



# "I'm no criminal"

Examining the impact of prostitution-specific criminal records on women seeking to exit prostitution



"I'm no criminal"

CRIMINAL RECORDS

EXPLOITATION

FORGOTTEN

Date of Conviction: OCTOBER 1964  
Age: 17  
Court: London  
PROSTITUTE LOITERING ON STREET

OFFENDER

PRISON

ABUSED

"I'm no criminal"

PROSTITUTION

Date of Conviction: JULY 1982  
Age: 15  
Court: London  
PROSTITUTE LOITERING ON STREET

NIGHTMARE

Date of Conviction: JAN 1982  
Age: 15  
Court: London  
PROSTITUTE LOITERING ON STREET

SHUT OUT

INJUSTICE

ALONE FORGOTTEN ABUSED

RAPE

"I'm no criminal"

INEQUALITY

VIOLENCE

ALONE

Date of Conviction: DECEMBER 1960  
Age: 19  
Court: London  
PROSTITUTE LOITERING ON STREET

ISOLATED



delivering cutting edge services  
to end violence against women and children

**nia**

[info@niaendingviolence.org.uk](mailto:info@niaendingviolence.org.uk)  
P.O. BOX 58203, London, N1 3XP,  
TEL : 020 7683 1270 • FAX : 020 7288 1751

Registered Charity number : 1037072  
Registered Company number : 02673624



## “ I’m no criminal ”

Examining the impact of  
prostitution-specific criminal records  
on women seeking to exit prostitution

Research conducted by Eaves and nia, funded by Lankelly Chase  
Heather Harvey, Laura Brown, Lisa Young

nia

[info@niaendingviolence.org.uk](mailto:info@niaendingviolence.org.uk)

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London N1 3XP

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We would also like to express our appreciation for the work and commitment of Denise Marshall, Chief Executive Officer of Eaves, where this project originated. This project, and the team working on this area, were a result of her vision and determination to support victims of violence against women and girls, and particularly women involved in prostitution, as well as to challenge the normalisation of sexual exploitation and the objectification of women.

Denise sadly passed away in August 2015 and shortly thereafter Eaves closed. However, we would also like to take this opportunity to thank **nia**, under whose auspices this report is now issued, for their willingness to take forward this area of work.

May 2017

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## Executive Summary

This report arose out of an earlier research project conducted jointly by Eaves and London South Bank University which examined women's experiences in prostitution and, specifically, their experiences in trying to exit prostitution. That research found nine common barriers to exit, one of which was criminal records.

In the course of that research, the team found that there was a considerable body of evidence that examined the limiting impact of criminal records on the rehabilitation and reintegration of ex-offenders generally. There was, however, significantly less research looking at the impact for female ex-offenders and still less which examined the impact of prostitution-specific records on women's experiences of building a new life. As such, the team embarked on a more detailed study to this effect and was fortunate in obtaining funding from Lankelly Chase to do so. This report presents the findings of that research and argues that prostitution-specific criminal records are uniquely discriminatory, arbitrary, irrational and disproportionate for women involved, or formerly involved, in prostitution.

The research outlines the legal and policy context in the UK surrounding prostitution. It also reviews relevant literature relating to the impact of criminal justice measures, and specifically criminal records, on women in, and exiting, prostitution. This research uses the term "women involved in prostitution", as women are the majority (though not the totality) of those selling or being sold for sex.

The research aims were to explore:

- The ways in which convictions and different outcomes for prostitution-related offences impact on women involved in prostitution
- How a prostitution-related criminal record can act as a barrier to exiting specifically with
- regard to education, training and employment
- How this barrier may be linked to, and interact with, other barriers exiting women face
- The more long-term ramifications for women, including post-exit, of prostitution-specific criminal records

The research was informed by a feminist approach. It used a mixed method approach. This involved a secondary analysis of interviews with 56 women with prostitution-specific criminal records undertaken in the original research from which this study arose. It also included a further fifteen new semi-structured interviews with women with prostitution-specific criminal records and 10 with stakeholders who have working knowledge and experience of prostitution and the criminal justice system.

The findings examine both women's and stakeholders' views about existing measures used for prostitution in the criminal justice system – notably fines, antisocial behaviour orders, custodial sentences and community based alternatives. The research reflects the findings of other research in identifying that all of these measures can have harmful and discriminatory effects on women, entrenching them further in both the criminal justice system and in prostitution. While some of the community-based alternatives are intended

to be less punitive and may be less detrimental to women, they are by no means harm-free and also are riven with inherent contradictions, inconsistencies and disparities.

The findings also add to an existing body of research that highlights the lack of any strategy, vision or direction on prostitution policy and the way in which this results in inconsistent, arbitrary and contradictory policy and practice. This inconsistency acts to the great detriment and confusion of women involved in prostitution, the services that work with them, and the wider public.

The findings then look in some detail at the impact of prostitution-specific criminal records on women's ability to take up education, training and employment which may enable them to exit prostitution, and build and sustain a new life. This section highlights the fact that the disclosure and barring service regulations result in prostitution-specific records being disclosed in most cases for women even years after they have exited. As one woman says: "It's holding me up basically in all areas of my life."

Interestingly, women expressed relative equanimity about the disclosure of other offences that may have arisen as part of a life in prostitution, such as drug offences, theft, shoplifting and anti-social behaviour. They were extremely anxious, however, that their prostitution-specific records should not be disclosed – indeed to such an extent that the prospect of disclosure was enough to deter women from even applying for education courses or employment, irrespective of how an institution or employer might respond to such records. This is clearly expressed by one woman who says: "I wouldn't want nobody seeing my record and see I've got prostitution on it... I don't know why I don't see theft and that as bad as what I see prostitution... I don't know, it's just like that thing around prostitution, innit?"

Moreover, this section identifies that the long history of complex legal measures and stigma around prostitution has left a legacy which means that many people, including practitioners, often assume that prostitution-specific records are sex offences. This association, no matter that it is incorrect and not the intention of the Government, amplifies already high levels of prejudice. As a result, formerly involved women may be excluded or assume themselves to be excluded from care work or working with vulnerable people, including relatively low-skilled work and volunteering. Often these are disproportionately female-dominated areas of work and precisely the fields which exiting women, who often also have limited educational qualifications or employment histories, may seek to enter.

If women cannot exit prostitution and build viable alternatives, they are condemned to remain in it and at risk of continued and increased criminalisation. As such, the effect of prostitution-specific criminal records is uniquely discriminatory and disproportionate to women who are, or were formerly, involved. It is also irrational and counter to government policy which states that it seeks to facilitate the rehabilitation of offenders, reduce re-offending and specifically reduce the number of women in custody. Indeed, if it is accepted that prostitution is a form of exploitation, discrimination and violence, and that much of prostitution could fall within a definition of trafficking, then current policy may be in breach of international human rights standards which the UK has ratified.

The findings move on to examine the interlinkages between prostitution offences and other offences, and the way in which the criminal record barrier intersects with other barriers to exit. These barriers exacerbate and reinforce each other, entrenching women in both the criminal justice system and in prostitution.



The final section of the findings identifies disparities and inconsistencies in the application of the law to women involved, depending on a range of factors. It also examines the wider and enduring impacts of prostitution-specific criminal records on women's lives and their ability to sustain exit and build a new life. One woman describes the unfair legacy of prostitution-specific criminal records, saying: "But that's not who I am, you know. That's just a part of my life." Importantly, this section identifies lasting, and uniquely, detrimental impacts on all areas of the lives of women currently or formerly involved in prostitution.

A supplementary question asked participants their view on what the legislative regime governing prostitution should be. Views were, as may be expected, very diverse and reflected the polarised debates on the issue and much of the confusion that arises from the lack of a strategic vision or policy regime and the lack of clarity in terms used in the debate.

There was agreement that women selling or being sold for sex should not be criminalised, their records should not be disclosed, and that there were high levels of abuse and distress involved in many women's routes into prostitution. One woman says: "It's not right, it's unfair." Another says: "Most women in prostitution aren't there because they want to be, for a start. They are there because they need to be for like financial reasons, drug or alcohol, or someone's making them do it... I just feel like, once again, we are being punished..."

The police themselves recognised high levels of abuse among many of the women they arrest, and a range of stakeholders felt that the legislative regime confusingly attempts to be at once punitive and supportive. Yet it is notable that the measures used in responding to prostitution commonly fail to recognise the stigma around prostitution, or the violence and coercion within it. With no clear strategy or vision for prostitution from the top, this contradictory approach will continue to be played out in every locality and institution, to the detriment of the women most affected.

Examples arise throughout the research. For instance, even the less punitive community alternative measures in response to prostitution often fail to realise that a woman may not be able to keep appointments with a support service she is mandated to attend, meaning that women may be further penalised for "non-engagement". This is the case if she is dealing with problematic substance use or has mental health issues (including ones arising from harms in prostitution, which in some cases amount to PTSD symptoms), or if she is still experiencing coercion from an abusive partner or pimp.

Similarly, police respondents were able to identify high levels of problematic substance use, coercion and abuse in women's experiences that are linked to their prostitution. However, they still felt that an "equal or fair" and therefore "gender blind" response to prostitution had to equally criminalise or decriminalise all parties despite the fact that some are choosing to use, or actively profiting from, women who may in fact be victims or living with a legacy of abuse and lack of actual choice. They were unable to see that an approach which decriminalised and supported the women involved, whilst still targeting demand in the form of buyers' choices, could be a reasonable, and potentially transformative, response.

This inability, or refusal, of the system to acknowledge and counteract the effects of inherent sex discrimination, and the tendency to use measures which instead often exacerbated it, is a constant theme of this report.

The report concludes with a range of recommendations that are aimed respectively at specialist services supporting women (involved, exiting and exited), the Criminal Justice

System (notably police and the courts) and central Government. Pre-eminent among these recommendations are calls to wipe or seal women's prostitution specific criminal records and exempt them from disclosure, to cease criminalising women involved; and, until this happens, to provide women with anonymity when they are before the courts as defendants. This would be in line with existing practice for other victims of sexual offences.

Finally, this research joins calls for central government to stop dodging the issue and instead engage with prostitution and what it says about women's lives and opportunities or lack of them. It falls to those in power to set a consistent, transparent and unifying strategy, vision and aspiration for how to address prostitution, the effect of prostitution on the status of all women, and particularly how to support women involved and women who wish to exit.

## Introduction

This report examines the impact of prostitution-specific criminal records on women involved in prostitution and on their attempts to exit and rebuild their lives. The study builds on an earlier three-year study which investigated women's experiences of exiting prostitution. That study identified nine common barriers to exiting prostitution. A significant barrier was possession of a criminal record for prostitution-related offences.<sup>1</sup> The research team wished to explore this barrier in more detail and was fortunate to obtain funding from Lankelly Chase for this purpose. This research forms the subject matter of this report.

## A note on terminology

This study uses the term "women involved in prostitution". This reflects the fact those selling or being sold for sex are predominantly, though not exclusively, women. The choice of term also reflects the fact that this research relates to women who wish to exit prostitution. For this group of women, the notion of prostitution as free and informed lifestyle choice, or "work" that one can easily pick up or drop, often does not reflect their own lived experience. It should be noted, however, that during interviews, researchers asked women about their preferred terminology and used this with women in interviews.

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<sup>1</sup> Prostitution-related offences are confined to offences directly relating to prostitution, including loitering, soliciting, keeping a brothel, causing or inciting prostitution for gain and placing an advert for prostitution within the vicinity of a public telephone box, in a public place or to a public structure (carding).



# 1: Literature review

# 1: Literature review

This literature review looks in some detail at the legislative and policy context of prostitution. It then considers the range and impact of different penalties for prostitution-related offences, and of the disclosure and barring regulations, on women's ability to exit prostitution and build a new life. Considerable research exists on the impact of criminal records on ex-offenders generally. Relatively little analyses the gender-specific ramifications of criminal records and particularly prostitution-specific records on women and their attempts to build a new life.

## 1.1 The legal context for prostitution in the UK

In the UK, selling or buying sex is not illegal. However, many of the activities associated with it are. Historically, women involved in on-street prostitution have been the main focus of law enforcement and community responses. This focus is rooted in the recommendations of the Wolfenden Report (1957) which advocated an approach that focused almost entirely on women selling sex (All Party Parliamentary Group on Prostitution and the Global Sex Trade (APPG), 2014). The resulting Street Offences Act 1959 specifically focused on the offence of loitering on the street or in a public place. Commentators, (Clark, 2006; Sanders, 2007; APPG, 2014) suggest that the visibility of on-street prostitution may account for this aspect of the sex industry receiving more attention and being criminalised to a greater extent. It is commonly seen as a 'nuisance crime' by communities and is often dealt with as such by local authorities in order to appease community members (Kantola and Squires, 2004).

Following the previous Labour Government's *A Coordinated Prostitution Strategy* (2006), the Policing and Crime Act 2009 amended the offences of loitering and soliciting and created an offence of *persistent* loitering and soliciting.<sup>2</sup> Those witnessed by the police to be persistently loitering and soliciting are issued with a "prostitute caution". If that individual is witnessed again, they can then be arrested and, if found guilty, convicted. "Persistently" was introduced with the intention of providing the police with the option of diverting women into other interventions, rather than just arresting women. The use of other methods of enforcement have been encouraged as part of a staged or diversionary approach, with soliciting laws only being used when other alternatives have been offered (Home Office, 2006; ACPO, 2011). Despite this, however, enforcement still tends to be focused on those selling sex on the street as opposed to indoor settings such as flats, brothels and hotels (Bindel et al, 2013), an unbalanced focus that is recognised by ACPO (2011).

The Sexual Offences Act 1956 made it a summary offence to keep a brothel, for a tenant to knowingly permit premises to be used as a brothel, and for a landlord to let premises for use as a brothel. Both soliciting for the purposes of prostitution and kerb crawling are classed as summary offences, and conviction can result in a fine. These became offences much later than loitering or soliciting to sell sex, introduced under the Sexual Offences Act 1985 in response to concerns around the need for legislation to address this aspect of prostitution.

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<sup>2</sup> 'Persistent' conduct is defined as that which takes place on more than two occasions over three months.

The Sexual Offences Act 2003 created the offence of keeping or managing a brothel, with a “brothel” being defined as a premises used by more than one person for the purposes of prostitution. Depending on the type of offence, keeping a brothel can result in imprisonment of three to six months, or a fine for the first offence. In 2009, the Policing and Crime Act introduced closure orders relating to these offences, allowing premises associated with prostitution or pornography can be closed for up to three months. Although there is legislation prohibiting aspects of the off-street sex industry, it tends to be more tolerated than on-street prostitution and enforced to a lesser extent, most probably because of its hidden nature (ACPO, 2004). Crown Prosecution Service (CPS) data show a fall in prosecutions since 2010 for most offences relating to keeping a brothel<sup>3</sup> (CPS, 2014).

The demand for sex has been highlighted as a nuisance to communities (Home Office, 2006, 2008) and a key motivating factor in prostitution markets (ACPO, 2011). Addressing demand is therefore seen as one way to disrupt sex markets (Home Office, 2006). Historically, however, there has been much less emphasis on targeting and arresting those buying sex (Matthews, 2005) and it is given little attention in the ACPO policing strategy (2011). One reason for this is argued to be because of the costs and intensive resources that are required to enforce these offences (Bindel et al, 2013; APPG, 2014). The previous requirement to prove that kerb crawling and soliciting for sex was persistent also made it difficult to obtain convictions (APPG, 2014). Section 14 of The Policing and Crime Act 2009 amended the offences removing the requirement to prove persistence, thereby enabling prosecution for a first offence. Under the 2009 Act, it also became a criminal offence to purchase sex from an individual who has been subjected to force, fraud or coercion by a third party. Despite these amendments and slight shifts in focus, recent statistics show that since 2007 there has been a year by year decrease in the number of convictions for kerb crawling offences (CPS, 2013).

Evidence has highlighted that current legislation intended to tackle demand is still not standard practice across geographical areas (Home Office, 2011; Bindel et al, 2013). There is also little knowledge of the new Section 14 offence (Bindel et al 2013). Indeed, a Freedom of Information Request to the Ministry of Justice in 2016 found that between 1984 and 2004 there were 132,917 convictions and 57,128 cautions of women for soliciting. For the same period only 57 men were found guilty and 1,578 men cautioned for soliciting. Between 2004 (after legislative changes) and 2016, some 6,030 women and 68 men were found guilty of soliciting. Although the CPS remains supportive of the intentions of the offence, it has been noted that there are challenges to ensuring it is effectively enforced (CPS, 2014).

In February 2014, the All Party Parliamentary Group (APPG) on Prostitution and the Global Sex Trade reviewed UK law on prostitution and highlighted many of the challenges presented by the issues summarised here. It concluded that a comprehensive review of legislation and policy was required and made certain recommendations itself. Since then the Home Affairs Committee (2016) has raised an inquiry into prostitution policy. The Committee produced some interim recommendations that proposed decriminalising those who sell, or are sold for, sex and also (pertinent to this research) made welcome recommendations relating to their pre-existing criminal records. The committee reserved judgement about broader matters of prostitution policy and criminalisation such as criminalising demand. The Government response to the Committee report (2016) noted

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<sup>3</sup> Reductions in the number of prosecutions are in line with CPS policy guidance and may partly be the result of the police being able to charge for a range of offences without having to refer to the CPS, as well as changes to policing priorities (CPS, 2014).

these recommendations but agreed a need for further research before amending legislation and policy.

## 1.2 Policy context in the UK

*Paying the Price* (2004) was the first attempt by the UK government to scope the issues surrounding prostitution, whilst the subsequent *A Coordinated Prostitution Strategy* (2006) proposed the government strategy for addressing prostitution in England and Wales. It was at this point that the focus widened to include, not only the form of prostitution and its impacts on others, but to look at the violence inherent in prostitution. This led to the inclusion of prostitution in violence against women strategies. The Femicide Census (Brennan, 2016) built on the work of Ingala Smith, *Counting Dead Women*, (2015) which sought to catalogue women killed by male violence. Between January 2009 and December 2015, of 936 women killed by men, 21 were known to be women involved in prostitution and 13 of these were killed by buyers. The authors highlight that this is likely to be an undercount given that many women in prostitution are isolated and may not be reported missing and given that women's involvement in prostitution may be kept secret, (Brennan, 2016, p25).

The Home Office highlighted that women in prostitution may be 12 times more likely than women in the general population to be murdered (Salfati, 2009). The strategy developed by the Home Office challenged the assumption that prostitution is inevitable, aimed to disrupt sex markets and reduce on-street prostitution, advised against further criminalisation of women, and recommended a coordinated, partnership-based approach. Legislative amendments were proposed in order to provide more rehabilitative and diversionary options such as the introduction of 'prostitute cautions', conditional cautions and community orders,<sup>4</sup> along with the continued use of interventions via the Drugs Intervention Programme (DIP).<sup>5</sup>

The strategy emphasised a more rehabilitative approach and focused on prevention, but on-street prostitution was still framed as a nuisance. Some form of enforcement was deemed necessary to deal with this "nuisance" and on this basis the full decriminalisation of those selling sex was rejected. Women still have to be arrested and charged before being diverted into support and those women who do not engage with the support indicated, still face prosecution. The strategy was therefore criticised for being contradictory, oscillating between the desire to care via welfare-based interventions and the desire to punitively control prostitution (Clark, 2006; Phoenix, 2007). The aim to disrupt sex markets is also argued to have resulted in heavier policing of the on-street industry (Sanders, 2007).

The coalition (2010) and subsequent Conservative (2012) governments have not produced a strategy for prostitution. However, *A Review of Effective Practice in Responding to*

<sup>4</sup> These reforms were introduced under the Policing and Crime Act 2009.

<sup>5</sup> DIP provides offenders with support and routes into drug treatment via different interventions which operate from the point of arrest, through the CJS and are available to assist offenders with re-entry into the community. The aim is to reduce drug related offending and acquisitive crime through partnership working and linking offenders in with a range of other support mechanisms. Interventions include Arrest Referral (for those arrested for trigger offences), DRR, Restrictions on Bail. These interventions are not specifically aimed at women involved in prostitution and loitering and soliciting are not trigger offences for drug testing. However, if there are reasonable grounds for suspecting that the misuse of Class A drugs contributed to or caused the offence an individual can be tested at the discretion of an inspector. A large proportion of those tested under discretion are women who are involved in prostitution (Home Office, 2006).

*Prostitution* (Home Office, 2011) aimed to assist local authorities and partnerships in developing proactive and effective approaches. The *Review* struck a balance between enforcement and support. Prostitution is also incorporated into the Violence Against Women and Girls (VAWG) strategy (HM Government, 2010) and action plans (HM Government, 2012, 2014) detailing support for government agencies to safeguard those involved in prostitution and promoting the use of out-of-court disposals for women.

However, there is an increasing tendency to talk of a rather unclear category of "forced prostitution" and to make separations between trafficking and/or forced prostitution and prostitution as a "consenting transaction between adults". (Government response to the Home Affairs Committee, 2016). This distinction is challenged by some (Bindel et al, 2013) who find that locations of prostitution involvement, routes into prostitution and coercion, experiences within it, barriers to exit, and attitudes and behaviours of buyers and pimps do not justify so clear cut a distinction.

