Ash Regan MSP
Member for Edinburgh Eastern

The Scottish Parliament, Edinburgh EH99 1SP
ash.regan.msp@parliament.scot
0131 659 4707

The Scottish Parliament
Pàrlamaid na h-Alba

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Dear Convener,

I am writing in response to the letter from National Ugly Mugs dated 8 December, which raises a number of allegations concerning my evidence to the Committee and the development of this Bill. I address those allegations below.

Allegation of misunderstanding screening and safety

National Ugly Mugs' letter of 8 December quotes my comment that "screening is a myth" and asserts that this shows I do not understand the reality of what women in prostitution do to try to keep themselves safe. That is not an accurate reflection of my remarks. As the Official Report shows, the comment was immediately followed by an explanation of why screening does not operate as a meaningful safety mechanism for most women in prostitution.

My point was not that women do not attempt to screen buyers. Many do, and understandably so. Rather, I explained that screening does not amount to a reliable safety mechanism for the vast majority of women in prostitution, because the structural circumstances in which most women operate mean that they often lack the option to refuse buyers, even when risk information is available. Screening is not a safety mechanism. It is information-gathering. A woman's safety is not determined by whether she holds information, but by whether she has the option to refuse a buyer, and the power to refuse without suffering negative consequences.

Women I have spoken to in Scotland have described situations in which screening has little practical effect:

- women in brothels unable to refuse buyers without penalty, with managers "shutting the door" if violence occurs in another room;
- trafficked women with no control over bookings, advertisements, or the identities of men sent to them;
- economic and coercive pressures which leave many women without a real option to refuse buyers in practice, regardless of the risks they perceive.

The structural conditions that constrain women's option to refuse buyers have been set out clearly in the international literature on how the prostitution system functions. As Reem Alsalem, UN Special Rapporteur on Violence Against Women and Girls, explains in her 2024 position paper on exit programmes, prostitution operates through systems of coercion, control, economic dependency and exploitation, in which a woman's options narrow as her vulnerabilities increase. To reflect the widely observed stratification within prostitution markets, in Committee I used Melissa Farley's *Prostitution's Hierarchy of Coercion* (2008): at the very top is

a tiny, relatively privileged minority with some genuine autonomy; below them is a larger group whose "choices" are heavily constrained by abuse histories and economic pressure; at the base is the majority, whose life circumstances and control by others leave little or no meaningful option to refuse buyers.

The further down the hierarchy a woman is pushed, the less meaningful it is to speak of "choice," and the less realistic it is to present screening as a route to safety. For many women, there is no option to refuse a buyer at all. For others, refusal exists in theory but is not viable in practice, because exercising it leads to post-refusal consequences: loss of work, loss of income they cannot afford, retaliation, or direct punishment by controllers or brothel managers. Information is useless when a woman is not permitted to act on it, and meaningless when acting on it leads to harm.

This distinction between having information and being able to act on it was examined directly by the Committee. In the evidence session on 8 October, Mr Liam Kerr MSP asked:

"Given what we heard, how much power does the sex worker have to decline the transaction or instruction once they receive that alert?"

That question goes to the heart of the issue. A woman's safety is not determined by whether she holds a buyer's phone number, username or past alert history; it depends on whether she has the option to refuse that buyer, and whether she has the power to refuse in practice — meaning that refusal can be exercised without harmful consequences.

New Zealand is frequently cited as evidence that commercialising prostitution improves safety outcomes for those who sell sexual access. In response to Mr Kerr, one witness stated that after prostitution was commercialised in New Zealand, 65 per cent of sellers reported feeling more able to refuse buyers. This was presented as evidence that commercialisation gives women greater power to refuse a buyer when screening information suggests that he is unsafe. The New Zealand Government's own statutory review shows why that figure is not a meaningful indicator of women's real options or power to refuse in practice.

The 65 per cent figure cannot be generalised to women in prostitution as a whole. It is drawn from a non-representative survey of 772 participants. The authors state that the survey excludes or under-represents those women most likely to have no option to refuse: migrant women, women without fluent English, and women whose immigration status or brothel conditions place them under the tightest control. The survey also deliberately over-recruited men. The resulting sample does not reflect the actual composition of prostitution in New Zealand, which is overwhelmingly female and disproportionately migrant.

