] with low levels of qualifications and/or a lack of professional connections can make comparable amounts of money. A 2015 study by Professor Teela Sanders for the Wellcome Trust found that 91% of respondents found their work in the sex industry flexible, 66% described it as ‘fun’, and 56% found it rewarding. This compares to an ESRC figure of 78% job satisfaction (‘completely, mostly, or somewhat satisfied’) among the entire population.
- 2.3.3 Related to the flexibility and income available to sex workers, some groups of people are generally over-represented in the sex industry. The NUS student sex work survey suggested over 100,000 students have worked in the sex industry, for instance (almost 5%). The English Collective of Prostitutes has said that 70% of sex workers are mothers, particularly single mothers. The 2015 Wellcome Trust report stated that 70% of sex workers had previously worked in healthcare, education, or charities – while more than a third held university degrees.
- 2.3.4 There is also a varying prevalence of certain demographic groups within different areas of the sex industry. Amongst lap dancers, for instance, nearly a third are currently in some form of education – including 14% who were using dancing to help fund an undergraduate degree.

- 2.3.5 This variance is most clear amongst the relatively small cohort of street-based sex workers, who are disproportionately likely to suffer from isolation and vulnerability. Research suggests that many of these workers are either homeless or at risk of being made homeless, and may have other problems such as heroin or crack cocaine use. Some of these will have been in the care of the state as children. Evidence we have received suggests that these factors are likely to have been pre-existing, and then compound the difficulty of individuals choosing to move out of sex work.
- 2.3.6 Some people enter sex work through a narrow set of economic options. Lack of choice is particularly common amongst migrant sex workers, where work permits or access to employment can be particularly hard. It can also be true of people from poorer backgrounds, who may need additional income from low paid work, or whose lack of qualifications can mean finding formal work is difficult. Work by Amnesty International shows that groups most affected by discrimination are frequently over-presented in sex work.

## **2.4 How consensual sex work is treated in law**

- 2.4.1 Neither the sale nor the purchase of sex is illegal in England and Wales, and in Scotland. In Northern Ireland, a 2015 change in law made it illegal to pay for sex.
- 2.4.2 There are no laws against indirect sex work such as being a web-cam operator. Strip clubs and lap dancing venues are licensed by Local Authorities under rules for 'sexual entertainment venues'. Other services such as BDSM and some forms of pornography can also be subject to laws on 'extreme porn' which includes the provision of pornography involves 'an act which results (or is likely to result) in serious injury to a person's anus, breasts or genitals' – even if performing these acts is not illegal.

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- 2.4.3 Despite the legality of sale and purchase of sexual services, there are a number of laws designed to target activities surrounding their exchange. These include:
- Loitering and soliciting, which makes it an offence for a person to persistently (on two or more occasions in a three-month period) loiter or solicit in a street or public place for the purposes of offering sexual services
  - Keeping a brothel, including letting premises for use as a brothel, a tenant permitting premises to be used as a brothel, and a tenant permitting premises to be used for prostitution.
  - Causing, inciting and controlling prostitution for gain, which outlaws pimping
  - Kerb crawling, an offence for a person in a street or public place to solicit another for the purpose of obtaining a sexual service as a prostitute
  - Placing adverts, which is specifically illegal in relation to a public telephone box
  - Paying for the sexual services of a prostitute subjected to force, which applied whether or not the client was aware that the prostitute was subject to force.

## 2.5 What enforcement looks like

- 2.5.1 With a wide variance in the enforcement of legislation, and disagreements about the objective and effectiveness of policing sex work, different police services have approached enforcement in different ways. However, the Home Office (2011) Review of Effective Practice in Responding to Prostitution, carried out by Liberal Democrat Minister Lynne Featherstone suggested four principles for policing practice: safety should be mainstreamed; there should be language support migrant sex workers; violence against sex workers should be treated as a hate crime, and that the grooming of young women in care homes to be tackled as a priority. Some current areas of difference concern where, when, and how sex workers can work without interference from the

police ('managed zones'), and others are related to the way in which crimes against sex workers are addressed.

