



An Roinn Dlí agus Cirt
Department of Justice

Review of the Operation of Section 7A of the Criminal Law (Sexual Offences) Act 1993

As Amended by Part 4 of the Criminal
Law (Sexual Offences) Act 2017

This report has been prepared by the Research and Evaluation Unit of the Department of Justice. The views presented in this report do not represent the official views of the Department of Justice or the Minister for Justice. As the review includes input from a public consultation, some claims reflect individual perspectives and are not always corroborated by evidence.

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Glossary of Abbreviations

1. AGS - An Garda Síochána
2. AHTT - Anti-Human Trafficking Team
3. AI - Amnesty International
4. CSO - Central Statistics Office
5. DoH - Department of Health
6. DHLGH - Department of Housing, Local Government and Heritage
7. DoJ - Department of Justice
8. DSP - Department of Social Protection
9. GNPSB - Garda National Protective Services Bureau
10. HSE - Health Service Executive
11. HTICU - Human Trafficking Investigation and Co-ordination Unit
12. ICI - Immigrant Council of Ireland
13. IHREC - Irish Human Rights and Equality Commission
14. JOJC - Joint Oireachtas Justice Committee
15. MRCI - Migrant Rights Centre Ireland
16. NGO – Non Government Organisation
17. NRM – National Referral Mechanism
18. NWC - National Women's Council
19. ODPP - Office of The Director of Public Prosecutions
20. OPIU - Organised Prostitution Investigations Unit
21. PS - Probation Service
22. RCNI - Rape Crisis Network Ireland
23. SERP - Sexual Exploitation Research Programme
24. SWAI - Sex Worker Alliance Ireland
25. SWRAN - Sex Workers' Rights Advocacy Network

- 26. ToR - Terms of Reference
- 27. TORL - Turn Off the Red Light Campaign
- 28. TUSLA - Child and Family Agency
- 29. WHS - Women's Health Service

Executive Summary

Objectives

In accordance with section 27 of the Criminal Law (Sexual Offences) Act 2017, this report details the findings of the review of the operation of section 7A of the Criminal Law (Sexual Offences) Act 1993 (s.7A). The review was conducted in line with the Terms of Reference (ToR) outlined below:

- Describe the objectives of [s.7A] in the 1993 Act;
- Quantify the number of arrests and convictions in respect of offences under section 7A since its commencement;
- Assess the extent to which the objectives of the Act have been achieved, analysing the differential impact of the enforcement of the Act, other public policy interventions, and relevant social changes;
- Assess the extent to which the Act's objectives have not been achieved and make recommendations to address any barriers identified;
- Assess the impact of the Act's operation on the safety and well-being of persons who engage in sexual activity for payment, and comment on any risks posed by the Act's operation to such persons, providing recommendations to strengthen their protection; and
- In relation to persons engaged in sexual activity for payment, comment on the risk of such persons being victims of human trafficking, and provide recommendations for the identification and protection of human trafficking victims.

While this review specifically focuses on the agreed ToR, it intersects with other legislative provisions and policy interventions, particularly in relation to Human Trafficking and Domestic, Sexual, and Gender-Based Violence (DSGBV). Since the initial commencement of this review, there have been several significant policy and legislative developments directly related to s.7A that provide new context and potential solutions to the challenges identified in this review.

Recent Policy Initiatives

Since the review's initiation in 2020, Ireland has implemented a series of comprehensive policy and legislative advancements that collectively strengthen the framework within which s.7A operates. These developments include the launch in 2022 of the Third National Strategy for Domestic, Sexual, and Gender-Based Violence (DSGBV), the establishment of Cuan, the introduction of the Third National Action Plan to Combat and Prevent Human Trafficking, and the initiative to expunge previous convictions for the sale of sex, the creation of a new National Referral Mechanism (NRM) for Victims of Human Trafficking under the Criminal Law (Sexual Offences and Human Trafficking) Act 2024. Together, these initiatives represent a coordinated, whole-of-government approach to addressing DSGBV and human trafficking in Ireland.

The Third National Strategy for DSGBV introduces a zero-tolerance policy towards DSGBV, focusing on prevention, protection, prosecution, and policy coordination. This strategy emphasises trauma-informed, victim-centred services; legislative improvements; and multi-agency cooperation. Specifically, under the Protection Pillar, the implementation plan highlights the need to ensure that "those, primarily women, in prostitution have access to safety, health care, support, and exit routes"¹. This indicates a focus on providing comprehensive support services to help women involved in prostitution, including pathways out of exploitative situations. These objectives align closely with the improvements needed for s.7A, particularly in ensuring that the needs of vulnerable groups, including those involved in the sale of sex, are effectively addressed.

Cuan, the newly established statutory agency for addressing DSGBV, has been tasked with coordinating and leading national efforts to provide victim support, improve service standards, and drive awareness-raising initiatives. Given Cuan's mandate, its initiatives provide an enhanced framework for supporting the enforcement of s.7A by ensuring comprehensive victim support and better policy integration.

Additionally in 2021, the Minister for Justice announced an initiative to expunge previous convictions for 'sale of sex', or prostitution offences. Given the changes to the law introduced in the 2017 Act the intention is that this proposed new expunging provision will be expressly limited to those convicted under section 7 or 8 of the Act of 1993 on the basis they were offering their services as a prostitute to another person.

The Third National Action Plan to Combat and Prevent Human Trafficking sets out a multi-agency, victim-centred approach to human trafficking in Ireland. It includes the establishment of the new NRM, comprehensive training for professionals, dedicated accommodation for victims, and pathways for exit from exploitative situations. The plan describes prostitution as inherently exploitative, especially for vulnerable groups like women and girls, who may be forced into it through trafficking, addiction, or poverty. It cites advice from An Garda Síochána, which views prostitution as inextricably connected to trafficking². The action plan aims to ensure that anti-trafficking measures are well integrated with broader efforts to support victims of sexual exploitation.

In the context of the review, while s.7A is not specifically aimed at human trafficking, it remains relevant as it criminalises the purchase of sexual services, reducing demand for prostitution, which is closely linked to trafficking. By targeting buyers, s.7A indirectly supports efforts to combat trafficking by making exploitation less profitable and aligned with the broader anti-trafficking goals of the Third National Action Plan.

The National Referral Mechanism (NRM) for Victims of Human Trafficking, established under the Criminal Law (Sexual Offences and Human Trafficking) Act 2024,

¹ Department of Justice, 2022. *Zero Tolerance Third National Strategy on Domestic, Sexual and Gender Based Violence 2024 Implementation Plan* P25 Strategy and Implementation Plan available at: <https://www.gov.ie/en/publication/a43a9-third-national-strategy-on-domestic-sexual-and-gender-based-violence/>

² Department of Justice, 2023. *Third National Action Plan to Prevent and Combat Human Trafficking 2023-2027*. Dublin: Government of Ireland, Department of Justice. P17 Available at: <https://www.gov.ie/en/news/4b9b5-third-national-action-plan-to-prevent-and-combat-human-trafficking-is-published/>

provides a statutory framework to identify and support victims of human trafficking. This revised NRM expands the range of entities that can formally identify victims beyond An Garda Síochána to include other competent authorities such as the Health Service Executive (HSE), Tusla, and designated NGOs as "trusted partners." This legislative change significantly enhances the capacity to identify and support trafficking victims, including those involved in the sex trade, and addresses some of the barriers identified in this review concerning victim support and cooperation with law enforcement.

These policy developments have collectively strengthened the legislative and support infrastructure surrounding s.7A, creating a more cohesive and integrated approach to addressing both DSGBV and human trafficking in Ireland. As these new policy initiatives are implemented, they provide significant opportunities to overcome some of the challenges identified in this review and to enhance the protective measures and support systems for those involved in the sale of sex.

Methodology

To meet the ToR outlined above the review's methodology involved three key phases drawing on the views of a wide range of stakeholders. The first phase was a public consultation survey, the second was the receipt of written submissions from any interested parties and the third was a two part consultation dialogue process with relevant organisation and individuals³.

The general public consultation was conducted through an online survey to which 1,283 responses were received. The majority (73%) of respondents identified as '*An interested member of the public*', 6% identified as working in the sale of sex and the remaining respondents were comprised of NGOs, representative groups and those who did not identify themselves. For phase two a call for submissions was issued; in total, 199 submissions were received. A review and analysis of those submissions by a dedicated researcher was directed by the Review Chair. Submissions were categorised into those who opposed the legislation and wanted the purchase of sex decriminalised; those who supported the current legislation, and a third group who presented an amalgamation of those views by supporting the legislation while expressing some critique and reservations that aligned with those who supported and opposed it.

Finally, the in-depth consultation dialogues were conducted by the Review Chair. The first round of consultations were held with designated representatives of statutory agencies as required by the ToR. They included: the Organised Prostitution Investigations Unit (OPIU) from An Garda Síochána (AGS); the Health Service Executives Women's Health Service and Anti-Human Trafficking Team; the Office of the Director of Public Prosecutions (ODPP); the Probation Service (PS); Tusla; those who represented advocacy groups and NGOs that support persons engaged in the sale of sex; those NGOs and others who support a view that engagement in the sale of sex is

³ To protect the anonymity of contributors to the review, submissions from individuals are referenced by a code rather than by name.

exploitative and who support victims of human trafficking; academics and legal practitioners.

Section 7A Objectives

In its criminalisation of the purchase of sex, one of the principal aims of s.7A is to deter the demand for commercial sex, which is held to be linked to both sexual exploitation and human trafficking. This approach aligns with the principles of the Nordic Model, which similarly seeks to deter sex trafficking by reducing demand for commercial sex.⁴ In deterring demand for commercial sex s.7A seeks to protect vulnerable populations. The legislation is designed to shift the legal burden towards the purchasers of sex rather than the sellers, aiming to protect those most at risk within the sex industry. Promoting public health and safety by regulating and curtailing activities deemed harmful to individuals and communities was also seen as a potential benefit of the introduction of the legislation. Finally, the legislation was seen to have a normative function, declaring in law that it is socially unacceptable to pay for sex. This was felt to convey a clear message regarding gender equality, by addressing the gendered nature of prostitution and to declare to wider society that Ireland does not tolerate the exploitation of vulnerable populations. It can therefore be said, that s.7A has a number of separate but fundamentally interconnected objectives. While not exhaustive, Beegan and Moran summarised the objectives of the 2017 Act, stating that it 'targets demand, challenges society's attitudes towards men's violence against women and sends a clear message that the body cannot be sold, bought, or violated.'⁵

Official Statistics

The annual recorded crime data from the CSO shows a total of 280 incidents of 'payment etc. for sexual activity' since the introduction of the legislation in 2017. A clear shift since the introduction of s.7A with an increase in recording of crime related to the purchaser of sex and a subsequent decrease for soliciting and related offences. The low levels of incidents of brothel keeping recorded also points to more of a focus on the purchaser.

An Garda Síochána provided prosecution and conviction data, showing that from January 2017 to August 2024, the ODPP (Office of the Director of Public Prosecutions) directed 161 prosecutions for the offence of "Payment, etc., for Sexual Activity with a Prostitute." The Garda Pulse system also indicates there have been 15 convictions under s.7A up to July 2024.

Review Findings

Overall, the Act has made meaningful progress towards its objectives. However, the review does identify key areas for improvement to enable it to increase its impact

⁴ Skilbrei, M.L. and Holmström, C. (2011) 'Is there a Nordic prostitution regime?', *Crime & Justice*, 40, pp. 479-517.

⁵ Beegan, R. and Moran, J. (2017) 'Prostitution and Sex Work: Situating Ireland's New Law on Prostitution in the Radical and Liberal Feminist Paradigms', *Irish Journal of Applied Social Studies*, 17, pp. 59-72.

subject to the provision of the required policy interventions and support services. These are summarised below.

Enforcement and Demand Reduction

The review finds challenges to the effective enforcement of the legislation in its current form. Those who oppose the legislation in its current form highlight significant concerns regarding the enforcement of s.7A. According to this group, the enforcement of s.7A has not achieved its aim of reducing demand for commercial sex. From their perspective, it has pushed the industry further underground, increased fear and distrust among those involved in the sale of sex, and failed to address the broader socio-economic issues that drive demand.

Among those who support the legislation, there is a belief that it has the potential to reduce demand for commercial sex but they acknowledge that its current impact is limited by insufficient enforcement and a lack of supportive measures. Successful enforcement is linked to awareness, with an understanding of both the criminalisation of the purchaser and the decriminalisation of the seller being key. Several submissions and consultations pointed to a lack of public awareness and a lack of awareness amongst those selling sex regarding the current legislation.

From the perspective of law enforcement, the non-criminalisation of those who sell sexual services has allowed the OPIU to conduct safety and welfare checks, including the provision of two dedicated phone lines for direct contact with An Garda Síochána on a 24-hour basis as well as a text message service. An Garda Síochána acknowledged that there is a low-level of reporting by victims of crime in this sector, but those who are trying to get out of the provision of sexual services do often reach out for assistance.

An Garda Síochána and the ODPP noted several challenges and barriers that hinder effective enforcement, including the resource-intensive nature of identifying incidents, the limited power of arrest for detention and questioning, the requirement of an admission of guilt, challenges in prosecution due to the necessary ‘proofs,’ and in approaches to sentencing.

Additionally concerns around the enforcement of other legislative provisions within the Criminal Justice (Sexual Offences) 2013 Act, specifically s.11 (brothel keeping), are evident. A number of advocates for the full decriminalisation of prostitution—where neither the buying nor selling of sex is criminalised—strongly oppose the retention of section 11. They cite instances where those engaged in selling sex have felt targeted by this law, ultimately being driven into more unsafe situations as a consequence. While the official statistics and dialogue with statutory agencies do not support the view that those engaged in the sale of sex are being targeted with brothel keeping legislation, there is an apparent fear around its use and the implications of this for vulnerable groups.

Declarative Function

While stakeholders engaged in the review were aware of s.7A and the wider legislative framework, there was a perception that awareness levels amongst the broader

population were limited and importantly, understanding amongst vulnerable groups may also be limited.

There is a need for public awareness campaigns focused on communicating the illegality of purchasing sex, the actions already being taken by law enforcement to address this, and, more broadly, on the potential harm of prostitution and its impact on wider gender equality.

Protective Function and Support Services

The perspectives on the impact of the legislation on safety and well-being are, as with the debate and literature in this area, contentious and highly polarised.