*Transforming Rehabilitation: A Strategy for Reform* (Ministry of Justice 2013) was the coalition government's vision to reform the rehabilitation system with the aim of reducing reoffending. As well as a range of reforms that focus on how rehabilitation will be delivered, the strategy introduced 12 months' mandatory rehabilitation for individuals serving short-term sentences of two years or less. This reform is significant to most female offenders as they are more likely to receive short-term sentences (Corston, 2007). This includes women involved in prostitution who often receive short sentences for breaching Anti-Social Behaviour Orders (ASBOs) and non-payment of fines. It means that women will be subject to an additional period of supervision following their custodial sentence, even if their sentence is only for a few days or weeks. The supervision period could have the potential of opening up access to services for women, although it is questionable whether this will include specialist services for exiting. More worryingly though, such measures increase the risk that women on supervision who may breach certain conditions or face relapses could be further entrenched in the criminal justice system. This could result in them being called back to court and being punished with a fine, unpaid work, a curfew or custody for up to 14 days.

### 1.3 Impact of criminal records on ex-offenders building a new life

There is a considerable amount of research (Maruna, S., 2008, 2012) that looks at desistance and what is needed for ex-offenders to build new identities and social roles (Laub, J.H., 2008) and to limit the risk of reverting to, or becoming trapped, in offending behaviour (Centre for Crime and Justice, 2012). A number of current campaigns have been targeting the impact of criminal records on ex-offenders' ability to move on (Ban the Box, Unlock, Business in the Community) and recent court decisions have also held that disclosure of criminal records, in some cases, is disproportionate and a breach in the right to private life (Re: T). However, little of the material on criminal records generally, (Uggen and Kruttschnitt, 1998) let alone prostitution-specific records, (Sanders, 2007, Cusick and Martin, 2003) is analysed for its ramifications on women.

To some extent this reflects the fact that not only are the majority of offenders in the criminal justice system men; (State of the Prison Estate, Women in Prison, 2015) but inevitably therefore much of the research, both on routes into offending and on patterns or factors affecting desistance has also focussed on men (Gunnison, 2014). Similarly, as



Giordano et. al. (2002) outline, the smaller number of women involved in the CJS and the even smaller number with a pattern of serious offending, means that there is very little material available to examine desistance in women offenders, including for prostitution (Hester & Westmarland, 2004). However, it is suggested (Giordano et. al. 2002) that as there are gendered patterns of entry into offending for women (Daly 1994), so it is likely that there will be gendered routes to desistance. In recent years there has been more of a focus on women's desistance (Heidensohn, 2009; Sheehan, 2007; McIvor, 2004; Runggay, 2004a; Chesney-Lind, 2004 2nd Ed.) and in the literature, criminalisation appears as a major hindrance and the need for long term specialist support is also considered central to exit (Ng and Venticich, 2006). Having said that, it is the case that some women may exit with less formal help: this was the case for a significant proportion of women in the *Breaking Down the Barriers* (Bindel et al, 2012) study and was also a finding for Cusick et.al. (2011).

The emerging common consensus in much of this research is the need for the individual's own motivation and hope, (Farrall & Calverley, 2006; Giordano et. al. 2002); the need to construct a new and positive social role (Maruna & LeBel, 2012; Sampson & Laub, 1993, 2002); having employment and building new relationships (McNeill 2006) that carry some status or imply acceptability and conformity (Giordano, 2002). Marrying and fatherhood, (for men), has been cited as a stabilising influence (McNeill, 2006; Waite, 1995; Waite & Gallagher, 2000) as has employment. This may not necessarily be high status, or even particularly well-paid work, but was perceived as fulfilling the (traditionally male) role of providing for others "the wife and kids" (Giordano et. al. 2002). McNeill and Weaver (2010, p9) however, advocate "that practitioners need to be able to develop, apply and test individualised theories of change on a case by case basis rather than applying homogenised theories of change." McNeill's recognition of the diversity of ex-offenders is important when looking at women's offending and women's criminal records, including prostitution-specific records.

Where gendered desistance patterns have been researched, some commentators find many similarities (Baskins & Sommers, 1998; Uggen and Kruttschnitt, 1998) but others find some substantial differences (Graham & Bowling, 1995). In contrast to findings of marriage as beneficial to desistance in men, for instance, some studies have found this to be less significant in women (Bersani, Laub & Nieuwbeerta; 2009). This is despite the fact that Bloom, Owen and Covington (2003) have consistently found that relationships are key to women's sense of identity, recovery journeys and stabilisation. It has been suggested that this may relate to the nature of the relationship (Leverentz, 2006), as Covington and Bloom's (2003) findings cover a wide range of emotionally supportive networks for women rather than purely a marital relationship. Giordano et.al, (2002), while placing importance on women's relationships, also found that romantic liaisons should not be over-rated as a factor in women's desistance. They highlight the precarious and often abusive nature of these relationships for women, particularly who may be emerging from a history of trauma and abuse as is often the case with women offenders.

Another area of convergence is that for women too, adopting a socially acceptable identity or role – such as that of mother or other traditionally female role – is beneficial (Runggay, 2004), although as Giordano (2002) found, for women that might not need to be a formal paid employment role or could be a very low-paid and low-skilled role from which it is difficult to progress. This points up precisely the problem, however, as male offending, while still viewed as reprehensible, is deemed more normal than female offending of any

sort (Cook & Davies, 1999; Carlen, 1983), let alone prostitution related offending (Easton, 2007). Moreover, "traditionally female" roles, whether paid or not, very often involve caring roles but these are precisely the roles most proscribed for "ex-offenders", whether paid or not. Consequently, it could be argued that women's criminal records, often for minor offences, may be having a disproportionate and discriminatory impact on their ability to move on. Indeed, this would be a natural conclusion to draw if accepting the broader premise that women's prisons are modelled on an inappropriate male design (McIvor, 2004) and that women's experiences reflect the "gendered nature of women's imprisonment" (Genders & Player, 1987, p162).

## 1.4 Criminalisation of women involved in prostitution

Women in prostitution may be criminalised in a number of ways: for offences generally and for prostitution-specific offences. *Breaking Down the Barriers* research found that there was often a link between other offences and involvement in prostitution. Some women would alternate between involvement in prostitution and committing other crimes in order to take a break or to supplement income. Other research (Sanders 2004) also found that women may commit other offences, most commonly petty crime, and do so particularly when the policing of on-street prostitution was intensive in order to avoid arrest or being issued with an ASBO. Cusick and Martin (2003) found many women in their sample had convictions for drug, and at least one other, offence,<sup>6</sup> and argued this could "trap" women in prostitution. The Home Office (2011) also notes this phenomenon.

## 1.5 Prostitution-specific offences and criminal records

UK law on prostitution hinders efforts to support women to exit, with criminalisation creating barriers to exiting and sustaining exit (APPG, 2014). Along with other research (Cusick and Hickman, 2005; Hester and Westmarland, 2004), *Breaking Down the Barriers* (Bindel et al 2012) has highlighted the detrimental and long-lasting impact of the punitive approach towards those selling sex. Bindel et al (2012) found several barriers to exit and prostitution-specific criminal records featured among 49% of the women interviewed in their sample,<sup>7</sup> many of whom had multiple convictions. Bindel et al observed that women involved in on-street prostitution were disproportionately affected, with 68% reporting a criminal record for prostitution-related offences, compared to 15% of the off-street women in their sample. They suggest this may reflect the more visible nature of on-street prostitution and consequently the more targeted approach of law enforcement focusing on this group.

Research undertaken by PAAFE (now CEASE) in 2005 also highlighted the significant impact that criminal convictions have on women involved in prostitution, both in terms of exiting and later in recovery. Furthermore, criminal records were found to be interlinked

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<sup>6</sup> Women had not necessarily received convictions or cautions for these offences.

<sup>7</sup> Prostitution-related offences are confined to those directly relating to prostitution including loitering, soliciting, keeping a brothel, causing or inciting prostitution for gain, and placing an advert for prostitution within the vicinity of a public telephone box (carding). It is recognised that some offences such as acquisitive crime and drug offences may be connected to women's involvement, however, for the purposes of the *Breaking down the barriers* study these offences were not included in our definition and likewise have not been included in the current study's definition. 'Other offences' and their link with women's involvement in prostitution is explored though in the findings section (p47).

with other barriers women faced in exiting, and indeed sometimes exacerbated them. Criminal convictions prevented women from accessing employment and education, as well as housing. Consequently, because women could not be housed this impacted on their ability to address their physical/ mental health problems and any drug or alcohol use (PAAFE, 2005).

## 1.6 Fines

Prostitution-related offences are often viewed as “low-level offences” and consequently, on conviction for such offences, women commonly have to pay a fine (Home Office, 2006). Far from fines having a deterrent effect, however, they may result in women simply returning to selling sex in order to pay the fines (Hester and Westmarland, 2004; Sanders, 2007). This puts women at further danger of being rearrested and may leave them being trapped in a continuous cycle of fines and prostitution (Home Office, 2006; Bindel et al, 2012), Sanders, 2007, Atkins, 2010). The accumulation of fines can also result in women having extensive financial problems, posing another obstacle to exit (Bindel et al, 2012).

## 1.7 Anti-Social Behaviour Orders (ASBOs)

In more recent years, women arrested for loitering and soliciting have been issued with ASBOs. These contain one or several stipulations, such as restricting an individual from entering a geographical area or from certain public behaviour. Kantola and Squires (2004) see the use of ASBOs as an extension of the “nuisance discourse”. Indeed, a common justification for the use of ASBOs for women involved in prostitution is that prostitution causes alarm, distress and harassment (Bindel and Atkins, 2007). Whilst ASBOs are a civil order and of themselves do not confer a criminal record, breaking the conditions of an ASBO is a criminal offence potentially resulting in a prison sentence.

Even without a breach though, ASBOs remain punitive in their nature and are problematic for women involved in prostitution (Bindel et al, 2012). They often restrict women from a particular geographical area, and whilst this might be with the intention of preventing loitering and soliciting, it can result merely in displacement (Home Office, 2006, Bindel & Atkins, 2007; Bindel et al, 2013). This can have a negative impact on welfare interventions and increase vulnerability (Cusick et al, 2011 Home Office, 2006), as it restricts women’s access to support networks and services.

## 1.8 Custodial sentences

The use of imprisonment for the offences of loitering and soliciting was removed in 1982. However, women may still receive short custodial sentences for prostitution-related convictions. A custodial sentence may be given for the persistent breach of previous orders or conditions, for example breaching ASBOs and non-payment of fines. While some judges see custodial sentences as the only option for certain women involved in prostitution, it is recognised that in principle they are not ideal for this group. Custodial sentences have been highlighted to be disproportionate and inappropriate for many women (Corston, 2007; McNeish & Scott, 2014).

Short-term sentences, which are commonly given to women for non-payment of fines, are disruptive to women’s lives. Women often lose their accommodation when imprisoned, meaning that they are homeless on release (Cusick, 2011). In addition, they may also be

imprisoned far away from home, thereby severing family ties and support networks (Robinson, 2013). In cases where women receive a custodial sentence and are also carers for children, a custodial sentence may have serious and lasting negative repercussions on their access, custody and relationships with their children (Corston, 2007; Robinson, 2013). Given the short duration of sentences, there is also little opportunity for women to receive specialist support for the multiple issues that they may face, including physical and mental health problems, problematic substance use and histories of violence and abuse (Corston, 2007; House of Commons, 2013; Clark, 2006).

Unsurprisingly, given all of these challenges, for many women the ultimate outcome of serving a custodial sentence is a swift return to prostitution and/or further offending upon release (Sandwith, 2011; Bindel et al, 2012). Recent reforms to the criminal justice system include a proposal that people on short sentences, as is the case for most women, should receive 12 months' support on release. It remains to be seen how this will work in practice. Will it lead to women being able to access appropriate interventions including exiting support? Or does it set women up to fail by creating more conditions to adhere to, which if breached result in further involvement in the criminal justice system?

## 1.9 Community-based initiatives

Community-based alternatives for female offenders arose following concerns raised in the Corston Report (2007) about the limited provision for women's complex underlying needs in a system predominantly designed for men (Easton et al, 2010). This led to a call to encourage a more rehabilitative and supportive approach for women, diverting them away from the criminal justice system to prevent women having to repeatedly return to prostitution and offending on release (Home Office, 2006).

Diversion schemes vary as to the point of intervention. Some offer diversion on caution, some on arrest, and others on attendance at court. Rather than being sentenced in court, women can opt to attend two appointments at a designated service. The schemes are voluntary and an opportunity to access support and specialist help for practical problems, as well as exiting support if appropriate, and indeed if available, locally (Rice, 2010).

Engagement and Support Orders (ESOs) were introduced under the Policing and Crime Act 2009 and are available to courts as a disposal for those convicted of loitering and soliciting offences. If a person is deemed suitable for the order, a referral is made to the CPS which then makes a decision on whether to recommend the use of an order. Often this includes referrals and conditions relating to drug and alcohol use. However, as Sandwith (2011) and Bindel et al (2012) point out, drug and alcohol support alone is not enough if it does not also address the root causes such as a legacy of, or coping mechanism for, abuse.

ESOs are preferably given with the consent of the individual concerned. Legislation, however, allows for them to be imposed without that consent, but in such cases the possible counter-productive effects should be considered (Home Office, 2010). The orders offer an alternative to a penalty or fine, with women being required to attend three appointments with a court-assigned supervisor. The aim of ESOs is to provide women with a non-custodial court disposal and engage them with services designed to address any issues and needs, including routes out of prostitution.

Women specific cautions (WSC) were piloted in 2008 as a result of recommendations made in the Corston Report (2007). Based on conditional cautions, they are an out-of-

court disposal for dealing with low-level, low-risk female offenders. Conditional cautions have one or more conditions attached which have a rehabilitation and/or reparation focus such as requiring women to attend a centre for a needs assessment (Easton et al, 2010). WSCs can be administered pre-charge at the police station, or post-charge via CPS intervention. In the pilot, prostitution-related offences were excluded and women arrested for such offences were not eligible for a WSC. This is not to say that women involved in prostitution were not given a WSC though, as they may have been involved in other offences and therefore eligible for one via this route. WSCs were well received when they were piloted, and were argued to be more useful than conditional cautions due to their supportive element. WSCs also appeared to have a beneficial impact on reoffending rates (Easton et al, 2010).

There are still problems with these forms of intervention, however. They are not routinely available across the country (Atkins, 2010) and the women specific caution is not available for women involved in prostitution. While women may be involved in prostitution and receive a WSC for another offence, this could also be problematic as their involvement in prostitution, and consequently their related needs, may not be addressed by the support service. During the pilot, there were also found to be variations in the management, monitoring and conditions of WSCs which could impact on women's experience of services, as well as the success of outcomes (Easton et al, 2010).

Additionally, research has found that other community-based schemes have not been widely implemented and in some cases (ESOs in particular) are not widely known about (Bindel et al, 2013), despite being available to all courts in England and Wales. Community-based alternatives are problematic because they continue to be punitive and stigmatising and, at the very least, require arrest for loitering and soliciting. In the case of ESOs, these are only an alternative sentencing option, meaning that women still have to be convicted first, perpetuating the problems posed by convictions for prostitution-related offences. The mandatory nature of some community-based initiatives is also problematic (Atkins, 2010; Seddon, 2007), although the pilot of WSCs indicated that without the mandatory aspect some women may not have accessed the service (Easton et al, 2010).<sup>8</sup>

Diversion can also lead to "up-tariffing" (Easton et al 2010), i.e. ultimately attracting a more severe penalty than originally intended. For instance, some women may receive a WSC when in fact a caution or referral to a service would have been sufficient. In other cases, multiple conditions are attached to the caution which, for women involved in prostitution, may be unrealistic and so likely to occasion breaches, which can then lead to further punitive orders entrenching women further in the criminal justice system.

## 1.10 Criminal records for prostitution-related offences and disclosure and barring service regulations

The scheme addressing the disclosure requirements in the case of prostitution-related convictions is complicated. There is also a gulf between the reality and the perception of the scheme. Women involved in prostitution will most commonly have been convicted under the Street Offences Act 1959 rather than under sexual offences legislation

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<sup>8</sup> Similarly, Bindel et al (2012) found women may never have been offered exiting or believed in it as a possibility.

specifically. As such, this would suggest that they are not “sex offenders” and they are not subject to the notification requirements or entry on the “sex offenders’ register”.

It is the case, however, that many women and the broader public (including employers, colleges and even some police) assume that a prostitution offence is a sex offence subject to an enhanced level of criminal records checks and disclosures. Examples of the practical impact of such an assumption appear in the findings section of this report. It is also possible that some of the confusion may arise from the fact that the Sexual Offences Act 2003 addresses soliciting. This, however, is meant to relate to a person soliciting another for the purpose of obtaining sexual services as a prostitute (i.e. typically kerb crawling).

According to the Rehabilitation of Offenders Act (ROA) 1974, “spent” convictions are not subject to disclosure. The Rehabilitation of Offenders Act 1974 (exceptions) Order 1975, however, lists exemptions for certain offences under some legislation (e.g. sexual offences act) and for certain occupations, in which cases even “spent” convictions must be disclosed. These occupations include some that are key for women, such as child-minding and “caring” roles. Women are overrepresented in these sectors (2013 – 2016 figures by sector of Employment; ONS, Emp 04, 2016) and for women with limited work experience or qualifications and limited time, such occupations may be the only way into some form of paid work (Bindel et al, 2013; Easton, 2010).

There are certain cases where even these records might remain exempt from disclosure, but crucially this only applies when the individual has no more than one conviction. Women who have lived by prostitution for many years commonly have multiple convictions. Thus, even if the intention of ROA is that it should not be applied “indiscriminately and prejudicially”, the unintended consequence is that women’s spent convictions are commonly disclosed or at risk of being disclosed to detrimental and disproportionate effect (Monaghan, 2015).<sup>9</sup>

In addition, the fact that prostitution offences are often assumed to be sex offences can lead to extra layers of shame, stigma and discrimination. This can deter women from attempting to exit, and furthermore deter employers from giving them a chance, especially in caring professions where the employer is likely to err on the side of caution. The fact that this is not the position in law is no help to the women concerned: the perception is so deeply embedded that it is acted on as though it were reality.

Government acknowledges that this is problematic, although they argue that it is an unintended consequence. This is evidenced by the steps that the relevant secretaries of state (Home Secretary and Justice) have taken in attempting to address it, both precisely through ROA, and in case law in similar but not identical circumstances relating to criminal records disclosure.<sup>10</sup> In *R (T)*,<sup>11</sup> the Supreme Court held that Article 8, (i) and (ii) (Respect for private and family life, The Human Rights Act, 1998) is engaged in respect of disclosure of spent convictions and the proportionality of any such disclosure where it occurs. The Court further held that the 1975 ROA Exceptions Order, as it stood before 2013 amendments, was

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<sup>9</sup>Legal opinion provided preparatory to letter before action for Judicial Review, 2015

<sup>10</sup> *R (T) v Chief Constable of Greater Manchester Police* [2015] AC 49, *R (L) v Comr of Police of the Metropolis (Secretary of State for the Home Department intervening)* [2010] AC 410, *Sidabras v Lithuania* (2004) 42 EHRR 104, Para 48, *R (Wright) v Secretary of State for Health* [2009] AC 739, para 36

<sup>11</sup> *R (T)* had (spent) convictions relating to stealing bicycles as a juvenile. He was applying for work with children later as an adult. The Court held that his spent convictions as a juvenile had no bearing on the work applied for and thus their disclosure was incompatible with article 8. The decision also raised the question, but did not answer it, that the very retention of that data may also be incompatible.

incompatible with Article 8. The Court particularly raised issues around the proportionality and compatibility of disclosure in certain cases with the actual object and intentions of the legislation. It is argued that many of the reservations expressed by the Court would still apply post 2013 amendments in the cases discussed in this report (Monaghan, 2015).

Legal commentators (Monaghan 2015) have also suggested that in the case of prostitution-related offences for women, it is arguable that such a situation could also give rise to an Article 14 (The non-discrimination guarantee, The Human Rights Act 1998), claim relating to discrimination. This is the case given, as discussed above, that women are disproportionately likely to work in health or social care or with vulnerable people, in caring professions and with children, and that women in prostitution often have very limited opportunities, making these avenues even more important. Additionally, given that many women's experiences of prostitution could meet the definition for trafficking<sup>12</sup>, it is also arguable that the very fact of their criminalisation is in breach of the Council of Europe Convention on Action against Trafficking in Human Beings<sup>13</sup>.

The UN Committee on the Elimination of Discrimination Against Women (Recommendation 19) expects states to take rehabilitative measures towards exit for women in prostitution (Para 224h). Current provisions would seem to fall significantly short of this expectation.

## 1.11 Impacts of criminalisation 1: hindrance to employment and training

Obtaining employment or accessing training is key to enabling women to sustain their exit from prostitution, build self-confidence and reintegrate into society (PAAFE, 2005; Dalla, 2006; Bindel et al, 2012).

Many employers and training establishments require a Disclosure and Barring Service (DBS) check and for some sectors (such as medicine, nursing, care, social work, support work or childcare-related jobs) an enhanced DBS is required where even spent and repeat convictions may be revealed (as discussed above). These sectors are precisely those in which women exiting prostitution could have much to offer and in which they often say they would hope to work (Anderson et al 2013, Bindel et al, 2013).

Prostitution related convictions and fear of their disclosure can then act as a bar both to exit in the first place and to a sustained or complete transition out of prostitution in the long term, since the same barrier can have lasting effects and repercussions (Benoit and Millar, 2001; Sanders 2007, Hester and Westmarland, 2004; PAAFE, 2005, Bindel et al 2012).

