

# **Response to the Criminal Justice Committee's Stage 1 Report on the Prostitution (Offences and Support) (Scotland) Bill**

**Ash Regan MSP for Edinburgh Eastern**

30 January 2026

## **Important clarification on scope and intent**

This response addresses the Stage 1 Report as published and laid before Parliament. It is not a critique of the Criminal Justice Committee as a collective body, nor of individual Members. The Report records that the Committee was evenly divided on whether the general principles of the Bill should be agreed, with four Members supporting progression at Stage 1 and four Members taking a different view.

It is important to distinguish between support for progression at Stage 1 and the language used in the Report to describe that support. Members who argued for the Bill to proceed did so on the basis that Stage 1 is concerned with agreement to general principles, and that identified issues — where they existed — were matters for amendment or refinement at later stages, in line with normal parliamentary practice. Their support for progression on that basis should not be read as indicating fundamental objections to the Bill's core provisions or as implying that the Bill's principal measures were inherently defective.

Where this response identifies deficiencies, they relate to how the Stage 1 Report, as a document, frames and aggregates those positions, and to the consequences of that framing for Parliament's understanding of the evidence and of Members' views. The response is therefore directed at the content, structure, and omissions of the Report itself, rather than at the conduct, competence, or good faith of those Members who sought to enable proper parliamentary consideration of the Bill's general principles.

## Table of Contents

How to read this response	4
<b>PART I – Stage 1 Scrutiny Framework and Cross-Cutting Failures</b>	<b>7</b>
The Stage 1 function and what rule 9.6 requires	7
The Committee’s stated approach to evidence	7
Where the Stage 1 Report fails against rule 9.6	8
Failure to engage with my written evidence as Member in Charge	10
Asymmetrical treatment of evidence	10
Conceptual and evidential failure in the weighting of lived experience evidence	10
Uneven engagement with individuals with lived experience	11
Safety and screening claims: acceptance of an untested premise	12
Safety claims and evidential relevance: failure to ask the prior question	13
On-street prostitution, existing Scottish law, and the absence of harm evidence	13
The evidential significance of non-occurrence	14
Parliamentary precedent: scrutiny of the same claims in 2006–07	14
Failure to engage with comparative evidence sought by the Committee: Sweden, Ireland, and Northern Ireland	15
<b>PART II – Application to Section 1 of the Bill (New Criminal Offence)</b>	<b>17</b>
Mischaracterisation of the Bill’s objectives in the assessment of enforceability	17
Enforceability, amendability and Stage 1 precedent	18
Mischaracterisation of the Bill’s scope, devolved competence, and interaction with existing law	18
Time pressure, process anxiety, and Committee choice	20
Internal contradiction and amendment logic collapse	20
Conclusion on the Committee’s treatment of section 1	21
<b>PART III – Application to Remaining Provisions (Sections 2–6)</b>	<b>22</b>
Repeal of section 46: absence of evidential, legal, or drafting objection	22
Sections 4 and 5: quashing of historic convictions	23
Section 6: statutory right to assistance and support	24

PART IV – General Principles and the Absence of a Recommendation _____	26
The Stage 1 Report’s general principles assessment: acceptance of objectives, absence of conclusion _____	26
Stage 1 is not a perfection test _____	26
Insufficient time as a rationale for deferral _____	27
Parliamentary precedent and the inversion of Stage 1 logic _____	27
The commission proposal _____	28
Conclusion _____	29

## **HOW TO READ THIS RESPONSE**

This response is structured to assist assessment of whether the Stage 1 Report, as laid before Parliament, provides the evidential and analytical basis required for Parliament to decide whether to agree to the general principles of the Bill.

It does not restate the policy case for the Bill. It examines the Stage 1 Report's treatment of evidence, reasoning, and parliamentary precedent, particularly in the context of a split Report and the absence of a committee recommendation.

### **What each Part does**

#### **Part I – Stage 1 Scrutiny Framework and Cross-Cutting Failures**

Part I sets out the Stage 1 scrutiny function and the requirements of Rule 9.6. It then identifies cross-cutting shortcomings in how the Stage 1 Report handles evidence and competing claims, including omissions, non-assessment, and selective engagement. This Part provides the framework used throughout the response.

#### **Part II – Application to Section 1 of the Bill (New Criminal Offence)**

Part II applies the Part I framework to the Stage 1 Report's treatment of section 1. It focuses on how the Report assesses enforceability and safety-related claims, and how it treats relevance, causation, and comparative or historical context when recording contested assertions.

#### **Part III – Application to Remaining Provisions (Sections 2–6)**

Part III addresses the Stage 1 Report's treatment of the remaining provisions. It distinguishes between areas where Stage 1 scrutiny identified an issue and an amendment pathway (sections 4 and 5), and areas where the Report accepts policy intent and identifies no legal or drafting defect but does not provide a reasoned evidential or analytical account of how divergent Stage 1 positions arise from the evidence before the Committee (sections 2 and 3, and the Report's treatment of section 6 as a matter of general principle).

#### **Part IV – General Principles and the Absence of a Recommendation**

Part IV considers the Stage 1 Report's General Principles section in light of the absence of a recommendation. It examines how the Report records acceptance of objectives and acknowledged harms while proposing a further cycle of consultation and review, and how the Report frames time pressure, precedent, and the commission proposal in place of completed Stage 1 evidential and analytical assessment.

## **What is evidential and what is analytical**

**Evidential description** in this response relates to what the Stage 1 Report records, what material was before the Committee, and what was (or was not) engaged with in the Report.

**Analytical assessment** in this response relates to whether the Stage 1 Report's approach meets the Stage 1 scrutiny function required by Rule 9.6 and established parliamentary practice, including where the Report records disagreement without evidential assessment or structured reasoning.

## **Use of the Annexe**

This response refers at points to an Annexe containing written submissions and supplementary material provided by the Member in Charge during Stage 1 scrutiny.

The Annexe is provided as a standalone document. It is not included to restate the policy merits of the Bill, but to show how specific claims recorded in the Stage 1 Report were addressed during scrutiny.

Where the Stage 1 Report relies on assertions relating to safety, screening, enforceability, displacement, or unintended consequences, the Annexe sets out the evidential analysis submitted in response to those assertions. References to the Annexe in this response are made for a limited and specific purpose: to identify where relevant evidence was before the Committee but was not summarised, assessed, or drawn into the Stage 1 Report's reasoning.

The existence of the Annexe is therefore relevant to whether the Stage 1 Report fulfils its scrutiny function. This response does not ask Parliament to adopt the conclusions set out in the Annexe. It identifies where that material existed, was submitted during Stage 1, and was available to the Committee at the time the Report was prepared.

## **Purpose of this response**

This response addresses the Criminal Justice Committee's Stage 1 Report on the Prostitution (Offences and Support) (Scotland) Bill.