Those opposed to the legislation claim that the introduction of s.7A is negatively impacting on the safety and wellbeing of those engaged in the sale of sex. They refer to testimonials and data provided by the not-for-profit organisation Ugly Mugs to support this view. They specifically state that s.7A is driving those engaged in the sale of sex ‘underground’ exacerbating risks in relation to health and safety. They point to multiple factors driving this increased risk including:

- increased exposure to more dangerous clients as they (the client) are more reticent to share personal information for fear of prosecution.
- a lack of trust between law enforcement and those involved in the sale of sex which impacts on their ability to report crimes, including violence, and to accessing support services.
- increased stigma making them unlikely to disclose their occupation and to avail of necessary healthcare.

Conversely, those advocating for s.7A counter that these issues of safety and wellbeing were ever present. They identify research which highlights the inherent risks involved in the sale of sex but dispute the links to the legislative changes in driving an increased level of risk. Those who advocate s.7A also highlight the work of the OPIU in protecting and securing the trust of vulnerable populations. However, there is a general agreement that the ability to successfully support and protect is hindered by a lack of culturally appropriate support services including healthcare, social welfare, gender specific housing for women and clear exit routes.

The current use of support services suggests that while the law aims to reduce demand, it does not sufficiently address broader issues faced by individuals in the sex trade, such as coercion, drug use, and violence.

Human Trafficking

In relation to persons engaged in sexual activity and their risk of being victims of human trafficking, there is consensus among contributors that a link can exist, posing a risk in certain circumstances. However, the prevalence of human trafficking among those involved in the sale of sex in Ireland is disputed, and the lack of reliable data is cited by both advocates for and opponents of s.7A.

While all agree that tackling human trafficking is of the utmost importance, there is evident disagreement about the strategies for doing so and a challenge in effectively assessing their impact.

Opponents argue that the law has not decreased trafficking, misallocates resources, and conflates the sale of sex more generally with trafficking, ultimately making conditions more dangerous for those involved in the sale of sex. Supporters, on the other hand, believe that criminalising the purchase of sex can reduce demand and disrupt trafficking networks.

Despite differing views on s.7A's potential secondary effects, both opponents and supporters agree on several key areas of focus to assist in tackling human trafficking. They emphasise the need for accurate data, improved identification processes, comprehensive support systems, enhanced training for law enforcement and service providers, and enhanced multiagency collaboration. Both sides also stress the importance of the new NRM, which will include third-party organisations.

Introduction

Legislation under review

The legislative provision that criminalises the purchasing of sexual services is referenced by various terms across different studies, including: 'Section 7A of the Criminal Law (Sexual Offences) Act 1993'; 'Section 25 of the Criminal Law (Sexual Offences) Act 2017' (the amending legislation); and 'Part 4 of the Criminal Law (Sexual Offences) Act 2017'.

Section 7A of the 1993 Act specifically prohibits 'Payment, etc. for sexual activity with a prostitute', and was inserted into the Act by section 25 of the Act of 2017, as outlined in Figure 1.

For the purposes of this review, this specific provision from the 1993 Act will be referred to consistently as 'Section 7A of the Criminal Law (Sexual Offences) Act 1993', 'Section 7A of the 1993 Act', or simply 'Section 7A' or 's.7A'. Section 7A deals with offences related to the payment for sexual activity with a prostitute, forming part of the broader legal framework targeting sexual exploitation.

The Criminal Law (Sexual Offences) Act 2017 introduced several amendments aimed at enhancing protections against sexual exploitation, including measures that intersect with provisions in the Criminal Law (Human Trafficking) Act 2008. Specifically, Part 4 of the 2017 Act creates new offences and penalties, including targeting trafficking for the purpose of sexual exploitation by inserting subsection 2A and by amending subsection 5 of Section 5 of the Act of 2008, see figure 2.

Figure 1: Amendment of the Criminal Law (Sexual Offences) Act 1993 to criminalise the purchaser of sexual services.

<p style="text-align: center;">PART 4</p> <p style="text-align: center;">PURCHASE OF SEXUAL SERVICES</p> <p>Amendment of Act of 1993</p> <p>25. The Act of 1993 is amended—</p> <p style="padding-left: 40px;">(a) in subsection (2) of section 1, by the deletion of paragraph (a),</p> <p style="padding-left: 40px;">(b) by the insertion of the following section after section 7:</p> <p style="padding-left: 80px;">“Payment etc. for sexual activity with prostitute</p> <p style="padding-left: 40px;">7A. (1) A person who pays, gives, offers or promises to pay or give a person (including a prostitute) money or any other form of remuneration or consideration for the purpose of engaging in sexual activity with a prostitute shall be guilty of an offence and shall be liable on summary conviction—</p> <p style="padding-left: 80px;">(a) in the case of a first offence, to a class E fine, and</p> <p style="padding-left: 80px;">(b) in the case of a second or subsequent offence, to a class D fine.</p> <p style="padding-left: 40px;">(2) In this section ‘sexual activity’ means any activity where a reasonable person would consider that—</p> <p style="padding-left: 80px;">(a) whatever its circumstances or the purpose of any person in relation to it, the activity is because of its nature sexual, or</p> <p style="padding-left: 80px;">(b) because of its nature the activity may be sexual and because of its circumstances or the purposes of any person in relation to it (or both) the activity is sexual.”</p> <p style="padding-left: 40px;">(c) in section 8, by the substitution of the following subsection for subsection (2):</p> <p style="padding-left: 80px;">“(2) A person who without lawful authority or reasonable excuse fails to comply with a direction under subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a class D fine or imprisonment for a term not exceeding 6 months or both.”</p> <p style="padding-left: 40px;">(d) in section 9, by the substitution of the following subparagraphs for subparagraphs (i) and (ii):</p> <p style="padding-left: 80px;">“(i) on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both, or</p> <p style="padding-left: 80px;">(ii) on conviction on indictment to a fine or imprisonment for a term not exceeding 10 years or both.”</p> <p style="padding-left: 40px;">(e) in subsection (1) of section 10, by the substitution of “to a class A fine or imprisonment for a term not exceeding 12 months or both” for “to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both”,</p> <p style="padding-left: 40px;">(f) in section 11, by the substitution of the following subparagraph for subparagraph (i):</p> <p style="padding-left: 80px;">“(i) on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both, or”,</p> <p style="padding-left: 40px;">and</p> <p style="padding-left: 40px;">(g) in subsection (1) of section 13, by the insertion of “7A,” after “7.”</p>
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Section 26 of the Criminal Law (Sexual Offences) Act 2017 amended Section 5 of the Criminal Law (Human Trafficking) Act 2008 criminalising the purchase of sexual services from a trafficked person, inserting a new subsection (2A) into s. 5 of the Act of 2008, to align with s.7A of the 1993 Act and inserted the text shown below at Figure 2.

Figure 2: Amendment of the Criminal Law (Human Trafficking) Act 2008 to criminalise the purchaser of sexual services from trafficked persons.

<p style="text-align: center;">PART 4</p> <p style="text-align: center;">PURCHASE OF SEXUAL SERVICES</p> <p>Amendment of section 5 of Act of 2008</p> <p>26. Section 5 of the Act of 2008 is amended by—</p> <p style="padding-left: 40px;">(a) the insertion of the following subsection:</p> <p style="padding-left: 80px;">“(2A) A person who pays, gives, offers or promises to pay or give a person (including the trafficked person) money or any other form of remuneration or consideration for the purposes of the prostitution of a trafficked person shall be guilty of an offence.”,</p> <p style="padding-left: 40px;">and</p> <p style="padding-left: 40px;">(b) in subsection (5), by the substitution of “sections 7 and 7A of the Act of 1993 in so far as an offence under those sections” for “section 7 of the Act of 1993 in so far as an offence under that section”.</p>

Section 27 of the Criminal Law (Sexual Offences) Act 2017 mandates that a report be prepared on the operation of s.7A of the Act of 1993. As shown in Figure 3.

Figure 3: Review of the operation of Section 7A of the Criminal Law (Sexual Offences) Act 1993

<p style="text-align: center;">PART 4</p> <p style="text-align: center;">PURCHASE OF SEXUAL SERVICES</p> <p>Report on operation of Act</p> <p>27. (1) The Minister for Justice and Equality shall, not later than 3 years after the commencement of this Part, cause a report to be prepared on the operation of section 7A of the Act of 1993 and shall cause copies of the report to be laid before each House of the Oireachtas.</p> <p>(2) The report shall include—</p> <p>(a) information as to the number of arrests and convictions in respect of offences under section 7A of the Act of 1993 during the period from the commencement of that section, and</p> <p>(b) an assessment of the impact of the operation of that section on the safety and well-being of persons who engage in sexual activity for payment.</p>
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Terms of Reference

Implementing section 27(1) of Criminal Law (Sexual Offences) Act 2017 the Department of Justice (DoJ) provided Terms of Reference (ToR) outlining the requirements for a review of the operation of s.7A of the 1993 Act.

In undertaking this review the ToR outlined below have been addressed:

- describe the objectives of [s.7A] in the 1993 Act;
- quantify the number of arrests and convictions in respect of offences under s.7A since its commencement;
- assess the extent to which the objectives of the Act have been achieved, analysing in that regard the differential impact of the enforcement of the Act and of other public policy interventions and relevant social changes on the extent of achievement;
- assess the extent to which the Act's objectives have not been achieved and make recommendations to address the barriers, if any, uncovered in that regard;
- assess the impact of the Act's operation on the safety and well-being of persons who engage in sexual activity for payment, comment on any risks that the Act's operation poses for the safety and well-being of persons who engage in sexual activity for payment and make such recommendations to strengthen protection for such person as are appropriate; and
- in relation to persons engaged in sexual activity for payment, comment on the risk of such person being victims of human trafficking and make such

recommendations in relation to identification and protection of human trafficking victims so engaged as are appropriate.

This review is structured according to the ToR. It begins with an overview of the objectives, followed by a detailed assessment of the extent to which these have been met to date. The assessment involves an analysis of official statistics and a review of data gathered from a public consultation and stakeholder engagement. This review specifically addresses the enforcement of the legislation, the effectiveness of related interventions and support mechanisms, and their impact on safety and well-being, including the risk of human trafficking. Additionally, it explores the barriers to the successful implementation of s.7A and the challenges it faces.

Methodology

The data collection and analysis of public consultation submissions was completed by an independent reviewer, referred to as the Review Chair. Following this, the analysis of the data and the completion of the final report were carried out by the Research and Evaluation Unit within the DoJ between January – August 2024.

The methodology was conducted in three phases:

- Public Consultation Survey (Phase One)
- Public Consultation Written Submissions (Phase Two)
- Dialogue Consultation Process (Phase Three)

The Public Consultation Survey (Phase One)

The general public consultation was conducted through an online survey. A consultative multi-lingual questionnaire was drafted to facilitate a public consultation survey process to inform the review. The survey was live from July to September 2020 and received 1,283 responses⁶. The majority (73%) of respondents identified as '*An interested member of the public*', 6% identified as working in the sale of sex and the remaining respondents were comprised of NGOs, representative groups and those who did not identify themselves. Further details on the sample profile can be found in the Sample Analysis section. A combination of closed and open questions was employed. The verbatim responses to the open questions were analysed and categorised into thematic groups.

The Public Consultation Written Submissions (Phase Two)

The Department also issued a call for submissions. A review and analysis of those submissions by a dedicated researcher was directed by the Review Chair. Submissions were categorised into those who opposed the legislation and wanted the purchase of sex decriminalised, those who supported the current legislation, and a third group who presented an amalgamation of those views by supporting the legislation while

⁶ See Appendix B for the full questionnaire.

expressing some critique and reservations that aligned with those who supported and opposed it.

A second researcher conducted a literature review with the purpose of providing an understanding of the research that occurred prior to and after the commencement of s.7A of the Criminal Law (Sexual Offences) Act 1993.

The literature review and the quantitative and qualitative data from the Public Consultation Phases One and Two, were reviewed to inform Phase Three, which was the Dialogue Consultation process convened by the Review Chair.

The Dialogue Consultation Process (Phase Three)

The outcome of the abovementioned Phase One and Two (Survey and Submissions respectively) analysis and literature review was leveraged to subsequently inform the dialogue consultation phase of the review, where the Review Chair determined an agenda and discussion topic list to create a uniform process for all stakeholders who took part in the consultation.

As mentioned above, the ToR required consultation with specified statutory agencies and civil society agencies working in the sector in addition to victims of human trafficking. It also required engagement with individuals engaged in the sale of commercial sex and those who were trafficked.

Due to the impact of the Covid pandemic lockdown, it was determined by the Review Chair that consultations should be conducted online, using a Zoom meeting facility provided by the DoJ. Ethical considerations applied are outlined in the Ethics and Privacy Matters section of this Review.

Interactive workshops and/or roundtable events were not convened due to health and safety concerns directly related to the pandemic.

Statutory Agency Engagement

The first round of consultations was held with designated representatives of statutory agencies as required by the ToR. They included:

- An Garda Síochána - Detective Inspector from the Organised Prostitution Investigations Unit (OPIU)
- Health Service Executive (HSE) Women's Health Service and Anti-Human Trafficking Team
- Office of The Director of Public Prosecutions (ODPP)
- The Probation Service (PS)
- Tusla

Engagement with Civil Society Groups and Advocacy Organisations

By reference to the submissions received and the analysis thereof, the Review Chair created various forum structures to engage in dialogues with the following stakeholders:

- Those who represented advocacy groups and NGOs that support persons engaged in the sale of sex.
- Those NGOs and others who support a view that engagement in the sale of sex is exploitative and who support victims of human trafficking.
- Academics, legal practitioners

and

- A miscellaneous group whose views reflected both support for and opposition to s.7A.

Engagement with Individuals

The participation and inclusion of people who are engaged in the sale of sex and of people who have been victims of human trafficking was planned to occur once the agencies and civil society NGOs and organisations was completed. However, as outlined below this did not follow a linear process in all cases.

As with the stratification of forums, planned individual one-on-one dialogues were based on the submissions received from such individuals who were categorised as follows:

- Individuals who are engaged in the sale of sex.
- Individuals who were formerly engaged in the sale of sex and have exited this activity.
- Individuals who were victims of human trafficking.