## 1.12 Impacts of criminalisation 2: stigma and discrimination<sup>14</sup>

The Policing and Crime Act 2009 removed the term "common prostitute" in an attempt to reduce stigma. The continued classification of women as offenders, however, and the

<sup>12</sup> The definition for trafficking has three elements: movement (which can be internal not only international); force, threat, fraud or deception; with the intention of exploitation. (Council of Europe Convention on Action Against trafficking in Human Beings, Art 4, May 2005, CETS 197)

<sup>13</sup> State parties to this convention agree that victims who are in breach of the law, through their own actions or those of a third party but arising from their experience as a victim of trafficking, should not be criminalised.

<sup>14</sup> The concept of labelling was introduced by Becker (1966) and occurs when behaviour or attributes are perceived to subvert the 'norm' in society. Such individuals or groups are labelled "deviant". stigma arises

inherently discriminatory attitudes towards women's sexuality mean negative labels persist. (Pheterson, 1990; Sanders, 2007; Bindel et al, 2012). Shame and stigma post-exit are reinforced by the permanence of criminal records (Månsson and Hedin, 1999).

Sanders (2007) argues that the criminalisation of women in prostitution adds to the myths and negative attitudes that surround prostitution, reinforcing the idea that women in prostitution are "deviant" and different. Furthermore, when labels attach they can override all other qualities and parts of a person's identity, becoming their "master status" irrespective of any changes women may make in their lives (Becker, 1966).

Negative attitudes and judgment can be internalised by women, and feelings of hurt, dispensability, worthlessness, guilt, shame, frustration and depersonalisation are commonly experienced (Tomura, 2009; Sallmann, 2010; Bindel et al, 2012). There can also be wider negative impacts on women's drug and alcohol use, and on their mental health – example depression and anxiety (Drugscope and AVA, 2013). Additionally, women may feel shame even when they display self-awareness about the coercive nature of prostitution (Baker et al, 2010). These feelings of shame and stigma can act as a barrier to seeking help (Smith and Marshall, 2007), accessing justice (Sanders 2004), and to forming or re-establishing relationships which are often vital to women's recovery (Covington, 1998, 2002).

## 1.13 Conclusion

One of the intentions of the criminal justice system is to deter offending by producing negative consequences to criminality: the stigma of criminal records is one such consequence. It is therefore inevitable that research repeatedly highlights the negative impact of criminal records on ex-offenders and their ability to rebuild their lives. Relatively little research brings a gendered analysis to this phenomenon, but there is widespread recognition of the fact that female offending meets with exacerbated social opprobrium (Genders & Player, 1987). This is despite the fact that female offending is equally or even more often associated with a history of abuse than is the case for offenders in general.

Social and gender norms mean that it is still broadly deemed more "deviant" or "abnormal" for a female to offend than a male. With this recognition, it might be reasonable to expect that research would explore whether the negative impact of criminal records for women is correspondingly more severe. Relatively little research, however, has taken up this theme. If it is evident that female offending is deemed more unacceptable than male offending, it is equally evident that prostitution still carries an even more extreme burden of stigma and opprobrium than general female offending. Again, there is little research on what this means for women trying to build a new life on exit, and that is what this study seeks to address.

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whereby the identity of the "abnormal" or "deviant" individual is seen as spoiled or devalued. The individual is perceived as inferior, set apart from society, excluded, discredited and stereotyped (Goffman, 1968).





## 2: Methodology

## 2: Methodology

### 2.1 Research aims

The research aims arose from the findings of *Breaking Down the Barriers* as well as gaps in existing literature. These aims directed the focus of the fieldwork, data analysis and the content of this final report. The aims of the research were to explore:

- The ways in which convictions and different outcomes for prostitution-related offences impact on women involved in prostitution
- How a criminal record for prostitution-related offences can act as a barrier (obstacle) to exiting specifically with regard to education and employment
- How this barrier may be linked to other offences, and how it may interact with other barriers women face when exiting
- The long-term ramifications for women, including post-exit, of criminal records for prostitution-related offences

This research was informed by a feminist approach, which shaped the entire project at every stage from initial design through to methods employed and analysis conducted. Whilst there is some debate as to whether there is such a thing as a feminist methodology, it is recognised that feminist research practice is distinguishable (Kelly, 1988, cited in Letherby, 2003). It is distinguishable in the questions feminists ask, the location of the researcher in the process of the research and within the theorising and through the purpose of the work produced. Feminist research is concerned to “reveal what is going on in women’s lives” and to do so “in a way that is non-exploitative” (Letherby, 2003 p5). It is concerned with power disparities and the gendered nature of experience, placing the woman’s experience and empowerment at its core with an overarching intention of creating social change. For this reason, the research is relativist or constructionist in approach as it seeks to access the socio-economic and political constructs at play. In response to charges that this may constitute a bias Olsen (1980 cited in Letherby, 2003) points out that to a certain extent, all research is ideological, “the product cannot be separated from the conditions of its production”. Feminist research recognises and is explicit about this. Fine (1992, p218) points out, as researchers, “we select, edit and deploy” pieces of evidence “to border our arguments”, and so need to be aware and honest about the decisions we are making. She continues, “The problem is not that we tailor, but that so few researchers reveal how we do this work.”

Semi-structured interviews were conducted with 15 women who were currently or formerly involved in prostitution and who had a criminal record for prostitution-related offences; and ten stakeholders who had working knowledge of prostitution and the CJS. The interviews collected both quantitative and qualitative data. Fieldwork attempted to capture the experiences of women in different localities to gain an insight into differing criminal justice approaches, although the majority of interviews did take place in London.

Along with stakeholder and women’s data sets, the research also drew on secondary data from *Breaking Down the Barriers*. That piece of research held 114 first interviews with women about their lives in prostitution. It looked at how women had entered prostitution, their experiences within it and the barriers they face to exit. It identified nine main barriers

to exit. It then held a further 50 interviews with women who self-defined as having exited prostitution to examine their experiences of exiting.

Within the sample of 114 women, a cohort of 56 women had criminal records for prostitution-related offences. The interviews of these 56 women were reanalysed and form a data set to inform this report.

## 2.2 Interviews with women

Women were eligible to take part if they were over the age of 18, had current or previous involvement in prostitution, and had a criminal record for prostitution-related offences. Interviewees were mainly identified through support services.<sup>15</sup> A profile of these participants is described in detail at the end of this section.

The research tools were largely informed by the key themes that emerged from the secondary analysis of the *Breaking Down the Barriers* data. This directed and refined the focus of the research, highlighting areas to explore further in the fieldwork.

A quantitative questionnaire was used to capture basic demographic data, and information on women's involvement in prostitution and their involvement with the criminal justice system. More qualitative data was captured using an interview topic guide which contained more open-ended questions for flexibility, allowing women to control the pace and direction of the interview.

Following the initial draft of the tools, feedback was sought from a member of the women's advisory group to ensure that the questions were understandable, correctly focused and would not stigmatise interviewees.

The interview guide was then piloted with three women, resulting in some refinements, mainly concerning the order of questions and the addition of lead-in explanations. One addition was an introductory question at the beginning of the semi-structured interview on how the interviewee first became involved in prostitution and at what point they were first arrested or cautioned for prostitution-related offences. Open-ended questions have been found to facilitate discussion of sensitive topics (Goodrum and Keys, 2006) and from experiences of interviewing women in *Breaking Down the Barriers* and other research (Brown, 2013; Bindel et al, 2013,) women appear to be more comfortable with an informal, life-history approach.

The majority of interviews lasted about hour, although some were significantly longer. With women's permission, interviews were recorded and later transcribed. One participant did not wish to be recorded and therefore one researcher conducted the interview whilst the other took detailed notes.

At the end of the interview women were invited to talk about anything else they felt was relevant and which may not have been covered in the topic guide. The researchers then had a debrief-style conversation with women and gave participants a £10 voucher in appreciation of their contribution to the research.

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<sup>15</sup> Participants were accessed via support services which were prostitution specific and/or women only as well as more generic services such as drug and alcohol and accommodation services.

## 2.3 Interviews with stakeholders

The researchers approached a range of services known to be working on issues of prostitution, whether specifically or as part of a wider remit. The aim was to capture the extent to which a range of services might be aware of, understand and act on the impact of criminal records with this group of women. Eight semi-structured interviews were undertaken with 10 stakeholders:

- Head of Law, second tier organisation
- Community Safety Coordinator for a London borough
- Manager and Senior Outreach Worker for a London-based outreach team
- Police Inspector for a London borough
- Police Sergeant for a London borough
- Two Drug and Alcohol Practitioners at a drugs service
- Joint Commissioning Manager for a local authority
- Criminal Justice Worker at a support service (specific to prostitution)

The interviews were again semi-structured and open-ended with prompts, and the topic guides were framed around the aims of the research. As far as possible, researchers requested interviews with either relatively senior participants or participants who had fairly extensive experience in their role and with the issues. Again, interviews were usually about an hour long and, with permission, were recorded and transcribed.

Whilst the stakeholder interviews were a less prominent feature of the research, these interviews enabled the research team to collect data that had a greater focus on policy and practice-based challenges and recommendations.

## 2.4 Data analysis

All interviews were recorded and transcribed verbatim with names, places and services anonymised to ensure women could not be identified. Interview transcripts were analysed and coded to identify and draw out the key themes in relation to the research aims: "Thematic analysis provides a flexible and useful research tool, which can potentially provide a rich and detailed, yet complex account of data" (Braun, V. & Clarke, V. 2006, p6).

The thematic analysis in this research followed a constructionist method which seeks to "theorise the socio-cultural contexts, and structural conditions, that enable the individual accounts that are provided" (Braun, V. & Clarke, V. 2006, p85) and engendered a focus on "latent" themes. This is apparent in interpreting the data to identify themes of discrimination, which may not always have been explicitly articulated using such terms by participants, and in rationalising inherent contradictions in participants' individual data items.<sup>16</sup>

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<sup>16</sup> As Braun & Clarke (2006, p20) continue, "Note that no data set is without contradiction. It is not the role of the researcher to smooth out or ignore the tensions and inconsistencies within and across data items, but rather to acknowledge and consider them."

Given the relatively small number of interviews, thematic coding was done manually by the researchers. However, it remains necessary to assess rater reliability and consistency. To this end, both the selection of coding terms and rater coding throughout analysis were compared, discussed, refined and checked between researchers and with the research supervisor.

The data from the quantitative questionnaires were verified with audio files in order to complete any missing questions and ensure the information was accurate and consistent with the content of the semi-structured interviews. This data was then entered into Microsoft Excel. Some of this data is presented in section 3.1 Profile of women participants, and also incorporated into the findings section for illustrative purposes.

## 2.5 Ethics

Due to the small scale of the research and short time frame within which the fieldwork was undertaken, specific ethical approval was not sought. The research was, however, based on *Breaking Down the Barriers*, which had ethical approval from London South Bank University Ethics Committee and Camden and Islington NHS Research Ethics Committee. Given the similar focus of this past research it was felt that this ethical approval was sufficient and could extend to the current research. The research abided by Eaves' policies on data protection, confidentiality and safeguarding, whilst also adhering to the British Sociological Association and Social Research Association's codes of ethics.

The research had two advisory groups to provide ethical oversight and advice. One steering group consisted of professionals and practitioners whose remit related to prostitution or the criminal justice system.<sup>17</sup> This group provided advice and guidance on the progress and future direction of the research and wider project, as well as advising on ethical issues arising the course of the research.

The second advisory group consisted of women who had accessed support services at some point during their lives. A sample of women were contacted and invited to join the panel, and meetings were held every six weeks. The group worked around specific aspects of the research, providing feedback and advice on areas such as research tools and preliminary findings, as well as contributing to the wider project. The addition of this advisory group meant that the research and project as a whole had the oversight and input of women similar to those participating in the research interviews.<sup>18</sup> Participant involvement of this nature is advocated when researching sensitive topics (Goodrum and Keys, 2006).

With all research, a key concern is to avoid harm and negative effects to participants (Homan, 1991). In line with the British Sociological Association's *Statement of Ethical Practice*, which states that researchers must anticipate and guard against any consequences which could be harmful, a number of processes were followed to safeguard participants.

Researchers drew on support services in order to recruit women participants, and, together with support workers, assessed women's well-being and fitness to participate. Accessing women via support services also ensured that women had a further point of

<sup>17</sup> See appendix A for a list of steering group members.

<sup>18</sup> The panel of women was not intended to be representative of all women's experiences, but rather to enable feedback and input from a group of women who had accessed support services.

contact post-interview and that the researchers could debrief and take any concerns raised during the interview process to the women's key workers.<sup>19</sup>

Before interviews commenced, women were provided with an overview of the organisation of Eaves, the focus of the research, and what the interview process would involve. They were also given the opportunity to ask any questions. Women were invited to use terms and language that they felt comfortable with (such as "sex worker", "working girl", or "escort"), and this was mirrored by researchers.

Women's right to confidentiality and anonymity,<sup>20</sup> and information about how data would be anonymised and securely stored in locked cabinets and who could access it, was also explained. Participants were informed of their right to withdraw their consent at any time, terminate the interview, take a break, or pass on any questions they did not want to answer. The researchers could also terminate the interview if they had any concerns about an interviewee's wellbeing. At the end of the interview, women were given the contact details of the researchers should they want to discuss anything at a later date or have concerns arising from the content of the interview.

## 2.6 Limitations

### 2.6.1 Sample

This research is based on a small sample of new interviews, and a secondary analysis of interviews which addressed criminal records only tangentially.

Interviewees were mainly identified and accessed through existing networks and support projects which can result in an over-representation of women in crisis, of those involved in on-street prostitution or seeking to exit, and of individuals who work with these groups.

The size and nature of the UK sex industry is unknown and contested, and there has been difficulty in establishing any firm estimates (Cusick et al, 2009; Sanders, 2007). For all these reasons, therefore, this research makes no claims to generalisation or representativity of the UK Sex Industry.

Rather this is a purposive sampling, i.e. a deliberately non-random sample selected for knowledge relevant to the subject under study (Bowling, 2002). This is appropriate for researchers aiming to understand social processes rather than achieve statistical representativity, and enables focus on particular issue.

### 2.6.2 Data gaps

Interviewees with a history of prostitution involvement often have heightened concerns about confidentiality generally. The specific focus of this research on criminal activity and prostitution may have exacerbated these concerns such that some women may have been less than fully open with the researcher and not disclosed all the information about their offences.

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<sup>19</sup> In these cases this was always in line with protocol around breaching confidentiality and with the permission of the interviewee.

<sup>20</sup> Women were informed of their right to confidentiality and the limits to this, for example if there was concern about harm to themselves, another person, or a child.

In addition, confidentiality may have had to have been waived if specific details of a crime were disclosed or risks to safeguarding of women or third parties were identified. To some extent this is normal in researching sensitive issues (Bowling, 1996, Easton, 2010). Clear explanation of the limits of confidentiality in advance of interviews, working with women's support workers, and taking extra steps to meet and build trust with participants in advance of interviews all helped to minimise the danger of incomplete or inaccurate information being provided to the researcher.



## 3: Findings



## 3: Findings

This study builds on an earlier study (Breaking Down the Barriers, Bindel et al, 2012) which involved 114 first interviews with women (on-street, off-street and trafficked though a considerable overlap existed between these categories) about their experiences in prostitution. Researchers then conducted second interviews with 50 of those women looking at their experiences of trying to exit prostitution. In this study, several barriers to exiting prostitution were identified, of which criminal records generally (68%), and criminal records specific to prostitution (49%), were cited by a significant proportion of women. The findings that follow will refer back to some of these barriers and so they are summarised below.

The barriers to exiting identified in the previous study include:

- Problematic substance use
- Housing problems
- Financial issues (debt and lack of disposable cash)
- Coercion<sup>21</sup>
- Physical and Mental Health
- Lack of qualifications
- Criminal records
- Childhood violence
- Age of entry

This study wished to explore the extent to which prostitution-related criminal records were a barrier to exit, and how this barrier might intersect with and exacerbate other barriers. In order to do so, this research undertook a further detailed 15 interviews with women specifically about their criminal records.

### 3.1 Profile of women participants

15 women took part in the new interviews for this research. The demographics of the sample were as follows:

- Women were between the ages of 27 and 65; the mean average age of interviewees was 43.5
- Ten women were currently involved in prostitution, seven of whom were trying to exit and three had no plans to exit. Five women had exited at the time of interview;

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<sup>21</sup> As trafficking (fig. 1.) inevitably involves coercion, it is subsumed into coercion for purpose of discussion.

- In terms of women's place of involvement in the sex industry:<sup>22</sup> five were involved in off-street prostitution, five in on-street prostitution, and five fluctuated between on and off-street locations<sup>23</sup>
- At the time of interview, twelve women classed themselves as unemployed, some of whom were claiming benefits. Two women were of retirement age and classed themselves as pensioners, and one woman was in full-time employment
- Seven women had no formal qualifications, five women had qualifications at secondary level, two had further qualifications, and one woman had vocational qualifications
- At the time of interview, twelve women had debts, some of them multiple. Most commonly they were the result of money owed for rent, bills and loans (both loans from companies and friends or associates). Approximate amounts women owed ranged from £82.00 to £12,665.00

### 3.2 Involvement in the criminal justice system in relation to prostitution

- All fifteen women had a criminal record for prostitution-related offences;<sup>24</sup> the nature of these records varied
- The most common offences on women's criminal records were loitering and soliciting for the purposes of prostitution (fourteen women).<sup>25</sup> Four women only had cautions for these offences, 10 had convictions, and one woman was arrested but not convicted after opting for a court diversion scheme
- By place of involvement, all on-street and off-street women had records of this nature (loitering and/or soliciting), as well as four of the women working between both on and off-street. At the time of interview the off-street women were currently involved in prostitution off-street. At some point, however, they had all had involvement on-street, and this was when they had received criminal records of this nature
- Women also reported receiving multiple warnings from the police for loitering and soliciting
- Two women had offences for carding (placing an advert for prostitution within the vicinity of a public telephone box, as defined by the Criminal Justice and Policing Act 2001). One of these women was involved in off-street prostitution, whilst the other moved between on and off street

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<sup>22</sup> This was determined by where women were predominantly involved at the time of interview. For those who had exited this was where they were predominantly involved before they had exited.

<sup>23</sup> Previous research (Brown, 2013; Bindel et al, 2013) has highlighted the increasingly transient nature of prostitution, with women moving between on and off-street locations during the time they are involved in prostitution. Women were classed as transient if they had been, or were currently, involved in both on and off-street prostitution but one location was not predominant.

<sup>24</sup> Some women had records for a number of different offences (for example soliciting and carding), therefore the offences exceed the number of women.

<sup>25</sup> It is important to note that although the legislation has changed now, the legacy of the legislation still has long-term ramifications for women.

- The number of offences on women's criminal records ranged from one caution, arrest or conviction, to hundreds<sup>26</sup>
- 11 women had appeared in court for prostitution-related offences
- When appearing in court, three women had been offered the opportunity to take up a court diversion scheme. All three women opted for this
- Eight women reported being fined for prostitution-related offences, all of whom had been fined on more than one occasion. Fines ranged from around £20 to £450, with one woman reporting several fines for the latter amount
- Two women reported debts as a result of not paying fines for prostitution-related offences
- Three women had received an ASBO, which was related to their involvement in prostitution. Two of these women had breached their ASBO
- Eight women had received a prison sentence for prostitution-related offences. One woman received a custodial sentence following conviction for soliciting offences,<sup>27</sup> four for non-payment of fines and one for breaching the conditions of an ASBO. Two of the eight women received a custodial sentence for an accumulation of offences, including prostitution-related offences. Women reported receiving short-term custodial sentences of one or two weeks, three months, and six months
- One woman had received a community-based sentence for prostitution. While this was a conditional discharge (which can be more generic) her specific conditions were to access support at a prostitution specific support service
- No women had received an Engagement and Support Order (ESO)<sup>28</sup>

### 3.3 General involvement with the criminal justice system

- At the time of interview three women had pending legal matters and three women were subject to current orders, conditions or requirements (for example, bail conditions or probation).
- 13 women reported criminal records for offences other than prostitution-related ones.<sup>29</sup> Many women had multiple other offences on their criminal records
- 10 women reported criminal records for offences against the person. Such offences included using threatening words and behaviour, assault, and carrying an offensive weapon

<sup>26</sup> This is inevitable given that prostitution for many women is a survival strategy, and creates a bar to exiting as repeat convictions for the same offence is the basis on which DBS results are not exempt from disclosure.

<sup>27</sup> The use of custodial sentences for prostitution-related offences was removed in 1982. This woman became involved in prostitution at an early age before the change in policy and reported receiving custodial sentences when she first became involved.

<sup>28</sup> In the case of some women in the sample, they had exited and were involved in prostitution before the introduction of community-based sentences for prostitution.

<sup>29</sup> Of the two remaining women, one *only* had a criminal record for prostitution-related offences, while this data was missing for the remaining woman.