The Stage 1 Report records that the Committee was divided on whether the general principles of the Bill should be agreed to. Some Members supported agreement to the general principles at Stage 1, anticipating substantial amendment at later stages. Other Members were of the view that the Bill should not proceed beyond Stage 1. As a result, the Stage 1 Report makes no recommendation to Parliament on whether the general principles of the Bill should be agreed.

In these circumstances, the role of the Stage 1 Report is particularly significant. Where a committee does not provide Parliament with a recommendation, Parliament must rely all the more heavily on the quality, clarity, and completeness of the evidential and analytical material set out in the Report in order to discharge its own responsibility at Stage 1.

The purpose of this response is not to restate the case for the Bill in full, nor to rehearse the general arguments for or against criminalising the purchase of sexual acts. Instead, it examines whether the Stage 1 Report fulfils the scrutiny function required by the Standing Orders of the Scottish Parliament and by established parliamentary practice, in light of the absence of a committee recommendation.

In particular, this response identifies:

- significant omissions in the Stage 1 Report's engagement with evidence;
- internal inconsistencies within the Report's reasoning;
- failures to apply the evidential, analytical, and comparative tools available during Stage 1 scrutiny; and
- a marked departure from Scottish parliamentary precedent in the scrutiny of prostitution legislation.

This response draws on:

- the evidence submitted to the Committee during Stage 1 scrutiny;
- written supplementary material I provided as the Member in Charge following my oral appearance;
- the Committee's own published Stage 1 Report; and
- comparative analysis of previous Scottish parliamentary scrutiny of prostitution legislation, in particular the Prostitution (Public Places) (Scotland) Bill in 2006–07.

## **PART I – STAGE 1 SCRUTINY FRAMEWORK AND CROSS-CUTTING FAILURES**

### **The Stage 1 function and what rule 9.6 requires**

Stage 1 scrutiny exists to enable Parliament to decide whether to agree to the general principles of a Bill.

To perform that function, a Stage 1 report must do more than catalogue submissions or record disagreement. It must:

- assess the evidence received;
- explain how competing claims were weighed; and
- provide Parliament with a reasoned basis for deciding whether the Bill's objectives are justified and capable of being delivered through legislation, including through amendment at later stages.

Rule 9.6 of the Standing Orders is explicit about the function and sequencing of Stage 1:

- the lead committee shall consider and report on the general principles of the Bill;
- in preparing that report, the committee must take into account specified views and material submitted to it; and
- Parliament then considers the Bill's general principles in the light of the lead committee's report and decides whether to agree them.

The Stage 1 Report is intended to form the evidential and analytical basis on which MSPs decide whether to support a Bill at Stage 1. Where a Stage 1 Report declines to assess evidence or declines to test the evidential basis of competing claims, it does not remain neutral. It fails to perform the scrutiny function on which Parliament is relying.

### **The Committee's stated approach to evidence**

Stage 1 scrutiny requires a committee to:

- take evidence on the general principles of a Bill;
- assess the quality and weight of that evidence; and
- report to Parliament on whether the Bill's general principles should be agreed to.

The Committee's Stage 1 Report explicitly declines to adjudicate between competing evidence or to assess evidential quality. Instead, it presents a largely descriptive account of submissions received, repeatedly characterising the evidence as "highly contested".

In doing so, the Stage 1 Report substitutes process commentary and non-assessment for substantive scrutiny.

The Stage 1 Report is correct to state that the Committee is not required to conduct detailed academic peer review of research methodology. However, this does not absolve it of the responsibility to distinguish between:

- empirical evidence and assertion;
- documented outcomes and predicted harms; and
- population-level research and anecdotal or self-selected material.

Throughout the Stage 1 Report, unsupported claims, anecdotal accounts, and self-reported data sources are presented alongside substantiated research without any assessment of their relative evidential weight. In several instances, such material is implicitly treated as indicative of increased harm, despite the absence of corroboration, baseline comparison, or causal analysis.

This conflation of assertion with evidence is not an exercise of neutrality. It represents a failure of evidential scrutiny.

### **Where the Stage 1 Report fails against rule 9.6**

When read against the requirements set out in Rule 9.6, the shortcomings of the Stage 1 Report are structural rather than incidental.

#### *Failure to assess evidence (rule 9.6(1))*

The Stage 1 Report explicitly states that it is not adjudicating between competing evidence and repeatedly characterises the evidence before it as “contested”, without undertaking any analysis of quality, weight, or credibility.

This approach is incompatible with the duty under Rule 9.6(1) to consider and report on the general principles of the Bill. It is not possible to assess the general principles of a Bill without assessing whether the evidence supports or undermines those principles.

#### *Failure to take account of written rebuttals (rule 9.6(3))*

Following my appearance before the Committee, I submitted detailed written supplementary evidence directly addressing claims raised during oral evidence.

These submissions:

- scrutinised the evidential basis of opposing claims;
- addressed assertions about safety, screening, displacement, and enforceability; and
- examined whether the evidence cited in opposition could support the conclusions drawn from it.

The Stage 1 Report:

- does not engage with this material;
- does not summarise its content; and
- does not explain why it was discounted or rejected.

This is not a neutral omission. It constitutes a failure to “take into account” views submitted to the Committee in preparing its report, as required by Rule 9.6(3).

*Failure to provide Parliament with a reasoned assessment (rule 9.6(4))*

Rule 9.6(4) assigns the decision on general principles to Parliament. That decision is taken in the light of the lead committee’s report, which is prepared pursuant to Rules 9.6(1) and 9.6(3). Where the report does not assess evidence or take account of material submissions, Parliament cannot meaningfully perform the role assigned to it by Rule 9.6(4).

The Stage 1 Report presents opposing positions on the Bill but does not evaluate the evidential merits of those positions or reach a reasoned view.

As a result:

- Parliament is left without guidance on the relative strength of the evidence;
- the report does not provide the analytical foundation on which Parliament is required to consider and decide on the Bill’s general principles under Rule 9.6(4); and
- responsibility for evidential assessment is effectively passed back to the Chamber without the Committee having discharged its own scrutiny function.

That is not the purpose of Stage 1 scrutiny.

*The central contradiction*

The effect of these omissions is not merely that relevant material is missing from the Stage 1 Report. It is that the Report’s conclusions rely on the very claims that the omitted material was submitted to test.

The Stage 1 Report sets out concerns about safety, screening, displacement, and increased risk in support of the view, held by some Members, that the Bill should not proceed beyond Stage 1. Yet the Report does not engage with the written evidence I submitted that directly examined those concerns, scrutinised the methodology of the evidence cited in support of them, and explained why those claims are not supported by empirical, population-level research.

In other words, the Stage 1 Report advances opposing claims as a basis for the view, held by some Members, that the Bill should not proceed beyond Stage 1, while excluding from its analysis the evidence designed to assess whether those claims are true. That is not neutrality. It is a failure of scrutiny.

