

## Summary: Intervention & Options

<b>Department /Agency:</b> Home Office	<b>Title:</b> Impact Assessment of new criminal offence of 'paying for sexual services of prostitute controlled for gain'.	
<b>Stage:</b> Final	<b>Version:</b> 0.5	<b>Date:</b> 27 November 2008
<b>Related Publications:</b>		

Available to view or download at:

<http://www>.

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**What is the problem under consideration? Why is government intervention necessary?**

Having conducted a six month review into tackling the demand for prostitution, we now believe that there is more we can do to tackle the demand for prostitution. We argue that overall demand for prostitution is heavily linked to both the trafficking and exploitation of individuals through prostitution. Although we have offences in place to deal with those who control and exploit these groups, we have nothing to deal with those who create the demand for these markets.

**What are the policy objectives and the intended effects?**

To reduce the harm to prostitutes that are trafficked or 'pimped'. This will be achieved through deterring sex buyers from paying for sex with prostitutes controlled for gain, reduce demand for their services, to reduce the numbers of prostitutes that are exploited by traffickers and pimps and to reduce the rewards for those who traffick or exploit others.

**What policy options have been considered? Please justify any preferred option.**

Option 1 - Do Nothing, maintain the status quo

Option 2 - Introduce a strict liability offence of paying for sex with an individual controlled for gain

Option 2 is the preferred option as it addresses the problem of reducing demand, forcing sex buyers to face the consequences of their actions.

**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? To be Confirmed**

**Ministerial Sign-off** For final proposal/implementation stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.***

Signed by the responsible Minister:

..... Date:

## Summary: Analysis & Evidence

**Policy Option: 2: new offence**

**Description: A new criminal offence of paying for sex with someone controlled for gain.**

<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups' Criminal Justice Organisations: Police, CPS Legal aid and Courts.
	<b>One-off</b> (Transition)	<b>Yrs</b>	
	£		
	<b>Average Annual Cost</b> (excluding one-off)		
	£ 0.4m		<b>Total Cost (PV)</b> <b>£ 1m over 5 years</b>
Other <b>key non-monetised costs</b> by 'main affected groups'			

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups'
	<b>One-off</b>	<b>Yrs</b>	
	£ 0		
	<b>Average Annual Benefit</b> (excluding one-off)		
	£ 0		<b>Total Benefit (PV)</b> <b>£ 0</b>
Other <b>key non-monetised benefits</b> by 'main affected groups' To prostitutes who may otherwise have been exploited, in reduction in harms associated with exploitation and physical harm. General reduction in criminality surrounding people trafficking.			

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> <b>£ -1.8m over 5 years</b>
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What is the geographic coverage of the policy/option?		England, Wales, NI.	
On what date will the policy be implemented?		TBA	
Which organisation(s) will enforce the policy?		Police, CPS	
What is the total annual cost of enforcement for these organisations?		£ 70-110 k	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		Yes	
What is the value of the proposed offsetting measure per year?		£ 0	
What is the value of changes in greenhouse gas emissions?		£ 0	
Will the proposal have a significant impact on competition?		Yes/No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium      Large
Are any of these organisations exempt?	No	No	N/A      N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)	
Increase of    £ 0	Decrease of    £ 0	<b>Net Impact</b>	£ 0

Key:      Annual costs and benefits: Constant Prices      (Net) Present Value

## Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

### **Rationale**

Public opinion is divided as to whether paying for sex in any circumstances should be illegal and the Government recognises that there would be some concern about criminalising those who would act freely in selling sex. It's important to recognise that this consent is not necessarily 'real' and an act of free-will. Many of the victims of sexual exploitation are afraid of reprisals if they object. They are often tied to debt bondage and are subjected to threats and acts of violence. They have little or no control over their actions and participation. There are often indicators that suggest that an individual may be subject to exploitation, but these often go ignored by 'punters' who convince themselves that they are entering into a mutually equal engagement.