- 2.5.2 A well-known example of this is the Merseyside Model, implemented by the Merseyside police service since 2006. It treats crimes against sex workers as hate crimes, working closely with sex work projects that offer services such as harm reduction, counselling, and outreach. It also makes use of Independent Sexual Violence Advisors to acts as intermediaries where sex workers have been victims of crime. The focus is on prioritising protection over enforcement, and in 2010 the overall conviction rate in Merseyside for crimes against sex workers was 84%, including a 67% conviction rate for rape – ten times higher than the national average.
- 2.5.3 Holbeck in Leeds has been operating a managed zone since 2014 in which street-based sex workers can sell sex between 7pm and 7am without interference from the police. This managed zone has rules – including not working outside the allotted hours, not leaving litter, respecting businesses and other properties, not tolerating crime or public disorder, and no drug use. Local police have made the decision not to stop prostitutes operating in line with the rules, and instead focus on checking welfare and working with the council and charities to support sex workers and try to keep them safe. The proportion of crime victims willing to report incidents has risen from 26% to 51% since the zone was instituted, and attacks (including fatal ones) are vastly lower with zones than without them.
- 2.5.4 At the other end of the scale, some areas have adopted a punitive approach on sex work. With the unification of Police Scotland, the historic and understated approach to policing saunas has been overturned, with large numbers of police and social workers being involved in raids from 2013 onwards. Licences granted to the saunas by Edinburgh City Council have been suspended, and five people in the first

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round of raids were charged with brothel-keeping and living off 'immoral' earnings. More recently, police have been involved in 'welfare checks' of off-street sex workers, which are largely seen by the industry as a means to establish whether workers are breaking laws about working together. Similarly, in Suffolk police committed in 2006 to eradicating street sex work, and in 2009 moved on to recognising 'that adults working in off-street premises anywhere in Suffolk...needed help'.

- 2.5.5 Alongside formal enforcement structures, which include police and social services, there are third sector projects that work with sex workers. The most prominent of these is National Ugly Mugs, which is a national organisation which takes reports of incidents from sex workers and produces warnings of dangerous clients, shares intelligence with the police, supports sex workers in making reports to the police, and helping sex workers gain access to professional services if they have been a victim of crime. Essentially, they act as an intermediary and advice service to a group of people who are unlikely to turn to the police for help.

## Questions

2. *Should sex work be taxed?*

# Problems with the current system

## 3.1 Legislation

- 3.1.1 Legislation relating to sex work is complex, and aimed at a combination of reducing its prevalence and/or reducing its visibility in public space. It fails in its aim of reducing prevalence as it focuses on a relatively narrow group of sex workers - primarily street workers, but also those who choose to work together or who manage establishments or services. Those who work online, alone, or for an escort agency largely fall outside legislation, but in a legal grey area. Research also suggests that while off-street workers are likely to know the limits of their legal rights, street workers are less likely to and thus are more likely to enter the criminal justice system.
- 3.1.2 Much of the legislation is out of date or focused on a diminishing sector of the industry. For instance, legislation around advertising in public phone boxes, and kerb crawling or soliciting for sex in public places have been circumvented to a great degree by a shift online and the availability of mobile technology. Much of it is also a blunt tool – for instance brothel laws which were originally instituted to reduce public disorder being used against people who work together for safety. Evidence we have taken, as well as repeated court cases, have highlighted the importance of working in conjunction with other sex workers to promote safe working and reduce risk. In this way, legislation currently dissuades workers from protecting themselves – forcing them to take greater risks to avoid prosecution.
- 3.1.3 Most problematic in our opinion, however, is the continued criminalisation of sex workers. In addition to drawing often vulnerable people into the criminal justice system unnecessarily, there is little evidence that it dissuades

soliciting and actually forms a significant barrier to exiting sex work once a person has a criminal record.