## **Failure to engage with my written evidence as Member in Charge**

The Stage 1 Report repeatedly sets out “my position as the Member in Charge” on specific issues. However, in doing so it relies exclusively on:

- oral evidence I gave during Committee hearings; and
- the Policy Memorandum accompanying the Bill.

As set out above, the Report does not engage with the detailed written submissions I provided after my appearance, including a comprehensive Evidence Review Paper examining claims made by opponents of the Bill, (submitted on 9 December 2025, see Annexe).

By excluding this material from its analysis, the Stage 1 Report presents my position as the Member in Charge in a partial and incomplete manner and deprives Parliament of a clear understanding of how contested claims were answered.

The Stage 1 Report treats those claims as supporting the view, held by some Members, that the Bill should not proceed beyond Stage 1, while the very evidence submitted to test those claims is excluded from the Report’s analysis.

## **Asymmetrical treatment of evidence**

While my written submissions are listed in Annexe A of the Stage 1 Report, they are not drawn into its body, alongside other rebuttal material directly addressing the same claims. This stands in contrast to the treatment of supplementary correspondence from the Minister and the Lord Advocate, which is actively drawn into the Report’s reasoning, paraphrased, and relied upon in its assessment of enforceability and conclusions.

This is not neutral presentation. It is selective engagement with the evidence before the Committee.

## **Conceptual and evidential failure in the weighting of lived experience evidence**

The Stage 1 Report repeatedly treats evidence from women with lived experience as carrying particular significance, yet it does not explain how competing lived-experience claims were evaluated where those claims conflicted. Women with lived experience before the Committee expressed fundamentally different views: some asserted that the Bill would place them at greater risk of harm, while others rejected that claim and addressed it directly, disputing assertions about screening, displacement, and violence.

Faced with this conflict, the Stage 1 Report states that the evidence was “contested” and that it was not the Committee’s role to adjudicate between competing accounts. However, the way in which the evidence is presented and relied upon has the effect that claims asserting increased risk are treated as determinative, while competing lived-experience testimony and rebuttal material submitted to examine those claims

are not engaged with. The result is that one set of assertions is effectively privileged over another without evidential assessment.

Stage 1 scrutiny did not require the Committee to disregard the fears expressed by some women with lived experience. It required the Committee to assess those fears in context — alongside rebuttal evidence from other women with lived experience, alongside evidence of wider harms inherent in prostitution, and alongside the State’s human rights obligations to address systemic inequality and violence against women. The Stage 1 Report does not undertake that assessment.

Although the Report records repeated references to human rights from witnesses and submissions — including claims that prostitution constitutes violence against women, counter-claims that “end demand” approaches compromise safety, and submissions asserting that legislative change is required to meet international human rights obligations — these are presented as competing assertions rather than examined as a framework for evaluation. As a result, the Report avoids articulating how legislators should weigh individual expressions of fear against the broader duty to address structural harm, inequality, and violence, leaving the central tension unresolved.

Crucially, the Committee was not confined to this unresolved evidential standoff. It had before it Scotland’s own legislative experience, in which materially identical claims of increased danger, displacement, and reduced safety were advanced during scrutiny of the Prostitution (Public Places) (Scotland) Bill in 2006-07. Nearly two decades later, no empirical evidence has been presented to demonstrate that those predicted harms materialised. Where such claims have previously been made, and where subsequent operation of the law has not borne them out, that history is directly relevant to the assessment of risk. The Stage 1 Report does not engage with this evidence when relying on untested assertions of increased harm as material to opposition to the Bill.

### **Uneven engagement with individuals with lived experience**

The uneven weighting of lived-experience evidence in the Stage 1 Report is also reflected in how such evidence was gathered and incorporated into the Committee’s scrutiny. While the Committee stated that it sought to engage further with those with lived experience in order to inform its consideration of the Bill, the manner in which that engagement was conducted was not even-handed.

The Stage 1 Report records that some Committee Members attended an informal meeting facilitated by Scotland for Decrim, allowing direct engagement with participants. By contrast, engagement facilitated by the Women’s Support Project did not involve Committee Members meeting participants directly. Instead, questions were provided by the Committee and responses were relayed back in written form. The Report acknowledges this distinction but does not examine its implications.

This difference is material. Direct engagement allows dialogue, clarification, and the spontaneous raising of issues by participants. Written summaries prepared in response to pre-set questions do not offer the same opportunity. Treating these two

forms of engagement as equivalent obscures the fact that one group of individuals with lived experience was afforded a qualitatively different form of access to Committee Members than another.

The significance of this uneven engagement is heightened by the Stage 1 Report's emphasis on the need for further consultation and its concern that the Committee had not heard sufficiently from those with lived experience. Where a committee itself limits or curtails direct engagement with one group of individuals with lived experience, it cannot then rely on the resulting imbalance as a justification for deferring scrutiny or declining to reach a view on the Bill's general principles.

Taken together with the Report's treatment of conflicting lived-experience testimony, this pattern reinforces the impression that certain perspectives were not merely heard but were afforded greater procedural and evidential weight, while others were rendered less visible. This unevenness is also reflected in the way the Committee constituted its formal witness panels, with women advancing opposing lived-experience positions not afforded equivalent placement or prominence within oral evidence sessions.

That is directly relevant to the Committee's Stage 1 scrutiny function and undermines confidence in the neutrality of the evidential picture presented to Parliament, given the unequal forms of engagement and the Report's failure to assess conflicting lived-experience evidence.

### **Safety and screening claims: acceptance of an untested premise**

A central theme of the Stage 1 Report is concern that criminalising the purchase of sexual acts would undermine women's safety by damaging their ability to "screen" buyers. That concern is stated repeatedly and treated as self-evident.

However, the Stage 1 Report does not interrogate the premise on which that concern rests. It does not examine what screening can and cannot do, the conditions under which it operates, or whether it can realistically function as a safety mechanism across the prostitution system as a whole. Instead, the existence of screening practices is treated as synonymous with the provision of safety, and the potential impact on screening is treated as determinative of risk.

Stage 1 scrutiny did not require the Committee to accept or reject that premise in the abstract. It required the Committee to examine whether the premise was sound. That examination did not occur.

I provided the Committee with detailed written evidence addressing the limits of screening as a safety mechanism, including the structural constraints that prevent screening from operating as a meaningful form of protection for many women, regardless of legal context. That evidence is set out in my letter to the Committee of 16 December 2025 (see Annexe).

The Stage 1 Report does not engage with that material.

## **Safety claims and evidential relevance: failure to ask the prior question**

In addition to accepting an untested premise about screening, the Stage 1 Report treats a range of material as supporting claims that criminalising the purchase of sexual acts would increase harm to women in prostitution, including increased violence and health risks. The Report characterises this material as “contested” and states that it is not the Committee’s role to conduct literature reviews or adjudicate methodological disputes.