Even within this skewed sample, however, the findings are clear. Enshrining the right to refuse in law did not result in meaningful power to refuse in practice: 35.3 per cent had accepted buyers they did not want, and of those who did refuse, 10.5 per cent were penalised for doing so. These findings come from the New Zealand Government-commissioned study *The Impact of the Prostitution Reform Act on the*

Health and Safety Practices of Sex Workers (Abel, Fitzgerald & Brunton, 2007). The data also show that brothel-based prostitution — the largest and almost entirely female sector — is the one in which women report both lower power to refuse and higher penalty rates than other sectors.

The statutory review therefore supports, rather than undermines, the point I made to the Committee: feeling more able to refuse is not the same as having the option to refuse, and neither is it the same as having the power to refuse without consequences. Even in the most permissive legal framework available, substantial numbers of women lacked both.

It follows that the argument advanced by opponents of the Bill — that criminalising buyers would "damage screening" — rests on a misunderstanding. Screening gathers information, but for most women in prostitution:

- screening does not create the option to refuse where no such option exists;
- screening does not confer the power to refuse where refusal leads to punishment or harm; and
- screening cannot mitigate conditions in which women routinely accept men they do not want because they lack both the option and the power to refuse.

It is also important to be clear that when National Ugly Mugs describe women requesting identification or bank-linked pre-payment, they are describing practices that exist only in the most privileged margins of the market. Their own screening tool relies overwhelmingly on usernames, phone numbers and pseudonymous contact details — information that does not and cannot provide protection where a woman lacks the option or power to refuse the buyer behind the number.

That is why I said screening is a myth as a safety mechanism. I continue to believe the Committee should treat claims about screening with caution. Not because women do not try to screen, or because tools such as NUM's do not exist, but because presenting screening as if information alone can deliver protection obscures the reality that for most women the structural conditions of prostitution mean they lack both the option and the power to refuse buyers safely or at all.

Identifying screening as a myth aligns with the evidence heard by the Committee on 8 October and from later witnesses, and with the findings of the New Zealand Government's own review. It is not, as National Ugly Mugs suggest, a misunderstanding of women's reality; it reflects that reality as women themselves describe it.

Allegation of misleading the Committee

National Ugly Mugs further implies that I misled the Committee during oral evidence by stating that no evidence had been provided demonstrating that criminalising the purchase of sex increases violence against women in prostitution. That is a serious allegation, and it is unfounded.

I gave my evidence to the Committee accurately and in good faith, based on the material that had in fact been submitted to me and to the Committee. The record does not support the suggestion that I knowingly or recklessly misrepresented the evidential position.

National Ugly Mugs asserts that it submitted a 7,000-word, 14-page response to the consultation on my proposal which "set out the evidential basis" for the claim that criminalising the purchase of sex increases violence, and that my statement to the Committee ignored or denied that evidence. That claim is not supported by the document they submitted.

In their consultation response of 25 September 2024, published on Unbuyable.org, National Ugly Mugs describe buyer-criminalisation as "a lethal policy approach" and assert that the harms they allege have been "empirically proven". However, when it comes to providing that evidence, they state:

"We were initially planning to provide you with references to these works, but any unbiased search of academic and grey literature databases would reveal studies that you would have difficulty refuting…"

They then provide no references to those studies. The consultation response therefore does not supply the empirical evidence it claims exists and explicitly records a decision not to provide it. My statement to the Committee that no evidence had been provided accurately reflected the material submitted.

National Ugly Mugs repeatedly asserts that harms arising from buyer-criminalisation have been "empirically proven", based on "samples of sex workers directly affected by these policy decisions". That formulation collapses distinct concepts and obscures what would be required to substantiate the causal claim being made.

The claim at issue is a causal one: that criminalising the purchase of sex causes an increase in violence against women in prostitution. Empirical evidence, in this context, means systematically collected and verifiable data capable of testing that causal relationship. Depending on what is available, that would typically include baseline and follow-up data, or credible comparative data across jurisdictions; recorded outcomes such as police-recorded violence, homicide data, or relevant health indicators; and methodology capable of testing causation, rather than simply asserting mechanisms.

By contrast, advocacy reports, narrative accounts, lived-experience testimony, qualitative interviews without comparators, self-selected surveys, and opinion polling may illuminate perceptions or experiences but do not, on their own, establish causation. Fear is evidence of fear; it is not evidence that a law causes the feared harm.

Claims that buyer-criminalisation increases violence or undermines safety have been examined in court. In *Canadian Alliance for Sex Work Law Reform v Attorney General of Canada* (Ontario Superior Court of Justice, 18 September 2023), the Court examined advocacy-driven studies, qualitative material, and lived-experience

testimony and found them insufficient to establish a real and non-speculative causal connection between buyer-criminalisation provisions and increased violence.