- 12 women reported a criminal record for acquisitive crime. Shoplifting was the most common offence (ten women), while other offences included fraud, robbery, and handling stolen goods
- Nine women reported a criminal record for drug-related offences, five of whom had offences for possession
- Seven women reported having a current or previous Drug Rehabilitation Requirement (DRR)
- 13 women had been on probation for other offences, either previously or at the time of interview
- No women had received an ASBO in relation to other offences
- 13 women reported receiving a custodial sentence for offences not related to prostitution. Two of these women had served a custodial sentence for a combination of offences, including prostitution-related ones

### 3.4 Exiting and other barriers

- Three of the five women who had exited at the time of interview said that they had exited with formal support from services. One woman had exited with a combination of formal and informal support (for example from a partner or family member), and one woman exited with no support
- In addition to having a criminal record for prostitution-related offences, *all* women faced multiple other barriers to exiting.<sup>30</sup> The average number of barriers that women faced (in addition to the criminal record barrier) was six
- The number of barriers that women faced (in addition to the criminal record barrier) were: all eight barriers (1), seven barriers (7), six barriers (2), five barriers (3), four barriers (1), and three barriers (1)
- The specific barriers that women faced were: money problems (debts, survival or disposable cash) (15 women); problematic drug and/or alcohol use (14); housing (14); physical and/or mental health problems (13); childhood violence (12); coercion (9); lack of formal qualifications (8); and entry into prostitution under the age of 18 (6)

### 3.5 Outcomes for prostitution related offences and their impacts

This section explores some of the measures the CJS applies to women with prostitution-related offences and their impacts. These measures include:

- Fines
- Anti-Social Behaviour Orders (ASBOs)
- Custodial Sentences
- Community-based alternatives

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<sup>30</sup> See *Breaking Down the Barriers* (Bindel et al, 2012) for a detailed discussion of the barriers women face to exiting prostitution.

### 3.5.1 Fines

Eight out of the 15 women participants reported that they had received fines for prostitution-related offences, all of whom had received fines on more than one occasion. Fines ranged from £20 to £450. It was not uncommon in this group of women for some to report that they had received fines so frequently from their involvement that they were unable to remember in total just how many they had received. This reflects the fact that, when prostitution is a survival strategy, being fined is essentially an occupational hazard.

#### Fines: entrenchment in prostitution

One woman in the sample, who had entered prostitution at the age of 13, had been involved for 39 years. In the last few years she had started to receive substantial fines of up to £450 each time from the court as a result of arrests for carding (placing an advertisement in the vicinity of a public telephone box, in a public place or on a public structure), and had no other way to pay off the fines:

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*"... where I've already been arrested, and paying the fine off and... then I've been arrested again. And they know that I am going to pay my fines by prostitution, how else can I pay them?" [I12]*

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When asked what she thought about the use of fines by the courts for prostitution related offences, she replied:

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*"I think it's terrible because it's not going to help me, you know, not do it again is it? Because I'm going to have to pay a fine, I'm going to have to keep prostituting to continue to pay my fines... and it doesn't do anything... It just pisses you off even more and you put yourself into more situations." [I12]*

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One woman expressed significant anger at this situation and the irony of it:

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*"What? And now I got to go out and sell my pussy for the government as my pimp, no way!" [I12]*

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Stakeholders tended to agree with criticisms of fines as a response. The Police Inspector, although feeling the need for some police involvement, also believed that court fines were coercing women to remain in prostitution:

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*"Obviously, the power of arrest for loitering, in my opinion, is fairly pointless, because you go to court and they get a fine... And they are not going to go out and get a job to pay it, the quickest way to pay their fines is to go back to... you are almost forcing their hand." [ST04]*

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## Fines: entrenchment in the criminal justice system

Matters can escalate rapidly for women with fines. There may be a range of reasons why women do not pay their fines. Non-payment of fines can result in more serious consequences, including custodial sentences, as was the case for four women in this sample.

One woman involved in on-street prostitution reported the usual sequence of events which had led to her having several outstanding fines:

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*"I'd get arrested. They'd keep me overnight, take me to court in the morning and then I'd get a fine, or you know. And that's it... I couldn't pay the fines I, I had a drug problem and, you know, I needed money for drugs I couldn't a, I couldn't afford a hundred and eighty pound fine, you know?" [I07]*

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Conversely, other women in the research had decided not to pay the fines because they did not want to have to prostitute themselves in order to pay money to the government, and would opt for the alternative punishment instead. This was illustrated by a woman who was currently involved in prostitution both on and off-street, and had been to prison several times for non-payment of fines:

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*"Well to pay the fines you've got to go out and do a man to get the money to pay the fine... So I just wouldn't pay the fine. I'd just take a break, go into [women's prison], take a break, you come out, you got money saved up so, somewhere." [I04]*

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## Fines: exacerbation of pre-existing vulnerabilities and barriers to exit

One participant who described issues with non-payment of fines [I07] had recently entered drug treatment with a view to exiting prostitution. However, she anticipated being arrested in the near future for the fines which were still outstanding. She was therefore additionally concerned that if she were arrested this could negatively impact on her ability to go through with her treatment. She felt strongly that drug treatment was vital to her attempt to exit.

Drug and alcohol addiction can be both a cause and a consequence of prostitution, and is a major barrier to exiting prostitution. Measures which disrupt access to drug and alcohol treatment increase the difficulty of exit.

Fines and their consequences can therefore exacerbate women's vulnerabilities, entrench women further in the criminal justice system, and hinder efforts to exit and sustain a new life.

### 3.5.2 ASBOs

Three out of 15 women had received an ASBO related to their involvement in prostitution. Two out of the three women had breached their ASBOs, with one woman receiving a six month custodial sentence as a consequence. A minority of stakeholders stated that the use of ASBOs might be perceived, by the community, to have some possible benefits. For example, one Police Inspector stated:

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*"I know [London borough], they had a massive reduction and that was they just ASBO'ed them to death..." [ST04]*

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However, he went on to acknowledge that some of the women who had received ASBOs had simply moved just down the road into neighbouring boroughs and continued soliciting. He also acknowledged that such approaches do not address the root causes of prostitution or offer any help for the woman:

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*"But... it's a lot of work and what does it do when the ASBO runs out, they're not going to get an ASBO and go: 'Oh I better sort my life out, stop doing all this and get off drugs.' They need someone, and I don't know who it can be, whether the diversion schemes are the right people or not, it needs someone to break the cycle." [ST04]*

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Overall, the use of ASBOs as a response to prostitution was described by the majority of participants as punitive, impacting negatively on the women involved. The impacts and consequences of ASBOs for women who took part in this research were both direct and indirect, and often very far-reaching.

#### ASBOs: alienation from relationships and networks of support

Women reported no longer being able to contact family, friends, and supportive networks after being excluded from a particular area. On a direct, practical level, this can disrupt women's strategies for reducing risk of further harm. It can also disrupt engagement with key services she is accessing either for her well-being, or in some cases in attempts to exit. It is also well established (Covington, 1998, 2002) that positive relationships and emotional support are fundamental cornerstones for women's well-being and stability. Their disruption will have serious repercussions on women's hope, motivation and engagement in any attempt to exit and move on. These relationships can be so important to women that they can risk further criminalisation purely to maintain the link.

One woman reported that on occasions, although subject to an ASBO, she had sometimes taken the risk to come into the relevant area to see friends and to access support services. Although she tried to hide from the police, she was not always successful and consequently had sometimes been arrested on breach of ASBO.

Two women described how their convictions were listed in the local newspaper. This could of course be the case for any of the criminal justice measures discussed here, but the effects on women were notable. One woman described how this had serious long-term

ramifications on her relationships with her daughters, from whom she had wished to withhold the information but who learnt of her involvement from the news report:

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*"And also, I tell you something now that really um, when I got arrested in [borough in south London], they put that in the newspaper, printed that in the newspaper and I was really upset about it cos my daughters didn't know about it at the time." [I12]*

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### **ASBOs: detrimental impact on housing and related safety and well-being**

Housing issues are relevant both in women's entry into prostitution and a major barrier to women's ability to exit prostitution. ASBOs and other convictions for prostitutions can jeopardise women's housing and increase their vulnerability to homelessness and exploitation.

In one case a woman who had been threatened with an ASBO was extremely worried about losing her tenancy and the implications for her personal safety and wellbeing as a result. When asked what effect an ASBO would have on her circumstances she replied:

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*"Well I'd have to [sex] work more to get more rent, you know, cos if I get thrown off [housing], if I had to go to public housing and, you know, private sector... I'd have to put myself in a vulnerable situation again and I don't know where I'd end up living, or who I would end up living with." [I12]*

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Similarly, the Senior Outreach Worker interviewed for this research reported how a woman she knew of with an ASBO for prostitution was not permitted to access emergency accommodation in the local area due to the restrictions, making her vulnerable to being made homeless:

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*"We've got somebody for example who's accessing a service...who's been subjected to an ASBO and it just means it prohibits her using one of our emergency beds because her ASBO is enforceable from five o'clock in the evening to nine o'clock the following morning... Which is just obscene really, to be honest" [ST03]*

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### **ASBOs: detrimental impact for women who also have drug/alcohol issues**

A further impact of an ASBO highlighted by the women participants and stakeholders was reported to particularly affect those with a dependency on drugs or alcohol. Unable to continue to earn money through prostitution to fund their substance dependency, women may turn to acquisitive crimes to obtain cash or goods to exchange for drugs and/or alcohol.



One woman who had experienced problems with drug addiction for several years had recently received a three year ASBO for soliciting so turned instead to shoplifting:

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*"It was hard cos I couldn't work in the area and every time I was seen I was arrested... I started shoplifting and things because I couldn't come in the area... it was horrible...I didn't know what to do...They put, they put me in a worsen [sic] situation than what I was before." [I07]*

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If women with drug and alcohol problems are given an ASBO and not able to access support services to address these issues, not only will their substance abuse issues deepen, but they are at risk of becoming further criminalised for other offences which carry a higher penalty.

### ASBOs: entrenchment in the criminal justice system

The Police Inspector also noted this switch or shift in crimes as a common occurrence when police undertake operations to target women involved in prostitution in a certain area:

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*"The problem we've got is if we drive them out of there and they don't get off the drugs... when we really purge an area, we will see the nearest retail area to that will go through the roof for thefts...." [ST04]*

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As with the non-payment of fines, the punitive repercussions of breaching the terms of an ASBO can rapidly escalate. One Criminal Justice Worker described this:

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*"I think that that whole enforcement is really unhelpful... the potential repercussions of breaching an ASBO are more than what they would be for breaching an engagement and support order, so it can lead to imprisonment and obviously further evidence on your own criminal record." [ST08]*

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### 3.5.3 Custodial sentences

Custodial sentences were common amongst the women in the research. One woman had begun her involvement in prostitution before 1982, when the use of custodial sentences for loitering and soliciting for the purposes of prostitution was removed; consequently, she had received custodial sentences for soliciting. Some other women received them for non-payment of fines (four women) or breaching the conditions of an ASBO (one woman). Two of the eight women received a custodial sentence for an accumulation of multiple offences (including prostitution related ones) that were dealt with in court at the same time. In general, these are likely to be short term sentences – in this sample, women had received one or two weeks, three months, and in one case six months. Such short sentences are unable to facilitate access to sustained support work or interventions.

As discussed in the literature review, short sentences have been shown to reduce women's recovery capital by impacting negatively on relationships, housing, and future employment opportunities in the long term. It is not uncommon for women to be imprisoned far from their home, making it difficult for family to visit. Indeed, imprisonment

will also mean at least temporary loss of any children. The breaking of key relationships can have extremely retrogressive impacts on women. It particularly depletes hope and motivation, so can have lasting damaging mental health effects and entrench women further in prostitution. If women spend more than thirteen weeks in prison they face losing their housing benefit and their house.

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*"They took the kids, and they took the flat. Cause I was in temporary accommodation. Then while I was in [women's prison in London], ...they packed up all my stuff and I no longer have a place. I had nowhere to go when I came out of there. I was actually, no, I was living at a punter's house actually when I came out." [104]*

*"You can go to prison, do your time in there and come out and you're still back on the road. That's what's happened to me." [102]*

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### Custodial sentences: indirectly "beneficial" experiences of prison

Perhaps surprisingly, and in contrast to most research as discussed above, some women described indirectly beneficial elements of going to prison, including that it would provide an opportunity to take a break from drug use, prostitution, abusive partner/pimps and street activity. Such comments highlight how much the state is failing these vulnerable and marginalised women if their only experience of support and relatively improved health, wellbeing and safety occurs in prison. Some literally describe going to prison as "taking a break".

Women entrenched in street prostitution, who are using drugs and alcohol problematically, tend to have various physical health needs. Similarly, women in this research reported issues such as low weight through lack of nutrition and high level of drug and alcohol use, lack of sleep and self-neglect. In relation to this, some women described prison as an opportunity to: develop a regular routine: sleep each night, eat meals to gain weight, have respite from drug use, and have access to their most basic needs. This was the case for one woman who served a seven-month sentence for multiple offences, including soliciting and loitering for prostitution:

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*"When I got there, it was alright, do you know what I mean? You had your cell and you had routines, you know what I mean... cos when I got jail I was five stone. There was nothing on me... Yeah, I was in a bad way so, and then getting my meals, I come out and I was nine and a half stone, I was like bloody hell... I think if I didn't get to jail I don't even think I'd be stood here right now, do you know what I mean." [115]*

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She described how prison ended up being almost like a "wake-up call" that ironically gave her an "opportunity" to turn things around:

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*"I think going to jail really made me realise a lot. You had a lot of time to think. Do you know what I mean?" [115]*

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Another woman, who was forced into prostitution at the age of fourteen by a pimp, described how prison had previously provided opportunities to escape from him for a short while:

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*"When I first started to work, everybody had pimps... And if you had a pimp sometimes it was a good way, you know, to go prison cos you got away from him." [101]*

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(This woman remained in prostitution until she was 62, saying that over the years she had been to prison around 100 times.)

Another woman who had been kidnapped on the streets, raped and almost killed by a group of men, told how she felt when she eventually went to prison for an accumulation of multiple offences:

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*"It was mixed emotions, I was scared and lonely but then on the other side it was what I needed." [115]*

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Two women said that they were able to exit prostitution after they had left prison. Both received support in prison and had access to services to help make that possible. Many participants, however, described how after the short "break" of being in prison, they would return to very similar or worse situations:

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*"Well you'd just be thrown out the door, cos you're like a bed-and-breakfast prisoner... That's what they used to call you, the bed-and-breakfast people." [108]*

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Most of the women in this research stated that they had received little or no support in prison or when being released. Even those who described indirect and coincidental "benefits" from going to prison were in fact "benefitting" purely from escaping their day-to-day lives rather than actually accessing support. This reflects the findings outlined in the literature review that besides custody being inappropriate and the duration being too short to access any services, in fact there are not sufficient specific knowledge and skills among prison staff to support women with complex needs. The recent revisions to the criminal justice system have included a commitment to all those on short term sentences receiving twelve months' supervision on release. It remains to be seen what this may mean for women and their ability to access specialist services or whether it merely exposes women to increased criminal justice interventions should they be unable to adhere to conditions.

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*"Support services that were offered to me were the DIP [Drug Intervention Programmes] services, you know, the drugs services...But there was nothing to offer me services for prostitution, or support around that...And I think that's quite important you know when women get arrested." [112]*

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### 3.5.4 Community-based alternatives

Community-based alternatives for women involved in prostitution were introduced under the previous Labour Government's strategy (Home Office, 2006) with the aim of diverting women away from the criminal justice system and offering more rehabilitative options.

Three women in this sample had been offered a court diversion scheme and all "voluntarily" took it up. No women had received an Engagement and Support Order (ESO) or a Women Specific Caution (WSC).<sup>31</sup> One woman had received a conditional caution that required her to attend a drugs service and a prostitution-specific support service.<sup>32</sup> Seven women also reported receiving a Drug Rehabilitation Requirement (DRR).<sup>33</sup> Not all of the locations covered by this research used community initiatives specific to prostitution (diversion schemes and/or ESOs) and only one location had implemented ESOs. Some solely used DRRs whilst none used WSCs. At the time of interview, three stakeholders in different local authorities were exploring ESOs and court diversion schemes as alternatives to administering fines and ASBOs.

#### Community-based alternatives: prostitution-specific alternatives

In general, women and stakeholders supported the use of community-based sentences for prostitution-related offences as a more constructive alternative to other sanctions. Those women who had used court diversion schemes spoke of their surprise and optimism:

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*"I couldn't believe it! I couldn't believe somebody was going to... If I went to, I went to two appointments with these people, they were going to throw it out of court... I couldn't believe that that kind of help was out there for me."*  
[10]

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One woman, who was currently involved in prostitution and had accessed the court diversion scheme, explained how it was helpful at meeting her specific needs:

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*"I think that's a better approach than having to go to court I do, yeah... they've got a drop-in centre. You get to meet other people plus the services, the other services they've got is like if you're homeless they can help you, if you're on drugs, if you need a shower, if you need clothes washing, if you need food, if you need counselling, if you need courses, if you need to be escorted to a doctor's or a dentist or somewhere like that then they'll be there for you. And just someone to talk to and meet other people... stuff like that... it's more than avoiding court."* [110]

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Several participants thought that the initial appointments arising from diversionary measures might provide an introduction to services so that women could re-engage and

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<sup>31</sup> While prostitution-related offences are not trigger offences for WSCs, they have been referred to here to highlight that no women in the sample had received them, and in order to explore the intervention as a possible option for women involved in prostitution.

<sup>32</sup> Due to the specific conditions of this woman's conditional discharge, it was classed as a community-based alternative specific to prostitution.

<sup>33</sup> Whilst DRRs are not specific to prostitution they are community based, mandatory orders imposed by the courts which several women reported receiving. They are a widely-used initiative and share some commonalities with other community alternatives and will therefore be referred to where relevant.

access support in the future. It is evident that for some women, accessing a court diversion scheme had a positive impact. One woman who had been involved in prostitution since a teenager noted that she had not received any fines since accessing the court diversion scheme:

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*"I haven't been in trouble, I haven't had any fines for prostitution or been in trouble since I came here." [10]*

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For another woman, the support that she had received had increased her self-esteem and opened up options other than selling sex:

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*"It kind of showed me that, you know, what you really truly, you know, you need, you need to pull up and it showed me that I needed to pull up. That I was worth more than I ever really thought." [10]*

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### Community-based alternatives: drug rehabilitation requirement (DRR)

Over the last few decades, drug treatment via criminal justice interventions has become a prominent feature of drug policy and practice in the UK. In general, there was support for DRRs amongst women and stakeholders in the research. They are still punitive, however, and if women breach the order they may still face further criminalisation. Nonetheless, they were seen as positive interventions because they helped to address women's drug use, a need which many stakeholders and women saw as a barrier to exiting prostitution.

One woman noted that, whilst the drug support that was offered to her was beneficial, there should be additional, specific support for women to help them exit prostitution:

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*"Support services that were offered to me were the DIP [Drug Intervention Programmes] services, you know, the drugs services...But there was nothing to offer me services for prostitution, or support around that...And I think that's quite important you know when women get arrested." [12]*

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As other research discussed above has acknowledged, drug treatment alone is not always sufficient to assist women to exit. Careful consideration needs to be given to the relationship between women's drug use and their involvement in prostitution in order to assess what support would be useful.

One stakeholder also stressed the need for support contained within community-based initiatives to be appropriately focused, with wraparound services that support women to exit.

### Community-based alternatives: problems with community alternatives

Interviewees also noted several problems and concerns with community alternatives, including the fact that they are generated only on arrest. One overall problem was that community-based alternatives are not widely available or known about. Whilst there are several diversion schemes in London, in line with other research, this study found that they were not available in the other locations covered in this research and ESOs were only used in one locality

## Community-based alternatives: mandatory element

While diversion schemes are voluntary, ESOs and other orders can be compulsory,<sup>34</sup> and some women regarded this as problematic. As discussed above, the impact of this mandatory element has previously been questioned with regard to ESOs and mandatory drug treatment, noting that it faces a higher risk of failure because motivation is critical to participation and successful outcomes. Some stakeholders shared these concerns but raised additional concerns from a practitioner and organisational perspective. There is a difficult balance to strike for a support organisation which needs to maintain the confidence and trust of service users while engaged with a state and enforcement-based initiative. As one stakeholder highlighted, compulsory orders may negatively affect women's perceptions of, and engagement with, a voluntary-based service delivering the interventions:

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*"I just think that kind of goes against what [service] have done as a project historically... yeah, [service] don't want to get pulled in too much to the kind of, to comply with them. And actually, what does that give in terms of [service] supporters, does it show that [service] condones what they're doing?" [ST08]*

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It has been highlighted that women have to be ready to exit and attempting to persuade them to do so when they are not could have negative impacts such as relapse and disengagement with services (Broadway, 2008). Other women participants, however, believed that the coercive element might at times be beneficial to some extent. One woman, who had received a DRR and compulsory court order, noted that she would not have accessed services if she had not been required to do so. Similarly, some stakeholders said that the coercive element can encourage some women to access support when they are hesitant to or have not been engaging with services:

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*"particularly for people who are scared of coming along to a programme... Or whatever apprehension they may have. Coercive elements work better I think because they've got to go, and once they realise that actually these people don't bite and they're actually there for me." [ST07]*

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The Criminal Justice Worker highlighted that the few times ESOs had been effective and beneficial were when women were not already engaged with a service. The negative consequences that mandatory orders can have should always be considered though, including whether such orders would be beneficial to the person concerned (Home Office, 2010) as well as the impact on the reputation of the service.

## Community-based alternatives: up-tariffing and net-widening

In line with Easton et al's findings discussed above, one stakeholder highlighted how some community measures could lead to net-widening and up-tariffing. The Criminal Justice Worker, when asked how effective she thought community based alternatives were, described how women would often already be engaged with their services of their own

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<sup>34</sup> In the case of ESOs, the consent of the individual is sought. However, legislation allows for them to be implemented without consent.

volition. If they were put on an ESO or conditional caution this could duplicate provision, provide no added benefit and yet intensify the involvement of the criminal justice system.