That position misses a more basic scrutiny obligation.

Before questions of methodology arise, Stage 1 scrutiny requires asking whether the material relied upon is even capable, in principle, of supporting the claim it is being used to make. Material that records experiences, perceptions, or fears following legal change may be relevant to understanding how individuals feel about that change. By its own terms, however, it cannot demonstrate that a change in law caused an increase in harm.

Recognising that distinction does not require methodological expertise, peer review, or comparative evaluation of studies. It requires only asking whether the evidence cited addresses the causal question being posed.

The Stage 1 Report does not undertake that step. Instead, it records safety claims as unresolved on the basis that the evidence is contested, while relying on material that cannot, on its face, establish legal effect. In doing so, it treats questions of evidential relevance as questions of evidential dispute, and declines scrutiny on that basis.

Detailed examination of the material relied upon in support of safety claims, and of its capacity to support causal conclusions about legal change, is set out in my Evidence Review Paper dated 9 December 2025 (see Annexe). The Stage 1 Report does not engage with that analysis.

## **On-street prostitution, existing Scottish law, and the absence of harm evidence**

Scotland has criminalised the purchase of sexual services in public places since the Prostitution (Public Places) (Scotland) Act came into force in 2007. During scrutiny of that legislation, materially identical claims were made to those advanced in relation to the present Bill, including assertions that criminalising buyers would increase violence, force women into more isolated locations, undermine informal safety practices, and reduce women’s safety overall.

The Act has now operated for almost two decades. Over that period, Police Scotland, local authorities, and frontline services have worked extensively with women involved in on-street prostitution. If criminalising buyers in public places had, in practice, produced the harms now asserted, that evidence would exist. It would be reflected in enforcement data, prosecutorial experience, or evidence from frontline services operating under the legislation.

No witness before the Committee presented empirical evidence demonstrating that buyer criminalisation in public places has caused an increase in violence or a measurable deterioration in women's safety in Scotland. Instead, the same claims were advanced again as hypothetical future risks, notwithstanding the existence of a long-standing Scottish legal framework under which those risks could have been observed, measured, and evidenced.

Stage 1 scrutiny requires consideration not only of what harms are asserted, but of whether those harms have materialised under comparable legal conditions. The Stage 1 Report does not undertake that analysis.

### **The evidential significance of non-occurrence**

The absence of evidence that criminalising buyers in public places has made women less safe is not a neutral gap in the record. In the context of Stage 1 scrutiny, it is evidentially significant.

The Committee invited extensive opposition evidence. Claims about increased violence, displacement, and reduced safety were repeatedly asserted. There exists a substantial body of advocacy material, commentary, and public campaigning expressing concern about buyer criminalisation. The opportunity to present empirical evidence was present, and the incentive to do so was clear.

If evidence existed demonstrating that the criminalisation of buyers in public places since 2007 had resulted in increased violence or materially worsened safety for women, it would have been advanced during Stage 1 scrutiny. The fact that no such evidence was produced matters.

Stage 1 scrutiny requires more than recording predictions of harm. It requires assessment of whether comparable legal measures have already produced the harms claimed. Where a legal framework has existed for nearly two decades and predicted harms have not been evidenced, that absence is itself relevant to the assessment of risk. The Stage 1 Report does not engage with that evidential significance.

### **Parliamentary precedent: scrutiny of the same claims in 2006–07**

The Stage 1 Report's treatment of asserted safety harms stands in marked contrast to Scotland's own parliamentary precedent.

During Stage 1 scrutiny of the Prostitution (Public Places) (Scotland) Bill in 2006–07, the Scottish Parliament heard materially identical claims to those relied upon in the present Stage 1 Report. Witnesses argued that enforcement against buyers would increase danger to women, exacerbate harm, and undermine safety.

Those arguments were not treated as determinative. The relevant committee at that time did not merely record that the evidence was contested. It examined the implications of those claims against the purpose of the proposed legislation, weighed competing arguments, and reached a legislative judgement.

Faced with asserted risks, the committee did not conclude that the evidence was too contested to act. It treated Stage 2 as the proper forum for refinement and amendment and recommended progression on the basis of scrutiny, not deferral.

By contrast, the present Stage 1 Report records materially identical claims, declines to test them against Scotland's legislative history or evidential record, and withholds a recommendation without completing the scrutiny required to justify that course.

### **Failure to engage with comparative evidence sought by the Committee: Sweden, Ireland, and Northern Ireland**

During Stage 1 scrutiny, the Committee actively sought comparative evidence from law enforcement and prosecutorial authorities in other jurisdictions.

In particular, the Committee wrote to police and prosecution services in Sweden, the Republic of Ireland, and Northern Ireland, seeking their views on the operation and impacts of laws criminalising the purchase of sexual acts.

Responses were received from all six bodies contacted.

The Stage 1 Report records that this correspondence was received. However, beyond noting its existence, the Report does not summarise, analyse, quote from, or otherwise engage with the content of that material at any point.

This omission is striking.

Where a committee proactively seeks evidence from statutory authorities in jurisdictions operating comparable legal models, that evidence is plainly relevant to the assessment of general principles. At a minimum, it is relevant to claims about enforceability, safety, displacement, and unintended consequences — issues on which the Stage 1 Report places decisive weight in its analysis.

Yet the Stage 1 Report proceeds as though this material does not exist.

The failure to engage with the correspondence is particularly significant in relation to Sweden.

Sweden has operated a criminal offence targeting the purchase of sexual acts for longer than any other jurisdiction. It therefore provides the longest-running body of institutional experience in this policy area, including sustained law-enforcement and prosecutorial practice and extensive engagement with trafficking and organised exploitation.

During Stage 1 scrutiny, the Committee relied extensively on evidence from an academic witness opposed to the Bill, and on claims made by a government official appearing with the Minister, both of whom advanced specific assertions about the operation and consequences of Swedish law.

Those assertions included claims about safety, displacement, and the effects of buyer criminalisation.

The correspondence sought by the Committee from Swedish police and prosecution services would, at the very least, have been directly relevant to testing those claims,

yet the Stage 1 Report neither explains what the Swedish authorities said nor why their evidence was not drawn into its analysis.

The omission is all the more stark given that, in relation to Ireland, the Committee did hear oral evidence from an academic with direct experience of evaluating the operation of Ireland's buyer criminalisation law. No equivalent oral evidence was taken from Swedish institutional actors, despite Sweden's longer legislative history and greater volume of enforcement experience.

The result is an evidential imbalance.

Claims about Sweden advanced by opponents of the Bill are cited and relied upon, while primary institutional evidence from Sweden, actively sought by the Committee itself, is excluded from the Report's reasoning altogether.

This is not neutral presentation of contested evidence. It is selective engagement.

Stage 1 scrutiny does not require a committee to accept the views of foreign authorities uncritically. It does require the committee to engage with evidence it has chosen to solicit, particularly where that evidence bears directly on the risks relied upon to support the view, held by some Members, that the Bill should not proceed beyond Stage 1.