## **3.2 Stigma**

- 3.2.1 Stigma is also a problem and our evidence, as well as repeated studies, show that stigma is felt by workers in all aspects of the sex industry, whether or not work is criminalised. Stigma can be overlooked largely because it is harder to quantify. And while convictions under legislation prevent workers from taking certain jobs, working in certain areas, or with other people, stigma is a pervasive, pernicious set of opinions that lead to alienation of sex workers
- 3.2.2 As with all forms of alienation, stigma distances sex workers from mainstream public opinion. It ensures that people consider workers to be ‘others’. It also ensures that sex workers often struggle when exiting the industry to take jobs that they may be amply qualified for, for fear either of being an inappropriate hire, or for their potential to be seen as an organisational reputational risk.
- 3.2.3 One piece of evidence that we heard relating to the power of stigma was related to the porn industry. We were told that financial service companies including PayPal or insurance brokers have a blanket ban on providing financial services or insurance to porn producers. This means that producers have to pay fees of up to 8 times more than other customers; that website fees for sex workers are often prohibitively high compared to similar services in other industries; that banks routinely refuse accounts to people engaged in the industry; that business loans and start-up funding are impossible to come by; and that work in the industry is often raised during the course of divorces and family proceedings. In these ways, stigma has just as much power as legislation.

## Questions

3. *Do we have a duty to reduce stigma? Can we?*
4. *Should banks and financial institutions be allowed to discriminate against sex workers by refusing to allow them to open accounts or by charging higher fees than for other workers?*
5. *Can the state do anything to help sex workers who aren't at risk of breaking the law eg chatline workers?*

## **3.3 Enforcement vs Protection**

- 3.3.1 Given that sex work *per se* is not illegal, the decision about how (and whether) to enforce the law at local level is left to the discretion of local police forces. The difference in approaches between police forces can be extreme. Although these differences are often justified as being for benefit of workers themselves, this means that some forces are enforcing statutes against sex workers, while others ignore it and focus on building confidence and co-operation. This inconsistency is clearly unsatisfactory.
- 3.3.2 Sex workers across the country should be able to have their rights consistently uphold, and to understand their rights under the law, and not be required to have a thorough understanding of local police tactics to determine whether they are likely to obtain a criminal record. In some areas, for instance, police make consistent use of the Proceeds of Crime Act 2002, confiscating assets, a proportion of which is retained by the police economic unit.
- 3.3.3 There is strong evidence, we believe, to suggest that police forces that operate a more protection-based rather than enforcement-based systems increase safety for sex workers. As detailed in the first chapter, willingness to report crime increases, conviction rates increase, and crime falls. But localised operational decisions should not be expected to



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circumvent or excuse poor law-making. Where people working on the front lines, such as police, consider enforcement of existing laws to be actively damaging to sex workers, we believe that politicians should take these concerns into consideration when legislating.

- 3.3.4 In addition, other areas of the sex industry can face issues of local enforcement at a democratic level. Strip clubs, for instance, are currently licensed by local councils. Where some councils are more willing to license venues, others have a politicised planning process which can be easily held hostage by vocal activist groups. These inevitable clashes must be taken into consideration in solutions that involve licensing of sex work venues – such as of brothels in New South Wales.

## Questions

6. *Should crimes against sex workers as sex workers be treated as hate crimes?*

## 3.4 Health and safety

- 3.4.1 The safety of sex workers remains a problem within the current system. The law often makes it harder for workers to do things that make sex work safer. The nature of sex work as it currently stands leaves workers open to violence and exposed to criminality. Current legislation, for example kerb crawling, also criminalizes otherwise law-abiding citizens.
- 3.4.2 As previously detailed, legislation relating to brothels can encourage off-street workers to work alone. Enforcement activity, for instance such as that undertaken in Redbridge in 2014, can also have an impact on behaviour and force both on- and off-street workers to take risks that they may not otherwise attempt. Extending beyond areas of illegality, large numbers of workers in the off-street and indirect sex work

have reported to us and others that they do not trust the police to take complaints from them seriously – in some cases, having police assert that sex workers ‘cannot be raped’ or insist that they must have encouraged the client involved. Police in England and Wales report that 153 sex workers have been murdered since 1990, more than any other single category of victim.