In circumstances where such individuals were not engaging with the review, their advocates' views were captured during the earlier forum sessions. When initial communications were sent on behalf of the Review Chair, inviting forum groups with similar viewpoints, it quickly became clear that those advocating for the sale of sexual services were concerned that the engagement in the review process would not meet their expectations. At their scheduled meeting it transpired that some forum group individuals had shared the online forum invitation link that they had received with those individuals, who in turn, presented themselves at the scheduled forum group Zoom meeting.

It was explained by the Review Chair in written communications prior to the scheduled online meeting dialogues commencing, that there was a sequencing of dialogues i.e., that the forum groups with shared views, as expressed in their submissions, would be engaged with prior to a series of separate dialogues with individuals that would similarly be based on the submissions received from them.

Where individuals engaged in sexual activity for payment presented themselves at the scheduled meetings, on the invitation of those groups, the planned sequencing was reiterated, as was the selection process for planned engagement with them i.e., their submissions.

The counterargument from these advocacy organisation representatives was that many individuals with whom they were aligned or whom they represented, or who were invited by them to attend the forum dialogue, had not engaged with either the Public Consultation Survey (Phase One) or the Public Consultation Written Submission (Phase Two) of the review but that they now wanted access to the review process at the Consultation Process (Phase Three). Those who engage in the sale of sex, they reasoned, are not immediately identifiable as they are not in a collective. They further proffered a view that many of those individuals were not aware of the existence of s.7A of the 1993 Act or any plans to review it.

The ToR did not reference a process sequence for the various consultation stages from Survey to Submissions to Consultations. It was not possible to foresee that advocacy originations had not alerted their stakeholders regarding a review of the law that concerned them. Neither could it have been foreseen that individuals would expect to engage at a later stage in the review process, having not engaged at either Phase One or Phase Two.

However, in the spirit of the ToR which were clear in requiring inclusivity as described in the ToR: *'The participation and inclusion of people who are engaged in prostitution and of people who have been victims of human trafficking will be sought'*, the Review Chair amended the planned methodology to ensure the accommodation of those additional individuals identified by advocacy groups who support the sale of sex. After the forum dialogues were completed, those extra individuals were contacted by the secretariat through their nominating advocacy group, if no individual email was otherwise provided. The altered methodology expanded the timeline of the dialogue consultation process.

Data Collection Methods

There was a combination of quantitative and qualitative data gathered during this review. The data collected included both primary and secondary sources.

The primary quantitative data included the Public Consultation Survey. The secondary quantitative data gathered emanated from An Garda Síochána, the Office of the Director of Public Prosecutions and the Central Statistics Office.

Initial qualitative data was sourced through some open-ended questions in the Public Consultation Survey and the Public Consultation Written Submission.

A desktop literature review was conducted to analyse previous research, providing a foundational context for the review of the implementation and operation of s.7A. Some of that literature emanated from those who are opposed to that legislation and some from those who are in favour of it. That desktop research literature review was supported by considering, as appropriate, various pieces of legislation and relevant government and non-governmental reports from national and international sources.

The outcomes from the desktop research, along with the quantitative and qualitative data, helped the Review Chair formulate questions that clarified the data collected up to that point. This approach ensured a triangulation of all data sources. In Phase Three, the Dialogue Consultation Process, forums were structured based on the categorisation of individuals with similar views and included additional one-to-one interviews. To ensure consistency, all participants—both in forums and individual interviews—were asked the same set of structured questions. Additionally, there was an opportunity for participants to provide unstructured feedback on any important topics that had not been covered in the discussion.

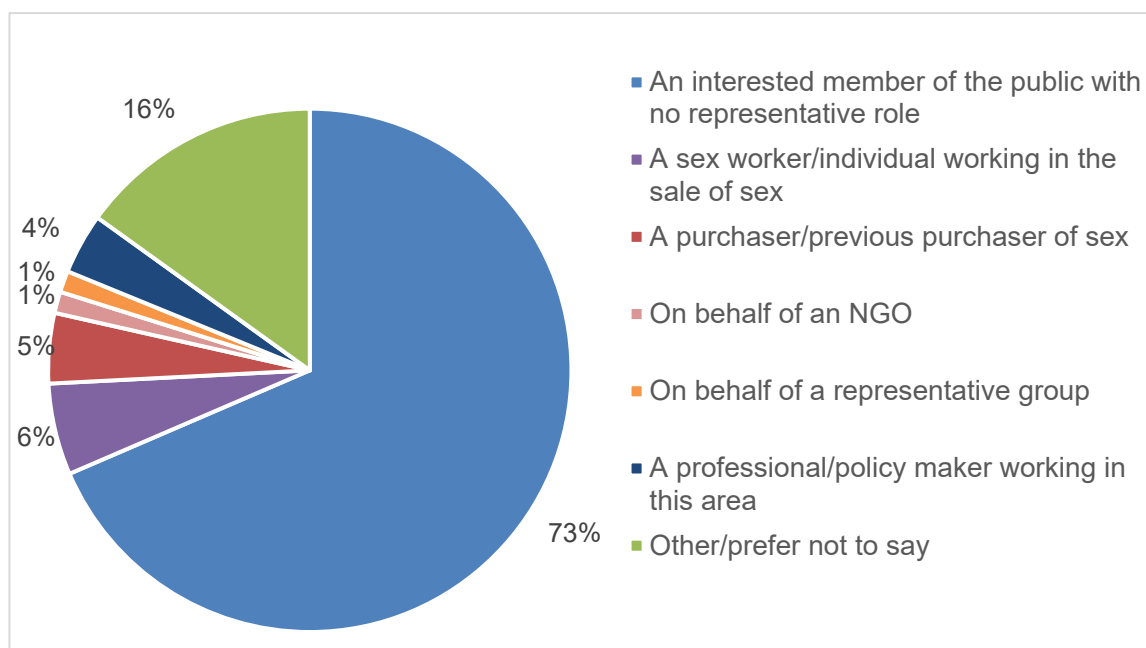
Sample Analysis

As outlined above, this review is based on a variety of information sources collated by the Review Chair. Given the contentious, ongoing debate around the legislation the role of and views held by those providing input into the review provide an important context to any analysis.

Public Consultation Sample

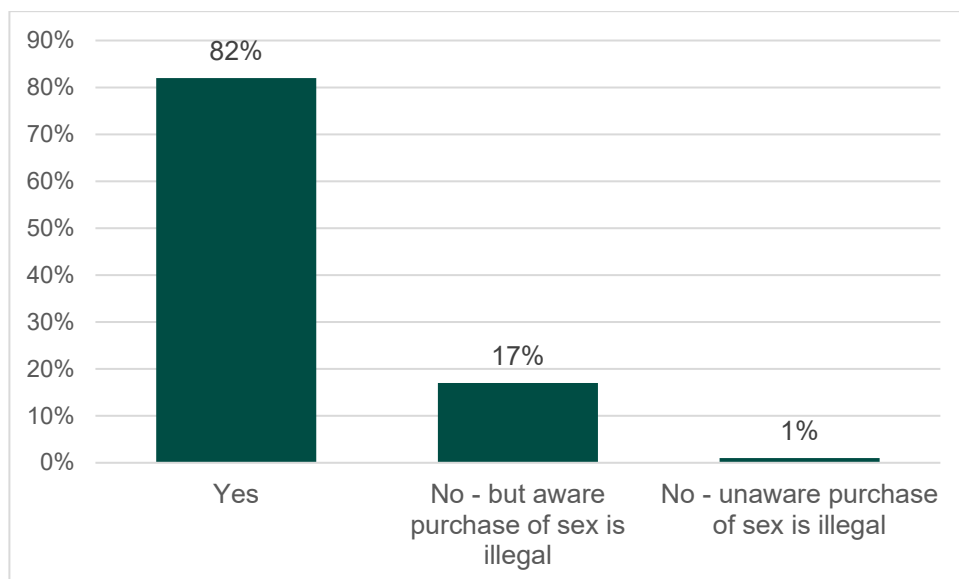
There were 1,283 responses to the online survey. The survey sample was self-selecting and cannot be seen to be representative of any particular group. The majority of respondents (73%) identified themselves as ‘*An interested member of the public with no representative role*’, six percent identified as those working in the sale of sex and five percent as a purchaser/previous purchaser of sex.

Figure 4: Public consultation survey response profile (Base: All respondents, 1282)



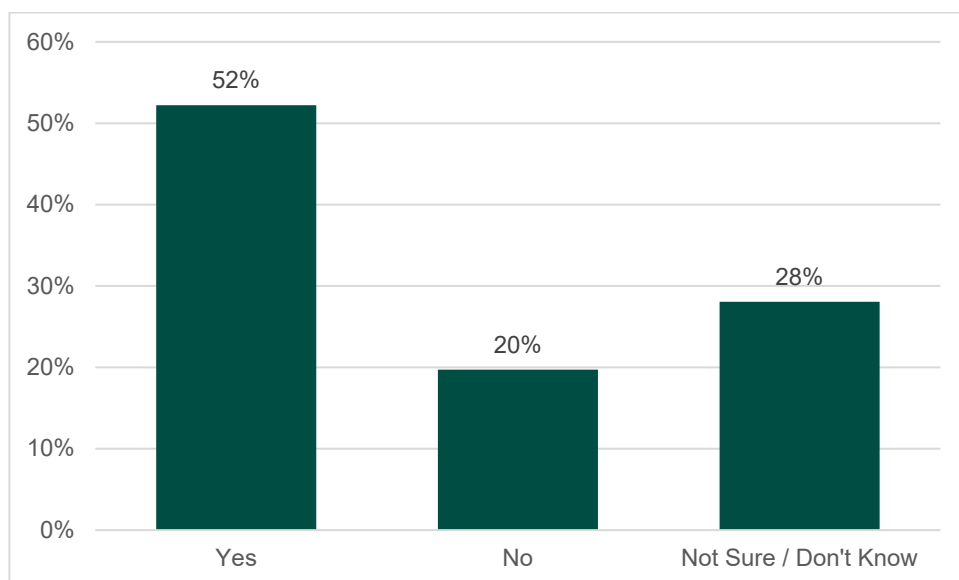
The majority claimed to be aware of the Criminal Law (Sexual Offence) Act 2017 and amongst those who were not the vast majority were aware that it is illegal to purchase sex in Ireland.

Figure 5: Awareness of the Criminal Law (Sexual Offence) Act 2017 (Base: All respondents, 1283)



However, a smaller proportion were specifically aware of s.7A. It should be noted that some of the survey questions were only presented to those aware of s.7A and some of the subsequent analysis is focused on this cohort.

Figure 6: Awareness of Section 7A of The Criminal Law (Sexual Offence) Act 2017 (Base: All respondents, 1283)



Submissions Sample

Phase Two written submissions were received from 199 contributors, having discounted duplicate submissions. Seventy-eight submissions were in email format and the balance were in either Word, PDF or Google Doc format.

Submissions were received from individuals and groups. For ease of reference, the term groups include civil society groups (that encompass NGOs and advocacy organisations), groups of academics, trades unions, student unions, political groupings and collectives who joined together to make a submission, some with many signatories. All groups are indicated at Appendix C. Individual submissions have been anonymised, as previously outlined.

In some instances, individuals who had submitted as an individual, also submitted as the nominee of a group, in which case they were treated as two separate submissions.

The submissions received were categorised by their responses to the questions posed in the ToR. The analysis revealed that 49% of submissions indicated support for prostitution as sex work with consent (otherwise referred to as consensual sex between adults). Approximately one-third of the submissions were from those who view prostitution as exploitation of victims where coercion exists, and consent is therefore absent. Some 11% of submissions acknowledged that prostitution encompasses individuals who are consenting but also those who have been coerced into sexual activity for payment. Seven per cent (7%) of submission respondents made no distinction between those who engaged willingly in such activity and those who were exploited through coercion.

Table 1 – Perspective of Submission

Perspective of Submission	Number
Submissions from those who support prostitution as sex work with consent	97
Submissions from those who view persons engaged in sexual activity for payment as a victim of abuse	66
Submissions from those who concurrently acknowledge consent and coercion in prostitution	21
Submissions from individuals where no distinction was made between consensual (sex work with consent) and coerced sexual activity for payment (exploitation of victims)	15
Total	199

Analysis based on those who viewed the person engaged in sexual activity for payment as an exploited person being victimised or as a person who was demonstrating free agency was also undertaken and is shown in table 2.

Table 2 – Status of person engaged in sexual activity for payment

Is the person engaged in sexual activity for payment a sex worker or merely demonstrating free agency?	Number
Demonstrating free agency	88
Victim of exploitation	65
No comment made in relation to this question	26
Specific question not answered	22
Total	199

Moving away from the analysis of submissions as an entire group it becomes possible when they are stratified into groups to demonstrate qualitative views, to discern the

rationale behind the narrative for the views held. As such for reporting purposes submissions were categorised as different cohorts, with Cohorts One and Two opposing and supporting s.7A respectively. A small number of submissions, Cohort Three shared aspects of the rationale of both One and Two i.e., they were not singularly attached to a view that either complete decriminalisation or sexual exploitation was the singular lens through which to view prostitution. Therefore, the submissions from Cohort Three manifest as either Cohort One or Two below, depending on the question or theme being addressed.

Forum Groups and Dialogue Sample

The Forum Groups included those who were civil society advocacy groups for persons engaged in sexual activity for payment, civil society NGOs that support persons engaged in the sale of sex and other NGOs that support those endeavouring to exit that activity and others who support those who are victims of human trafficking. A separate forum group was formed to dialogue with academics and legal practitioners, some of whom opposed s.7A and some who supported it. A final miscellaneous forum group accommodated others who were in support of some aspects of current legislation and those who oppose the criminalisation of prostitution.

Specifically, the forum group categories identified were comprised as follows.

Table 3 – Forum group categories

Group A - Legal Practitioners and Academics	14
Group B - Advocates for those who Engage in Sexual Activity for Payment	10
Group C - Advocates for the Prostitute as a Victim of Exploitation	12
Group D - Miscellaneous	10

As outlined above 14 individuals who had engaged in the Phase Two Public Consultation Submissions Stage responded to invitations to attend the Phase Three Dialogue Consultations with the Review Chair, on a one-to-one basis. A further 16 individuals were added to the Dialogue Consultations, having been contacted and introduced to the review process through groups who had been invited to attend the Forum Dialogues. On occasion, individuals from this latter sub-cohort, who knew each other, opted to or declared a preference to attend dialogues together. In other instances, the Phase Three Dialogues were, as envisaged by the Review Chair, on a one-to-one basis.

