



# ENGLISH COLLECTIVE OF PROSTITUTES

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## **Review of the Operation of Part 4 of the Criminal Law (Sexual Offences) Act 2017**

Written submission from the English Collective of Prostitutes, September 2020

The English Collective of Prostitutes (ECP) is a self-help organisation of sex workers, working both on the street and in premises, with a national network throughout the UK. Since 1975, we have campaigned for the decriminalisation of prostitution, for sex workers' rights and safety, and for resources to enable people to get out of prostitution if they want to. We are also part of the Global Women's Strike which is an international network of women's organisations including Global Women's Strike Ireland.

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**We respond to the following two points of the terms of reference.**

***Q: Assess the impact of the Act's operation on the safety and well-being of persons who engage in sexual activity for payment, comment on any risks that the Act's operation poses for the safety and well-being of persons who engage in sexual activity for payment, and make such recommendations to strengthen protection for such person as are appropriate.***

The 2017 Criminal Law (Sexual Offences) Bill law criminalised the Purchase of Sexual Services.

In summary, the impact of this law change has been to: undermine sex workers' safety by forcing women to work in more isolated places and making it harder for women to report rape and other violence. It has also increased stigma and discrimination, made it harder for women to access health and other support from the authorities, and for those of us who want to, to leave prostitution. Significantly, it has stirred up hostility, hatred and racism against migrant women.

Evidence shows that reported violent crime against sex workers, from threats to assaults with weapons, has [risen by 92%](#) since the law change and sex workers are now less likely to report dangerous clients to Gardaí. Migrant and trans sex workers in particular have been [targets of violence](#).

The threat of criminalisation and exposure means that women have to work harder to keep our job hidden from friends, family, our communities and society. We are terrified of others finding out. Those of us who are public have faced eviction, job losses, threats to take our children away, bricks through our windows and more. Significantly, the law makes it harder to associate with others and organise collectively. It characterises sex workers as victims rather than protagonists in our own struggle for protection and rights.

In addition, the amendment to the brothel-keeping law in the 2017 legislation to increase the penalties has been the occasion for increased enforcement of this law which makes it illegal for women to work together in greater safety. Young, migrant women – and specifically mothers -- overwhelmingly have been [targeted and convicted](#). A study by Ugly Mugs Ireland found that: "All of the sex workers convicted appear to have been non-nationals" and in 27%

of cases it has been stated that one or more of the sex workers being prosecuted was a mother. In June 2019, two young migrant women— one of whom was pregnant – were [jailed for nine months](#) for being sex workers, on charges of keeping a brothel. Sex Workers Alliance Ireland has highlighted how the law change directly led to a spate of attacks on [trans migrant sex workers](#).

### **Evidence from other countries where similar laws have been implemented.**

In assessing the impact of this law, we draw on the experience of our international network. In countries where clients have been criminalised for years a well-established pattern of evidence has emerged which shows that violence, stigma and discrimination against sex workers increases as a result and that sex workers have been impoverished and deprived of resources.

**Sweden** criminalised clients in 1999. [Evidence shows](#) that sex workers face increased stigma, are more at risk of violence, and are less able to call on the protection of the police and the authorities. Despite claims that the law has led to a decline in prostitution, there is no evidence of this.<sup>1</sup> In **France**, a [two-year evaluation](#) of the law found 42% of sex workers were more exposed to violence and 38% have found it increasingly hard to insist on condom use. In **Norway**, sex workers have faced evictions and lost custody of their children. Migrant workers are particularly targeted, [including for prosecution](#). In **Canada**, sex workers were [displaced to outlying areas](#) with increased risk of violence, including being forced to engage in unprotected sex.

Here in the **UK** we've seen first-hand the impact of criminalisation on women's safety. Thousands of sex workers are [raided, arrested, cautioned](#), and even imprisoned every year. It is 10 times safer to work inside with others,<sup>ii</sup> but the brothel-keeping law expressly forbids this. Women are therefore [forced to choose](#) between possible arrest and keeping themselves safe or avoiding a criminal record and putting themselves in danger. Criminal records are a major obstacle to sex workers being able to leave prostitution if they want to and get another job.