- 3.4.3 Many sex workers also have specialised health needs which are not always well catered for in the existing system, especially where local, often familiar or family GPs are the primary point of contact. Those involved in direct sex work tend to require frequent sexual health checks, including in some industries a certificate to prove that this has been conducted, which is a service for which the NHS currently charges. We have also received evidence regarding mental health needs of sex workers, where some have chosen to receive private treatment because of the fears of entering information into NHS systems which can then be linked to their wider health records. There are also fears around how medical records are shared in the NHS which could then impact on health insurance or life insurance in future, which could lead to sex workers seeking less help in the NHS.
- 3.4.4 One persistent issue that is raised is the failing of the social security safety net. Particularly for sex workers with caring responsibilities, sex work can originate from a situation where social security has not been available and other work is not practical, not available, or not flexible for an individual’s circumstances. Many sex workers we have spoken to have gone through a period where other forms of income were not available to them – such as recent care leavers, being a transgender person looking to save for surgery, or being a mother where their primary job did not pay enough to support their family (particularly an issue in areas that have been hard hit by benefit cuts).

## Questions

7. *Should sex workers be able to access the same employment rights as other workers?*
8. *Are there any reasons to not allow sex workers to work together?*

## 3.5 Historic discourses

3.5.1 Historically, sex work has been variously attacked on the grounds of public health, moral order, and public nuisance. Legislation and enforcement then moved from a public nuisance narrative (eg ASBOs for street-based workers) to one of victimhood and marginalisation. This led to several countries, not uncontroversially, introducing a sex buyer law. The argument went that sex workers were marginalised and vulnerable, and uniquely in need of societal protection from the harm clients were doing to them. This was often communicated by organisations who argued that the purchase of sex is inherently a violence and consent can never be freely given when money is involved. Workers, however, felt ignored by politicians who accepted a narrative of their position that lacked voices from sex workers themselves.

3.5.2 It is our opinion that the above approach has a number of weaknesses, most recently elucidated by the Home Affairs Select Committee's Inquiry into Prostitution which stated that although they acknowledged that the intention of many supporters of the sex buyer law was to protect sex workers from harm, they noted that:

- There is no attempt to discriminate between prostitution between two consenting adults and that which involves exploitation
- Much of the rhetoric denies sex workers the opportunity to speak for themselves

- They were not convinced that it would be effective in reducing demand or improving the lives of sex workers
- Evaluations are based on street workers without consideration of large parts of the sex industry
- The law can be used to harass and victimise sex workers
- They were not persuaded that the law would reduce, rather than simply displace, demand for prostitution

3.5.3 Indeed the law has been criticised because, according to Levy and Jakobsson (2014), it appears to have resulted in a more dangerous and stigmatised working environment for sex workers.

## Questions

9. *Do you think sex workers should be consulted before laws are drafted that are aimed at sex workers?*
10. *If so, how can the consultation with sex workers be improved?*

## 3.6 Impact on free speech

3.6.1 In addition to public discussions of the legalities surrounding prostitution, there has also been an increase in concerns related to access to pornography, the types of pornography available, and the over-sexualisation of culture as a whole. The Conservative government has pushed to implement a 'porn filter' which would require UK internet users to input a credit card number before accessing otherwise free porn hosted outside the UK. This is designed to prevent children from coming across porn by accident, although data supporting this aim is weak. Liberal Democrat conference has previously voted heavily against implementing a porn filter – this group agrees with the position of conference on this issue.