A similar conclusion was reached by the European Court of Human Rights in *M.A. and Others v France* (25 July 2024). While the European Court addressed these claims at a systemic human-rights level, the Canadian court subjected them to particularly detailed evidential scrutiny. In both cases, the asserted harms were not established on the evidence.

This evidential problem was also identified in oral evidence to the Committee. Professor Jo Phoenix warned that much of the research relied upon in this area suffers from confirmation bias and false causality, with conclusions asserted without demonstrating how the law produces the alleged harm. Similarly, evidence from Ruth Breslin referenced the work of Dr Geoffrey Shannon, former Special Rapporteur on Child Protection for the Irish Government, who set out clear criteria for assessing research used to evaluate end-demand legislation, including verifiable data, transparent methodology, independence, and triangulation. He cautioned against treating advocacy-based material or unverified data as evidence of legislative effect. These standards mirror those applied by the Canadian court.

National Ugly Mugs' December letter blurs a fundamental distinction between claim and evidence. While it asserts that empirical research exists demonstrating that criminalising the purchase of sex increases violence, no such evidence was provided to me or to the Committee. My statement to the Committee accurately reflected the material submitted. The contrary characterisation advanced by National Ugly Mugs does not.

Allegation of inadequate consultation and engagement

National Ugly Mugs goes on to characterise my engagement while developing this Bill as "cursory" and asserts that meaningful consultation with women affected by prostitution has not been undertaken. That allegation is not supported by the record.

On 16 December 2004, the Scottish Executive issued its first formal call for responses following the Expert Group report *Being Outside: Constructing a Response to Street Prostitution*. On 16 December 2025, I write in defence of this Bill. The date matters. What sits between those two moments is not an absence of engagement, but more than two decades of sustained examination, consultation, and evidence-gathering on prostitution in Scotland.

Between those dates lie successive and overlapping processes: the Expert Group on Prostitution (2003–04) and the ensuing consultation; parliamentary scrutiny and legislation on street prostitution in 2006–07; Members' Bills proposing criminalisation of purchase in 2010 and 2012; Justice Committee consideration and amendments during the passage of the Human Trafficking and Exploitation (Scotland) Act 2015, followed by Government-commissioned research and review in 2016–17; the 2020–21 Equally Safe consultation on prostitution; and, most recently, the Scottish Government's *Strategic Approach to Tackling Prostitution*, published on 6 February 2024, which explicitly frames prostitution as commercial sexual

exploitation and violence against women and centres demand reduction as a core policy objective.

Throughout this period, engagement has included formal consultations, parliamentary evidence, expert groups, commissioned research, and sustained input from frontline and specialist women's services — including those working with and advocating for women in prostitution in Glasgow, Edinburgh, Aberdeen and Dundee — whose role has not been to campaign for particular legal models, but to support women and advise Government and Parliament on harm, exploitation and exit.

The present Bill does not sit outside that history. It is grounded in it. The Policy Memorandum draws directly on the Scottish Government's own analytical work, expert groups, short-life working groups and lived-experience engagement, as well as decades of evidence submitted to Parliament and Ministers. What has been lacking over this period is not consultation or scrutiny, but legislative action.

It is also important to be clear about the nature of the criticism being made. National Ugly Mugs' objection is not, in substance, to the absence of engagement, but to the position I have taken — a position which directly conflicts with the financial interests of some of its funders. Had I adopted an approach premised on treating prostitution as an ordinary commercial activity, the adequacy of consultation would not be in dispute. Disagreement with the outcome of engagement cannot retrospectively be recast as evidence that engagement did not occur.

In that context, the suggestion that this Bill suffers from a lack of consultation or engagement is not merely inaccurate. It is an insult to my role as the Member in Charge, given my engagement with women in prostitution and survivors since at least 2012; an insult to the Scottish Parliament, which has examined this issue repeatedly over more than two decades; and an insult to the Committee itself, which has taken extensive oral and written evidence, including from women with lived experience.

The difficulty in this policy area has never been a lack of consultation. It has been the repeated deferral of legislative action despite sustained engagement, evidence-gathering, and consistent conclusions.

For these reasons, I do not accept the characterisation advanced by National Ugly Mugs in its letter of 8 December. I am satisfied that my evidence to the Committee was accurate and properly grounded in the material submitted, and that the development of this Bill reflects sustained engagement, scrutiny and evidence-gathering over many years.

Yours sincerely,

Ash Regan MSP, Edinburgh Eastern