By failing to do so, the Stage 1 Report deprives Parliament of the opportunity to understand whether the fears expressed about buyer criminalisation are borne out by the longest-running comparable legal regime, or whether they are contradicted by institutional experience.

That failure matters. The Stage 1 Report's conclusions on safety and unintended consequences rest on claims that it declined to test against evidence it had deliberately obtained for that purpose.

## **PART II – APPLICATION TO SECTION 1 OF THE BILL (NEW CRIMINAL OFFENCE)**

### **Mischaracterisation of the Bill’s objectives in the assessment of enforceability**

The Stage 1 Report identifies enforceability as a concern in relation to section 1, focusing on the practical challenges of policing and prosecuting an offence that takes place in private, may be arranged online, and may involve very vulnerable individuals who are reluctant to give evidence.

Following correspondence from the Committee, the Lord Advocate confirmed in writing that the offence, as drafted, is clear and workable from a prosecutorial perspective. The Stage 1 Report also records her evidence that evidential challenges are significant but not insurmountable, that they are inherent to many sexual and domestic abuse offences, and that they do not arise from any defect in the drafting of the offence itself.

The Report further records evidence from Police Scotland and COPFS to similar effect. Both acknowledged that enforcing offences of this nature presents practical and evidential difficulties, particularly where conduct takes place in private and involves vulnerable individuals, but treated those difficulties as expected within this area of criminal law rather than as a basis for concluding that legislation should not proceed.

The Stage 1 Report also expressly accepts that such challenges need not, in themselves, rule out legislating in this area, noting that many serious offences are difficult to police and prosecute. However, it nevertheless treats those challenges as giving rise to concern that the offence could frustrate the stated objectives of the Member in Charge.

That assessment rests on an inaccurate understanding of those objectives. As I explained during evidence, the purpose of section 1 is not to prosecute or convict large numbers of buyers. The Bill is intended to reduce demand for prostitution, to make clear that paying for sexual access is unacceptable, to prevent harm before it occurs, and to contribute to wider social change over time, alongside the provision of support for women affected by prostitution.

The Stage 1 Report does not explain how evidential challenges that are acknowledged by the Lord Advocate, Police Scotland, and COPFS to be inherent to offences of this nature would frustrate those aims. It does not identify any basis for treating difficulty in investigation or prosecution as undermining the Bill’s purpose, where that purpose does not depend on high prosecution or conviction rates.

Nor does the Report engage with comparative evidence heard during scrutiny that directly addresses this issue. In oral evidence, Dr. Ruth Breslin of the Sexual Exploitation Research and Policy Institute described the operation of Ireland’s buyer criminalisation law, noting that while Ireland has experienced significant difficulties in securing prosecutions of buyers, the legislation has nevertheless made progress towards its objectives. She explained that the law has had its strongest impact in

protective and preventative terms, including a shift in policing practice towards treating those in prostitution as vulnerable rather than criminal, increased engagement with police by women experiencing violence, a deterrent effect on demand, and a stabilisation of the size of the sex trade despite substantial external pressures.

That evidence directly challenges the assumption, implicit in the Stage 1 Report's reasoning, that enforcement difficulty frustrates legislative purpose. It illustrates that laws of this type are multi-purpose, that some objectives can be achieved independently of high prosecutorial yield, and that enforcement practice evolves over time without changes to the underlying offence.

By assessing enforceability against an implicit assumption that success depends on prosecuting and convicting large numbers of offenders, the Stage 1 Report evaluates section 1 against a standard the Bill does not adopt. In doing so, it treats familiar and acknowledged enforcement challenges as potentially frustrating objectives that were never defined in those terms, and fails to assess the provision against the purposes it is actually intended to serve.

### **Enforceability, amendability and Stage 1 precedent**

During Stage 1 scrutiny of the Prostitution (Public Places) (Scotland) Bill in 2006–07, the Local Government and Transport Committee raised detailed concerns about the practical ability to prosecute purchasers.

It described prosecutions as “very challenging” and questioned whether purchasers would incriminate themselves. It also expressed concern that the Bill, as drafted, could result in more prosecutions of women than of men.

Crucially, the Committee did not treat these concerns as reasons to halt scrutiny. Instead, it identified drafting weaknesses and looked explicitly to Stage 2 as the forum for resolving them.

By contrast, the present Stage 1 Report cites enforceability concerns repeatedly but does not subject them to structured analysis or identify how amendment could address them. The existence of enforcement challenges is treated as a reason for hesitation rather than as a matter for legislative refinement.

Stage 1 scrutiny requires identifying whether enforcement challenges exist and whether they are capable of being remedied through legislative design. The Local Government and Transport Committee undertook that task. The present Stage 1 Report does not.

### **Mischaracterisation of the Bill's scope, devolved competence, and interaction with existing law**

The Stage 1 Report repeatedly criticises section 1 of the Bill on the basis that it does not address online platforms, organised crime, and human trafficking. These criticisms appear at multiple points in the Report, including in the Minister's

evidence, in supporting commentary from officials, and in the Report's conclusions on enforceability.

This line of critique mischaracterises both the scope of the Bill and the nature of the scrutiny required at Stage 1.

The Bill does not purport to regulate online advertising, digital platforms, or telecommunications. It creates a narrowly defined criminal offence in relation to the in-person purchase of sexual acts. As I explained during evidence, while the arrangement of prostitution may increasingly occur online, the conduct targeted by the Bill is the physical act of paid sexual access. That distinction is not incidental. It reflects both legislative intent and constitutional reality.

Regulation of online platforms and telecommunications engages reserved matters and enforcement mechanisms that are not capable of being resolved through a Members' Bill in the Scottish Parliament. Criticising the Bill for failing to do so reframes constitutional limits as legislative inadequacy and risks misleading Parliament as to what can properly be expected of devolved criminal law.

More importantly, the Stage 1 Report does not assess whether criminalising the in-person purchase of sexual acts nevertheless strengthens the existing legal framework in areas squarely within devolved competence, including policing, demand reduction, and the disruption of organised crime networks engaged in sexual exploitation.

Evidence before the Committee directly addressed this point. Police Scotland stated in written evidence that it is "fully supportive that buying sex is a form of exploitation and should be covered by law". Detective Superintendent Steven Bertram explained in oral evidence that while existing legislation addresses on-street purchasing and separate legislation addresses trafficking and exploitation, there is "a gap in the middle" in relation to off-street prostitution. He stated that the absence of an offence covering indoor purchasing limits policing options and that the Bill would provide consistency and an additional operational tool in circumstances where trafficking indicators are present, thereby strengthening demand-side disruption of organised sexual exploitation.