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*"In terms of how effective they are, that really depends, cos I can feel like it's a real duplication of work actually... So we're kind of already doing the work." [ST08]*

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The way in which community-based alternatives are applied can be inflexible and inappropriate for some women. Their circumstances, including in some cases being subject to coercive control from abusive partners and/or pimps, are such that it may be very unreasonable to expect them to be able to adhere to conditions (e.g. attending appointments). A breach of conditions could then exacerbate women's situation and attract more severe penalties, as the Criminal Justice Worker explained.

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*"... but it [ESO] also doesn't really recognise, like my first one I think that I had through... she was being really heavily coerced... all her movements were controlled, when she was out, how long she was out, what happened to her money. So funnily enough, you know, she wasn't able to come to [service] to access, you know, to come to a support service to try to get her to stop doing what she was doing... that wasn't within her choice." [ST08]*

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### 3.5.5 Contradictions, inconsistency and availability of community alternatives

Community-based alternatives were seen to be positive but not ideal, and by no means a reliable solution to the problems of criminalising women involved in prostitution. Several stakeholders highlighted that there are a number of shortcomings, inconsistencies and contradictions inherent in these CJS responses.

They highlighted that there seemed to be confusion arising as to whether the response should be punitive or supportive, and how to strike a balance between the two. They highlighted that availability of such measures depended on the level of knowledge or awareness about such measures and that even where an ESO might be considered, there may not be an appropriate service to which to refer women. They highlighted that as the availability of such measures is discretionary, it fluctuates according to geographic location, particular circumstances or events, particular personalities in charge or policy priorities. Stakeholders felt that the huge variation reflected the wider problem of a lack of any clear vision, direction or strategy for prostitution.

Some stakeholders highlighted shortcomings in the courts, noting that there is guidance for the courts but sentencing is at the discretion of magistrates. It is not always clear what the decision-making process of magistrates is, and not all magistrates are aware of ESOs:

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*"The frustrating thing, not just in [borough], but right across London is different courts, different magistrates, um, you know, deal with things in different ways... so someone could end up with a fine, someone could end up with a verbal warning... Others could end up with a custodial sentence." [ST02]*

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*"You never know how magistrates reach the decisions they do because you're not permitted to do research on those things... therefore it would be very difficult to know what motivates the magistrate to move to a particular sentencing or other option." [ST01]*

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This reflects other research findings (Bindel et al, 2013; Atkins, 2010) about the poor knowledge and inconsistency in courts of community alternatives like ESOs. Similarly, both police stakeholders said they had had tried to work more closely with magistrates by briefing them on the options, but they were not confident that this was taken seriously. The Criminal Justice Worker had personally appeared in court to explain the options and felt that this had raised awareness and assisted magistrates. While this is a positive and effective approach, it is resource intensive: most services cannot spare the time for their staff to participate in this, and it should in any case not be necessary.

Other stakeholders focussed on the variation in policing and the lack of an overarching strategy on prostitution:

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*"it's about local policing policies and agendas and what they need to show to be doing in different areas, it is quite political I think. And so therefore without a kind of unified approach which is told to all police forces I don't know how that would happen." [ST08]*

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The Police Inspector and Police Sergeant focused on the delicate balance between enforcement and support. On the one hand, they must demonstrate enforcement and punitive action to be seen to meet the numerous complaints from residents. On the other, they wish to encourage women into support to develop viable alternatives to prostitution:

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*"We did have funding... to try and divert them [women], but it's not gone as well as I'd hoped and their only answer at the time, this time was well don't arrest any of them, we will divert all of them. But it's like how long do we leave that... when you've got, you know, fifty complaints a week coming off residents and we're not seen to be doing anything." [ST04]*

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Referring specifically to ESOs, the Criminal Justice Worker also highlighted the support/enforcement dilemma:

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*"The difficulty with engagement and support orders is that it's been kind of almost designed under the rhetoric of wanting to get the women support and understanding their vulnerability... but actually in reality it kind of almost justifies further criminalisation I think... it's all done under the guise of supporting the women to exit." [ST08]*

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Focusing on the arbitrary nature of policy responses, interviews with women and stakeholders in one locality described how in response to some high profile and serious cases of violence towards women in prostitution, and due to the decommissioning of the



targeted outreach services for the women, the police had been seen to increase their enforcement activity. This stakeholder reported that this resulted in a marked reduction in the visible levels of on-street prostitution, but that women changed their behaviour and started arranging to meet buyers via mobile phones (for example), and moving into other crimes such as shoplifting. However, this did not last. The Joint Commissioning Manager from this research location described how the local authority had since re-commissioned and implemented a joint outreach initiative to link women in with services and police were reported to have reverted to a less a punitive approach.

Police response at a different location covered by the research had also changed over the preceding four years, in this case from a fairly lenient stance towards the women and challenging demand from buyers to one that was more punitive towards the women. The Criminal Justice Worker here suggested that these changes were due to a combination of factors including the introduction of anti-social behaviour orders (ASBOs) and changes within the police team notably the disbanding of specialist police teams and installation of a generic response:<sup>35</sup>

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*"Officers have been working on that team for a while so they were quite clued up, they were quite sympathetic, they were quite used to the women, the women knew them. I would say that they then disbanded that and made the team wider to include all anti-social behaviour... there's [now] a diluted understanding of the women's issues and women's needs and sympathy towards them I would say. So, that's made it increasingly difficult." [ST08]*

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In another locality, again highlighting events-dependent policing, one of the women highlighted how during the approach to the Olympic Games she received a six-month custodial sentence for breaching her ASBO, and that this was significantly longer than the usual sentence she would receive in such circumstances.

Besides the obvious lack of transparency and consistency in approach, there are practical and financial implications for the specialist services in the commissioning chain: once lost, it is very hard to resurrect such services and such a body of expertise.

### Further inconsistencies

Two other areas of inconsistency were observed. These related to the age of the women and girls, and to perceptions as to their dominant place of involvement (i.e. on-street or off-street).

As previously highlighted (Bindel et al, 2012), the legal distinction between those who are involved in prostitution under the age of eighteen and over eighteen is problematic and contradictory. Those under eighteen are entitled to protections and classed as sexually exploited. However, at the age of eighteen, a woman is deemed to be an adult who has made a free and informed choice and becomes subject to criminalisation under UK law.

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<sup>35</sup> The move to generic, and as a result race and gender "neutral", service delivery reflects an assumption in the climate of austerity that this is cheaper (at least in the short term). It has been tracked across a range of statutory and non-statutory services but shown to result in loss of specialist services and expertise with a detrimental impact on achieving equality of access to services and to justice (Moses L.J. 2007, in Kaur and Shah V. London Borough of Ealing (2008); Barings Independence Panel on the Voluntary Sector (2015).

This was exemplified by one woman who had experienced child abuse at an early age before being coerced into prostitution at the age of thirteen. She was arrested aged eighteen and afforded no recognition or regard for her involvement as a minor and the circumstances which preceded her involvement. The experiences of this woman and others show that consideration needs to be given to how an adult woman's involvement in prostitution and her circumstances can be an extension of her adolescent years and of abuse (Bindel et al, 2012).

As has been noted elsewhere, there is often a perception that visible (on-street) prostitution is much more heavily policed than off-street. This was illustrated in the attitudes of the police officers interviewed for this research.

The Police Sergeant reported that the police team works in conjunction with the local authority to address off-street prostitution by using the council's powers of entry to premises, and works with the council directly by using civil orders or by conducting welfare checks, gathering evidence and placing the onus on the landlord to evict the tenants. Both officers stated, however, that with on-street prostitution, ASBOs are currently used in both localities.

Research has shown (Bindel et al, 2012) that there are often striking similarities in women's circumstances and experiences of being involved in different aspects of the sex industry. Even so, the women in the research noted stark differences as to how the police approach on and off-street prostitution. The differences included not only the practical processes that the police used in order to address the issues, but also the language used to describe the experiences of the women.

In discussing the policing approach to off-street prostitution, the Police Inspector described how the police provide an opportunity for women to disclose whether they have been trafficked or exploited. However, he said that he had seen little evidence of this:

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*"We've had no suspicion, no reason to suspect, most of them, I've only been on a few visits and the women ... are very intelligent. A lot are Eastern European, who just say: 'I work during the week doing whatever and on a Friday or Saturday night, come down and work here.' A lot of them are from Luton and places like that, that come down, you know, just to make their wages up. It's not like, you know, they're not drug addicts or anything, they're just very savvy as I would say, people who want to make as much money as they can. In their mind, I'm pretty sure, you know, they know it's not the number one job choice but to them it's not, you know, horrific."*  
[ST04]

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He then provided a comparison of women's experience of on-street prostitution:

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*"They're not like the street sex workers where... you could feel sorry for them because they're, you know, everything, it's all gone wrong hasn't it, there's no way out, their world is like literally I've got to do this to get 20 pounds to go and pay for the drugs and there's no end to it. Whereas these girls, you, you know it's like if I was having a conversation now, you wouldn't look at them on the street and think: 'oh no, they are on the way down,' you'd no give them a second glance, ever." [ST04]*

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The perception is that those operating off-street face little coercion and exercise agency, autonomy and choice to make business decisions in order to maximise their income. In contrast, women involved on-street, according to this officer, are vulnerable, in need of support, and have been coerced by circumstances or a third party. However, there is growing evidence both of a fluidity between on and off-street women, and of greater similarities between these two groups than previously thought (Bindel et al, 2013).

Recognising the heterogeneity of women's experiences in prostitution is important but should not be exaggerated. The application of the law to offences involved in prostitution, of whatever type, needs to be proportionate, coherent, consistent and transparent.

### 3.6 Disclosure of criminal records as a barrier to exit: impact on employment and education

Exiting prostitution can only be discussed if there are viable alternatives for women to make a living. Many women may have limited education, training or employment experience and may find that their criminal records are a barrier to acquiring them later in life, and therefore also a barrier to exit.

All 15 women interviewed for this study had a criminal record for prostitution-related offences and twelve out of the fifteen women reported that they were unemployed. Two women were pensioners of retirement age and one woman was in full-time employment. Seven women had no formal qualifications, five had qualifications at secondary level, two had further qualifications and one woman reported having vocational qualifications. At the time of interview, seven of the fifteen women participants were seeking to exit but not all were in a position to seek work or education.

The women were asked about their awareness of how having a criminal record for prostitution-related offences might affect their ability to access education and paid employment. The findings highlight mixed attitudes and experiences among the interviewees.

In line with other research, the majority of women and stakeholders reported that criminalisation for involvement in prostitution impeded women's chances of gaining education and employment. Perhaps due to the nature of their jobs, the stakeholders seemed particularly alert to the potentially highly detrimental effects of convictions for prostitution-related offences on women's circumstances. Interestingly, however, in some cases they too replicated some of the worst-case assumptions that might not always be strictly accurate. This illustrates how widespread and embedded are the attitudes and

assumptions about criminal records for prostitution that can be so obstructive to women's exit. For example, the Head of Law described the impact thus:

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*"The presence of that type of criminal conviction makes it almost impossible to get work. In other areas, particularly, for example, if you want to go on to work with children or other vulnerable or excluded groups... it's a notifiable offence...<sup>36</sup> Which means that they will appear on an enhanced CRB [now known as Disclosure and Barring Service DBS] check as a sexual offence."<sup>37</sup> [ST01]*

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In fact, in most cases, prostitution-specific offences would not constitute a sexual offence or a "notifiable offence", but this precisely points up the entrenched beliefs held even by professionals that create such a gulf between reality and law.

A woman who had been involved in prostitution since the age of 13, who had gained nine GCSEs and was seeking to exit prostitution at the time of interview, reported how her experiences and her criminal record impacted upon her:

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*"Yeah, it's going to ruin for the rest of my life. I'm never going to be able to get a proper job. I'm never going to be able to, you know what I mean, cos for, as soon as people look at my record and if all they see is prostitution... it's wrong, because now it's, it's wrecked the rest of my life. You know, I want to be a carer, I want to own my own care home and look after old people the way, the way they should be looked after but that's going to stop me because no-one's going to trust me." [I07]*

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Despite multiple job applications, one woman, who had been out of prostitution for almost two years, had been unable to secure any kind of employment:

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*"I've applied to all sorts of supermarkets... Cleaning, you need certificates for that... You know, you just can't get a job. Even voluntary, it's hard for me to get a voluntary job and all. Because they CRB [DBS] you, it's like, I said to her, I was honest to them." [I06]*

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This woman had no formal qualifications but stated in the interview she felt this was unfair as she considered herself to have a considerable amount to offer a role, and not being able to get one was depressing to her.

For some women, a criminal record for prostitution-related offences deterred them from even applying for jobs or seeking alternatives. PAAFE (2005) reported that the stigma attached to prostitution prevents women from seeking alternative employment. Some interviewees said that the presence of a criminal record hinders them from even considering these options.<sup>38</sup> In this way, criminal records can act as powerful barrier to

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<sup>36</sup> In fact it is not a notifiable offence though because it is so often confused with sex offences, this idea takes hold. [Monaghan Q.C. 2015]

<sup>37</sup> Ibid

<sup>38</sup> For a more detailed discussion of the impacts of stigma on the women see p51.

exiting. When asked whether she had ever applied for a job where she would need to divulge her criminal record, one woman replied:

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*"No. I wouldn't because I'd be too embarrassed... I'd be too embarrassed to, you see that's why I feel like it's messed up the rest of my life, you know, because I'll be too embarrassed to apply for a job." [107]*

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The sense of shame and embarrassment attached to disclosing prostitution-related criminal record specifically was echoed by others. For some women, one rejection strips her of her confidence to go through the process a second time; for others, the more rejections she experiences, the more disillusioned she becomes. This cumulative sense of rejection and hopelessness can lead to women re-entering prostitution.

One woman had been successful in gaining full-time employment after she had left prison. She was given support from a recruitment agency who were experienced in working with people with a history of offending. The job was very different, however, to those she had held prior to entering prostitution and acquiring a criminal record:

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*"I mean I can't work in schools anymore, like I say. I used to be a teacher's assistant when I was married and had my four kids. I owned my own home... We had a mortgage and everything. I did that, but now obviously, I can't go back to things like that, it's a factory job I've got."<sup>39</sup> [115]*

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Nevertheless, her confidence and self-esteem had been boosted by securing this position. This supports what other research has shown: obtaining employment is a key component in sustaining women's exit from prostitution.

One woman was concerned about the type of employment that would be offered to women if they had convictions for prostitution related offences:

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*"I think they'd never get in anywhere decent... They'd probably get something low grade... probably cash in hand or something like that... cos they do check-up nowadays. You know, it's not like the old days where you could just get a job and nobody bothered you." [108]*

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Similarly, in terms of accessing education, there was evidence of women being prevented from pursuing, or having to end, their further education in a chosen field because of their criminal record. One woman was receiving support to exit and had recently had arrests for carding. She had qualifications in English and maths and had previously passed her

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<sup>39</sup>Where women had gained employment or work experience it was often in specialist women's sector or low pay, low skill work. Moving into the full range of occupations might still be a remote possibility.

level two in social care, but as a result of her recent convictions, no longer felt that a career in this area would be possible:

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*"So, I won't be able to do that work anymore... The only time I would possibly, it wouldn't come into, any problems is if I worked for say women and domestic violence or um, but then there's children involved there so I probably wouldn't be able to. And all, if I, if I just wanted to work in say like in an exiting service, it probably wouldn't be a problem in that area." [112]*

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In describing how confident women felt about their own ability and capacity in applying for jobs, accessing education and disclosing their criminal convictions for prostitution-related offences, some women highlighted some very gender specific concerns. Women gave examples of how attitudes from the public and those in positions of power, societal attitudes to prostitution, and issues around gender influenced how they felt about applying for jobs or disclosing their criminal records.

One woman, who was 52 years old, with a long history of offences relating to prostitution, highlighted the concerns she would have if faced with the possibility of needing to disclose her criminal record to a potential employer:

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*"It depends on if it was a man or a lady asking me as well... Cos men, they're like, they know what they ask you, they know what it's about, they know what's in their head..." [104]*

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When asked what it would be like for a woman to ask her about her involvement in prostitution she replied:

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*"Well, you're asking me, and that's not in our minds, you know, we're just talking about it. But men..." [104]*

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Another woman who had been involved in both on and off-street prostitution for approximately 22 years described how she had received cautions for prostitution but no arrests as she had been careful to avoid the police when selling sex. She had exited almost two years previously and had applied for a variety of different jobs in the past with no success. When asked what type of problems women with criminal convictions encounter in applying for work, she described how the judgment and stigma regarding prostitution continue to impact on women's ability to secure certain types of positions after they have exited prostitution. Here she illustrates how societal attitudes can make it difficult for women to leave behind prostitution status even after exiting and taking up paid employment (Pheterson, 1990):<sup>40</sup>

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<sup>40</sup> For a full description of the impacts of stigma on the women in this research see p51

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*"Well it depends on what they're going for a job for, i.e. if I went for a job in a factory and it's just all men and they wanted a receptionist, I wouldn't get that job because I was a prostitute before. They would think that I was going to sleep with everyone on the shop floor. A lot of people are small-minded, a lot of people are ignorant to what goes on in life, because they don't experience it." [I06]*

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A prominent theme concerned the attitudes of potential employers. Both the women and the stakeholders reported on the significance of treating women with dignity and respect, whatever their criminal record status.

The Criminal Justice Worker, again assuming prostitution specific offences amounted to sexual offences, suggested a change regarding disclosure of convictions for prostitution, because of hostile and judgmental attitudes from possible recruiters that could mean that women fall at the first hurdle of trying to secure employment:

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*"It'll come up as a sexual offence<sup>41</sup>...and then they have to justify it and it's just so difficult because actually that's not relevant for those women anymore... I feel it should be about giving the woman a bit more discretion in terms of what she chooses to kind of disclose and what she doesn't...because they just cast you off based on their own judgments and their own kind of opinions of street sex work which might be, and probably is, wholly inaccurate and unfair." [ST08]*

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### 3.7 Prostitution-related criminal records, other offences and interlinkages with other barriers

Of the 56 women interviewed in the *Breaking Down the Barriers* research project who had a criminal record for prostitution-related offences, 86% also had a criminal record for other offences. The most common offences were acquisitive crime, such as shoplifting (71%). 45% had criminal records for offences against the person and 43% for drug offences.

Of the 15 new interviewees in this study, 13 women reported criminal records for offences other than those directly relating to prostitution. Shoplifting was the most common (10 women), while women also reported criminal records for offences against the person such as assault and carrying an offensive weapon, as well as drug-related offences such as possession.

#### 3.7.1 Links with other offences

Women's involvement in prostitution is connected to their involvement with other offences in complex ways. In some cases, their involvement in prostitution and the associated "lifestyle" then leads to other forms of criminal activity. For example, one woman became involved in a robbery through a drug dealer whom she met on the street when she was selling sex. This woman then received a custodial sentence for this offence.

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<sup>41</sup> As above, this is not strictly or always accurate but is the commonly shared perception which in itself is a barrier to exit and attempts to move on.

The two police stakeholders described crimes that are associated with prostitution and tend to appear alongside it, for example anti-social behaviour and drug use:

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*"Also with prostitution, it tends to attract other anti-social behaviour type offences such as drug addiction or drug sale, um, drug dealing, that's, that sort of thing." [ST05]*

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In other cases, prostitution directly provides the opportunity for other offending, as with three of the women interviewed who reported robbing men who were buying sex from them:

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*"When I started doing the prostitution, I started stealing men's wallets and things, and their phones and things to sell... Yeah when I was selling sex, if we had a drunk guy we'd take all his stuff out his pockets." [I15]*

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What is not clear here is whether the women went through with the sexual service as well as stealing from the buyers, or whether they took the opportunity to steal from the buyers and avoided having to have the sexual transaction.

One important point arising from the interviews is that women often see prostitution as interchangeable with other offences, especially in relation to funding drug use. For women in need of ready money, the "choice" of whether to engage in prostitution or other forms of offending was greatly influenced by their perception of what was the "easiest" method:

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*"Yeah, it's all over the years, it's been one thing to another, when I've stopped prostituting, someone's, I thought, I thought, another easy way of making money, someone's showed me fraud and... Just seeing whatever was the easiest, quickest way to support my drug habit basically." [I09]*

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The way in which prostitution is policed relative to other offences is a key factor in women's assessment of the risks attached to prostitution versus other offending. For example, some committed other offences in response to receiving an ASBO, fines or to avoid arrest altogether. The Police Inspector confirmed this, highlighting that when ASBOs were administered in the borough, police would see a spike in other offences, primarily theft. This "shuffle" has been highlighted by previous research (Sanders, 2004) and the Criminal Justice Worker saw this as one of the many consequences of criminalising women and the punitive action used against them. She highlighted the dual impact of criminalising loitering and soliciting, impacting on women's wider involvement in the criminal justice system:



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*"So actually, the woman's general criminal justice and involvement and their general criminal record will go up... they're really well known to the police in terms of their sex working, so the police will be more on them, even if they have completed an order they can still get arrested again for it. So, women do tend to, you know, go: OK well how else can I make my money?' Well then they'll turn back to kind of more acquisitive crime or whatever, and then they'll end up in prison for it... they're more likely to get it on their criminal record about loitering and soliciting, they're also more likely to have their other offending history increased." [ST08]*

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One woman who entered prostitution around the age of 18 had been shoplifting to fund her drug use but became involved in selling sex following several arrests:

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*"I was getting arrested all the time for shoplifting and so, they [friends] said: oh, why don't I come with them and... so basically I went along and seen how easy it was and how quick it was to earn a bit of money and... I was known everywhere at that point, in all the shops and all that... I was fed up, yeah, fed up of keep going to the prison." [109]*

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Another woman shoplifted and then turned to prostitution when she had her children because she saw it as an "easier" option which ran a lower risk of arrest. She then went back to shoplifting when her children were taken into care as she no longer had to be at home for her children.