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- 3.6.2 Similarly, relatively recent laws on extreme porn and video on demand services have led to some pornographic websites, particularly those featuring consensual BDSM scenes, being shut down.
- 3.6.3 A number of high profile cases prosecuted under extreme porn laws have failed to result in conviction – for instance, R v Walsh [2012] where a man had video and images of acts he himself had performed, and R v Holland [2010] a man who had been sent a WhatsApp pornographic video purporting to be of a tiger and a woman engaged in a sex act but which turned out to be a man dressed as a tiger – a fact that was only uncovered in the courtroom. These laws not only cover scenes where no damage was caused, but also hentai and anime pornography where no real people are involved at all.

## Questions

11. *What role (if any) do you think the state should play in regulating pornography that is made by consenting adults?*
12. *Should there be limits placed on the sexual behaviour of consenting pornography actors when this does not result in permanent harm?*
13. *Do you support a ‘porn filter’ – a filter on websites accessed from the UK that would require users to enter a credit card number to prove they are aged over 18 before being able to access pornography?*
14. *How can the internet be made safer for those for whom pornography is not intended?*

# How to improve the current system

- 4.0.1 From a liberal perspective, the primary purpose of law is to prevent harm from being done by one member of society to another. This is particularly salient when the person being harmed is unable to make a free decision, under the age of majority, or otherwise vulnerable. One agreement on all sides of the sex work argument is that the current system does not fulfil this purpose.
- 4.0.2 To improve the system, therefore, legislative solutions must focus on how best to protect individuals involved in sex work. Additional work must be done outside the legislative arena to support this aim – including reducing stigma, and reducing failure in, for instance, the benefit sanctions system, that can have an impact on the ability of individuals to make a free choice.
- 4.0.3 The concept of ‘free choice’ is particularly important when it comes to sex work as we believe that consent is central to the judgement of whether or not an individual is harmed. We do not believe that the need for income by itself negates consent – just as it does not when an individual enters into any other type of contract. We also do not believe that management or driving of a sex worker to or from an appointment negates a worker’s consent.

## 4.1 Law

- 4.1.1 The evidence that we have received presents us with only one option – to advocate for the decriminalisation of sex work.
- 4.1.2 Decriminalisation of sex work is a term that needs to be uncoupled from legalisation. It is not a decision left to police

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to decide whether or not to arrest – it is a removal from the statute book of references to prostitution. Whereas the term ‘legalisation’ has a different meaning and implies a regulated system where certain kinds of sex work are specifically legalised (and others, therefore, are not). It is our opinion that a legalised system such as this would result in a two tier system of sex work where some people are protected by the law if they abide by the rules, and some remain in the same position they are now – edged into a legal grey area and vulnerable to the accompanying abuses.

- 4.1.3 As we have demonstrated, enforcement by state actors such as the police and social services is met by resistance by sex workers, leads to reduced willingness to report crimes, the propensity to take greater risks to prevent prosecution, and reductions in prosecution rates for those who attack sex workers. Where police choose not to arrest sex workers, these effects are ameliorated – but as liberals we cannot advocate a system that offers only some workers protection, or one which requires police officers to neglect enforcing problematic laws.
- 4.1.4 Of primary importance in all legislation and enforcement is the right of an individual to report a crime and be treated justly. Crimes involving sex workers can be violent and may also be sexual, and the provision of specialised police officers can reduce the scepticism that is reported by sex workers – and indeed in sexual assault reporting as a whole.
- 4.1.5 As current party policy states, we are also in favour of the extension of the aspect of Merseyside Model which treats violence against sex workers as hate crime. In 2011, the Association of Chief Police Officers recommended all forces institute the Model, but so far no others have. The model combined effective policing of people targeting sex workers with additional core services such as counselling, outreach, and harm reduction – and we see no justification for police

forces continuing to approach sex work as a purely public nuisance issue.