That evidence is not reflected in the Stage 1 Report's analysis of scope or enforceability. Instead, the Report records concern that the Bill does not address organised crime and trafficking, without examining whether the offence it creates operates precisely as a bridging mechanism between existing kerb-crawling law and trafficking legislation, as described by Police Scotland.

The same omission arises in the Report's treatment of comparative evidence. The Committee sought and received institutional evidence from Swedish police and prosecution authorities, which addressed the interaction between buyer criminalisation, organised crime, and trafficking. That material explained that criminalising demand has crime-preventive effects beyond individual prosecutions, including disruption of criminal networks, reduced profitability of organised sexual exploitation, and diminished attractiveness of the jurisdiction to trafficking operations. None of this material is engaged with in the Stage 1 Report, despite the Report's reliance on trafficking and organised crime as reasons for concern.

Stage 1 scrutiny required the Committee to assess whether the Bill's narrowly defined offence contributes to the objectives repeatedly cited in the Report, including reducing exploitation, supporting anti-trafficking enforcement, and strengthening coherence across Scotland's existing criminal law framework. Instead, the Report treats the Bill not addressing reserved or out-of-scope matters as a flaw, while failing to analyse the evidence demonstrating how the offence interacts with, and reinforces, existing devolved powers.

This is not a disagreement about policy ambition. It is a failure to scrutinise the Bill on its own terms and within the limits of devolved competence. By criticising the Bill for not regulating matters it cannot regulate, and by omitting analysis of how the offence would operate as part of Scotland's existing criminal law framework, the Stage 1 Report presents an incomplete and misleading assessment of section 1's scope and effect.

### **Time pressure, process anxiety, and Committee choice**

The Stage 1 Report refers repeatedly to time pressure and the scale of work required at Stage 2.

The procedural history of the Bill does not support the implication that meaningful scrutiny was constrained by time.

Final evidence was taken on 26 November. The Stage 1 Report was published on 23 January. In that period:

- no witnesses were recalled;
- no follow-up evidence was sought;
- written rebuttals already submitted were not engaged with.

By contrast, during scrutiny of the Prostitution (Public Places) (Scotland) Bill in 2006–07, the Local Government and Transport Committee relied on post-evidence correspondence, engaged with supplementary material, and produced a detailed analytical report within a comparable timeframe.

Time pressure was not an external constraint. It was a function of committee choice.

### **Internal contradiction and amendment logic collapse**

The Stage 1 Report acknowledges:

- that prostitution is associated with serious harm and exploitation;
- that demand reduction is a legitimate policy objective;
- that the status quo is inadequate; and
- that amendments to section 1 would be required.

At the same time, the Stage 1 Report records that some Members were of the view that the Bill should not proceed beyond Stage 1, despite Stage 2 being the forum in which amendments are designed to be made.

Stage 2 exists precisely to resolve drafting, definitional, and operational concerns identified at Stage 1. Treating amendability as a reason not to proceed collapses the logic of the legislative process.

The Stage 1 Report's own conclusions identify multiple areas for refinement. Having done so, the view, held by some Members, that the Bill should not proceed beyond Stage 1 would deprive Parliament of the opportunity to make those refinements.

### **Conclusion on the Committee's treatment of section 1**

The Stage 1 Report's treatment of section 1 of the Bill reveals its core deficiencies:

- it declined to assess evidential quality;
- excluded written material I submitted that directly tested opposing claims;
- relied on speculative risks without examining whether those risks were evidenced;
- failed to test claims against existing Scottish law and legislative history; and
- departed from established parliamentary practice without explanation.

The Stage 1 Report treats those claims as supporting the view, held by some Members, that the Bill should not proceed beyond Stage 1, while the evidence I submitted to test those claims was excluded from its analysis.

Taken as a whole, this does not represent a failure of process. It represents a failure of scrutiny.

The Stage 1 Report has documented disagreement rather than assessed evidence, listed concerns rather than tested them, and emphasised procedural caution over substantive evaluation.

This response does not argue that Committee Members should have agreed with me as Member in Charge on every point. It argues that the Committee should have done the work required to decide whether those points were supported or undermined by the evidence before it, and to explain how that judgement was reached.

That evidence was available.

It was submitted.

It was not engaged with.

## **PART III – APPLICATION TO REMAINING PROVISIONS (SECTIONS 2–6)**

The Stage 1 Report’s treatment of the remaining provisions is not uniform. In relation to sections 4 and 5, the Report identifies a legitimate legal issue concerning the proposed mechanism for addressing historic convictions and records the Member in Charge’s confirmation that amendments would be brought forward at Stage 2 to address that issue. That reflects the normal operation of Stage 1 scrutiny, in which issues are identified, and amendment pathways are established.

By contrast, in relation to sections 2 and 3, and in the Report’s treatment of section 6 as a matter of general principle, the Stage 1 Report accepts policy intent, identifies no legal defect, and acknowledges the availability of amendment, yet does not provide a reasoned evidential or analytical account of how the divergence of Members’ views on progression at Stage 1 arises from the evidence before the Committee.

### **Repeal of section 46: absence of evidential, legal, or drafting objection**

The Stage 1 Report’s treatment of sections 2 and 3 is difficult to reconcile with the evidence the Committee heard, the conclusions its Report reached, and the policy context in which the Bill sits.

Repealing section 46 of the Civic Government (Scotland) Act 1982 is not a novel or radical proposal. It aligns with long-established Police Scotland and COPFS practice, under which women involved in prostitution are treated primarily as vulnerable rather than as offenders. It reflects the reality that prosecutions under section 46 have become rare, marginal, and increasingly anomalous. It is consistent with the understanding of prostitution as a form of violence against women and commercial sexual exploitation.

It is also consistent with the stated policy positions of the Scottish Government and the Scottish National Party. The Stage 1 Report acknowledges that criminalising women for soliciting is inappropriate and that support, rather than punishment, is the correct response. No witness identified harm arising from repeal. No legal defect was identified. No drafting problem was raised. No alternative formulation was proposed.

In short, the Committee’s own process did not uncover a problem requiring resolution.

Against that background, the Stage 1 Report’s decision to defer to ministerial hesitation, without analysis and without identifying any amendable issue, is striking. The Scottish Government’s position, as articulated by the Minister, did not rest on evidence of harm, incompatibility with existing law, or operational difficulty. It was framed instead in terms of the need for “further consultation” due to “sensitivities and complexities”, despite those sensitivities having been extensively aired during the Committee’s own inquiry.

As the Member in Charge, I note that the Report did not test the Minister’s position against existing practice, existing policy, or the evidence it had already accepted. Nor

did it explain why ministerial uncertainty should outweigh the clear and consistent evidence before it.

The effect is that a provision which reflects established practice, enjoys widespread support, raises no drafting issues, and accords with stated policy is nevertheless treated as unsuitable for progression.

That outcome does not arise from evidential disagreement or legislative deficiency. It arises from the Stage 1 Report giving decisive weight to ministerial position in the absence of any identified evidential or legal objection.