This case illustrates the fact that some women are trying to survive on the limited "options" of either shoplifting/theft or prostitution, and that factors such as whether or not she is a carer and the nature of the policing regime shape her "choice" as to which option is least unpleasant to her. This woman's case suggests that prostitution was her last resort and she preferred to get by through theft but, as this ran a higher risk of imprisonment due to local policing, she had to use prostitution as long as care of her children was a consideration. When she lost her children anyway, she stopped prostitution and reverted to theft/shoplifting, even with its higher risk of possible imprisonment.

There is an important observation to be drawn here. While policing approaches that are less punitive towards women in prostitution are very welcome, a policing approach which turns a blind eye to prostitution could have unintended negative consequences. Indeed, such an approach may push women towards prostitution as "lower risk" (of custodial penalties) or, as some women say, "easy", even though prostitution may not be the actual "choice" of the women involved. Criminalising women in prostitution is clearly harmful, but a successful alternative must support women towards viable alternatives to prostitution, not incentivise women to participate in prostitution by cementing it as a "least worst" option.

One woman who entered prostitution in her early twenties explained how prostitution quickly became a "routine" and a solution when she needed money:

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*"And it just becomes like a routine... it's your first answer to your question of: where am I going to get the money for this...? Where am I going to get the money to pay for my bus fare, or to buy a drink or to get my crack, or to do this or do that, and the first answer is go on the road cos it's not hard to go into that system." [106]*

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### 3.7.2 Perceptions of prostitution-related criminal records v. other criminal records

Women were asked how they felt about the two types of offences and whether they perceived any difference between them.

Most women did see a difference. For some, the difference was that prostitution was seen as an "easier option" with less severe penalties compared to other offences (again potentially indicating a perverse incentive for women with very few alternative choices). Unsurprisingly, some women did not view prostitution as an offence at all. A few women commented that prostitution is different to other crimes because it doesn't harm any third parties:

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*"Yeah, theft...murder, rape, yeah, they're different, they are well different. Prostitution is nothing, you know what I mean, it's nothing." [103]*

*"I didn't look at it in a criminal way I didn't think I was doing anything wrong in that respect I just thought well at least I'm not burgling, shoplifting or doing something like that." [115]*

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Interestingly, at other points in the interview responding to different prompts, women were more likely to state that in fact it was not "easy money" but actually took a major toll on women's physical and mental well-being and their wider relationships. At this juncture in interviews, women were more likely to consider the extent to which prostitution, whether or not it had harmed third parties, had harmed women themselves. Otherwise, it was quite unusual for women to reflect on harms to themselves though inevitably this reflects an important coping strategy.

Women commonly minimise their own suffering and normalise their own experiences of violence while empathising heavily with other people's and specifically women and girls' experiences. It was notable that many women, while minimising their own experiences, were particularly forthright about the need to challenge buying sex from those under the age of 18. One woman who became involved in prostitution under the age of 18 explained that her own experience was the reason she was against "prostitution" involving minors (n.b. this research would argue that "prostitution" of minors should be termed child abuse not prostitution):

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*"I don't believe in child prostitution because I've been involved in it myself in the past and it's a really horrible place to be there, be a child and that, being in that place." [112]*

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In fact, a number of women in this study had entered prostitution under age 18 but yet seemed to forget this as they spoke of their own situation as one of their own making whilst empathising with any child involved in "prostitution", though they had once been that child themselves.

Three women explicitly stated that the stigma and shame associated with prostitution was what differentiated it from other offences, such as theft or drug possession.

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*"I wouldn't want nobody seeing my record and see I've got prostitution on it... I don't know why I don't see theft and that as bad as what I see prostitution... I don't know, it's just like that thing around prostitution innit. It's, it's disgusting and it's this, it's that." [109]*

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Three women said that they did not perceive a difference between prostitution and other offences precisely because of the link between them, seeing them as part of one circle. One woman felt that there was no difference because on a practical level the motivation was the same: to get money to buy drugs. Most women found the questions relating to prostitution-related records versus other criminal records initially difficult to answer, and some could not answer them at all.

### 3.7.3 Intersections with other barriers

Earlier research (Bindel et al, 2012) identified up to nine barriers to exiting that women may face. These related to finances, qualifications, housing, drug and alcohol addiction, childhood violence, coercion, criminal records, physical and mental health issues, and having entered prostitution at an early age.

Women who had criminal records for prostitution-related offences most commonly faced this in combination with money problems, problematic drug and/or alcohol use and insecure housing or homelessness. These barriers (including criminal records) interacted in various and complex ways. What is interesting about the criminal record barrier is that it can be exacerbated if women face other barriers to exiting and remain involved in prostitution. Continued involvement in prostitution, and an inability to exit because of other barriers, means that women run the risk of receiving further cautions and convictions for prostitution-related offences.

#### Intersection of criminalisation and finance as a barrier to exit

Unsurprisingly, the research into barriers highlighted actual and perceived financial issues as a major barrier to exit.<sup>42</sup> The 15 women in this research all highlighted financial issues which could take many forms: debts, survival, a need for money and a lack of disposable cash.

The way in which prostitution is policed and criminalised inevitably exacerbates this financial barrier. Women may have to pay fines on arrest, which they can only afford by undertaking more prostitution. Levels of poverty, destitution and homelessness (all often

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<sup>42</sup> *Breaking Down the Barriers* research highlighted that in many cases, women and some support services assumed that prostitution was the only and necessary answer to financial problems. Of course, this is sometimes the case. In fact, however, the earlier research found that in some cases, this assumption was mistaken and working with women to look at how they used the money they made and how they manage budgets might point up other strategies.

shaped by experiences of violence) are such that some women will be using prostitution and, in some cases theft, in order to survive, pay rent, buy food, travel, and meet children's needs as well as, in some cases, fund drug/alcohol use. This can result in further criminalisation.

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*"I needed to survive and when I was homeless and not, I, I had to sit in [service] every, I had to go there every single day. There was no money to keep travelling... When you have to go to a centre to try and get an emergency bed every day... or staying in other people's houses... You got to pay them... And so that can push you, that, that was one of the reasons I went out and did prostitution." [110]*

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### Intersection of criminalisation and problematic substance use as a barrier to exit

14 women faced the barrier of problematic drug and/or alcohol use. Women may be involved in prostitution to fund their problematic drug and/or alcohol use and/or may be using drugs and alcohol to cope with their experience in prostitution.

Many women consider that addressing their drug/alcohol use is key to being able to exit. For many, accessing treatment was the first step towards reducing their involvement in prostitution or exiting completely. The National Treatment Agency (NTA) highlights how accessing drug treatment can lead to a reduction in convictions, namely prostitution-related convictions and trigger offences (NTA, 2012).<sup>43</sup> However, accessing treatment is not always a quick and easy process, and other factors, including lack of secure housing or being dispersed in an ASBO, can have negative impacts on women's ability to complete treatment and so exit prostitution and related criminalisation.

### Intersection of criminalisation and housing as a barrier to exit

14 women faced the housing barrier, experiencing insecure housing or homelessness at some point during their involvement in prostitution. For some women, their housing problems were directly linked to their convictions for prostitution-related offences. Some women lost their housing as a result of a custodial sentence. Another woman had been threatened with an ASBO and received warning notices from the council because of her known convictions and involvement in prostitution. This put her tenancy at risk and she experienced insecure housing for a prolonged period of time:

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*"If we [housing department] find out you've been, you know, working from home you will lose your tenancy'... So that's been put on me. And I've had that continuously over the last four or five years, three or, well I'd say three years." [112]*

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A lack of appropriate housing can also impact on women's criminal records. Some women may lose their housing when receiving a custodial sentence for prostitution-related offences, or indeed other offences. This then has an impact on women's continued involvement in prostitution because on release they may be forced to return to

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<sup>43</sup> National Treatment Agency ceased to exist in 2013, with the government indicating that its functions would be covered by Public Health England.

exchanging or selling sex for a bed somewhere as they have no housing. As a result, women risk further cautions and convictions. Where women are housed near an area known for prostitution, they may remain trapped in prostitution and as a result risk further arrest and convictions for prostitution-related offences. One woman in this research spoke about the impact that living near the “beat” area had on her:

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*“Where I’m living now, I’m living on the beat, I’m living where it is, where it all is. It’s just like where all the drug dealers are. When I’m not there, then I don’t, I’m not bothered with it [prostitution].” [I04]*

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Being able to move away from peers and a lifestyle associated with prostitution can be necessary in order for women to exit. For example, one woman who previously lived near an area known for prostitution was re-housed in a new area away from prostitution which meant she was not known for selling sex and did not have the opportunity to do so. This in turn meant she was no longer receiving prostitution-related convictions.

### Intersection of criminalisation and a lack of formal qualifications

Although only half of the women reported having no formal qualifications while they were involved in prostitution and other barriers were more commonly faced, this barrier has a clear link with the criminal record barrier.

A lack of formal qualifications can restrict access to further training and employment so limiting women’s ability to make a living that is not dependent on prostitution and at risk of further criminalisation. In addition, women trying to access education to build up their qualifications may find that some further education courses require applicants to disclose convictions. We have already seen that the very fact of having to go through disclosure may be a deterrent to a potential applicant. Where the training or education course includes components such as work placements or relates to social work or care work with vulnerable people (areas that women often choose), this requirement is still more evident. In this way both the deterrent effect to even making the application and the actual likelihood of not being allowed on the course are increased. If a viable alternative is unattainable then women may return to, or remain in, prostitution with continued risk of further criminalisation.

### Discriminatory impact of intersection of barriers with criminal records

Inevitably women involved in prostitution will often face a range of barriers to exiting, including the barrier represented by criminal records. It is obvious that women who have not managed to exit remain at risk of further criminalisation. What this section has sought to demonstrate, however, is the way in which certain barriers interact to exacerbate each other, with the effect of entrenching women further in both the criminal justice system and prostitution. Of course, this has implications for practitioners (see below p63) in how they work with this group of women on the range of barriers they face. To some extent, this is the “revolving door” syndrome that many social justice organisations talk of in trying to support people with multiple disadvantages. A point to make, however, which is specific to women involved in prostitution, is that if the premise that prostitution is a form of exploitation, abuse, violence and discrimination is accepted, then a major injustice to women is committed by criminalising them, exacerbating other barriers to exit and condemning them to remain in prostitution and consequently subject to further criminalisation.

## 3.8 Wider and enduring impacts: stigma, discrimination and exclusion

### 3.8.1 Self-image and sense of identity

Stakeholders and women participants believed that prostitution-specific criminal records reinforce the stigma and judgmental attitudes suffered by women in prostitution:

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*"I just wish, you know, I wish that they'd have used, you know, a different thing so that now when people do look at it, they're automatically going to put a stigma on you." [107]*

*"You're already feeling bad about yourself, having to earn money in that way... And then you get somebody in authority who wants to put you down like that, no, it's not right. It isn't, it's not fair." [110]*

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Women recalled assumptions being made on the basis of their previous involvement in prostitution which led to discriminatory and derogatory treatment of them. Women reported how to others, their label as a "prostitute" overrode any other roles or aspects of their lives and they were perceived purely in this way:

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*"That's who you are...But that's not who I am, you know. That's just a part of my life." [107]*

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Some labels and the associated stigma can be enduring despite any change in lifestyle or 'behaviour' (Becker, 1966; Pheterson, 1990):

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*"I don't like what I've done but [town] is a small town... a lot of people know in town what you are and what you do... I just think I've done what I've done and I think it's going to, and mud sticks do you know what I mean? I don't know how long it'll stick for but... I think it is always going to be there with me. I'm just hoping as time goes by it sort of fades." [115]*

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One woman currently involved in off-street prostitution spoke about judgmental neighbours:

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*"...some of those neighbours' hearsay... Or just thinking, you know, assuming I am [bringing a buyer to her home]. Assumptions again...Yeah. Cos that's in my records, in my past, they've seen that in the newspaper and they think 'oh she must be still doing that, she has men coming to her property, she must be doing that.'" [112]*

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Women's convictions served as a constant reminder of their involvement in prostitution, preventing women from fully leaving it behind. The fact that it is in the nature of prostitution that women may have multiple convictions and that the perception is still common albeit erroneous, that they are sex offences so they are always disclosed

exacerbated this situation. The Criminal Justice Worker described the negative impacts this has on women:

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*"So, to be always brought back to kind of like who you, what you were and what you did and to face that stigma and that kind of shame again is just massively, not only debilitating in terms of their future moving forward but also just in terms of their self-confidence and their view of themselves and their view of how society sees them. Yeah, it has a massive impact I think."* [ST08]

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Despite the difficulties, some women had a much more defiant and resilient attitude towards the shame and stigma that is associated with prostitution. They were able to see it as a judgment of society and rejected it as something they did not have to accept:

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*"I used to think it would feel shameful but, you know what, it won't be shameful. It's just a part of our existence and sometimes things can't be helped... And so don't feel ashamed just learn from it cos I know I've learned from my criminal past, cos I know how I got into it and who got me into it and... And I do have regrets but I've learned from it all and, so I've got nothing to feel ashamed about."* [I10]

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Some women who were currently involved in prostitution said that they did not feel any shame about their involvement and did not care about others' opinions:

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*"I'm used to it... Water off a duck's back really... It seems to bother them more than it bothers me."* [I08]

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Two stakeholders in the London-based outreach service, however, thought that such attitudes may be adopted for self-preservation. Such strategies may be used by women when they are involved in prostitution to enable them to rationalise and cope with their involvement (Moran, 2013; Eaves, 2013). This is another example of the complexity and heterogeneity of women's narratives, coping strategies and experiences.

### 3.8.2 Mental health, self-esteem and relationships

Hiding involvement in prostitution because of embarrassment and to avoid negative reactions or treatment can be common (Tomura, 2009). It was notable that in some cases women felt more comfortable with criminal records for anything but prostitution being disclosed. Likewise, despite the stigma attached to drug use (NTA 2002), they may have disclosed their substance issues to family and friends, but not their involvement in prostitution:

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*"I was selling myself. And none of my family have ever done that... And in my late life, not as a young girl, I'm out fucking selling myself and so to me it was shameful, er, cos I'd never had to do that before and I've never known a family member to do that neither. So, as far as I was concerned it was shameful."* [I10]

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*"Embarrassment. Well, just degrading... Just didn't want nobody to know, nobody to see, you know... and my, my parents were round there, lived, and family all around that area." [109]*

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The wisdom of the decision not to share this information with family was borne out for some women, as family finding out in some cases led to a breakdown of family relationships. In one case where the woman's court appearance had appeared in the local papers, this resulted in her losing her children.

Quite apart from illustrating the specificity and gendered stigma attached to prostitution, this highlights another challenge for women in prostitution. The effort to live a double life and suppress so much of one's identity with those who are, or should be, closest to you, can be debilitating.

The fact that women risk losing an important relationship or having to suppress a large part of their lives in their interactions with those closest to them is highly likely to have a negative impact on their exit as the evidence has consistently demonstrated how key relationships are to women's stability and recovery.

### 3.8.3 Motivation to exit and ability to access services

In the same way, the stigma attached to their criminal records had a huge impact on the self-esteem and motivation to exit of some women as one woman describes:

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*"It's holding me up basically in all areas of my life, you know, and it does, it makes me really angry sometimes. I do, I get really frustrated by it...I just don't, can't be bothered anymore cos I think why should I give up [prostitution], cos I am still being pinned, you know, penalised for it. And it's like this stuff is never going to go away. So, I think well why should I bother giving up [exiting] anyway because what's the point." [112]*

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One woman said she felt such shame around her involvement in prostitution that as well as hiding it from her partner and family, she had not disclosed her involvement to the service that she was accessing. Shame and fear of judgment and further stigmatisation can be significant barriers to women accessing and engaging with services (Smith and Marshall, 2007; Brown, 2013).

### 3.8.4 Police and Courts' attitudes to women involved in prostitution

Police were more commonly reported by the respondents to display negative attitudes towards women involved in prostitution, especially in terms of language used and the personal opinions about the women. For example, when asked what challenges she faced in her role, the Community Safety Coordinator for a London borough responded:



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*"There is still a level of disrespect in the police... task and targeting, we're very clear about, you know, showing respect to people and not using derogatory language... But, you know, I know a police officer who in most respects is an excellent police officer and deals very well with street... people, but is particularly derogatory about sex workers, I don't know if that's a personal thing and you have to, you know, keep saying that that's not appropriate." [ST02]*

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In some cases, evidence of improvement in police attitude was noticeable from the interviews, and there were some positive examples of police practice provided by a small number of interviewees, particularly where joint working had taken place. The Community Safety Coordinator gave an example, citing a female officer in particular, who shows respect for those she comes into contact with in her work, does not judge the women and also shows particular concern for those who are vulnerable and exploited.

However, one interviewee highlighted how little it takes to dismantle any progress or trust that may have been built up:

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*"a couple of occurrences where we've heard that the police have been quite rude or have been very dismissive or have been quite insulting or different things and actually that again, one officer doing that kind of thing can totally just screw up the whole work that everyone else has done." [ST08]*

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Where women have previously received, and anticipate future or continued, hostile or dismissive attitudes from police, they are inevitably less likely to have confidence in the police and to report violence and offences against them. This lack of confidence was also attributed to the fact that women in prostitution are often regarded as offenders themselves (APPG, 2014) and, in some cases, women may have unpaid fines or involvement in the CJS, such as an outstanding warrant. Some women reported feeling particularly targeted by the police, even when they were not selling sex:

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*"I was standing on my front door step, right, the house where I was living, I'm sat on my doorstep waiting for my boyfriend to come back and they arrested me, prostitution... So, I went to court and I won. I pleaded not guilty and I won. And after that, every time they saw me they used to pass other girls and come and nick me, because I'd won, because I'd won them, one time... They nicked me 13 times in one week at one time." [I01]*

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As well as the stigmatising and judgmental attitudes of the police, some women spoke about being treated negatively by the court when appearing for prostitution-related offences, with some complaining that they felt degraded and embarrassed and facing long term negative consequences. As one woman involved in off-street prostitution explained:

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*"I think the court is really sort of like, it's despicable the way they speak to us, do you know what as if it, they say: 'oh this is a really serious crime' and, you know, they really look down their noses, that's how I have found in the past. I've been really spoken down to by judges and that." [I12]*

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A broader concern about the use of open courts for such sensitive offences was highlighted by the Criminal Justice Worker. In addition, where an ESO is being made in open court, sensitive details about a woman's support needs, her involvement in prostitution and other personal information is discussed in court. This not only causes embarrassment, adding to the shame and stigma surrounding women's involvement in prostitution, but can also have implications for women's safety, housing, relationships and integration in her community.

Two women in this research spoke about their negative experiences of appearing in an open court. For one woman, it had led to the offence being reported in the local newspaper:

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*"I don't think that's right that they should do that... I mean at least in the [borough in central London] they've cleared the court when I have gone in because of what a sensitive issue it is... They've taken that into consideration. There's no one else in the court, only me, my solicitor and the court, you know, clerks and that. Which has been really good. But they don't do that in [borough in London]... So, you know, yeah they've got newspaper reporters in there." [I12]*

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This woman continued and described the different approach of a Court in another borough in which the newspaper printed her details and this resulted in exposing her prostitution involvement to her daughters which she had otherwise kept from them.

The Criminal Justice Worker suggested such courts follow a model similar to that of domestic violence courts, with certain courts being specialised in prostitution-related offences and with personal details withheld.

### 3.8.5 Discriminatory and negative community attitudes towards women involved

The negative impact of prostitution on the local community has been highlighted in other research discussed above, along with residents' views and attitudes. Although residents in areas affected by prostitution were not consulted directly, it was a theme that frequently arose in interviews with stakeholders and women.

One stakeholder described negative impacts on communities, primarily in terms of nuisance and antisocial activities:

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*"Prostitution is antisocial and it is problematic. The impact it has on the... local community is very high... as I say particularly street prostitution where you'll find that sexual acts are being performed in quite a visible location, public car parks, it has a detrimental effect on people in an area and on their living standards." (ST05)*

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A large part of communities' attitudes towards prostitution, however, is thought to be the result of the criminalisation of women as "offenders" and police enforcement against women, which conveys a message to the community that women are to blame as opposed to entitled to support and services (Bindel et al, 2013). It is suggested that the legal stance towards prostitution in the UK (whereby women are criminalised for selling sex) affects the views that communities and wider society hold (APPG, 2014). Two stakeholders agreed, including the Head of Law:

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*"All the laws around prostitution are about protecting people in the public sphere from coming into contact with the buyer or seller of sex... So it sees it as a nuisance." [ST01]*

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Attitudes towards prostitution and the women involved are varied (Bindel et al, 2013; Bindel et al, 2012) and not necessarily fixed, but it is argued by some that they are disproportionately hard on women in prostitution, particularly the on-street women. Participants in this research also thought that women selling sex on street bore the brunt of negative attitudes from the community:

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*"Why is it just seems to be the girls out on the street? .... Maybe, I think it, in fact I think it might be because we get that many complaints from... people living around the area." (I14)*

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The Manager for the London-based outreach service highlighted that the visibility of women, as well as pre-determined prejudices, determine the response to on and off-street prostitution:

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*I think it's the public perception... if there's a brothel somewhere and a flat somewhere that nobody really knows about. It's not so important as if, if women are out and actively, you know, upsetting members of the public." [ST03]*

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The women interviewed for this study spoke about the negative attitudes of the local community towards them and others involved in prostitution. Many women said that their involvement in prostitution was known in their local area, and women were often judged on this basis and assumed to be still actively involved in prostitution even when just going about their ordinary business. One woman who was involved in on-street prostitution experienced harassment and threats of violence from residents.