- 4.1.6 We welcome the calls of the Home Affairs Select Committee for government to immediately remove laws that criminalise solicitation and off-street workers who work together for the purposes of safety who are often criminalised under brothel-keeping laws. Quite apart from opinions on decriminalisation as a whole, these specific laws are designed to target women working independently, encourage risk-taking, and often result in criminalisation that makes gaining employment outside sex work incredibly difficult.

## Questions

15. *Does the current system do more harm than good?*
16. *Is it possible to give consent to sexual activity when money is involved?*
17. *Do you support the decriminalisation of sex work?*

## 4.2 Reducing Stigma, Changing Perceptions

- 4.2.1 As previously highlighted, stigma is a problem not just for those who work in aspects of the sex industry that are criminalised, but almost all areas. It is not limited only to direct sex work – but also extends to those who provide services that do not involve sexual contact of any kind. To some extent, stigma is a societal problem without an easy solution. The fact that it extends outside areas that are criminalised shows that it is not simply an issue around law but around sex work in general.
- 4.2.2 Stigma can be divided into ‘felt’ and ‘enacted’ categories. Felt stigma is the reaction people have to sex work – so will cover harm to personal relationships, an increased fear of violence, and a sense of societal alienation. Enacted stigma, on the other hand, is the response of organisations to the fact



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that a person is a sex worker – so police refusing to adequately deal with complaints of sexual assault, banks refusing to lend to legal businesses, and lack of accessibility to goods or services.

- 4.2.3 Though stigma can be countered by political speech, fairer media coverage, and encouraged by decriminalisation of sex work, a significant factor in its decline will be time. Recent years have seen a large rise in the unacceptability of racism and homophobia – in part due to the legal situation, but largely owing to gradual changes in public opinion. Although government and political parties can take a lead in reducing the stigma of sex workers, they cannot end it entirely.
- 4.2.4 Discrimination, on the other hand, should be set clearly in the sights of lawmakers. The use of perceived corporate ‘reputational risk’ to prevent law-abiding individuals from accessing basic services is, we believe, indefensible. The ability of service providers to discriminate against sex workers regardless of their position in relation to the law must be curtailed. Formal guidelines should be drawn up for governmental organisations, including the police and court systems, as to what constitutes acceptable conduct. We believe that a significant part of formal stigma comes down to a lack of understanding about the complex legal situation many sex workers find themselves in – a fact which decriminalisation should solve, but which in the meantime may require clear guidelines as the legality of sex work.

## 4.3 State support

- 4.3.1 Deficiencies in state support can be grouped into two areas – pre-existing circumstances that lead people towards sex work, such as benefit sanctions or lack of eligibility, or conditions for existing sex workers affect their ability to change profession. Both are tied up in the aspects of sex

work that many workers highlight as positives – the level of income, and the flexibility of working hours and location.

- 4.3.2 State support is particularly a matter for on-street workers, where there can be some form of drug or alcohol addiction, family breakdown, mental illness, or homelessness. We are also particularly concerned about the number of care leavers who end up in sex work – the Home Office cite a number of studies (mostly of on-street workers) which report between 33% and 70% of sex workers had some experience of being in care. Services such as Open Doors, which originated in Hackney as a one stop shop for vulnerable sex workers, often tie in healthcare with wider provision for accessing state support and benefits.
- 4.3.3 One of the concerns raised with us repeatedly is that on-street workers are likely to have had negative interactions with the state in the past, and are likely only to have experience with the police or social services. This raises the importance of having a semi-detached organisation that workers trust and which is focused on providing support specifically for sex workers. A fundamental part of this support is ensuring that no information about service users is shared with wider government.
- 4.3.4 As with Liberal Democrat drug policy, our aim here should be harm reduction. Our arguments for the decriminalisation of personal drug use centre on the fact that needs of addicts are often complex, and criminalisation is not the most effective way of reducing individual harm. Similarly, sex workers should have the ability to access support services without fear of being reported to the police, social services, or their local council.