Stage 1 scrutiny exists to enable Parliament to decide whether the general principles of a Bill should be agreed. Where a Stage 1 Report identifies no fault, no harm, and no need for amendment, but nevertheless records that some Members were of the view that the Bill should not proceed beyond Stage 1, the problem is not with the Bill. It is with the scrutiny.

### **Sections 4 and 5: quashing of historic convictions**

During Stage 1 scrutiny, a legitimate legal issue was identified in relation to the mechanism proposed in sections 4 and 5, namely the use of quashing rather than an alternative approach to addressing historic convictions under section 46 of the Civic Government (Scotland) Act 1982.

That issue was raised at an early stage of scrutiny, including during my initial evidence session as Member in Charge. While the policy intent of removing the enduring impact of historic convictions was widely supported, concerns were expressed that quashing may not be the most appropriate constitutional mechanism where convictions were lawfully imposed under legislation in force at the time.

This is precisely the function of effective Stage 1 scrutiny. The identification of the issue enabled me, as Member in Charge, to engage with relevant justice partners and professional bodies, including the Law Society of Scotland and the Crown Office and Procurator Fiscal Service, in order to consider how the policy objective could be achieved through a more appropriate legal mechanism.

As a result of that engagement, and reflecting the concerns raised during scrutiny, I confirmed in my closing evidence session that I would bring forward amendments at Stage 2 to replace the quashing provisions with an automatic pardon combined with a voluntary disregard scheme, consistent with established Scottish legislative precedent. That position is also set out in my subsequent written correspondence to the Committee dated 9 December 2025 (see Annexe).

The Stage 1 Report acknowledges this intended amendment.

## **Section 6: statutory right to assistance and support**

### *Purpose and scope of section 6*

Section 6 of the Bill establishes a statutory right to assistance and support for women who are, or have been, in prostitution. The purpose of the provision is limited and specific: to place beyond doubt that support must be available as of right, independent of criminal proceedings, moral judgement, or willingness to exit prostitution.

Section 6 does not prescribe a service model, commissioning structure, or funding mechanism. It establishes an obligation in principle. Section 7 provides that Ministers may make provision by regulations for how that obligation is to operate in practice, with commencement by regulations following parliamentary approval. Decisions about service design, delivery, and resourcing are therefore explicitly left to the Government of the day.

As Member in Charge, I took the view that it would be constitutionally inappropriate for a Members' Bill to impose a detailed national delivery framework on a future Government. Section 6 therefore establishes the duty, not the implementation. This is a familiar legislative structure in Scots law.

### *Evidence before the Committee*

The Committee heard consistent evidence that specialist support provision for women in prostitution in Scotland is limited, fragmented, and unevenly available. There is no statutory entitlement to assistance and no nationally funded system of specialist provision.

Evidence from frontline services, survivor organisations, and individuals with lived experience highlighted enduring barriers to accessing support, including fear of punitive consequences, lack of clarity about entitlement, and the absence of dedicated services in many parts of Scotland. The Committee did not dispute that evidence.

The Stage 1 Report acknowledges that criminalising women for soliciting is inappropriate, that many women involved in prostitution are vulnerable, and that assistance and support are necessary. It further records agreement that more support should be provided regardless of whether the Bill passes.

### *Funding concerns and amendability*

The principal concerns raised in relation to section 6 during scrutiny related to funding and delivery detail, rather than to the principle of a statutory right itself.

I made clear during Stage 1 scrutiny that section 6 does not commence automatically, that any duty would be commenced by regulations after the election, and that implementation would necessarily align with future budget cycles. The question at Stage 1 was therefore not whether existing budgets were sufficient, but whether Parliament should place a future obligation on Ministers to ensure that support is provided.

I also provided written evidence addressing the case for preventative spend and the long-term public value of early intervention, including material grounded in the Christie principles. That evidence is set out in my written correspondence to the Committee dated 9 December 2025 (see Annexe). The Stage 1 Report does not engage with that material.

### *The Stage 1 Report's treatment of section 6*

Section 6 is identified by the Stage 1 Report as part of the Bill's general principles, and the Committee records agreement that those who are, or have been, in prostitution require assistance and support. However, when the Report turns to its conclusions on whether the Bill should proceed beyond Stage 1, section 6 falls out of the analysis altogether.

The concerns recorded in relation to section 6 focus on funding uncertainty and the absence of a detailed delivery framework — matters of implementation rather than principle. The Report does not explain how those concerns were weighed in the course of scrutiny, whether they were considered capable of being addressed through amendment, or what bearing they had on the views recorded as to whether the Bill should progress.

Nor does the Report reconcile those concerns with its own conclusions that support is urgently required, that current provision is inadequate, and that further action must be taken regardless of the Bill's fate. Section 6 is not identified as a basis on which any Members opposed progression, yet neither is its contribution to the Bill's overall purpose assessed.

As a result, Parliament is left without a clear account of how section 6 was scrutinised as a matter of principle, or of what conclusions, if any, were reached on its role within the Bill's general framework. Concerns relating to fine detail are recorded, but no judgement is offered as to whether the principle of a statutory right to support was accepted, rejected, or considered amendable.

### *Conclusion on section 6*

Section 6 establishes a statutory obligation to ensure that assistance and support is available to women who are, or have been, in prostitution. It does not impose a service model, fix budgets, or pre-empt Government decision-making.

The Stage 1 Report accepts the policy objective, acknowledges the inadequacy of current provision, and urges that more support be provided. However, it does not assess section 6 on its own terms at the point where judgement on the Bill's general principles was required. Instead, it records concerns about implementation without explaining how those concerns relate to progression, amendability, or principle.

That is not a disagreement about policy ambition. It is a failure to complete Stage 1 scrutiny of a provision the Report itself identifies as forming part of the Bill's general principles.

## **PART IV – GENERAL PRINCIPLES AND THE ABSENCE OF A RECOMMENDATION**

### **The Stage 1 Report’s general principles assessment: acceptance of objectives, absence of conclusion**

The Report’s General Principles section contains the clearest illustration of the structural problems identified throughout this response.

The Report repeatedly acknowledges the seriousness of prostitution-related harm, repeatedly accepts the objective of reducing prostitution in Scotland, and repeatedly expresses agreement with the policy intent of the Bill. It then records that some Members were of the view that the Bill should not proceed beyond Stage 1 and proposes, instead, a further cycle of consultation and review.

That combination of statements is not coherent.

### **Stage 1 is not a perfection test**

The Stage 1 Report correctly states that Stage 1 scrutiny is concerned with the general principles of a Bill, rather than fine detail.

A committee is entitled to issue a split Stage 1 Report where Members disagree on whether the general principles of a Bill should be agreed. In such circumstances, the role of the Report is not to manufacture consensus, but to set out clearly the evidential and analytical basis on which different conclusions are reached.