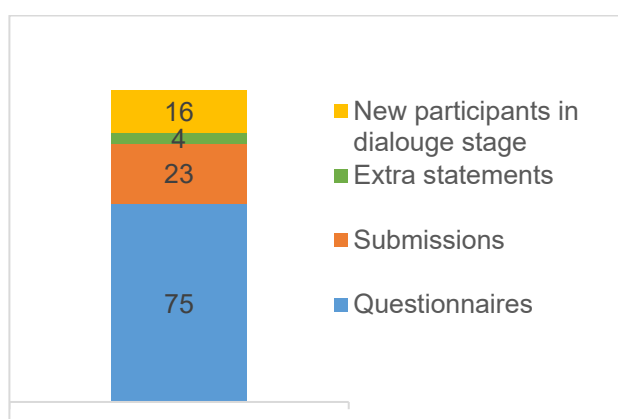
As indicated previously, the same set of questions were engaged with during these dialogues, with an opportunity provided to address any additional matters that were relevant to the context prevailing. These dialogues with individuals anonymised them to protect their privacy.

Participation of those engaged in sexual activity for payment

The inclusion of those who engage in sexual activity for payment in the review process was an important element of its design. As outlined previously, the data collection for

this review occurred at three different phases. Those engaged in sexual activity for payment participated throughout the accumulated phases of the process with 75 individuals engaging at Phase One, 23 at Phase 2, 14 of whom also engaged at Phase Three with an extra 16 individuals at Phase 3, with 4 additional statements received through other participants during that latter phase. Nine individuals in the individual submissions' cohort were unavailable when contacted for dialogue engagement. Fourteen of the 118 participants had an opportunity to participate in both Phase Two and Three, bringing the participating instances to 132.

Figure 7: Unique responses from those who engage in sexual activity for payment



Additionally, advocacy groups who represent those who currently or previously engaged in sexual activity for payment participated at Phases Two and Three, as discussed above in the profiling of the participation of forum group dialogues.

Ethics and Privacy Matters

To ensure trust in the review process, an undertaking was given by the Review Chair to all dialogue consultation participants that they could speak freely in the knowledge that confidentiality would be applied as desired with respect to the views expressed.

That process was supported administratively by DoJ administrators and one researcher, for the purpose of manual notetaking of discussions.

It was agreed by all note-takers and communicated to each interviewee that such manual notetaking of review dialogues was confidential to the review and separate from the role that a review administrator may have with the DoJ.

While those consulted who were representing their agencies or their NGO did not require anonymity, others, especially individuals who were currently or formerly involved in selling sex, did require anonymity.

Where a contributor had concerns about anonymous engagement requiring a degree of separation from state structures, an undertaking was given by the Review Chair and note takers that the identity of the contributor was protected. An independent researcher was therefore sourced by the Review Chair to engage in that part of the process.

The Review Chair anonymised individual contributors as required to protect their identity. Whereas some individuals did not require anonymity, the Review Chair decided that for reasons of consistency, all individuals should be anonymised.

Language and Terminology

It is important to note in the context of this Review that terminology in this field is a deeply contested issue, with different terms representing different views and perspectives.

In circumstances where this Review specifically focuses on a legislative section i.e., s.7A of the Criminal Law (Sexual Offences) Act 1993, it has been deemed pragmatic to use the language of the current legislation in this report, but acknowledgement will be given to preferred terminology from advocates in the sector, as is deemed appropriate in the context of statements made by them during various consultations.

The terminology used by opposing cohorts in discussing those who engage in sexual activity for payment and the purchase of sexual services and the descriptions of those individuals differ widely.

How language is used and mobilised is key in how social policy develops.

*'Political advocacy in the strict sense focuses on governmental decision makers, while social advocacy attempts to influence public opinion, to encourage civic and political participation, and to influence the policies of private institutions such as corporations, private schools, universities, and other non-profit organizations' Considering both the political and social as elementary, "[a]dvocacy is a question of articulating a position and mobilizing support for it' (Jenkins, 2006: 309).'*⁷

Flubacher and Busch⁸ referencing Shohamy and Van Avermaet's introduction to the special issue of *The Network Language Rights* in which they were writing their article, concluded that

"...language advocacy "refers to types of acts or processes that aim at recommending, promoting and influencing policies to stakeholders in order to realize societal change" ... As a political and social issue, advocacy is a hotbed of negotiations and, with different and differing opinions, aims and goals, and ideologies striving for the undoing of the status quo and, eventually, the transformation of society according to a particular set of ideals".

It is useful therefore in assimilating discourse regarding the sale of sex that the use of language aligned to a particular viewpoint should be regarded as subjective to its user and their aims and goals. Engagement with the various information-gathering processes

⁷ Powell, W. and Steinberg, R. (eds.) (2006) 'Nonprofit organizations and political advocacy', in **The nonprofit sector**, 2nd edn, New Haven: Yale University Press, pp. 307-332.

⁸ Flubacher, M.-C. and Busch, B. (2022) 'Language advocacy in times of securitization and neoliberalization: The Network LanguageRights', **Language Policy**, 21, pp. 545-560. Available at: <https://doi.org/10.1007/s10993-022-09617-4>.

from diverse sources and contributors, as indicated in the Methodology section of this Review, should therefore be considered against that language advocacy backdrop.

Terms and narrative used and engaged with by those who see the sale of sex as exploitative and a form of coercion that is the antithesis of consent, is diametrically opposed to terms and narrative used by those who advocate for the sale of sex as an economic matter warranting ‘free agency’ of the seller of sex that they refer to as ‘work’.

Labelling terms employed in an advocacy context by one cohort when commenting on the other’s view that envisions the individual engaged in sexual activity for payment, as a victim of abuse, include terms such as ‘abolitionist’ and ‘conservative’. Where the right to a decriminalised laissez-faire commercial societal structure is promoted by a cohort, it is labelled by those who oppose that view as employing ‘neoliberalism’⁹ constructs to vulnerable individuals. Terms such as ‘protection’ and ‘harm reduction’ are interpreted differently depending on the subjective standpoint of an advocate.

Furthermore, it is suggested by each cohort in research and commentary regarding s.7A that it has the most reliable empirical and qualitative data.

It is not the purpose of this review to analyse the statutory definitions outlined above or to mediate the language, advocacy or ‘labelling terms’ of the diametrically opposed views expressed in a landscape that has been and would appear to remain polarised.

Therefore, the review’s use of terminology does not purport to favour or prejudice one perspective over the other and should not be construed as such.

⁹ Definition of neoliberalism can be retrieved from <https://www.britannica.com/topic/neoliberalism>

Legislative Background and Objectives

Legislative Backdrop to Prostitution in Ireland

Relevant legislation

Historically, Irish legislation on prostitution has been marked by an approach that does not criminalise the act of prostitution itself but rather its public manifestations. In a 2008 European comparative study, Kelly et al described the Irish law on prostitution as ‘an example of a traditional prostitution regime, in that it relies on laws and policy positions which have changed little over recent decades, and which still in practice target women who sell sex’¹⁰. That said, even prior to the implementation of the 2017 Act, prostitution was not in itself an offence under Irish law. As explained by Hanly, provided that the intercourse was not otherwise illegal, no offence was committed if a person offered ‘to have sexual intercourse with another in return for payment’¹¹. Nonetheless, while the selling of sex was not itself an offence, the law did not wish to condone such activity. A number of public order offences were employed to control the activities of those selling sex and ‘to protect society from the more visible aspects of prostitution, such as soliciting in the streets’. As explained by Valiulis et al in 2008¹², the legislative framework in Ireland prior to 2017 was less clear than in other jurisdictions, and furthermore, while the law may have appeared ambiguously framed, in practice it penalised those engaged in prostitution to a greater extent than those who purchased sexual services¹³.

An overview of the more recent history of the law on prostitution in Ireland begins with a consideration of the Criminal Law (Sexual Offences) Act 1993. The Act contained a number of offences that attempted to ‘control the public manifestation of prostitution’ – namely the offences of soliciting and importuning. Section 7 made it an offence to solicit or importune another person in a street or public place for the purpose of prostitution. Under the legislation, the soliciting or importuning could be committed by the prostitute, the buyer or any person acting on behalf of the buyer of prostitute. Section 8 of the 1993 Act bestowed upon the Gardaí the power to direct a person to leave a public place if they had reasonable cause to suspect that a person was loitering in order to solicit or importune another person for the purposes of prostitution. If such a direction was ignored without reasonable cause, then an offence was committed. Thus, loitering for the purpose of prostitution was not in itself an offence. There was an acknowledgement within the legislation that the sex industry was not, for the most part, organised or operated by those selling sex themselves. To this end, there were a range of offences directed at persons with involvement in the organisation, procurement or facilitation of

¹⁰ Kelly, L. et al. (2008) *Shifting Sands: A Comparison of Prostitution Regimes Across Nine Countries*. London: London Metropolitan University, p. 22..

¹¹ Hanly, C. (2015) *An Introduction to Irish Criminal Law* (3rd edn), Dublin: Gill. pp. 432-440

¹² Valiulis, M. et al. (2008) *Interdisciplinary Report on Prostitution in Ireland*. Dublin: Centre for Gender and Women's Studies, School of Histories and Humanities, Trinity College Dublin

¹³ Valiulis, M., Redmond, J., Bacik, I., Rogan, M., Woods, M., O'Driscoll, A., and Hughes, C.B. (2007) *Interdisciplinary Study on Prostitution and Trafficking and Its Impact on Gender Equality for the Irish Human Rights Commission*. Dublin: Centre for Gender and Women's Studies, Trinity College Dublin.

prostitution. Such persons were liable to be penalised under a number of offences including organising prostitution (colloquially referred to as ‘pimping’), living on the earnings of prostitution or keeping/managing a brothel.

While the 1993 Act contained many of the principal offences relating to prostitution, there are also a number of other ancillary prostitution offences, as well as prostitution offences relating to children. A further provision of note is also contained in the Criminal Law (Human Trafficking) Act 2008. It has been highlighted by activists, commentators and academics alike that separating or decoupling prostitution and trafficking for sexual exploitation is illogical. As Turner explains, ‘if trafficking is the means of delivery, prostitution is the end game’. Section 5 of the 2008 Act makes it an offence to ‘solicit or importune’ a trafficked person for the purpose of sex. As per section 5(3), a person guilty of an offence under this section is liable on summary conviction to a fine not exceeding €5,000 or a term of imprisonment not exceeding 12 months, or both. If convicted on indictment, a person is liable to a fine or a term of imprisonment not exceeding 5 years, or both. However, if the defendant could prove that he or she did not know and had no reasonable grounds for believing the person was a trafficked person, he or she could not be prosecuted.

A final piece of legislation worthy of note in the context of this brief overview is contained in the Criminal Justice (Public Order) Act 1994. Section 23 of the Act prohibits the advertising of brothels and prostitution in the State. The provision is drafted in a manner to include advertisements that may not use the terms ‘prostitute’ or ‘brothel’ but nonetheless use terminology that may be synonymous with such activities (for example ‘message parlours’). Notably, advertisements originating from outside the State’s jurisdiction are not covered by the Act.

Prostitution in Ireland: 1990s – 2010s

Prostitution in Ireland has a long history marked by, among other things, the influence of colonialism and the Catholic Church.¹⁴ However, in more recent decades, the single greatest influence on Irish prostitution has been the globalisation of the sex trade. The consequences of this globalisation resulted in a move, beginning in the early 1990s, from a relatively small, domestic, street-based prostitution market to a global, highly profitable, indoor trade managed often by organised crime. This section will present a brief overview of the changing landscape of prostitution in Ireland from the 1990s onwards and will identify some key pieces of research that helped give insight into the commercial sex trade.

For many years, prostitution in Ireland was ‘a street-based phenomenon associated mainly with cities’ and ‘provided mainly by poor or marginalised Irish women’.¹⁵ Due to the impact of globalisation, Ward notes that Ireland saw ‘an intense transformation of the sex trade reflected in the migration of women to work as prostitutes and in the

¹⁴ A comprehensive examination of prostitution and Irish society from the early nineteenth to the mid-twentieth century was conducted by Luddy. See Luddy, M. (2007) *Prostitution and Irish Society, 1800-1940*. Cambridge: Cambridge University Press.

¹⁵ Joint Committee on Justice, Defence and Equality (2013) *Report on hearings and submissions on the Review of Legislation on Prostitution*. 31/JDAE/010, pp. 8-9.

phenomenon of the trafficking of women for the purposes of sexual exploitation'.¹⁶ Ward goes on to identify early indicators of this change:

Based on media sources, a picture emerges of swift and comprehensive change beginning in the early 1990s. Indicators include increased sales in pornographic videos, magazines and other electronic products, the expansion of adult chat lines and adult shops and the arrival of lap-dancing clubs and escort agencies.¹⁷

During this same period, frontline service providers and the Gardaí also began to witness 'major changes in the Irish sex trade' with a move to 'indoor locations, in particular to apartment blocks and hotels', and a significant increase in migrant women seeking assistance from service providers.¹⁸ According to O'Connor and Breslin, the print media in the early nineties was 'perhaps the most visible indicator of the growth of indoor prostitution in Ireland'.¹⁹ While section 23 of the Criminal Justice (Public Order) Act 1994 prohibited the publication or distribution of advertisements for brothels or the services of a prostitute, this did not deter the magazine *In Dublin*. The magazine made a considerable profit by advertising brothels, sex shops and 'escorts' in the late 1990s.²⁰ The paper was eventually prosecuted, however, by then the growth and accessibility of information and communications technology was quickly replacing the necessity to advertise via print and simultaneously offered a new, and extremely lucrative opportunity for the growth of the organised sex trade. By basing themselves in the UK, websites avoided prosecution by asserting they were advertising the 'company' of a person and expressly acknowledging that the advertising of prostitution was a criminal offence in Ireland.²¹ In this context, O'Connor and Breslin observe that 'an unforeseen consequence of the print ban was perhaps, that the buying of sex indoors became far more invisible in Ireland than in other countries as the internet became the only method of advertising'.²²

A series of targeted operations by Gardaí in the 2000s shed further light on the changing landscape of prostitution in Ireland. Among other things, these operations investigated the trafficking of women into the Irish sex industry, exposing the high number of migrant women in lap dancing clubs and uncovering 'a market involving Russian, Eastern and Central European actors and Irish organised criminals'.²³ As noted, during this same

¹⁶ Ward, E. (2010) 'Prostitution and the Irish State: From Prohibitionism to a Globalised Sex Trade', *Irish Political Studies*, 25(1), pp. 47-58..