## Questions

*18. Should we seek to prevent people from entering sex work?*

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- 19. What more can the state do to reach out to vulnerable people who may not be aware of the support available to them?*
- 20. Should the state do more itself to help vulnerable people involved in sex work? Or should it fund more arms-length organisations?*

# What would a decriminalised system look like?

## 5.1 New Zealand

- 5.1.1 A number of other countries already operate decriminalised framework, most notably New Zealand.
- 5.1.2 In 2003, New Zealand passed the Prostitution Reform Act, the purpose of which was the decriminalise prostitution (while not endorsing or morally sanctioning prostitution or its use). It created 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 PRA also established a certification regime for brothel operators. In terms of human rights, the law was designed to protect the rights of those aged under 18 not to be used in sex work, the right of adults not to be forced to engage in sex work including the right to refuse a particular client or sexual practice, and the right not to be subject to exploitative or degrading employment practices.
- 5.1.3 A report conducted five years after the law change found that:
- The number of street-based sex workers had not increased, and remains steady at 11%
  - Over 90% of sex workers felt they had legal rights under the act and over 60% of sex workers felt they were more able to refuse to provide services to a client
  - The majority of sex workers commenting felt that sex workers were more likely to report incidents of violence to the police

- Only 3.9% of sex workers said they had been subject to coercion into entering or remaining in the sex industry
- Brothel certification and inspection should continue, with the list maintained at court level and not linked to specific businesses
- The age of 18 for sex work should remain, recognising that there is a difference between commercial sexual activity and other sexual activity
- Street-based sex work should be discouraged in favour either of safer indoor work, or leaving the sex industry altogether

## 5.2 What should be decriminalised?

5.2.1 There are three broad areas of sex work that are considered when looking at legislation: the seller, the buyer, and management (which can include everything from running a brothel to owning a property in which sex work is taking place). Amnesty International has recently made the move to advocate decriminalisation of all three of these areas. It is also worth noting that there is a degree of movement between areas, with sex workers buying sex, and also progressing to management positions.

5.2.2 **The Seller.** Sex workers themselves are classed as sellers – they are paid for engaging in sexual conduct. There remain very few countries where the act of selling sex itself is illegal, but many (including England, Wales, and Scotland) where sex workers are criminalised for actions surrounding the sale of sex, such as advertising services or soliciting in public places.

5.2.3 **The Buyer.** The client is the person who purchases sexual services. This in itself is not illegal in England, Wales, or Scotland. Decriminalising buyers is seen to empower sex workers who can afford to be selective about what work they do, when, and where. Evidence also shows that

decriminalisation has the benefit of preventing people being duped into working in the industry when replying to misleading job advertisements.

5.2.4 **Management.** ‘Controlling’ sex work is illegal in the UK, as it is in most countries. This, in theory, includes pimping, running a brothel, making money from prostitution, and transporting sex workers to appointments. It can also be seen to include laws about forcing or intimidating people into engaging in sex work and trafficking for the purposes of sex work. We believe that in a system founded on the principle of consent, ‘management’ should be separated from ‘coercion’. We also believe that if management is criminalised in a decriminalised system, there is a risk that a parallel grey economy will emerge of sex workers working in brothels etc that are not legal, despite selling sex in general being legal. This type of confusion has the potential to lead to sex workers being in a similar position to now – unwilling to report crimes to the police for fear of their work being criminalised.

5.2.5 **Coercion.** We regard forced labour and human trafficking (within or across any border, including for the purpose of sexual activity) to be serious human rights abuses. We support the criminalisation of those who coerce people into any kind of work and human traffickers. We believe that human trafficking should be a crime regardless of the purpose for which an individual is trafficked, as should coercion into performing a sexual act, regardless of whether a fee is involved. In addition, children involved in any kinds of commercial sexual acts are victims of sexual exploitation. Options for combating these crimes include – retaining the current framework, uniting framework and taking out references to sex work and prostitution, or removing references to sex work but allowing for the circumstances to be taken into account on sentencing.