In this case, the Stage 1 Report does not present a neutral account of unresolved issues. Instead, it selectively highlights concerns while omitting or failing to engage with evidence submitted in response to those concerns, including written rebuttals provided by the Member in Charge. In several instances, matters are presented as open or problematic despite the existence of evidence directly addressing them, or on the basis of misunderstandings or mischaracterisations of the Bill’s provisions.

Where evidence is contested, Stage 1 scrutiny requires the Committee to assess that evidence and explain how competing claims have been weighed in relation to the Bill’s objectives. Where questions arise about drafting or implementation, Stage 1 scrutiny requires clarity as to whether those questions go to the Bill’s general principles or to matters capable of being addressed through amendment or delivery. Selectively identifying concerns, while excluding the material that responds to them, does not fulfil that function.

Stage 1 scrutiny is not a perfection test. But in a split report, it must still explain why Members disagree, on the basis of the full evidential record before the Committee, rather than by presenting issues as unresolved through omission, mischaracterisation, or partial engagement.

## **Insufficient time as a rationale for deferral**

The Stage 1 Report places significant weight on the claim that there is insufficient time in the remainder of the parliamentary session to consult on, refine, and progress legislative reform. That claim does not withstand scrutiny when placed in its proper Scottish context.

This Bill is not being brought forward in a vacuum. As I set out in my written evidence to the Committee dated 16 December 2025 (see Annexe), this policy area has been subject to more than two decades of sustained Scottish Government and parliamentary engagement, including repeated cycles of consultation, research, review, and framework development. What has been lacking is not time or engagement, but legislative action.

Against that background, the Stage 1 Report's reliance on "insufficient time" is not a neutral procedural observation. It functions as a rationale for deferral. That is most clearly illustrated by the Report's proposal that, should the Bill not proceed, a further commission be established in the next parliamentary session.

A commission is not a short-term remedy. By design, it shifts action into the future. Even on the Report's own terms, a commission would require time to be established, to gather evidence, to deliberate, and to report. Government would then require further time to respond, consult, and decide whether to legislate. In practice, this sequence is measured in years, not months.

The invocation of time pressure therefore reflects a choice, not a constraint. It is a decision to return to a familiar pattern of further consultation and delayed action on an issue the Committee itself describes as urgent and harmful.

## **Parliamentary precedent and the inversion of Stage 1 logic**

The Stage 1 Report's reliance on time pressure, contested evidence, and asserted risks to women's safety cannot be reconciled with Scottish parliamentary precedent.

In particular, it cannot be reconciled with Parliament's handling of the Prostitution (Public Places) (Scotland) Bill in 2006–07.

During scrutiny of that Bill, witnesses advanced claims that are materially identical to those relied upon in the present Stage 1 Report. These included assertions that criminalising buyers would increase violence against women, force prostitution into more isolated settings, undermine informal safety practices such as screening and working together, and make women less safe overall.

Those claims were acknowledged at the time. They were not treated as trivial. Nor were they treated as determinative.

The Local Government and Transport Committee scrutinised those assertions in light of the Bill's purpose, the structure of the offence, and the available evidence. It identified significant drafting and enforcement concerns, accepted that the evidence was contested, and nevertheless concluded that these issues were matters for

refinement through the parliamentary process rather than grounds for halting legislative progression.

The time available for scrutiny in 2006–07 was shorter than in the present case. The evidential position was weaker. Drafting uncertainties were more pronounced. Yet Parliament legislated.

By contrast, the present Stage 1 Report records extensive evidence of harm, exploitation, and the inadequacy of the status quo, while treating materially identical safety claims as unresolved difficulties without accompanying analysis of how they should be addressed through amendment, enforcement development, or staged implementation.

This represents an inversion of the logic applied in earlier Stage 1 scrutiny. Where uncertainty and contestation were previously understood as reasons to legislate carefully and improve the law through Parliament, they are now presented as reasons to defer legislative decision-making altogether.

That shift is not explained by any finding that the evidence is weaker, the risks greater, or the objectives less compelling than in 2006–07. It reflects a change in how uncertainty is handled at Stage 1, rather than a difference in the substantive case for legislative intervention.

### **The commission proposal**

The Stage 1 Report makes no recommendation to Parliament on whether the general principles of the Bill should be agreed to. That absence of recommendation is explicitly linked to the Report's presentation of the evidence before it as contested.

However, the Report does not explain how Parliament is to navigate that contestation. It does not assess the evidential basis of the competing claims, does not test those claims against rebuttal evidence, and does not explain why the material before it is insufficient to permit a view to be taken on the Bill's general principles. The Report records disagreement but does not scrutinise it.

Notwithstanding this stated neutrality on Stage 1 progression, the Report goes on to propose the establishment of a further commission to consider prostitution policy in a future parliamentary session, in the event that the Bill does not progress.

That proposal is not framed as an evidential conclusion reached through assessment. It is not accompanied by an explanation of what evidential gap such a commission would fill, nor of why the extensive material already gathered through the Stage 1 process is inadequate for parliamentary decision-making. Instead, it is advanced in the absence of scrutiny, following a process in which claims are repeatedly described as contested but not evaluated.

The effect is that the Report declines to advise Parliament on whether the Bill's general principles should be agreed, while simultaneously articulating a preferred course of action should the Bill not proceed. That combination is not neutral. It reflects a choice to defer resolution of the issues raised by the Bill to a future process, without having undertaken the scrutiny required to justify that deferral.

In this way, the proposal of a commission operates not as the product of analysed uncertainty, but as a substitute for the evidential and analytical work that Stage 1 scrutiny is intended to provide.

## **Conclusion**

The Stage 1 Report accepts, without qualification, that prostitution is harmful, exploitative, and associated with serious violence and inequality. It also accepts the objective of reducing prostitution in Scotland and recognises the inadequacy of the current legal and policy framework.

The Bill is presented as a response to that acknowledged harm. The principal counter-claim advanced in opposition is that the Bill itself would place women in prostitution at increased risk of harm. That claim is repeatedly recorded and relied upon in the Stage 1 Report.

As Member in Charge, I submitted detailed written evidence directly addressing that assertion, examining the sources relied upon to support it and explaining why they do not demonstrate a causal link between buyer criminalisation and increased harm. The Stage 1 Report does not engage with that rebuttal. It does not summarise it, assess it, or explain why it is rejected. Nor does it test the claim of increased danger against Scotland's legislative history, enforcement experience, or comparative evidence.

The Stage 1 Report makes no recommendation to Parliament on whether the general principles of the Bill should be agreed. However, it does not explain why the evidence before the Committee was insufficient to permit a view to be taken, given the seriousness of the harm accepted and the specificity of the counter-claim relied upon. Disagreement is recorded, but the evidential basis for that disagreement is not examined.

In the absence of that examination, the Stage 1 Report does not provide Parliament with the analytical basis required to decide whether the Bill's general principles should be agreed.