¹⁷ Ibid.

¹⁸ O'Connor, M. and Breslin, R. (2020) *Shifting the Burden of Criminality: An Analysis of the Irish Sex Trade in the Context of Prostitution Law Reform*. Dublin: The Sexual Exploitation Research Programme, UCD, p. 18.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

²³ Ibid. Ward summaries the various Garda operations that took place: 'Operation Gladiator was launched in 1999 to tackle brothels. Among its 'successes' were the prosecution of *In Dublin* under the Censorship of Publications Act and several brothels under the 1993 Act. Operation Quest was launched in 2003 against lap-dancing clubs. Prosecutions followed for breaches in labour law. Operation Hotel was launched in 2004 to tackle prostitution in brothels and apartments, as was Operation Boulder in Cork over 2005-06'. Ward, E. (2010) 'Prostitution and the Irish State: From Prohibitionism to a Globalised Sex Trade', *Irish Political Studies*, 25(1), pp. 47-63).

period, specialist frontline service providers, such as Ruhama²⁴, Women's Health Service ('WHS')²⁵ and the Immigrant Council of Ireland²⁶, also witnessed a change in the profile of women attending their services. There was now a 'predominance of migrant women from a diverse range of countries', some of whom disclosed 'coercive recruitment, deception, illegal transportation across borders to Ireland and being forced into prostitution'.²⁷

In 2009, research, commissioned by the Immigrant Council of Ireland (ICI), in conjunction with the WHS and Ruhama, offered insight into the commercial sex trade in Ireland and represented the first extensive piece of research examining the sexual exploitation of both trafficked and migrant women within the Irish sex industry.²⁸ The research revealed a highly profitable, well organised and easily accessible prostitution industry throughout the jurisdiction of Ireland, with strong links to international criminal networks. Among its findings, the research reported 'a minimum of 1,000 women in indoor prostitution in Ireland at any one time'.²⁹ While some of these women 'operate independently (the proportion of which is not known), other women are linked to prostitution agencies, which exercise different levels of penalty, control and violence that is difficult to determine due to the clandestine nature of prostitution'.³⁰ The findings of the research also revealed that there were '51 different nationalities of women available to men in indoor prostitution' with only 3 - 13 per cent of the women in indoor prostitution identifying as Irish.³¹ This led the researchers to conclude that up to 97 per cent of women involved in the Irish sex trade were migrant women, with the largest group advertised on the internet identifying as being from one of the original 15 EU countries with the second-largest group being from South America/Caribbean.³² In relation to demand, the research reported that one in 15 men in the jurisdiction of Ireland disclosed that they purchase sex.³³ While the researchers described this as a 'relatively small minority' of men, the industry was still a highly lucrative one.³⁴ The report estimated that

²⁴ Established in 1987, Ruhama is an Irish NGO and charity that offers support to women affected by commercial sexual exploitation.

²⁵ The Women's Health Service, along with the Anti-Human Trafficking Team is a statutory service provided by the Health Service Executive. It operates sexual health clinics and outreach support to women involved in the sex trade.

²⁶ The Immigrant Council of Ireland is a human rights organisation and operates as an independent law centre.

²⁷ O'Connor, M. and Breslin, R. (2020) *Shifting the Burden of Criminality: An Analysis of the Irish Sex Trade in the Context of Prostitution Law Reform*. Dublin: The Sexual Exploitation Research Programme, UCD, p. 19.

²⁸ O'Connor, M. and Pillinger, J. (2009) *Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant Women in Ireland*. Dublin: Immigrant Council of Ireland. Also referred to as the 'Kelleher Report'.

²⁹ Ibid 23.

³⁰ Ibid.

³¹ Ibid. See the annual reports published by Ruhama for a breakdown of the different nationalities of the persons engaging with the NGO on a yearly basis. Available at <https://www.ruhama.ie/annual-reports/>.

³² Ibid. The 'original 15 EU countries' refers to the first 15 member states to establish/join the EU. Also, note, the researchers did advise that 'caution needs to be taken in interpreting the findings in relation to nationality. It is possible that some women who claim to be from the EU 15, particularly from Spain and Italy, are of South American origin or from Eastern European countries'. (Ibid)

³³ Ibid 24. In this respect the researchers reference the work of Richard Layte *et al*, *The Irish Study of Sexual Health and Relationships* (Dublin: Crisis Pregnancy Agency and Department of Health and Children 2006). Further research on the issue of demand was carried out by the ICI in 2014 as part of an Yonkova, N. and Keegan, E. (2014) *Stop Traffick! Tackling Demand for Sexual Services of Trafficked Women and Girls*. Dublin: Immigrant Council of Ireland

³⁴ Ibid.

the ‘indoor prostitution industry advertised on the internet in Ireland’ was worth approximately 180 million euro.³⁵

Noting the transformation of the Irish sex trade from ‘a relatively small, mainly street-based activity in major cities to a widespread sizeable market of migrant women’, O’Connor and Breslin identify a number of additional factors that facilitated this change.³⁶ These included:

- The exponential growth of the Irish economy during the Celtic Tiger years, which enabled some men to pay relatively high prices of €250 to €400 per hour in indoor locations, compared to much lower rates on the streets.
- The invisibility of the trade to the public due to the advertising ban.
- The fact that prostitution agencies were able to operate from the UK.
- The development of large apartment complexes and major hotel chains throughout the country, which allowed for a new form of anonymity not afforded by housing estates.
- The inadequacy of laws designed for public nuisance to address privatised indoor locations³⁷.

Much of the landscape outlined above appears to have remained the same in recent years. In 2018, a multi-jurisdictional investigation conducted by the ICI and project partners noted that:

‘The sex industry is present and thriving in every county in Ireland; it is a highly gendered phenomenon and there are clearly interconnections between prostitution and trafficking for the purposes of sexual exploitation. Irish women still constitute a small number of women in prostitution but the vast majority of women are young, vulnerable migrants recruited and trafficked from impoverished regions of the world’.³⁸

Thus, as outlined above, the research on prostitution in Ireland paints a picture of an industry maintained and operated by organised crime, where young, vulnerable and, for the most part, migrant women are often coerced, controlled and subjected to violence. It is also a picture of a world that is easily accessible online and highly lucrative for those in control.

The Nordic Model and the International Context

The enactment of the Criminal Law (Sexual Offences) Act 2017 in February 2017 represented the conclusion of a lengthy process. Described by the then Tánaiste and Minister for Justice Frances Fitzgerald as a ‘landmark Sexual Offences Act’, the legislation is notable for a number of reasons: it introduced new offences relating to child sexual grooming; it provided new provisions for victims giving evidence in sexual offence

³⁵ Ibid 88.

³⁶ O’Connor, M. and Breslin, R. (2020) *Shifting the Burden of Criminality: An Analysis of the Irish Sex Trade in the Context of Prostitution Law Reform*. Dublin: The Sexual Exploitation Research Programme, UCD, p. 21.

³⁷ Ibid

³⁸ O’Connor, M. (2018) *Comparative Report: Disrupt Demand*. Dublin: Immigrant Council of Ireland, p. 16.

trials; and it established a statutory definition of consent in relation to sexual acts.³⁹ Along with these reforms, the 2017 Act also significantly altered the law on prostitution via the introduction of a prohibition on the purchasing of sexual services. This reform ultimately adopted what has become known internationally as the 'Nordic model' of law reform. It is not the intention of this review to provide a detailed analysis of the Nordic model or to outline the arguments for and against this approach to law reform.⁴⁰ However, it is beneficial to present a brief description of the model and the rationale that underpinned its original enactment and its current status in an international context.

The Nordic model originated in Sweden where, on 1 January 1999, it became the first country in the world to introduce a legal prohibition on the purchase of sexual services, shifting criminalisation from the seller to the purchaser.⁴¹ The prohibition arose in light of public debate in Sweden 'which originated in the 1960s regarding sexual relations and power differences between men and women, leading to new insights and new initiatives to strengthen and ameliorate the position of women in society'.⁴² As noted by O'Connor, in Sweden '[p]rostitution is understood to be a form of male sexualised violence against women and as a serious barrier to gender equality'.⁴³ Thus, for advocates of the Nordic model, reforming the law in this manner was viewed as an important tool in combatting gender-based violence. The normative effect of the law was also viewed as important. As Ekburg notes:

'As with all laws, the Law has a normative function. It is a concrete and tangible expression of the belief that in Sweden women and children are not for sale. It effectively dispels men's self-assumed right to buy women and children for prostitution purposes and questions the idea that men should be able to express their sexuality in any form and at any time'.⁴⁴

It has long been recognised that simply reforming the law does not in itself lead to a change in policing, practice or social perspectives and of fundamental importance to the reform in Sweden were the wide range of policy measures and institutional mechanisms put in place to ensure the success of the law. When the prohibition on the purchase of sexual services was introduced, it was accompanied by funding, resources and initiatives to assist with the implementation of the law and the realisation of its objectives.⁴⁵ Included among these initiatives and resources were public education

³⁹ Irish Government News Service (2017) 'Press Release: New laws on Sexual Offences take effect from Monday – Fitzgerald', 27 March. Available at: https://merriestreet.ie/en/news-room/releases/new_laws_on_sexual_offences_take_effect_from_monday_-_fitzgerald.html.

⁴⁰ For a summarised, succinct review of the arguments for and against the Nordic model see: Ellison, G., Ní Dhónaill, C., and Early, E. (2019) *A Review of the Criminalisation of Paying for Sexual Services in Northern Ireland*. Belfast: Department of Justice Northern Ireland, pp. 18-21.

⁴¹ Swedish Penal Code, Chapter 6: Sexual Crimes, Section 11 (as amended): A person who, in cases other than those previously referred to in this Chapter, obtains casual sexual relations in return for a payment, is guilty of purchase of sexual services and is sentenced to a fine or imprisonment for at most one year. The provision in the first paragraph also applies if the payment was promised or made by another.

⁴² O'Connor, M. (2018) *Comparative Report: Disrupt Demand*. Dublin: Immigrant Council of Ireland, p. 21.

⁴³ Ibid.

⁴⁴ Ekberg, G. (2004) 'The Swedish law that Prohibits the Purchase of Sexual Services', *Violence Against Women*, 10(10), pp. 1187-1205.

⁴⁵ Ekberg, G. (2004) 'The Swedish law that Prohibits the Purchase of Sexual Services', *Violence Against Women*, 10(10), p. 1187.

strategies, awareness-raising campaigns and supports for victims, including exiting supports.⁴⁶

The Nordic model, has been adopted by several countries outside of its origin in Sweden in 1999, Norway (2009), Iceland (2009), Canada (2014), Northern Ireland (2015), France (2016), Ireland (2017) and Israel (2020).

On September 14 2023, the European Parliament adopted a non-binding report "Regulation of Prostitution in the EU: Its Cross-Border Implications and Impact on Gender Equality and Women's Rights"⁴⁷. The resolution provides a comprehensive analysis of how different EU Member States regulate prostitution and the subsequent effects on human trafficking and gender equality. Drafted by the European Parliament's Committee on Women's Rights and Gender Equality, the report emphasises the need for a rights-based approach to protect individuals in prostitution and reduce exploitation.

The report highlights the Nordic/Equality model as an effective approach to reducing demand for prostitution and addressing human trafficking and exploitation. It indicates that evidence from countries like Sweden and France shows significant decreases in street prostitution and demand for sexual services, leading to fewer instances of trafficking and exploitation. The report highlights the importance of comprehensive support systems, such as exit programs and healthcare, to help individuals exit prostitution. It also emphasises the need for adequate funding and ongoing research to ensure the Model's goals are achieved and adapted to different contexts.

However, the report acknowledges several limitations and challenges associated with the Nordic model. The report notes that the model requires sufficient funding for exit programs and social support systems, which is often lacking. Additionally, the report notes that the Nordic model may not fully eliminate stigma and marginalisation faced by individuals in prostitution. Effective implementation also depends on continuous efforts and adaptations to address local contexts and ensure comprehensive support. Therefore, while the Nordic model has significant benefits, it must be part of a broader, holistic approach that includes education, social policies, and robust support services to address its limitations and achieve its objectives fully.

⁴⁶ Ibid. Also, see Ekberg, G. and Wahlberg, K. (2011) 'The Swedish Approach: A European Union Country Shows How to Effectively Fight Sex Trafficking', *Solutions Journal*, 2(2), p. 1 (examples of poster campaigns provided)

⁴⁷ European Parliament (2023) 'Regulation of prostitution in the EU: its cross-border implications and impact on gender equality and women's rights', resolution of 14 September 2023 on the regulation of prostitution in the EU: its cross-border implications and impact on gender equality and women's rights (2022/2139(INI)). Available at: https://www.europarl.europa.eu/doceo/document/TA-9-2023-0328_EN.pdf

Reforming the Law in Ireland

In Ireland, it appears that discussion and support for legislative reform of prostitution law in line with the Nordic model began in earnest in the early 2000s.⁴⁸⁴⁹⁵⁰⁵¹ However, much of the campaigning in the lead up to the enactment of the 2017 Act was spearheaded by the 'Turn Off the Red Light' Campaign ('TORL'). Initiated by the ICI and officially launched in 2011, the TORL consisted of 65 networks, umbrella organisations, trade unions and non-governmental bodies that advocated for law reform that would adequately address prostitution and human trafficking. In particular, the campaign called on the Irish government to:

'[introduce] legislation that criminalised the purchase of sexual acts, in addition to criminalising pimping, procuring and trafficking of persons for sexual exploitation. In recognition of the vulnerability of those involved and exploited in prostitution this campaign also called for legislation that decriminalises the persons who are prostituted'.⁵²

In the years preceding the enactment of the 2017 Act, the TORL coalition and its members intensively campaigned for reform of the law through consciousness raising, the publication of research and policy documents, poster campaigns, etc.