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- 5.2.6 **Definitions.** We believe that the best definition of trafficking in human beings comes from the 2000 UN ‘Palermo Protocols’, which says that trafficking should mean the ‘recruitment, transportation, transfer, harbouring, or receipt of persons’ through the use of the ‘three F’s’: **fear, force, or fraud.** Exploitation of trafficked people should include forced sexual activity or sexual exploitation, forced labour, slavery, or the removal of organs. Under this Protocol, consent cannot be given to these circumstances.

### Questions

21. *Should selling sex be legal?*
22. *Should buying sex be legal?*
23. *Should management of sex work be legal?*
24. *Is it important to classify crimes such as human trafficking as being for a sexual purpose rather than, for instance, forced labour?*

## 5.3 Additional state support

- 5.3.1 Sex workers have particular needs that may be difficult to meet in the usual arrangement or delivery of state support. This could be owing to a particular set of requirements (eg for porn actors, regular GUM check-ups and certification of results), a combination of needs (for instance, GUM check-ups and mental healthcare), an unwillingness to share information with people they interact with for other purposes (eg wanting a different doctor to their usual GP), or – most particularly in street sex workers – requiring a comprehensive set of state support measures for which they may not have a full understanding of eligibility or how to apply.
- 5.3.2 Liberal Democrat commitments to increasing the provision and accessibility of mental healthcare remain vital. We also believe that sexual and other healthcare services, including

those provided to sex workers, should remain entirely distinct from enforcement and other state bodies such as councils. Recent moves by councils such as Hackney away from providing standalone services for sex workers to one where these services must share information with the police and others are liable to do huge damage to the vulnerable communities they support.

- 5.3.3 We are pleased to see the proposals of the Mending the Safety Net policy paper that is being debated at autumn conference, which calls for the removal of the worst aspects of recent benefits policy. The use of benefit sanctions can currently act as a large push towards short term sex work for some vulnerable people. Anecdotal evidence also suggests that recent benefit changes have had an impact on people whose families may be subject to changes, who are either under pressure to contribute to the family or who cannot rely on them for small amounts of additional help.

## Questions

25. *Is it important to maintain sexual health services separate from General Practitioners?*
26. *Is medical confidentiality currently adequate for sex workers? Will moves towards centralisation of health records have an effect on its adequacy?*
27. *Who should fund the provision of sex worker-focused services?*

## 5.4 Leaving sex work

- 5.4.1 Past convictions present a sizeable barrier to people getting jobs outside sex work. We would propose the quashing of all convictions under laws specifically concerning sex work – so, convictions for soliciting, ASBOs, and brothel-keeping would be automatically quashed whereas convictions for trafficking or sexual assault would not be. Decriminalisation without removing past convictions would be a hollow promise –



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something relevant for the future but whose effect would not be felt by a large number of current and former sex workers.

- 5.4.2 There is also the question of whether and what work could be put towards assisting people who want to move out of sex work, if and when, they choose. The fundamental question must be whether additional state support such as one-stop shops for health, benefits etc and a removal of convictions provide enough of an opportunity for people to leave if they want to. We are tempted to think that these changes would have a fundamental impact on people determined to leave and who may have qualifications or experience in a particular field and thus find it easier to obtain a different job. However, given evidence that money is a key driver of engagement in sex work, we are not convinced that there is anything outside the availability of adult education and training that would have a meaningful and long-lasting impact.

## Questions

28. *Should we seek to quash past convictions for sex work?*
29. *Should the quashing of past convictions extend to all areas of sex work law, or just solicitation?*
30. *What should be done about assets seized under existing laws for those with sex work convictions?*

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