The detrimental and enduring impact that community views and attitudes had on women was very apparent, and this exacerbated feelings of low self-worth and shame. The

Criminal Justice Worker highlighted that this further excludes women from seeing themselves or being seen as part of the community:

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*"What the community and what the police like say to them... 'you're a nuisance' or if they're saying: 'this is anti-social behaviour' or whatever... it's further marginalising them and taking them out of society and thought of as different and further shaming them." [ST08]*

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As a result, some women felt excluded and separated from their community (Bindel et al, 2012), despite the fact that many women selling sex are in fact residents of that same community (APPG, 2014). Justifications for these views include perceptions that women do not take part in community activities, or undertake activities which are antisocial (Bindel et al, 2012). One stakeholder in this research highlighted that such exclusion can pose a barrier to exiting prostitution, preventing women from fully integrating into their community and "everyday" life. However, there are examples where local residents have helped to change community attitudes so that they understand prostitution better and pressure for more supportive and sustainable interventions to support women, rather than short-term, punitive measures that merely temporarily disperse women.<sup>44</sup>

### 3.9 Discussion about the law on prostitution

Towards the end of interviews, participants were asked for their opinions about the most appropriate legislative response to prostitution. There was a breadth of views among both women and stakeholders, again reflecting the diversity of opinion and experience among both women involved and practitioners dealing with prostitution. Stakeholders stressed the long, complex and sometimes conflicting history of law in the UK as it applied to prostitution as problematic and stressed the need for a coherent, overarching strategic vision and plan for prostitution in the UK.

In general, there seemed to be confusion in discussions about how the law should be changed and applied and what was actually meant by terms such as decriminalisation and legalisation. The two terms were used interchangeably or in reference to one particular aspect of prostitution. Some stakeholders recommended decriminalising prostitution but only referred to selling sex, rather than all of prostitution (including pimping). For example, one stakeholder recommended decriminalisation as an approach, and when asked whether she meant this also applying to those who buy sex, she was uncertain:

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*"Yeah I mean I don't have definitive views on like kerb crawlers. I struggle with that to be honest... Cos I think it's sometimes... I just struggle with the views of... men within that I think." [ST08]*

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<sup>44</sup> Lift project, Tower Hamlets <https://liftcampaign.org.uk/>; and see Community Perceptions Study, *Breaking Down the Barriers*, Bindel et al (2013)

This stakeholder then went on to consider the various approaches that could be taken but was uncertain about the consequences if it were entirely decriminalised. She then discussed her beliefs about what she felt underlies prostitution:

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*"I suppose it's just a symptom isn't it of a wider issue in terms of the buyers of sex and I think that the, it's about a wider thing in society isn't it, about objectification of women... And I personally, like I know there's lots of different opinions around consensual sex work and that kind of stuff and people have different views of that, but I think that is all about objectification and about male views of women in general... And I think it's a massive issue so that I think that, yeah kerb crawlers... are a symptom of that wider issue." [ST08]*

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The stakeholder working as Head of Law thought that the current law surrounding those who purchase sex is not robust enough and that the actual act of paying for sex should be made an offence, rather than the activities surrounding it. In addition, she made reference to Section 14 of the Policing and Crime Act 2009, which partly addresses demand by criminalising the purchase of sex from an individual who has been forced, threatened, coerced or deceived into prostitution.

She felt that it was workable as an offence, but highlighted problems around its implementation (or lack thereof) and disparities between areas in terms of arrests and convictions. She also highlighted difficulties around obtaining convictions, namely that it would rely on some form of cooperation and support from the person subject to coercion. Despite these problems, she highlighted the importance of the normative effect of the offence, which conveys a message that paying for sex with someone subject to force is not acceptable. To this effect, she noted that the number of arrests and convictions is not of huge importance:

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*"And the fact that you can't have a lot of prosecutions... Doesn't necessarily mean that it doesn't work as a criminal offence because it has a normative value... So the normative value of the offence is saying that it is not acceptable to purchase sex from someone, or to have sex." [ST01]*

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This stakeholder advocated the Nordic Model, which posits prostitution as a form of violence against women and where buying sex is a criminal offence, but selling sex is not and women involved in prostitution are supported into alternatives.

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*"From a legal perspective, we think that it provides the most clarity, um, in relation to sexual offences... And we [organisation] think it's the most effective as well." [ST01]*

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Two other stakeholders also supported the Nordic Model and, in line with this, considered prostitution to be VAWG. They felt that addressing the demand for prostitution was a sensible line of action. However, one of these stakeholders said that addressing the demand alone would not work and a "mixed approach" is the best:

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*"If you, I think it was Norway or might have been Sweden, they brought a different model whereby it was the buyers who were made criminals... And I understand as a result of that some prostitutes got killed and all sorts because they were accused of grassing people up and doing this sort of stuff. So, it's very, very complicated, it's far more complicated than one would think. But I think that if you do take away the demand then the supply will stop on its own, in a much better way than just pushing it off the street into, a, a, bordello somewhere. But it's how you legislate to target those men." [ST03]<sup>45</sup>*

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It was less common for women take this view, although one or two did so, saying they believe men should be arrested for buying sex because they are the ones creating demand and have more choice and power than the women:

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*"The men are out there, that's why the girls are out there so, yeah, I think it's only fair that if they're getting arrested, that they should as well." [109]*

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However, as can be seen from this quote, often the women were focusing on what they perceived to be a fair and equivalent response with an underlying logic that whatever the response, it should similarly criminalise or decriminalise both buyers and women involved.

Some women recommended legalising prostitution, although again there seemed to be a lack of clarity as to what such a model entails. Most women felt that neither buyers nor sellers should be arrested. However, as well as suggesting that prostitution be legalised, they were adamant that pimping should be an offence. One woman thought that prostitution should be more like a job.

For many women, this was based on the view that the men have wives and families and would suffer as a result, for some it was that women need the money, while for others it was based on the principle that there was no harm involved:

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*"Nah, not really, I don't think it should be...Cos it's up to you what you want to do with your body." [111]*

*"I don't think it should be an offence...Because then you're letting, you're advertising that you're there but you're not, you're not insulting anyone by calling out or going up to them." [110]*

*"But at end of day right, if a woman wants to sell, sell, and if a man wants to buy it... then basically why, what's wrong with that? Nothing... It's not hurting anybody else, is it?" [113]*

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This portrayal of prostitution as a harmless, consenting transaction women could choose to participate in was juxtaposed with women's own accounts that their entry into prostitution was due to a lack of choice and coercive circumstances. So, the same woman who advocated that prostitution should be more like a job continued within the same

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<sup>45</sup> This Stakeholder is referring to Sweden which passed legislation in 1999 to render it illegal to purchase sexual services.

discussion to speak about the harms of prostitution; her experiences of violence and feeling raped whenever she sold sex:

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*"Prostitution should be made legal, we should have set rates for what we're getting paid to do... if it was a set rate then it'd be like a job... But if the punter violates a woman, you know, cos you do get punters they'll slap you around, they put knives at your throats, they rape you. But you're raping yourself anyway by sleeping with them, that you don't even know, does that sound weird? ... You're raping yourself." [I06]*

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Other participants, while highlighting the violence experienced and negative circumstances of those involved in prostitution, suggested decriminalisation or regulation as a possible means to improve safety, so one woman said:

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*"Cos if it was legal they wouldn't have to worry about having maids in the house and extra girls, you can be taxed, you know, they can see doctors on a regular basis, it could be really made safe." [I08]*

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However, when she gave this further consideration, particularly whether it would impact on the violence women experienced, she did not think that such an approach would address this adequately:

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*"You'll never change that cos you're always get, they're not only, you don't only get violence towards your working girls, you get violence towards ordinary women. You know. They're just cranks ain't they, there's something wrong with them." [I08]*

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The Criminal Justice Worker made an important point about the need for prevention. She thought that criminalising women diverts resources from prevention and support – areas of work that would be more beneficial and have more positive, long-term and sustainable outcomes.

Several stakeholders could not provide a concrete recommendation for a particular legal model, largely because they felt that there is not enough clear information and there is conflicting evidence and outcomes for different regimes. Some stakeholders supported the idea that a change in the law should also involve wiping existing convictions for prostitution-related offences from criminal records:

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*"Yes, I mean we've [organisation] always said that we would like to see criminal records expunged. That if we switched to the Nordic Model we would like to see women who had criminal offences being able to remove those in certain circumstances." [ST01]*

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At the very least it was thought that women should have the option of not having to disclose offences relating to their involvement in prostitution. This could assist women who already have convictions for prostitution-related offences, removing the criminal record barrier and, in turn, the multiple problems that it poses.

Overall, the majority of stakeholders supported the use of community based alternatives that were properly tailored to women's circumstances and they supported the decriminalisation of women selling themselves/being sold for sex. Views were more split on the role of tackling demand.

Reasons for decriminalising women who sell sex were mainly focused on the multiple disadvantages caused by criminalisation and the inherent unfairness of criminalising those who often are not there by choice. Criminalising women who sell sex was seen to be unhelpful, merely compounding the disadvantages that women face. The Criminal Justice Worker highlighted how women involved in prostitution are some of the most vulnerable in society and criminalising them is therefore counter-productive:

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*"I mean you have to kind of go backwards... actually this is ridiculous, this is totally unjust and it's oppressive... I think that it's about standing up to that and going no, it's not helpful, it doesn't solve anything, therefore what's a more useful way of dealing with an issue... And the criminalisation of it and vulnerable people is not... I would say [fair]." [ST08]*

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Just over half of the women participants said that in their experience men buying sex were not arrested and targeted by the police as much as women who sell sex. This mirrors both CPS and MOJ statistics and other research discussed above (Matthew, 2005; Bindel et al, 2013), notwithstanding the fact that mechanisms exist to address the buyers (e.g. Police and Crime Act 2009, kerb crawlers' provisions etc). This was also acknowledged by the stakeholders interviewed for this research:

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*"It's abuse... To abuse women for 20 minutes... that's, that's the way we want the police to see it... We want to the police to see it like that... Let's stop this abuse." [ST03]*

*"It's very unfair cos the men, or women, whoever is down there buying, you know, is equally as guilty and as bad but they are getting away, you know, driving off in their warm car whilst these lot stand there for hours and get arrested every five minutes... I mean the proportion of kerb crawlers we arrest for loitering would be... I would be surprised if it was one to 100, if I'm honest, barely anything." [ST04]*

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It was notable however that as with the women above who felt men should be targeted if women were to be targeted, the police's answer to this unfairness was also to prosecute both:

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*"My recommendation would always be that you can't target one without the other... I think that's disproportionate and unfair... And there's two, two groups of people here who are committing offences and both have responsibility towards the impact upon the community that is present... you need to make sure that there is that balance within your enforcement strategy." [ST05]*

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That this solution is so "gender blind" is alarming given that in fact the police were able, at least in the case of on-street women, to identify the high levels of vulnerability that may



have led a woman into prostitution. Both officers pointed out that women are often involved to fund drug habits, or may be coerced or pressured by others into that situation. Moreover, one officer described how the act of taking money in exchange for sexual acts may not always mean that a woman is fully consenting:

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*"I think a lot of the men don't appreciate that the women they are potentially having sex with could potentially be trafficked, could be forced to do that, and there needs to be some learning in that area that just because the woman agrees to take the money from them and perform whatever service they, um, agree on, that doesn't necessarily mean that she is completely consenting to it." [ST05]*

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Many of the women also commented on the fact that so many women enter prostitution due to abuse, neglect and other problems and the consequent unfairness of punishing women for this. For example, one woman who became involved in prostitution when she was a teenager, was involved in problematic substance use, had run away from home and had begun selling sex to support herself explained:

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*"I don't consider it that I should keep being punished for something that's, you know, something, at, you know, at times it hasn't been my choice to prostitute myself, you know, and I think a lot of women out there are in that same situation, you know, they are stuck in that place, I don't think it should be." [I12]*

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Many factors contribute to initial entry into prostitution; making the notion of "free choice" a contested and contradictory concept (Ruhama, 2013). Several participants were adamant that no woman would want or choose to sell sex:

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*"Most women in prostitution aren't there because they want to be for a start, they are there because they need to be for like financial reasons, drug or alcohol, or someone's making them do it... I just feel like, once again we are being punished again..." [I12]*

*"You ask any prostitute, not one prostitute will tell you this is what I want to do. This is what I want in my life. Not one. It's not what I want to do, it is something I have to do. You know, every time a man comes near me I'm nearly sick... You know what I mean, but I've got to do it." [I07]*

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The discussion with participants about the law showed a key area of agreement that women should not be criminalised for selling, or being sold for, sex. However, views were divergent as to what the appropriate legal regime should be. This reflects the lack of clarity in prostitution policy at every level of policy and practice. Views also reflect a degree of internal conflict or contradiction among some women. They may describe destitution, exploitation, coercion and, in some cases, child abuse and neglect as their routes into prostitution at the same time as holding that prostitution is harmless.



## 4: Conclusions and recommendations

## 4: Conclusions and recommendations

The recommendations in this section are divided into three areas – the first part addresses in some detail services that may be working with women involved. It draws heavily on what women, in particular, have described as the things they value in the services they accessed, or things that they wish had been available to them. They draw out, from the experiences and policies discussed, the specific implications for service delivery.

The recommendations also address the statutory sector, notably the criminal justice system. As well as the experiences of the women, these recommendations reflect the experiences of practitioners who have often worked with these issues for many years and have seen fluctuations and changes in local policy and practice, both statutory and non-statutory. From this, they have a strong sense of what works and what does not for the women they support.

Finally, recommendations address central government and changes that need to come from the top. These require some commitments and vision and cannot be passed off as “local” policy and practice to institutions like the police or local authorities without some direction and some significant changes in the status quo.

### 4.1 Recommendations for services

#### A service that provides what women value most

Women commented on how the services were places they attend regularly where they feel safe, have established trust with the support workers, are given time to engage in positive and diversionary activities, address immediate and practical needs as well as the specific need, and give them the opportunity to talk to others or have quiet moments to reflect.

One woman, who had a history of male violence and was accessing treatment for her substance use issues as well as attempting to exit, was accessing a women-only support service and stressed the importance of a sense of safety this provides:

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*“This place is the one place in the whole world that I feel safe... I’m not safe on the streets, I’m not safe with my ex, I’m not safe around my family, but I’m safe here.” [107]*

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Of the five women who had exited, three of them had done so with the support from formal support services. One woman had exited with a combination of formal and informal support (for example from a partner or family member), and one woman with no support.

However, the women acknowledged that to exit requires, as well as formal support, self-belief, a certain level of personal motivation and a particular mind-set that will allow women first to be able to accept the support that is available. To proactively instil, build and hold hope for women is intangible yet enormously valuable. To let women know that exiting is an option and is achievable, and that support is available to exit, was reported by some women to be an important step in encouraging women to feel able to engage.

Interventions such as outreach were held to be integral to raising awareness of the availability of exiting support for women who may need assistance. Outreach, offers opportunities for skilled staff to build trust, offer practical harm reduction interventions, safety advice and to signpost or introduce women to specialist support services, including exiting. Outreach services are usually less formal than other interventions and do not become bogged down in daunting, bureaucratic, intrusive paperwork and assessments. They meet women on their territory, where they are in their journey or experiences. Outreach is a useful way to engage with women and build an effective working relationship.

### Importance of key workers

Positive personal relationships have been shown to play an important role in the process of exiting prostitution. Women often emphasise the importance of relationships with partners and family members while exiting. Furthermore, breakdowns in close relationships were also reported to act as catalysts to enter prostitution or to hamper efforts to exit by triggering relapses into prostitution. Evidently, personal attachments can play a pivotal role in a women's involvement in prostitution. Therefore, key workers in support services can offer a personal and stable relationship that can positively impact upon the women's efforts to exit, as highlighted by interviewees in this study.

Developing trust and a stable and positive relationship between the service user and the support worker is integral to the success of the women's continued engagement with the service provider. Women in this study valued their support worker, particularly where other supportive relationships are lacking: this was indicated by a woman who had exited prostitution and had made many positive steps in the last few months, including gaining full-time employment. When she described in the interview how far she had come in the last few months, she attributed some of the progress to the support received from her key worker at a local substance misuse service as well as support gained from her partner and the local probation service:

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*"And I never thought I'd be stood this far. My drug worker she has, [key worker] she jumps for joy, you know. She's been more like a sister than... my drug worker. When my Mum died she was there. So I've been, do you know it's just nice to have [key worker] because... To have someone I can talk to and knows what I've been through... And if I ever need her or anything [key worker] is always there." [115]*

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Many of the women's responses underlined the role of specialist knowledge. One woman differentiated between a supportive key worker and an unsupportive key worker:

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*"My key worker in my hostel, she doesn't know nothing. So I don't see the point in telling her anything, like, we had a three way a couple of weeks ago before Christmas, me, [support worker] and my key worker up at the hostel, and [support worker] knows me better than my key worker... Any member of the staff in here, they help... I feel safe when I come here... You don't feel like they're invading, I don't feel like they're going to spread my business." [106]*

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## Specialist services

Typically, women involved in prostitution tend to also have other complex needs for which they access a range of services. Whether the women access specialist or generic services will obviously depend on both awareness and actual availability of different service types.

However, not all generic support services are equipped to identify and address the multiple and often indivisible needs of this group of women. In some cases, women reported finding it difficult to divulge their involvement in prostitution with non-specialised services, but found the services useful in addressing other needs. For example, one woman who was very positive about the support she had received from a key worker said that nevertheless she found it hard to talk about and disclose her involvement in prostitution:

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*"And sometimes it's hard to talk about what you do and, do you know what I mean?" [115]*

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Another woman also highlighted how integrated the needs are and why this requires some specialist knowledge about exiting prostitution:

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*"No, the only, um, support services that were offered to me were the DIP services, you know, the drugs services. And I've got drug workers anyway... But there was nothing to offer me services for prostitution, or support around that... And I think that's quite important you know when women get arrested for those services, so they can seek help, you know. I mean it was okay for me cos I had that in place but... what happens if I hadn't? So, I would still be doing the same old thing." [112]*

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A further issue regarding the lack of specialist services is drug services being unsure about how and when to broach the topic of prostitution with women accessing the service. For example, one of the Drug and Alcohol Practitioners did not think it appropriate to ask the question in an initial assessment. This stakeholder believed that it is better to let the relationship develop and build trust prior to raising the topic.

However, as noted earlier many women find it difficult to raise the topic themselves. By enquiring as to whether a woman accessing the service has needs relating to involvement in prostitution, perhaps by asking about whether there is any coercion or abuse in relationships, whether she has some damaging criminal records, or how someone funds their drug use, the topic may well be raised early enough for targeted interventions but in a less intrusive way.

## Holistic services and joint working

As indicated, women exiting may be dealing with a very broad range of issues at the same time. Services supporting women to exit need to be able to identify the range of barriers to exit, and determine how and when to work on each of these interlocking barriers. One service may not be best placed to deal with every barrier: a full response to all barriers requires strong partnerships, networks and referral pathways into trusted services who can help but who also have an understanding of the specificities of the prostitution context.

This may mean that services supporting women to exit should take on an educational role, helping partners in more generic services (such as drug and alcohol, benefits, challenging criminal records, advocating for education and employment opportunities, health, police, courts and probation, housing, etc.) to understand prostitution and how it affects women.

The sometimes fraught political positioning around the issue of prostitution can obscure the needs of the woman. Her requirements should be the priority, and the primary consideration should always be which agency can best meet each particular need in a timely fashion. This approach helps to balance the twin demands of building good relationships with the statutory sector in order to smooth women's paths, while also retaining the women's trust that their confidentiality is safeguarded, their needs are prioritised and the independence of the service is maintained.

## 4.2 Recommendations for justice system

It is not easy to make recommendations for police, courts and local authorities when the fundamental lack of any clear direction of policy and practice about prostitution originates in central government. It is this failing at the top that results in entirely contradictory, arbitrary, fluctuating and inconsistent practice not only between local authorities, police forces and courts but literally from one side of the street to the other, one month to the next, and one individual in charge to the next.

Agencies should have at the forefront of their minds the continued context of inequality and discrimination that operates for women generally, and particularly for women involved in prostitution. Agencies must focus on the needs of the most disadvantaged and access to safety and justice for all, and recognise that many women may be interested in exit if support for this were available and if measures did not run counter to achieving it. Such an approach would necessarily have to assume that many of those involved in prostitution are not there through any real choice and may be there as a result of histories of abuse and neglect, and so need complex and targeted interventions.

Therefore, their practice and investment should be supportive of women, including towards exit. Measures need to be realistic, be sex-discrimination informed, and be relevant and workable for the reality of the lives of women involved in prostitution. They cannot be, as currently, token gestures to appease angry fellow residents which actually entrench women further in both prostitution and the criminal justice system by setting them up to fail (such as fines, ASBOs, custody, or unrealistic orders that entail further criminalisation if not adhered to). They should be honest that punitive measures, dispersals, arrests, move-ons and breaches are unhelpful to the women themselves and do not address in the long term any of the complaints, anxieties and problems that are levelled at agencies and police about prostitution.