A 2014 survey from National Ugly Mugs found that where arrests of sex workers and clients were high, only 5% of sex workers who were victims of a crime reported it. This compared to 46% of victims in areas where police adopted a harm reduction approach.

In Scotland, [attacks on sex workers doubled](#) after kerb-crawling laws were introduced which criminalised clients.

Fear of arrest, and for immigrant sex workers, fear of deportation, are the biggest obstacles to reporting rape and other violence. Violent men take advantage of the legal vulnerability of sex workers and deliberately target them. When sex workers do report violence, they often face prosecution themselves while [little is done to catch their attackers](#).

### **Recommendations.**

#### **Sex workers and our organisations must be listened to and be central to any review of the law.**

We ask the review to listen to sex workers and in particular the [Sex Workers' Alliance Ireland](#) (SWAI) which has documented the ways in which the laws in Ireland force sex workers into danger and increase stigma and discrimination.

As Kate McGrew, sex worker and director of SWAI commented:

*"We deserve to be safe but instead of decreasing demand, the laws have created a buyers market, where the purchasers of sex hold the power. This in direct opposition to what we were told was the intention of the law. Sex workers are not decriminalised. The penalties of sex workers sharing premises together, also known as brothel keeping, has doubled since the introduction of the new Sexual Offences Bill in 2017. Sex workers are now forced to work in isolation, which puts them at further risk of violence and exploitation. Since the law has been introduced many more sex workers have been arrested than clients. We want sex work decriminalised so that the power gets put back in the hands of the worker."*

Attention should also be paid to reports, studies and other evidence from current sex workers and sex workers' organisations in Sweden, France and other countries which have first-hand experience of laws to criminalise clients.

### **Sex workers' safety is paramount – decriminalise prostitution.**

We particularly urge the review to pay close attention to [evidence from New Zealand](#) which successfully decriminalised sex work in 2003. We have visited New Zealand and seen first-hand the verifiable improvements in sex workers' rights and safety.

Since the Prostitution Reform Act was implemented, [over 90% of sex workers](#) said decriminalisation gave them additional employment, legal, health and safety rights (including 64.8% who said they found it easier to refuse clients – a key marker of exploitation). 70% said that since decriminalisation they were more likely to report incidents of violence to the police. Removing the fear of arrest has meant that sex workers, particularly street based workers, feel more able to work during the day and in well lit, safer locations. NB: This is unlikely to be true if clients were still criminalised.

### **Poverty reduction must be the priority.**

The majority of sex workers are mothers. This should be a central concern for law and policy makers.

Seventy percent of people living in poverty in Ireland [are women](#), and since 2015, women's homelessness has [increased by 158%](#). In 2019, research found that the poverty rate among working lone parents has [doubled in five years](#). 50% of trans people in Ireland [are unemployed](#). As poverty rises, more women, particularly single mothers, turn to sex work to survive and feed their families.

Prostitution has always been connected to women's poverty – that's why most clients are men and most sex workers are women. Politicians who want to support women and reduce levels of prostitution should address government policies which promote prostitution. Women should not be put in a situation where we are impoverished and then persecuted, and our lives endangered because of the way we have found to survive.

We support calls from women in Ireland not to abolish Article 41.2 of the Constitution as the only recognition of the vital caring work done, primarily by women, within the family (although the sexist language should be removed). We support calls for recognition of this work to lead to financial support so that carers are no longer impoverished and discriminated against, both in the home and outside.

We also urge the review to make recommendations for higher benefits, including a [Care Income](#) for unwaged caring work, and higher wages in other jobs so that women have viable alternatives to sex work, especially at this time of crisis with COVID-19.

