



The
British
Psychological
Society

The British Psychological Society Memorandum of Evidence on The Criminal Justice and Immigration Bill

The Society is the learned and professional body, incorporated by Royal Charter, for psychologists in the United Kingdom, has a total membership of over 45,000 and is a registered charity. The key Charter object of the Society is "to promote the advancement and diffusion of the knowledge of psychology pure and applied and especially to promote the efficiency and usefulness of members by setting up a high standard of professional education and knowledge".

The Society is authorised under its Royal Charter to maintain the Register of Chartered Psychologists. It has a code of conduct and investigatory and disciplinary systems in place to consider complaints of professional misconduct relating to its members. The Society is an examining body granting certificates and diplomas in specialist areas of professional applied psychology. It also has in place quality assurance programmes for accrediting both undergraduate and postgraduate university degree courses.

The Society is concerned about Part 6 in clauses 71 – 72 Amendment to The Street Offences Act 1959 (c.57) 'loitering' etc., for purposes of prostitution.

Clause 71- Statutory definition of persistently

Clause 71 (2) (b) provides a statutory definition of soliciting that is 'persistently' carried out. The Bill defines this as behaviour that takes place on two or more occasions in any period of three months. This definition broadens the offence from the previous interpretation of persistence (which was soliciting on two or more occasions in the same evening). The Society is concerned that broadening the offence in this way will increase the vulnerability of sex workers by giving them less time to negotiate prices, safer working practices, or to intuit danger. Defining the offence in this way would also result in net-widening, thereby drawing more people into the criminal justice system unnecessarily and with detrimental effect, particularly to women, their families and children.

Clause 72 – 1A Orders to promote rehabilitation of sex workers

The Society maintains the view that psychological or psychosocial interventions for drug or substance abuse treatment should be fully funded and voluntary. Coercion of clients in drug or substance treatment, where motivation is important, is not an acceptable way to deliver treatment. In the US court-mandated wife batterer interventions were found to be far less effective than expected. The mean effect for victim reported outcomes was zero, and concerns have been raised that mandating individuals to participate in social interventions may inadvertently make things worse (Feder & Wilson, 2005). In the current context the analogy with compulsory attendance at interventions, with little reference to participant motivation, is apparent. Causes of the offence of soliciting are often poverty, lack of child support payments, or lack of somewhere to work safely. In these cases help should be given with financial issues, and help given to enable those in the sex industry to work safely without fear of harassment, criminalization or stigma. Support strategies for exiting sex work should also be voluntary, fully-funded and linked to education programmes and welfare, not the criminal justice system. The Society therefore does not accept that rehabilitation orders for sex workers are a sensible solution to the issue of soliciting.

Rehabilitation orders take existing government provision for sex workers one stage further, but in a more punitive direction. The Society's aim is to protect the public from the provision of psychological treatments by unqualified and untrained practitioners, and we therefore have concerns about provision on some of the government-funded projects, specifically: 1) The psychological methods being used on projects such as the 'Poppy Project'; 2) The psychological qualifications of the therapists on these projects; 3) The standard of treatment provided, and validation of measures used to quantify and qualify treatment benefit; 4) The use of language in treatment which pre-judges clients of psychological services, for example, the use of overarching concepts such as 'all prostitution is violence'; 5) The linking of service provision only to exiting sex work rather than also helping those in sex work who need support, and 5) The evidence base upon which treatment is given. An example of the latter concern is the report *Stolen Smiles* (Zimmerman *et al.*, 2006)¹. The Society upholds the importance of public protection which includes protection from unwarranted, unvalidated, and untested treatments for which 'psychological' claims may be made. The Society has concerns that such provision and research practices provide unreliable foundations for treatment provision or policy. It is important that

¹ This report is used by some projects as the rationale for treatment provision. There are however problems with the evidential basis of the report. The report contains no operational definition of 'victim' nor 'trafficking' and there is domain expansion from 'trafficked women' to women who had been sexually abused while working in domestic labour (p6). No objective baseline measures of the psychological variables were made as the document states that no clinical diagnoses were made; the study team later assessed psychological outcomes themselves. Statements are made without evidential basis, for example 'given the coerced nature of many women's involvement in commercial sex' (p16). There is a misreading of the research literature (*eg.*, Segerstrom & Miller, 2004) where the findings from a review on one clinical group (sufferers from chronic diseases) are misapplied to a different group (female sex workers without chronic diseases). A questionnaire developed by the research team used self-report measures, for physical and mental health statuses, which have not been validated or subjected to peer-review scrutiny. 'Established' questionnaires were also applied but there is no mention of team members' qualifications to use or interpret such instruments.

the evidence base from which psychological treatments are drawn is published in peer-reviewed journals systematically reviewed, or otherwise subjected to the scrutiny of the profession.

1B Amendment tabled in Committee - Orders to promote rehabilitation of persons paying for sexual services of a prostitute who has been trafficked

Firstly, there is no offence of buying or selling sex; to create one would require a major new piece of legislation and with it a philosophical rationale for why the purchase or sale of sex should be different from recreational sex in other contexts. It is therefore not clear what behaviour the persons are to be rehabilitated out of in this amendment. Allied to this, it is often clients who are concerned about a sex worker's status who alert police to trafficking activities so that criminalizing this group of informers would seem to be counterproductive.

The Society also has concerns about treatment of street clients caught in police clampdowns. The Society does not support the zero tolerance approach of police in clampdowns against prostitution as it can make the resulting situation more dangerous for sex workers (see Kulick, 2003). Specifically, we question the so-called 'rehabilitation' or 're-education' of kerb crawlers or clients and of methods used on kerb-crawler programmes on short or one-day schools to change behaviour. These programmes which have started in various police forces appear not to have met the criteria that we would expect of those independently reviewed by appropriate experts in psychological intervention. Indeed, the evidence from the peer-reviewed literature suggests that such rehabilitation has been widely criticized (Van Bruschoot, 2002). From the international literature, such 'rehabilitation' has provided cause for grave concern. Serious criminal justice issues such as the questionable legal basis of the schools, the serious questions about due process, and the trade of a degree of protection from criminal punishment in exchange for the requirements of the 'rehabilitation school' are also evident in the literature (Fischer *et al.*, 2002). Programmes focus disproportionately on those in lower social classes, and the key discourse in schools is on moralizing, blaming and shaming clients. It is also problematic to expect policing agencies to take responsibility for addressing the root cause of *any* behaviour, especially in only a one-day 'school'. The Society is concerned that none of the dangers and costs of these schemes were put forward in the consultation document *Paying the Price* (*cf.*, Brooks-Gordon, 2005) or in the government strategy on prostitution (*cf.*, Brooks-Gordon, 2006). Following publication of the Government Strategy in January 2006, there was a consensus amongst BPS clinical psychologists at the BPS Sex Work conference in March 2007 that those delivering the courses are taking psychology into their own hands.

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