While the TORL coalition campaigned for law reform in line with the Nordic model, an NGO advocating for an alternative approach to prostitution law reform in Ireland emerged. Established in 2006, the Sex Worker Alliance Ireland ('SWAI')⁵³ seeks 'to support and advocate for the human rights of sex workers, and a harm reduction approach to law and policy in Ireland'.⁵⁴ In the years leading up to the 2017 reform, SWAI advocated for a harm reduction model while opposing the criminalisation of the purchase of sex. The organisation argued that criminalisation would cause further violence and harm to sex workers in Ireland. Instead, they advocated for 'a harm reduction and decriminalisation approach' that would focus 'policy responses on the human rights, safety, welfare and occupational health of sex workers'.⁵⁵ SWAI also campaigned for an appropriate consultation platform for sex workers in the period

⁴⁸ Bacik, I. (2019) 'Prostitution Law', in Black, L. and Dunne, P. (eds.) *Law and Gender in Modern Ireland: Critique and Reform*. Oxford: Hart Publishing, pp. 26-27..

⁴⁹ National Observatory on Violence Against Women (2004) *First Country Report from the Republic of Ireland*. Dublin: May 2004.

⁵⁰ Valiulis, M. et al. (2008) *Interdisciplinary Report on Prostitution in Ireland*. Dublin: Centre for Gender and Women's Studies, School of Histories and Humanities, Trinity College Dublin

⁵¹ O'Connor, M. and Pillinger, J. (2009) *Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant Women in Ireland*. Dublin: Immigrant Council of Ireland.

⁵² Turn Off the Red Light (2021) Homepage. Available at: <https://www.turnofftheredlight.ie/>

⁵³ Sex Workers Alliance Ireland (2024) 'Who we are'. Available at:

<https://sexworkersallianceireland.org/who-we-are/>

⁵⁴ Sex Workers Alliance Ireland (2021) 'What we do'. Available at: <https://sexworkersallianceireland.org/what-we-do/>

⁵⁵ Sex Workers Alliance Ireland (2021) 'Press Release: Sex Workers and Supporters hold Vigil at Dail to Mark International Day to End Violence Against Sex Workers', 17 December 2015. Available at: <http://sexworkersallianceireland.org/press-release/sex-workers-and-supporters-hold-vigil-at-dail-to-mark-international-day-to-end-violence-against-sex-workers/>

leading up to the enactment of the 2017 Act.⁵⁶ The harm-reduction and decriminalisation approach advocated for by SWAI was also supported by a number of other researchers, activists and organisations, including Amnesty International.⁵⁷ The Irish branch of Amnesty International (AI) campaigned for the decriminalisation of sex work, an approach that was in line with the organisation-wide policy 'on state obligations to respect, protect and fulfil the human rights of sex workers'.⁵⁸ Specifically, the organisation called on States to '*repeal existing laws and/or refrain from introducing new laws that criminalize or penalize directly or in practice the consensual exchange of sexual services between adults for remuneration*'.⁵⁹

In response to the growing calls for a review of the legal regime governing prostitution in Ireland, in June 2012 the then Minister for Justice, Alan Shatter TD, requested that the Joint Oireachtas Justice Committee (JOJC) initiate a public consultation on prostitution law reform. The Committee consisted of a cross-party collection of 16 TDs and Senators who undertook public consultations and hearings on the future direction of prostitution legislation.⁶⁰ The Committee held four public hearings during which 26 organisations and individuals made presentations.⁶¹ The Committee also issued a call for written submissions on the issue and received over 800 submissions from a wide variety of stakeholders.⁶² Furthermore, a delegation of the Committee travelled to Sweden in November 2012 in order 'to engage directly with various organisations/individuals regarding the impact of legislation enacted in Sweden in relation to prostitution'.⁶³

In June 2013, the Committee published its report outlining its conclusions. In doing so, the Committee was cognisant of 'the degree of support for the Swedish Approach that was expressed in presentations and submissions received during the course of this review'.⁶⁴ Over 80 per cent of the written submissions received favoured the Swedish model, 'as did the majority of individuals and organisations that presented to the Committee in public and private sessions'.⁶⁵ The Committee also attached importance to the fact that these contributors comprised of 'a broad cross-section of Irish civil

⁵⁶ Sex Workers Alliance Ireland (2015) 'Press Release: Sex Workers Oppose Northern Ireland's New Law'. Available at: <https://sexworkersallianceireland.org/press-release/174/>

⁵⁷ Cox, G. and Whitaker, T. (2009) *Drug Use, Sex Work and the Risk Environment in Dublin*. Dublin: National Advisory Committee on Drugs, pp. 38-39..

⁵⁸ Amnesty International (2016) 'Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers (POL 30/4062/2016)'. Available at: <https://www.amnesty.org/en/documents/pol30/4062/2016/en/>

⁵⁹ Ibid. 11

⁶⁰ Joint Committee on Justice, Defence and Equality (2013) 'Report on hearings and submissions on the Review of Legislation on Prostitution', 31/JDAE/010.. Also, prior to the initiation of the public consultation, Department of Justice and Equality (2012) *Discussion Document on Future Direction of Prostitution Legislation*. Dublin: Government Publications.

⁶¹ Ibid. 8.

⁶² Ibid.

⁶³ Ibid. 81.

⁶⁴ Ibid.

⁶⁵ Ibid.

society'.⁶⁶ ⁶⁷As outlined in the report, advocates of the Nordic model cited three primary arguments in support of their views:

- the normative effect of prohibiting payment for sex, of declaring in law that it is socially unacceptable and a form of violence against women would advance social debate on gender equality and mobilise the authority of the State against perceptions of women's and girls' bodies as commodities available to be bought and sold;
- penalising the buying of sex would act as a powerful deterrent against demand for prostitution and human trafficking, and would likewise reduce incentives to enter or remain in prostitution;
- decriminalising the sale of sex by prostitutes would avoid stigma and marginalisation, and so not impede access to essential support, health and rehabilitation services.⁶⁸

In addition to this, the Committee also noted the compelling nature of the accounts that it heard during its visit to Sweden from police, officials and support personnel, and the evidence they produced in favour of the Swedish approach.⁶⁹ Ultimately, the Committee was *'persuaded that the approach adopted in Sweden has had a strongly positive normative effect on social attitudes to sexuality and gender equality in that country, and that equivalent measures could and should be used to promote those values in Ireland'*.⁷⁰ Thus, the Committee recommended unanimously that a provision be made in law for:

'a summary offence penalising the purchase of sexual services of another person by means of prostitution, or any request, agreement or attempt to do so; it should at the same time be clarified that no offence is committed by the person whose sexual services are so sold'.⁷¹⁷²

The legal reforms recommended by the Committee were also accompanied by a number of policy initiative, including the recommendation that:

'The State should, in consultation with appropriate agencies, support services, NGOs, and in particular with men and women in prostitution, formulate and implement properly resourced policies relating to health, education, training, housing and immigration status of men and women who work in prostitution so as to minimise harms risked or suffered by them and to support the exit from prostitution of those who wish to do so'.⁷³

⁶⁶ Ibid.

⁶⁷ Those in support of the Nordic approach included trade unions, the Irish Medical Organisation, the Irish Nursing and Midwifery Organisation, service providers such as the Women's Health Project, Ruhama, and Rape Crisis Centres and groups working for the rights of migrant people, victims of trafficking and other minority groups

⁶⁸ Joint Committee on Justice, Defence and Equality (2013) 'Report on hearings and submissions on the Review of Legislation on Prostitution', 31/JDAE/010, p. 59.

⁶⁹ Ibid. 74.

⁷⁰ Ibid. 76.

⁷¹ Ibid. 79.

⁷² For further details on the legal reforms recommended by the Committee, see *ibid.* 79 – 80

⁷³ Ibid. 80.

The Committee concluded its recommendations by advising that the State:

*‘commission appropriate independent studies to increase its understanding of prostitution and trafficking...such studies should be undertaken at regular intervals to independently evaluate the effectiveness of legal and policy measures concerning prostitution and trafficking and to recommend changes where required’.*⁷⁴

The Committee published its report in June 2013 and after a four-year period, the Committee’s recommendation of reform in line with the Nordic model was adopted through Part 4 of the Criminal Law (Sexual Offences) Act 2017.

On one hand, it can be seen as representing a progressive step towards recognising and addressing the vulnerabilities of individuals involved in prostitution. On the other hand, critics argue that while the intent of the law may be commendable, its implementation can sometimes lead to adverse outcomes, such as marginalising those involved in the sale of sex and making them less likely to seek help from authorities due to fear of their clients’ prosecution.⁷⁵

Noting this ongoing debate in academic literature Submission S65 quoted research from Professor Sarah Kingston who stated that the contrast between these two perspectives has become described as *‘the most divisive distinction in feminist thinking’*.⁷⁶

2017 Amendments

In February 2017 the Criminal Law (Sexual Offences) Act 2017 was passed. As noted, the 2017 Act introduced several reforms and amendments across the area of sexual offences. However, Part 4 dealt exclusively with the ‘purchase of sexual services’ and introduced two new offences – *‘paying for sexual activity with a prostitute’* and *‘paying for sexual activity with a trafficked person’*.

Section 25 of the 2017 Act amends the Criminal Law (Sexual Offences) Act 1993 by inserting s.7A into the 1993 Act. Section 7A creates the offence of *‘payment etc. for sexual activity with prostitute’*. The provision not only targets direct financial transactions but also covers any other form of remuneration or consideration, aiming to broadly encompass various methods of compensating for sexual services.

The provision provides that s.7A is triable summarily only and carries no penalty of imprisonment. The maximum penalty for a first conviction is a Class E fine (€500). This increases to a Class D fine upon a second or subsequent conviction. The other offences already in place under the 1993 Act in relation to organising prostitution, brothel keeping and living off the earnings of prostitution are retained, however, the 2017 Act did make

⁷⁴ Ibid.

⁷⁵ Ellison, G., Ní Dhónaill, C., and Early, E. (2019) *A Review of the Criminalisation of Paying for Sexual Services in Northern Ireland*. Belfast: Department of Justice Northern Ireland, pp. 18-21.

⁷⁶ Kingston, S. (2014) *Prostitution in the Community: Attitudes, Action and Resistance*. London: Routledge, p. 10.

some amendments to the penalties for such offences by increasing them in certain respects.

Section 26 of the 2017 Act amends section 5 of the Criminal Law (Human Trafficking) Act 2008, creating a new offence of paying for sexual activity with a trafficked person. As noted, the Criminal Law (Human Trafficking) Act 2008 contains a provision making it an offence to 'solicit or importune' a trafficked person for the purpose of sex. The 2017 Act amends section 5 of the 2008 Act by widening the reach of the original offence. Section 5(2A) now also provides that:

A person who pays, gives, offers or promises to pay or give a person (including the trafficked person) money or any other form of remuneration or consideration for the purposes of the prostitution of a trafficked person shall be guilty of an offence.

The penalties for this offence remain the same as those for soliciting or importuning a trafficked person - namely: on summary conviction to a fine not exceeding €5,000 or a term of imprisonment not exceeding 12 months, or both; on indictment to a fine or a term of imprisonment not exceeding 5 years, or both. As O'Connor notes, this offence remains in place alongside the offence under section 25 of the 2017 Act which indicates that *'the offence of buying a victim of trafficking is still considered a more serious offence than the buying of sex from any other person in Irish law'*.⁷⁷

While not directly relevant to the terms of this Review - which, as determined by section 27, are to review the operation of section 7A - it is important to note that section 25 of the Criminal Law (Sexual Offences) Act 2017 amended the Criminal Law (Sexual Offences) Act 1993 by deleting paragraph (a) of subsection (2) of section 1. This deletion removed the offence of offering one's services as a prostitute to another person.

Entitled 'Report on operation of Act', section 27 is the final provision under Part 4 of the Criminal Law (Sexual Offences) Act 2017. As outlined in the opening sections of this review, section 27 mandates that a report be prepared on the operation of section 7A of the 1993 Act after a three-year period.

On 22 February 2017, the Criminal Law (Sexual Offences) Act 2017 was signed into law, and on 27 March, Part 4 of the Act was commenced.⁷⁸

Section 7A Objectives

⁷⁷ O'Connor, M. (2018) *Comparative Report: Disrupt Demand*. Dublin: Immigrant Council of Ireland, p. 24..

⁷⁸ Criminal Law (Sexual Offences) Act 2017 (Commencement) Order 2017, S.I. No. 112 of 2017.

The then Minister for Justice and Equality, Ms Frances Fitzgerald stated on signing the commencement order for the Criminal Law (Sexual Offences Act 2017) on 27 March 2017

*'the provision, ... would ... target the demand for prostitution... [and would be] key in targeting the wider exploitation associated with prostitution, including the trafficking of persons for the purpose of prostitution'*⁷⁹

In its criminalisation of the purchase of sex, the principal aim of s.7A is to deter the demand for commercial sex, which is held to be linked to both sexual exploitation and human trafficking. By criminalising the act of purchasing sexual services, the legislation seeks to reduce the supply of such services, thus protecting individuals who might be coerced or forced into prostitution. This approach, targeting the purchaser, aligns with international recommendations such as those from the Palermo Protocol⁸⁰, a United Nations treaty aimed at preventing, suppressing, and punishing human trafficking, particularly of women and children. It also aligns with the Council of Europe Convention⁸¹, a comprehensive international treaty designed to combat human trafficking through a human rights-based and victim-centred approach. Both international treaties advocate for laws that focus on reducing demand as a means to combat exploitation and trafficking.

As discussed in the pre-legislative Dáil debates^{82,83}, s.7A is a targeted effort to reduce sex trafficking and the sexual exploitation of individuals, particularly young women and girls. The criminalisation of the purchase of sex underpins this objective, intending to decrease the demand that fuels the trafficking industry. This approach aligns with the principles of the Nordic Model, which similarly seeks to deter sex trafficking by reducing demand for commercial sex.⁸⁴ Feedback from the review reinforces this perspective, indicating that many see the legislation as a crucial step in combating sexual exploitation and trafficking.

In deterring demand for commercial sex s.7A seeks to protect vulnerable populations. The legislation is designed to shift the legal burden towards the purchasers of sex rather than the sellers, aiming to protect those most at risk within the sex industry. This aligns with the Nordic Model's approach to reduce the vulnerability of those selling sex to legal

⁷⁹ Irish Times (2017) 'Minister for Justice signs new laws on sexual offences'. Available at: <https://www.irishtimes.com/news/crime-and-law/minister-for-justice-signs-new-laws-on-sexual-offences-1.3026288>

⁸⁰ United Nations (n.d.) 'Article 5 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime'. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

⁸¹ Council of Europe (n.d.) 'Chapter II – Prevention, co-operation and other measures'.