***Q: In relation to persons engaged in sexual activity for payment, comment on the risk of such person being victims of human trafficking and make such recommendations in relation to identification and protection of human trafficking victims so engaged as are appropriate.***

The Criminal Law (Sexual Offences) Act 2017 has failed to address the root causes of trafficking and routinely criminalises victims of trafficking, including housing women in direct provision centres. As a result, in 2018 Ireland was [downgraded](#) to a tier two watchlist due to its “poor handling of human trafficking”.

### **Criminalising clients does not reduce trafficking**

Claims that violence, particularly trafficking, can be reduced by criminalising clients were disproven by [research](#) from the Global Alliance Against Traffic in Women which found that “criminalising sex workers’ clients does not reduce sex work or trafficking. Instead, it infringes on sex workers’ rights and obstructs anti-trafficking efforts.” There is [no evidence](#) that criminalising clients in Sweden has reduced trafficking. Women in Norway who reported serious violence and torture to the police had their passports confiscated and [were deported](#), even though some had not overstayed their visa.

### **Consenting sex in exchange for payment should not be conflated with trafficking.**

Figures that claimed to show that over 80% of sex workers are trafficked or pimped have been [proved to be false](#). The most reliable [recent research](#) in the UK found less than 6% of migrant sex workers been trafficked, many said they prefer working in the sex industry rather than the “unrewarding and sometimes exploitative conditions they meet in non-sexual jobs”.

Sex workers reject the sexist assumption that we are inherently more exploited or vulnerable than other workers. A [recent report](#) found construction, recycling, nail bars and car washes were among the top sectors where the [Gangmasters and Labour Abuse Authority](#) (GLAA) said there was slavery.

Trafficking is forced or bonded labour, abduction, kidnapping, false imprisonment, rape, grievous bodily harm, extortion. Existing laws cover all these offences and should be used to prosecute the assailants of women and children, whatever work they are being forced into.

Trafficking is enabled by poverty and women’s determination to escape it and by the hostile immigration environment that make it impossible for women to cross international borders unaided. Criminalisation makes it harder for victims of violence including trafficking to report and get help.

If well-meaning people including parliamentarians want to act against trafficking, then ensure people have legal routes to migrate so that people fleeing war and poverty aren’t forced into the hands of traffickers. And take action against zero-hour contracts, low wages and exploitative bosses in the jobs that are the alternatives to prostitution.

Characterising sex workers as ‘victims’ in need of ‘saving’ disparages and dismisses our struggle as workers for occupational safety and rights. Spreading false information about sex workers being linked to organised crime justifies increased policing, enforcement and closures which harm sex workers.

Our sister organisation [Empower](#) in Thailand comments on this:

*“We have been spied on, arrested, cut off from our families, had our savings confiscated, interrogated, imprisoned and placed into the hands of the men with guns, in order for them to send us home... all in the name of “protection against trafficking”. It’s rubbing salt into the wound that this is called helping us. We are grateful for those who are genuinely concerned with our welfare ... but we ask you to listen to us and think in new ways...” – Empower Foundation, Thailand*

For more information on trafficking see: <https://prostitutescollective.net/briefing-trafficking/#>

Decriminalising sex work would make it easier for victims of trafficking to come forward without fear of arrest, and for the police to pursue rapists and traffickers rather than sex workers and clients.

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<sup>i</sup> Research by The Nordic Institute for Women’s Studies and Gender Research that found a decrease in men saying they buy sexual services from 14% (1996) to 8% (2008), is unreliable because buying sex was not criminal in 1996 so there were fewer reasons for men to lie. The Swedish National Board of Health and Welfare found it was “difficult to discern any clear trend” up or down (2007). Evidence of an increase in Thai massage parlours in Stockholm is ignored (RPS Rapport, 2012). Plus: Levy, J. (2015). Criminalising the Purchase of Sex: Lessons from Sweden. <https://www.amazon.co.uk/Criminalising-Purchase-Sex-Lessons-Sweden/dp/0415739322>

<sup>ii</sup> 77% of violent incidents were experienced by street-based sex workers, 11% by inside solo sex workers and 6% by sex workers in brothels, parlours or saunas. Connelly, L. (2014) Violence against sex workers. Analysis of National Ugly Mugs.