Measures that could help include:

- Better knowledge and use of supportive interventions and alternative measures at local level including among magistrates and police
- Joined up working, partnerships and relationships across services
- Improved support and awareness around application processes to college, internships, volunteer placements and employment so as to ensure that where criminal records are disclosed, prostitution records are ideally exempt but certainly should not have to be discussed and are not confused wrongly with any kind of sexual offence

- Wider availability of, and investment in, alternative and supportive measures and specialist support services
- Less fragmentation between services working with women and children in recognition of the fact that many women involved may have arrived there as a result of abuse and neglect in childhood – this can also enhance prevention and reduce the arbitrary treatment depending on whether or not a woman has hit her eighteenth birthday
- Continue or reinstate specialist teams, including female staff, with expertise in this area rather than relying on a generic response (this would apply particularly for police but also for other services)
- Non-arrest policies for women involved, coupled with anonymity and special measures in court when women are arrested, placing limits on media reporting and the naming of women in court
- Improved training, awareness, practice and accountability at all levels of statutory service including prison staff, housing, health, police, courts, probation, welfare and benefits, in order to root out stigmatising, discriminatory and exclusionary behaviour towards women currently or formerly involved, and introduce gender-sensitive and prostitution-informed interventions
- Where women are in custody for prostitution-related offences, prison staff should include officers with some specialist training to be able to help women access support while in custody and to improve pathways and support on release
- Improved engagement with communities to raise awareness about prostitution and the lives of those involved in it so as to help communities to see that long-term, effective support and respect for these individuals is needed rather than short-term vilification and punishment. We know that such measures can significantly move opinion and reduce the harassment and abuse of women involved

### 4.3 Recommendations for central government

#### Woman-centred and holistic support

Responses to women in prostitution need to be gender sensitive at every stage. The criminal justice system needs to recognise pre-existing and enduring discrimination and inequality, and how these can be exacerbated if responses do not take into account the specific impacts on women. Every criminal justice measure should be tested against its effect on women involved in prostitution. What will be the impact on access to support services and networks? What will be the financial implications, and how will a woman meet the financial requirements without having to rely on prostitution or other unsafe dependent relationships? What will be the impact on her current coping mechanisms? What will be the impacts on her relationships (which are key to women's stability and recovery)? What will be the impact on the woman's safety and vulnerability to abuse and exploitation? What will be the impact on the woman's ability to exit prostitution and build and sustain an alternative lifestyle? What will be the impact on the woman's relationship with her children? What will be the impact on her housing situation, which is crucial to all other areas of stability? What will be the impact on confidentiality, given the lasting stigma and discrimination associated with women's involvement in prostitution?

## Priorities

- Decriminalise women who sell or are sold for sex: specifically, do not address prostitution through custody, ASBOs and fines
- Amend existing community based-alternatives so that they have the flexibility to be appropriate for women in prostitution
- Where women are being prosecuted, let it not be for prostitution-related offences, and/or ensure that there are special measures, publicity blackouts and anonymity in proceedings
- Ensure that DBS regulations exempt prostitution-related offences from disclosure including where there may be multiple convictions
- Invest in specialist officers and training, in key functions such as the police, magistrates and the prisons
- Invest in more general awareness and training among public services and subcontractors engaged to deliver public functions and for wider general public
- Invest in specialist services to prevent women entering prostitution and to support women wishing to exit, including offering viable alternatives
- Adopt a clear strategy and direction on prostitution which does not penalise women, but instead invests in preventing women and girls entering prostitution and supports women wishing to exit
- Invest in further research: assessing outcomes of different approaches, identifying what works for women and what women really want, examining the intersection of prostitution and other offences and how to minimise their negative effects, examining particular combinations of barriers and how to address them

## 4.4 Conclusions

This report does not make a direct call for any particular legislative regime. That was not the aim of this report and the opinions of those interviewed, both stakeholders and women, were too varied to be able to point to any consensus on that. Where there was consensus, however, was that significant numbers of women involved in prostitution have arrived there through abuse and lack of opportunity or actual choice, and that women should be supported to exit if they wish to and access the support they need to do so.

All parties felt it was wrong to criminalise women for their involvement, and that both criminal records and the criminal justice measures applied to women involved act to the detriment of the women. Indeed, a key finding of this report is that both criminal records and the criminal justice measures applied to women involved are detrimental to a uniquely discriminatory and disproportionate extent. They carry a particular gendered and enduring stigma, and as such are a hindrance to exiting and building a new life. By entrenching women in prostitution, criminal records and criminal justice measures lead to still further criminalisation, violence and abuse, and run counter to the government's expressed intention concerning rehabilitation of women offenders specifically.



It is therefore encouraging to note that the interim recommendations of the Select Committee Inquiry have at least recommended that women should not be criminalised for their involvement and their records should not be disclosed.

Confusion, contradiction and lack of transparency in practice will reign as long as the government fails to define its aims on prostitution and for people both involved in and affected by it. As long as we avoid talking about prostitution, taking a stance on the issue and recognising and prioritising the needs of the women involved, there will also be, on the most practical and important level, a gap in funding and expertise to support women to exit and build a new life.

The last word belongs to our interviewees:

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*"I mean you have to kind of go backwards... actually this is ridiculous, this is totally unjust and it's oppressive... I think that it's about standing up to that and going: "No, it's not helpful, it doesn't solve anything, therefore what's a more useful way of dealing with an issue"... And the criminalisation of it and vulnerable people is not... I would say [fair]." [ST08]*

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*"Most women in prostitution aren't there because they want to be for a start, they are there because they need to be for like financial reasons, drug or alcohol, or someone's making them do it... I just feel like, once again we are being punished again..." [I12]*

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# Appendices

## Appendix A: List of steering group members

Ruth Breslin, Policy Manager and Communications, Ruhama

Deborah Coles, Co-director, Inquest

Helen Easton, Senior Lecturer in Criminology, London South Bank University

Caroline Murphy, Project Manager, Chrysalis Project, St Mungos

Harriet Wistrich, Birnberg, Peirce and Partners

Hugh Davies, O.B.E., Q.C. Barrister at 3 Raymond buildings

During the course of the project there were some changes in staffing and so, in addition to the steering group, the project benefitted from the services of Julie Bindel (consultant) and Dr. Caroline Silcock (Research Management).

## Appendix B: Interview guide for interviews with women

### Personal details:

Research ref:	
First name	
Last name	
Age	
City	
Telephone	
Mobile	
Other contact	
Agency contact e.g. keyworker	

Blank page to detach personal details sheet\*\*

## Needs Assessment (for interviewer to complete)

Involvement in prostitution	
Are you currently involved?	Involved – no plans to exit  Involved trying to exit  Not involved
Place of involvement (current or when involved)	<i>On street, off street, both (transient)</i>
If you have exited or are trying to exit, what is the main reason?	
If you have stopped before what was your main source of support to exit?	<i>None</i>  <i>Formal support from services</i>  <i>Informal support from partner / family / friends</i>  <i>Combination of formal plus informal</i>

*Lead into next section as it is a bit of a jump of topic*

<b>Current employment status</b>	e.g. unemployed, unemployed and on benefits, part time	
<b>Education level</b>	Level of education: (tick highest level obtained) No formal qualifications..... <input type="checkbox"/> Secondary (GCSEs) ..... <input type="checkbox"/> Further (A-level) ..... <input type="checkbox"/> Higher (university) ..... <input type="checkbox"/> Vocational..... <input type="checkbox"/> Other (e.g. courses through service) .....	
<b>Debts</b>	To Whom?	
		£
	<b>Current debts</b>	
		£
		£
		£
	Any debts related to involvement in prostitution (e.g. fines)? <i>Detail below:</i>	

*Brief explanation about moving onto the CJS section.*

## Criminal justice

Any pending legal matters?	Y	Details:
	N	
Current orders, conditions, requirements?	Y	Details:
	N	
Relevant criminal record (directly relating to prostitution e.g. soliciting, brothel keeping)	Nature of record (offence):	
	Number of offences and when (estimate):	
	Other information/ details (e.g. outcomes following conviction):	
Did you go to court for these offences?	Yes / No / Sometimes	
Was there an opportunity to take a court diversion scheme?	Yes / No / Occasionally	

<p>If so did you ever take it?</p>	<p>Yes / No / Occasionally</p>
<p>Have you ever received a fine/ fines for prostitution related offences?</p>	<p>Details</p>
<p>Have you ever received an ASBO for prostitution related offences?</p>	<p>Details (e.g. when, length, conditions of ASBO):</p>
<p>Have you ever received a prison sentence for prostitution related offences or for non-payment of fines, breach of ASBO conditions?</p>	<p>Details (e.g. when, length of sentence):</p>
<p>Have you ever received a community based sentence for prostitution related offences? E.g. ESO.</p> <p>Did you complete it or breach it?</p>	



History of other offences (not offences directly related to prostitution e.g. loitering or soliciting)	Offences against the person		
	Acquisitive crime		
	Drugs offences		
	Other (please state)		
Previous orders, conditions, requirements? (not relating to prostitution)	DRR	Y	
	Probation	Y	
	ASBO	Y	
	Exclusion zone	Y	
	Other (please state):	Y	
Previous periods of imprisonment? (not for prostitution related offences)	Y		<i>Details:</i>
	N		

Try to answer some of these barrier Q's during the needs assessment as you remember what is said as you go along. Others may come out after the next section.

### Barriers (for interviewer to complete)

Problematic drug/ alcohol use when involved?	Y	N
Physical and/ or mental health problems when involved?	Y	N
Insecure housing/ homeless when involved?	Y	N
Experienced childhood violence	Y	N
How would you describe your finances when you were involved – debts/disposable cash	Y	N
Did you ever experience coercion to remain involved/ enter? Pimping, trafficking	Y	N
Education barrier – No formal qualifications when involved?	Y	N
Age of entry	Under 18	Over 18

## Semi-structured interview topic guide

### Intro

If you could tell me in your own words how you first became involved in prostitution,  
And then talk to me about when you first started to get arrested for this

### Prostitution related offences

From what you explained above about your involvement with criminal justice system, could you tell me a bit more about your criminal record for prostitution related offences

*e.g. when did you first receive a record, were you arrested on a regular basis for loitering and soliciting?*

## Outcomes (Where relevant – link to needs assessment):

Fines – Did you pay them? *If so, how?* Did you have debts as a result of fines?

If any, what impact did fines have on your involvement in prostitution? *Did it lead to you stopping or completely exiting from prostitution? Moving areas to sell sex? Did it mean you had to continue selling sex to pay fines?*

What are your thoughts about the use of fines for prostitution? *Are they a deterrent to selling sex?*

### ASBO

What impact did the ASBO have on you?

Did it affect your day to day life? E.g. accessing places, services, relationships, family? o Did you ever breach your ASBO? What was the consequence?

If any, what impact did it have on your involvement in prostitution? *Did it lead to you stopping or completely exiting from prostitution?*

What are your thoughts on the use of ASBOs for women involved in prostitution?

### Prison sentence

What impact did the prison sentence have on you? Housing, benefits leaving children, ability to make changes, rest from streets, escape violent pimp/ partner (positive and negative impacts)

On release did it affect your involvement in prostitution?

Did you access support after release? Did prison link you up with support in the community before release?

Were there any positives/ negatives to your prison sentence? *Did prison 'work'?*

What are your thoughts on the use of prison sentences for women involved in prostitution/ prostitution related offences?

### Community based sentences

Were there any benefits of this type of sentence? *e.g. access to services and support*

Negative aspects?

If any, what impact did it have on your involvement in prostitution?

*Led to exit, decrease? No impact?*

Did you continue to access support after your sentence/ appointments?

What are your thoughts around community sentences? *What do you think about the timing of when a community based sentence is handed out?*

### Exiting

Did your criminal record impact on/ prevent you from exiting prostitution? *If yes, how?*

*If currently involved* – do you think it will impact on your ability to exit if you want to in the future?

Following your exit, has your criminal record had any longer term impacts on your life? *Access to employment and training? Ability to leave involvement behind – label, stigma*

## Other offences (if relevant)

Did you commit other offences before you became involved in prostitution? Or after? Or whilst you were involved?

Were these offences linked to your involvement in prostitution in anyway? *E.g. moved from other offences into prostitution, committed other offences alongside prostitution?*

Did other people around you have involvement in the criminal justice system?

What impact has your criminal record for these other offences had on you? In addition to your criminal record for prostitution related offences? *How do you feel about this record compared to your record for prostitution related offences? E.g. None/worse?*

## Employment

*If currently unemployed:* are you seeking work? *If so in what way? Have you applied for jobs? In what field/ area would you like to work? Ideal job? Barriers to that?*

*If employed:* did you face any barriers/ challenges to getting the job you currently have?

Has your criminal record ever prevented you from applying for a job? *Do you know what's on your criminal record?*

Have you ever been turned down for a job because your criminal record is flagged in CRB/ DBS checks? *If yes, what impact has this had on you? What are your feelings about applying for other jobs?*

Have you faced any obstacles to completing CRB checks? *Addresses*

If you are still involved in prostitution but are seeking to exit, do you know how to access either address or criminal record information or who would be able to help you?

## Criminal justice approach to women involved in prostitution

Overall, what do you think about the police/ criminal justice approach to women involved in prostitution?

What are your thoughts on prostitution as an offence? *Should soliciting and loitering be offences? What do you think about prostitution in comparison to other offences? Has this perception / view changed overtime?*

What offences relating to prostitution do you think should be offences?

*E.g. trafficking, brothel keeping*

Did you ever see the police targeting/ arresting buyers? *What did you think about this?*

If any, what do you think would be a better approach to women involved in prostitution/ prostitution in general?

# Appendix C: Stakeholder Interview Guide

Reference number:	
Interviewee name:	
Job title:	
Organisation:	
Email address:	
Contact number:	
Interviewer name:	
Location:	
Date:	
Audio recording:	
Consent form signed:	

## Stakeholder Semi-Structured Interview – Topic Guide

### Interviewee/ organisation overview

Could you give me a brief overview of your role and the work of your team/ organisation?

### Women involved in prostitution and criminal records (if relevant to role)

Do you see criminalisation as a common issue for this client group? *Does this differ by where women are involved in the sex industry?*

If you work in a support service, can you give us an idea of how common this is for the women accessing your service?

If you have more of a policy perspective can you talk us through what your thoughts are around the extent to which women are criminalised for prostitution?

To what extent (if any) do you think that this ties into women having a related criminal record for other things e.g. drug offences – do you see any patterns in this respect?

Do you think that having a criminal record for prostitution related offences impacts on women in any way? *If so how? Short term impacts? Long term impacts? Exiting, social networks, employment opportunities.*

What extent do you think that women are aware of the impacts of having a criminal record?

## Policing of prostitution and the criminal justice approach

Do you have knowledge of the policing and local government approach (in practice as opposed to law/ policy) towards women involved in prostitution in the area/ borough you work in? *If yes what is this? What do you think of this?*

Are you aware of alternative policing and local government strategies in other areas? *How do you think these compare?*

Are women involved in prostitution targeted by the police? *If so in what way? Does this differ by where women are involved in the sex industry e.g. on or off-street?*

What about the approach of courts and magistrates? *Are these the same or conflicting with the police? Same or differing approaches within the same borough? Impact of this?*

Are the buyers of sex targeted by the police? *In what way? What are the outcomes?*

What are the different outcomes for women who are convicted for prostitution-related offences? E.g. fines, prison, ESOs. *What are the impacts of these? Short-term/immediate impacts and longer-term impacts.*

In your professional opinion is one/ some of these outcomes preferable to others? *E.g. fines, ESOs, court diversion.*

In terms of the work that you do, are there any challenges in terms of this client group? *E.g. policing prostitution, multi-agency working, the law.*



## Recommendations

In terms of the law surrounding prostitution (in relation to sellers and buyers) do you think that this is suitable and the best approach? *If yes, why? The law in relation to sellers and also buyers?*

In your professional opinion, what approach do you think the police and criminal justice system should take towards prostitution?

Is there a comparable model or approach either locally, nationally or internationally that you think would be better? *Why?*

Do you have any other recommendations in terms of practice and criminal justice?

Would the participant be happy to be contacted again in relation to this research?

Yes  No

# Appendix D: Information sheet for participants

## About the research

Eaves is undertaking a research project which builds on the findings of *Breaking down the barriers*. The research is funded by the Lankelly Chase Foundation which funds a range of work that aims to bring about change which will transform the quality of life for people who face disadvantage. The research will explore in greater depth the way that women are criminalised for their involvement in prostitution and what impact this has on women.

More specifically, the research aims to explore:

- The ways in which convictions and different outcomes for prostitution-related offences impact on women involved in prostitution;
- How a criminal record for prostitution-related offences can act as a barrier (obstacle) to exiting – specifically as a hindrance to employment and education;
- How this barrier (obstacle) may be linked to other offences, and interact with other barriers women may face when exiting;
- The enduring impact that a criminal record for prostitution-related offences can have on women, including post-exit.

## How we will work with you

We would like to talk to you about your involvement in prostitution, your criminal record and, if relevant, your exit from prostitution. Only information will be collected which will help us to develop better policies and service provision for women involved in prostitution who have criminal records for prostitution-related offences.

You do not have to be involved in this research if you don't want to be and can withdraw from being involved at any time without any consequences. If you agree to being involved you don't have to answer every question and you can tell us if you answered something which you wish you hadn't and we will delete that information. If you aren't comfortable with any element of the research you don't have to continue and we can take a break at any point if you would like to. You also have the right to refuse the recording of any of our discussions.

Anything you say to us will be kept completely confidential and anonymous, unless the researcher has any concerns about risks to yourself, another person, relating to child protection or any unresolved serious offences. In these circumstances, we might need to talk to someone else, such as your key worker, but should this happen we will always discuss this with you before we take any action.

## How we will keep any information we discuss with you

Only the researchers you meet on the project and their direct supervisors will have access to the information you provide during the research. We will not share your information or personal details with anyone else outside of the research team unless you give us your permission.

We will take out any information which may identify you personally and will store any documents with personal details separate to other information you give us.

We will also store all information in line with Eaves policies. Information will be stored securely in locked filing cabinets or it will be password protected on computers which only we have access to. Any information that you provide us with will be stored in this way for the duration of the research and for a period of two years after the publication of any findings. Your written consent to be involved will also be kept on record and you can withdraw this at any point during the research.

In any findings or information that we publish we will ensure that you will not be able to be identified.

## Who we are

Eaves has provided specialist services for women for over 30 years including:

- Support and advocacy for women affected by all forms of male violence;
- Support for women who want to exit prostitution;
- Peer-to-peer mentoring and advocacy for women who have experienced sexual violence;
- Housing advice;
- Education, training and employment advice;
- Support and housing for women who have been trafficked into the UK;
- Policy development, training and research on a range of violence against women issues.

## Research team

Lisa Young – 02078407114  
[lisa.young@eavesforwomen.org.uk](mailto:lisa.young@eavesforwomen.org.uk)

Laura Brown – 0207 840 7110, 07834 192420  
[laura.brown@eavesforwomen.org.uk](mailto:laura.brown@eavesforwomen.org.uk)

## Appendix E: Research Consent Form

In order to take part in the research conducted by Eaves it is essential that you have full understanding of the information on the attached sheet. You will be given a copy of this information and have the opportunity to ask questions to clarify any queries you may have.

*Please read the following information carefully.*

I..... have been invited by Eaves to take part in a research project exploring the criminalisation of women involved in prostitution. I have been given copies of the research aims and objectives and the policies governing how my information will be kept and used.

By signing below, I give consent to take part in this research.

Research participant print name:	Signed:	Date:
Researcher print name:	Signed:	Date:

### Withdrawal of consent form

I understand that I have the right to withdraw my consent to take part in the research at anytime. I may withdraw without any consequences and ask for all/ some of the data that I have provided to be destroyed.

I..... no longer wish to take part in the research and am withdrawing my consent.

Please detail whether you would like all of the data that you have provided to be destroyed, or what data you give Eaves permission to use in the research:

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---

Research participant print name:	Research participant signed:	Date:
Researcher print name:	Researcher signed:	Date:

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## **About nia**

nia has been delivering services for women and girls and children who have experienced sexual and domestic violence since 1975.

The organisation has three main aims:

- to provide services for women, girls and children who have experienced men's violence;
- to contribute to ending male violence against women and girls;
- to inform and influence policy and public awareness.

nia is run for women and children by women, providing services developed in consultation with women who have experienced men's violence, and from a proudly feminist perspective.

## **About Lankelly Chase**

Lankelly Chase seeks to bring about change that will transform the quality of life of people who face severe and multiple disadvantages. Our vision is of a society where everyone can live a rewarding life, where government and civic institutions respond with urgency and compassion to social harms, and where attitudes to those most disadvantaged are rooted in understanding and humanity.

# **Lankelly Chase**

Art work (inside pages) : courtesy of women exiting prostitution attending workshops

### **nia**

info@niaendingviolence.org.uk  
P.O. BOX 58203, London, N1 3XP,  
TEL : 020 7683 1270 • FAX : 020 7288 1751

Registered Charity number : 1037072  
Registered Company number : 02673624

**nia**

[info@niaendingviolence.org.uk](mailto:info@niaendingviolence.org.uk)

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