⁸² Oireachtas (2017) 'Debate on sexual offences bill criminalising purchase of sex passed in Dáil'. Available at: <https://www.oireachtas.ie/en/debates/debate/dail/2017-02-01/34/>

⁸³ Irish Times (2017) 'Sexual offences bill criminalising purchase of sex passed in Dáil'. Available at: <https://www.irishtimes.com/news/politics/sexual-offences-bill-criminalising-purchase-of-sex-passed-in-dail-1.2968097>

⁸⁴ Skilbrei, M.L. and Holmström, C. (2011) 'Is there a Nordic prostitution regime?', *Crime & Justice*, 40, pp. 479-517.

penalties and social stigma.⁸⁵ This protective measure is echoed in feedback from the review, where respondents noted that decriminalising the act of selling sexual services enhances protection and dignity for those involved, thus potentially reducing their vulnerability.

Promoting public health and safety by regulating and curtailing activities deemed harmful to individuals and communities was also seen as a potential benefit of the introduction of the legislation. The 2013 Oireachtas Justice Committee report highlighted that ‘a reduction in demand for prostitution will (when accompanied by appropriate support and health services) reduce the pressure faced by prostitutes to engage in risky or dangerous sexual practices, and so promote public health and HIV reduction.’⁸⁶

Finally, the legislation was seen to have a normative function, declaring in law that it is socially unacceptable to pay for sex. This was felt to convey a clear message regarding gender equality, by addressing the gendered nature of prostitution and to declare to wider society that Ireland does not tolerate the exploitation of vulnerable populations. It can therefore be said, that s.7A has a number of separate but fundamentally interconnected objectives. While not exhaustive, Beegan and Moran summarised the objectives of the 2017 Act, stating it ‘*targets demand, challenges society’s attitudes to men’s violence against women and sends a clear message that the body cannot be sold, bought or violated.*’⁸⁷

⁸⁵ Flanagan, J. and Watson, L. (2019) *Debating Sex Work*. Oxford: Oxford University Press.

⁸⁶ Joint Committee on Justice, Defence and Equality (2013) ‘Report on hearings and submissions on the Review of Legislation on Prostitution’, 31/JDAE/010, p. 77.

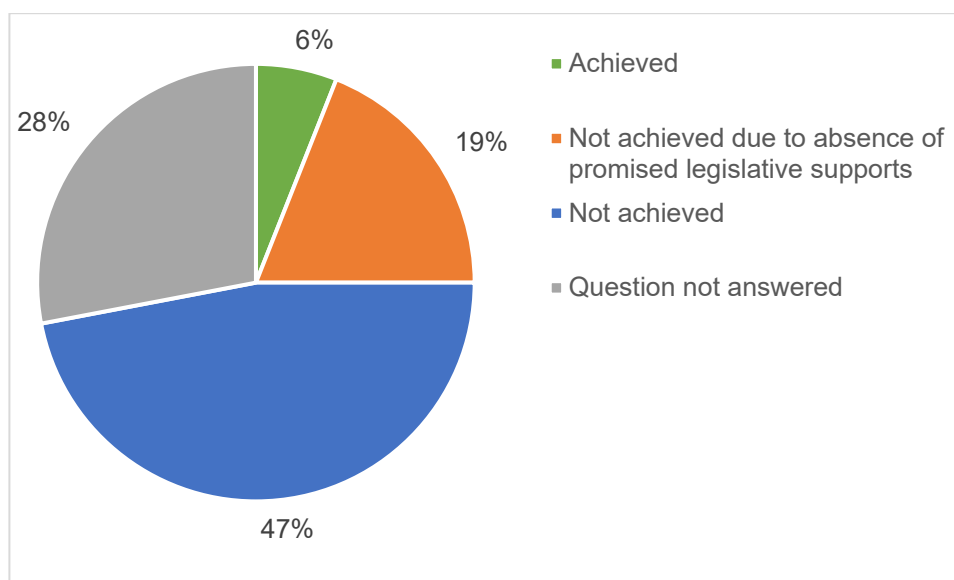
⁸⁷ Beegan, R. and Moran, J. (2017) ‘Prostitution and Sex Work: Situating Ireland’s New Law on Prostitution in the Radical and Liberal Feminist Paradigms’, *Irish Journal of Applied Social Studies*, 17, pp. 59-72.

Assessment of Legislative Impact

In assessing the extent to which s.7A has met its objectives the majority of respondents involved in the review process pointed to a series of limitations and challenges in relation to the Act.

Specifically, when looking at the response from all submissions received, only 6% answered the question positively, as demonstrated below in Figure 8. This view transcended the polarisation that was otherwise prevalent between those who opposed the legislation and those who supported it; but their respective rationale as to the reasons for why the legislation failed to achieve those objectives differed.

Figure 8: Extent to which the objectives of the amended 1993 Act have been achieved or otherwise (Base: All submissions, 199)



The qualitative data from the consultation process shows that, while many viewed the legislation as a welcome first step in addressing the sex trade in Ireland, its true potential has not been realised. Conversely for other contributors it was the introduction of this ‘flawed’ legislation itself that is driving the failure to meet its objectives.

Those advocating for the full decriminalisation of prostitution stated that the existing legislation has failed to realise its objectives and had thus not achieved the positive outcomes intended but had instead facilitated a detrimental impact on the lives of those who engage in sexual activity for payment. Many in this group, similar to the majority of submissions, noted that the supports promised when this legislation was enacted had failed to materialise. They also focused particular attention on other legislation that criminalises persons engaged in sexual activity for payment such as that pertaining to brothel keeping (s.11 of the 1993 Act).

Some who supported the introduction of legislation highlighted positive changes in relation to the position of those selling sex, but many pointed to challenges in

enforcement and in the lack of social supports, which were seen to limit its effectiveness.

These different aspects of the Act's success, or lack thereof, will now be explored further.

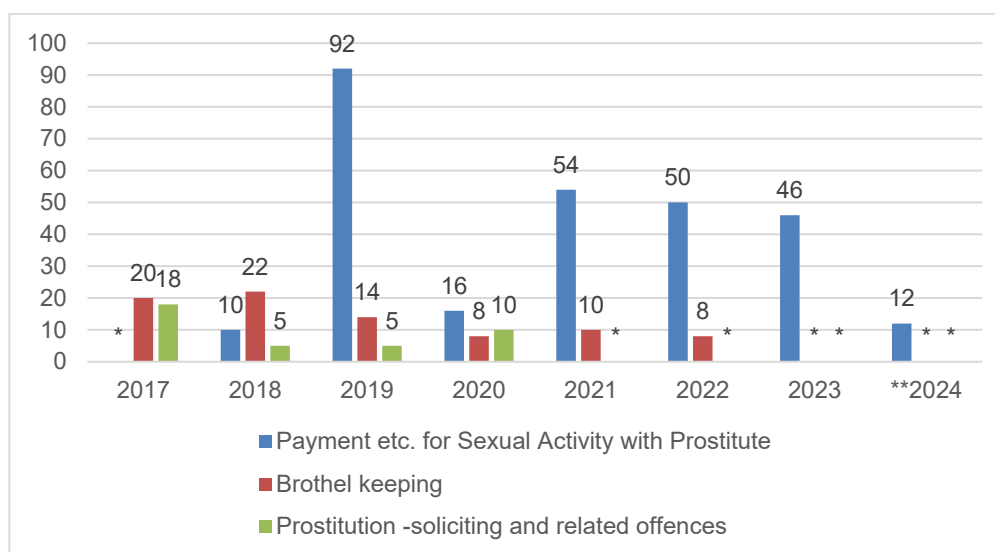
Official Statistics

Statistics published by or provided by State bodies, while limited in this area, are an important, independent source of information to understand the impact of s.7A to date.

Central Statistics Office

Data from the CSO enables us to look at annual data for crime incidents recorded by An Garda Síochána. Crimes reported to, or which become known to, An Garda Síochána are recorded as crime incidents if a member of An Garda Síochána determines that, on the balance of probability, a criminal offence defined by law has taken place, and there is no credible evidence to the contrary.⁸⁸ The specific offences related to prostitution are 'payment etc. for sexual activity', 'Brothel Keeping' and 'Prostitution Other Offences' and.⁸⁹ Figure 9 summarises the CSO recorded crime incidents data for each of these offences.

Figure 9 – Recorded Crime Incidents - Prostitution Offences (134)



* = <5 incidents **2024 data up to May

Source: CSO, from An Garda Síochána PULSE crime database extract of 1st June 2024.

⁸⁸ Central Statistics Office (2023) 'Background Notes Recorded Crime Q4 2023'. Central Statistics Office.

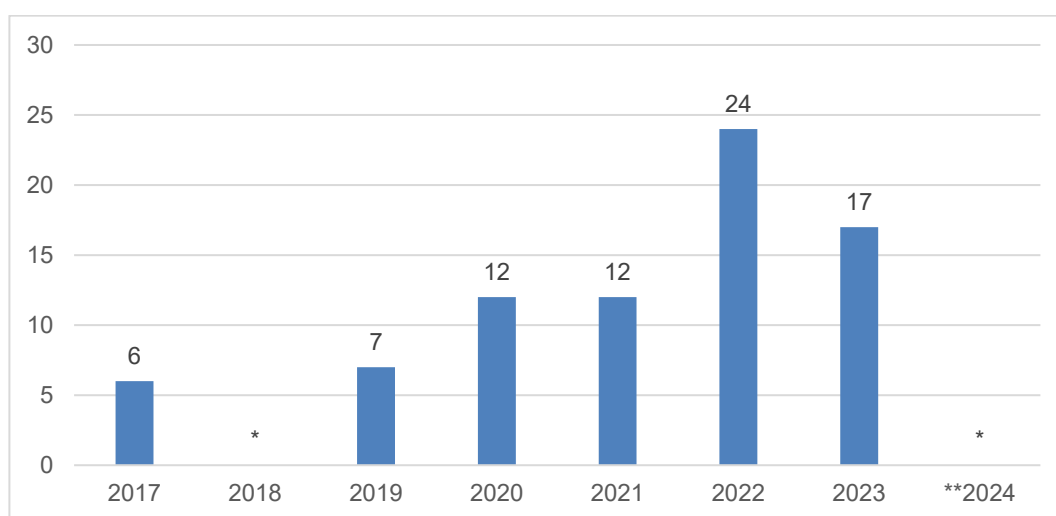
⁸⁹ 'Payment for sexual activity' – relates to s.7A of the Criminal Law (Sexual Offences) Act, 1993. Brothel keeping – as per s.11 of the Criminal Law (Sexual Offences) Act, 1993 - relates to the offence of the organisation or management of a premises for the purposes of prostitution. Prostitution Other Offences – relates to the offences of soliciting or loitering for the purpose of prostitution or living on the earnings of the prostitution of another person as per the Criminal Law (Sexual Offences) Act, 1993; s.23 of the Criminal Justice (Public Order) Act, 1994; and s.9 of the Criminal Law (Sexual Offences) Act, 1993 – relate to advertising of prostitution and controlling, organising or directing prostitution for gain.

The annual recorded crime data from the CSO show a clear shift since the introduction of s.7A with an increase in recording of crime related to the purchaser of sex and a subsequent decrease for soliciting and related offences. The low levels of incidents of brothel keeping recorded also points to more of a focus on the purchaser.

The CSO data only looks at recorded crime incidents. Prosecution and conviction data has been made available by An Garda Síochána and is outlined separately below.

Data for recorded crime incidents relating to organised crime and human trafficking were also available from the CSO, however, the low level of incidents makes an analysis of trends very challenging.

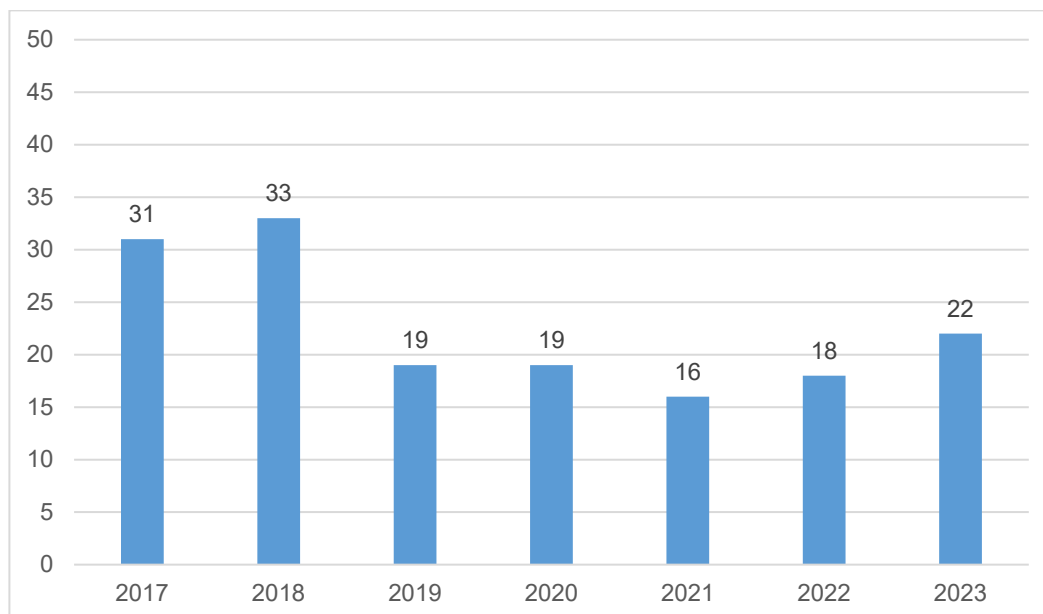
Figure 10 – Recorded Crime Incidents – Organised Crime



* = <5 incidents **2024 data up to May

Source: CSO, from An Garda Síochána PULSE crime database extract of 1st June 2024.

While numbers are still low there is an indication of an increase in the recording of organised crime incidents since 2019. Recorded incidents for human trafficking fluctuate but have remained below 30 since 2019.