### **Objectives**

We are keen that sex buyers understand that it is wrong to pay for someone who is exploited through prostitution, even if it appears that they do consent to the individual act. We want to deter them from buying sex from exploited prostitutes, and reduce the numbers of prostitutes that are harmed through the process of control and exploitation.

### **Options**

Option 1 – Do Nothing. Maintain the status quo where no offence is available to deal with those who pay for sex.

Option 2 – Introduce a strict liability offence for paying for sexual services of prostitute controlled for gain.

We recognise that it would be difficult to enforce or successfully prosecute if it was necessary to prove that the sex buyer knew that the individual had been controlled or exploited for gain. We therefore intend to introduce this offence should be a strict liability

offence. Introducing this as a strict liability offence would mean that the defendant would have no defence to paying for sex with a controlled individual, regardless of the steps they had taken to ensure that they weren't.

### Benefits of Preferred Option

- Reduction in physical and emotional harm of controlled prostitutes
- Reduction in criminality associated with controlling of prostitutes for gain and the impact on communities **such as crime, anti social behaviour and nuisance.**
- CJS costs associated with dealing with prostitution and people trafficking.

### Costs of preferred option

The proposal involves creating a new offence and therefore costs will fall on criminal justice organisations and resources – Police, CPS, Courts and Legal Aid.

### Volumes

As this is not currently an offence there is no data on how many individuals are likely to be convicted. **While this is a strict liability offence, it is likely that prosecution will require evidence of the existence of a pimp.** In 2006/7 there were 63 cases where an individual was convicted of controlling a prostitute for gain. Under this assumption of evidence of a pimp, and that in each of these cases there were a maximum of 5 people found on the premises we estimate that 300 would be an upper limit to the number of additional sanctions under the proposal.

Based on similar types of offences (such as Kerb Crawling) we expected the flow through the CJS to be as stated in the table below. We also include a variant assumption based on an expectation that the police may choose to caution a greater proportion and where there is a low proportion of 'guilty' pleas (given the nature of the offence).

	High assumption		Variant assumption	
	Proportion	Number	Proportion	Number
No Further action (NFA)	20%	60	20%	60
Cautions	20%	60	45%	60
Guilty Plea	40%	120	30%	120
Not Guilty plea/Found Guilty	15%	45	4%	45
Guilty Plea/Found Not Guilty	5%	15	1%	15

Using the upper limit of 300 cases, these assumptions result in the following costs:

	High assumption	Variant assumption
Police	£70,000	£50,000
CPS	£40,000	£20,000
Courts/Legal Aid	£340,000	£210,000
<b>Total</b>	<b>£450,000</b>	<b>£280,000</b>

There will be no impact on the private or voluntary sectors. These costs represent our estimation of the maximum value of resources used by the relevant Criminal Justice organisations in carrying out activities under this proposal. Actual financial impact will be

dependent on the actual volumes, together with the extent to which the different organisations choose to re-allocate resources or are required to deploy additional resources.

- No Further Action and Caution – to Police and CPS for carry out arrest and consideration of charges; legal aid.
- Guilty plea – to police and CPS for carry out arrest and consideration of charges; HMCS and CPS for trial and for enforcement of fine; legal aid.
- Not Guilty plea – to police CPS for carry out arrest and consideration of charges, HMCS and CPS for more complex trial and for enforcement of fine; legal aid.

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes/No	Yes/No
Small Firms Impact Test	Yes/No	Yes/No
Legal Aid	Yes/No	Yes/No
Sustainable Development	Yes/No	Yes/No
Carbon Assessment	Yes/No	Yes/No
Other Environment	Yes/No	Yes/No
Health Impact Assessment	Yes/No	Yes/No
Race Equality	Yes/No	Yes/No
Disability Equality	Yes/No	Yes/No
Gender Equality	Yes/No	Yes/No
Human Rights	Yes/No	Yes/No
Rural Proofing	Yes/No	Yes/No