Figure 11 - Recorded Crime Incidents – Human Trafficking

Source: CSO, from An Garda Síochána PULSE crime database extract 1 March 2024

<https://www.cso.ie/en/releasesandpublications/ep/p-rc/recordedcrimeq42023/detailedoffencegroups/>

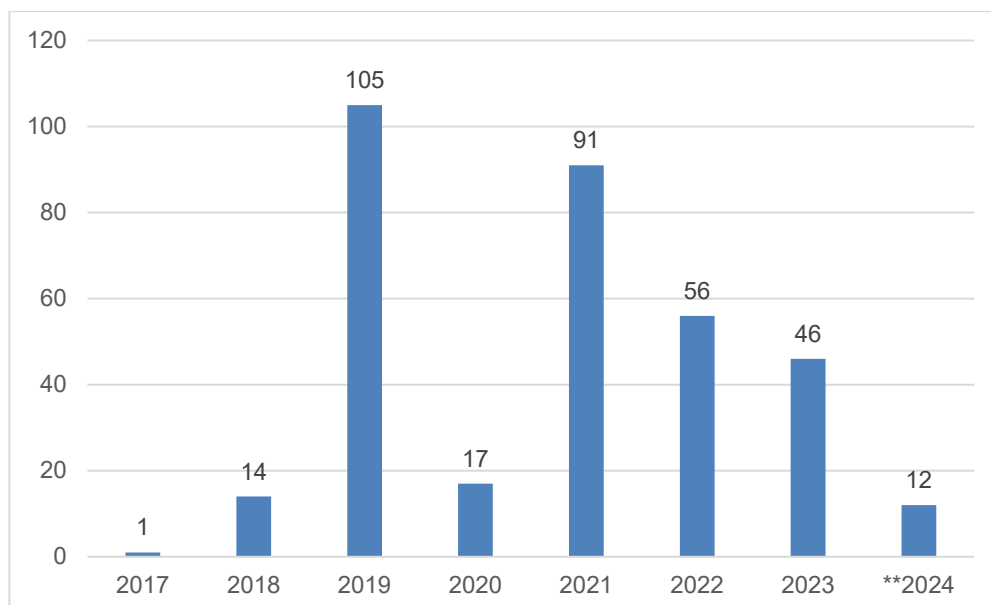
An Garda Síochána and The Courts Service

Recorded Incidents

The CSO data focuses solely on recorded crime incidents with the Crime Counting Rules applied⁹⁰. These rules ensure that each crime is counted only once, based on the most serious offence, to maintain consistency and avoid duplication. An Garda Síochána provided additional data, without the application of the Crime Counting Rules. This provides the total number of incidents under s.7A, including where there are multiple incidents recorded under one primary case. As shown in Figure 12 a total of 342 individual potential offenders were recorded from 2017 to August 2024.

⁹⁰ https://www.cso.ie/en/media/csoie/methods/recordedcrime/Crime_Counting_Rules.pdf involved.

Figure 12 – Total Number of Incidents under Section 7A: 'Purchase of Sexual Services'



Source: An Garda Síochána, August 2024. **2024 data up to May

Prosecutions and Convictions

According to An Garda Síochána from January 2017 to August 2024, the Director of Public Prosecutions has directed 161 prosecutions for the offence of 'Payment etc. for Sexual Activity with a Prostitute'.

The Courts Service data for convictions under the code 'Pay for sexual activity with a prostitute Contrary to 7A of the Criminal Law (Sexual Offences) Act 1993 as inserted by Section 25 of the Criminal Law (Sexual Offences) Act 2017' is available from the 21st October 2021⁹¹, with three convictions being recorded since this date up to 31st July 2024. The Garda Pulse system shows 15 convictions for the offence of 'Payment etc. for Sexual Activity with a Prostitute' up to July 2024.

In respect of the human trafficking convictions, Ireland has only one conviction which is outlined below.

On 28 September 2021 at Mullingar Circuit Court, County Westmeath, three persons were sentenced as follows:

1. Person 1: Two counts of Human Trafficking Contrary to Section 4 of the Criminal Law (Human Trafficking) Act 2008 and one count of Organising Prostitution contrary to Section 9 of the Criminal Law (Sexual Offences) Act 1993. The defendant was also found guilty on 38 counts of Money Laundering Contrary to Section 7 of the Criminal Justice (Money Laundering and Terrorist Financing) Act

⁹¹ This offence code was only activated on the Pulse system by AGS on 21st October 2021 so if there were prosecutions for this offence prior to October 2021 they were free text codes. The Courts Service can only provide data in relation to where offence codes provided on the system were used by prosecutors.

2010. They were sentenced to 68 months' imprisonment backdated to 14 April 2019 when they went into custody, 60 months for Organising Prostitution and 20 months for Money Laundering, all to run concurrently with the 68 months.

2. Person 2: Two counts of Human Trafficking Contrary to Section 4 of the Criminal Law (Human Trafficking) Act 2008 and one count of Organising Prostitution Contrary to Section 9 of the Criminal Law (Sexual Offences) Act 1993. They were also found guilty on four counts of money laundering Contrary to Section 7 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. They were sentenced to 61 months' imprisonment from 28 September 2021, 60 months for Organisation of Prostitution and 20 months for Money Laundering, all to run concurrently with the 61 months.
3. Person 3: Four counts of money laundering Contrary to Section 7 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. They were sentenced to 27 months' imprisonment, which was fully suspended for a period of 3 years.

Additionally, a further suspect who is related to one of the persons above was arrested and charged with conspiring with another to traffic a person for the purposes of exploitation contrary to section 7(6) of the Criminal Law (Human Trafficking) Act 2008.

In a landmark case in the Court of Appeal on 20th February 2023, two of the suspects mentioned above had their sentences increased. The judge dismissed the appeals of two suspects, quashed the original sentence, and re-sentenced them. Citing undue leniency, Justice Birmingham said the headline sentence '*in each case cannot properly be less than ten years*'. Suspect one was re-sentenced to seven and a half years. Suspect two was re-sentenced to seven years and one month.

At the time of interview the ODPP had recently directed on other cases of human trafficking for the purpose of labour exploitation and these cases were before the courts awaiting a trial date.

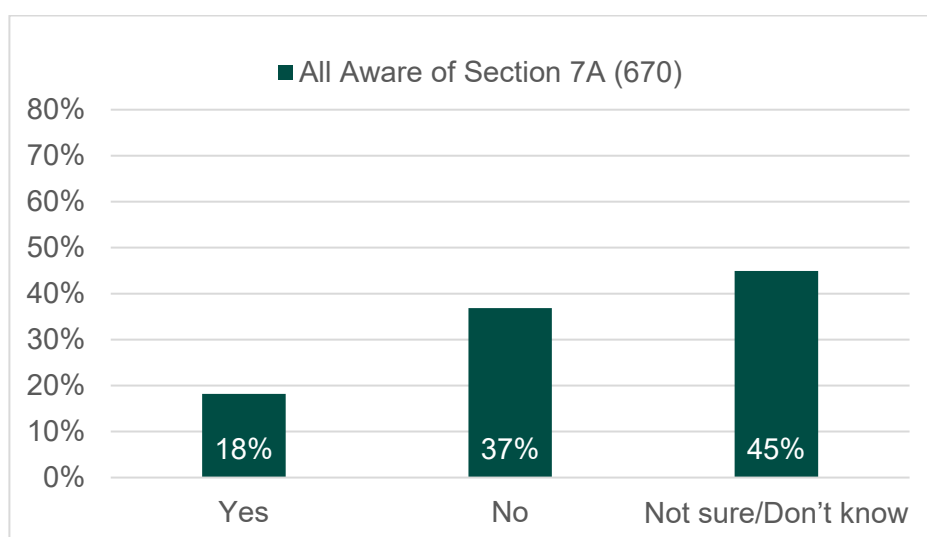
Enforcement of Section 7A

In addition to the data outlined above showing detections and convictions in relation to s.7A, opinions regarding the enforcement of the legislation were captured at each stage of the review process.

Public consultation survey

The online public consultation survey asked those aware of s.7A (52% of all respondents) their views on how proactively it had been enforced by An Garda Síochána. The majority (45%) were unsure, while approximately 1 in 5 felt that it had been proactively enforced, and less than 2 in 5 (37%) believed that it had not been.

Figure 13: Do you think that to date Section 7A of the Criminal Law (Sexual Offence) Act 2017 has been proactively enforced by An Garda Síochána?



Respondents who felt the law was being proactively enforced were asked why they felt this was the case, the main reasons⁹² cited were:

- Clients and/or sex workers being targeted
 - *'Clients have been targeted, stopped, cautioned, arrested, etc since its introduction. Days of action have happened where reported gardaí have targeted clients'* [An interested member of the public with no representative role]
- Media coverage
 - *'There have been media reports and reports from advocacy groups in relation to same.'* [An interested member of the public with no representative role]
- Awareness of arrests/Garda operations
 - *'There have been some surveillance operations, some clients questioned and a handful brought to court.'* [Individual selling sex]

⁹² Based on a review of the qualitative responses

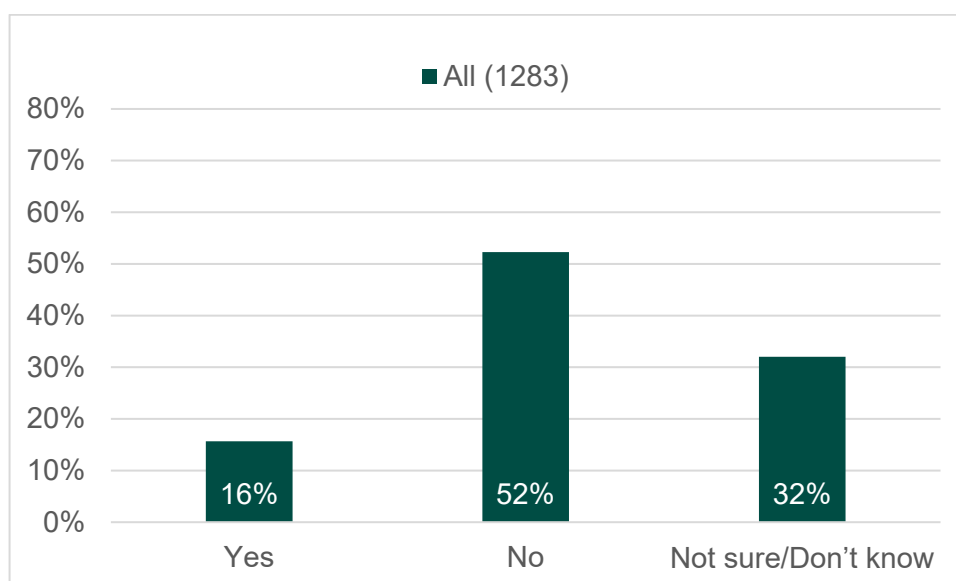
- *'Because the Gardaí know it reduces demand which fuels the sex trade and organised crime'* [A professional/policy maker working in this area]

Amongst those who felt it had not been proactively enforced the key areas identified that were relevant to the question were:

- The lack of prosecutions and convictions
 - *'There have been very few prosecutions for purchasing sex since the Act commenced'* [An interested member of the public with no representative role]
 - *'For the amount of sex workers actively working, I don't hear too often of clients getting prosecuted'* [Individual selling sex]
- The challenge of enforcing/proving guilt
 - *'Difficult to enforce, almost impossible to convict without testimony from the sex worker which, in most cases, is unlikely to happen.'* [An interested member of the public with no representative role]
- A lack of resources
 - *'Active enforcement would be a very costly endeavour for the resources of An Gardaí, with no appreciable societal benefit.'* [A purchaser/previous purchaser of sex]
 - *'There don't seem to be enough Gardaí allocated to the task of enforcing this. Or the will to address this from Government who have not prioritised funding to enable the manpower to be trained and engaged in the work of enforcing the legislation'* [A professional/policy maker working in this area]

A similar pattern emerges when looking at whether enforcement is leading to prosecutions, with half (52%) of respondents stating that they don't think those purchasing sex are being prosecuted with 16% stating that they believe they are.

Figure 14: In your opinion, are those purchasing sexual services being prosecuted?



These views are explored in more depth within the submissions and consultations.

Cohort One – Opposing the Legislation

Those who oppose the legislation in its current form highlighted significant concerns regarding the enforcement of s.7A. Many submissions from this cohort argued that s.7A is unfairly and unsatisfactorily enforced by An Garda Síochána. The Abortion Rights Campaign, for instance, contends that while clients are merely '*stopped and spoken to*,' sex workers are frequently arrested and charged with other prostitution-related offences. In their view this has resulted in a higher number of sex workers being arrested compared to clients. However, official statistics show a decrease in prostitution related offences, including soliciting, and an increase in offences related to the purchase of sex. See the [Official Statistics](#) section for more detail.

Submission S4 argues that the enforcement of s.7A has fostered a sense of hostility between An Garda Síochána and individuals engaged in sexual activity for payment. The app managed by the UK-based Ugly Mugs, cited by several submissions, indicated a lack of trust, with sex workers preferring to contact support services like SWAI rather than the Gardaí. Submission S158 describes the relationship as '*fraught*,' highlighting that sex workers are subject to surveillance despite not engaging in illegal activities under s.7A.

Additionally, from a consultation with academics working in the field, some research claimed to point to different approaches to enforcement.

'...[an]other thing is around police use of legislation, I appreciate that not all officers are biased but from my research there are some officers who apply a moral view from whichever camp they sit with and therefore use legislation which fits their view of the sex industry. They can apply heavy sanctions to those involved.' [Academic, UK]

Submission S158 draws on interviews that she conducted with persons who engage in sexual activity for payment as part of academic work she has undertaken. She revealed that the participants were vocal about their lack of trust in An Garda Síochána and they informed her that they were not inclined to report a crime committed against them as they did not believe the Gardaí would take them seriously and they could consequently be prosecuted for something or have their income confiscated. The submission of S5 also stated that the legislation has deepened distrust between An Garda Síochána and those engaging in sexual activity for payment and for that reason she concluded that the reporting of violence is less likely.

'Sex workers relationship with An Garda Síochána is fraught, as Gardaí are expected to protect sex workers, while surveying them for criminal activity simultaneously. This does little to embed trust between sex workers and Gardaí.' [S158]

Furthermore, Submission S157 indicated that less than 1% of those selling sex have allowed Ugly Mugs to report their victimisation to law enforcement since 2017, showing

a significant breakdown in trust⁹³. Some submissions suggest that s.7A has made it more difficult for clients to report violence, as supported by Submission S13 a former client.

‘This law has not made it safer for genuine independent sex workers nor has it helped in any way to combat human trafficking. Let me give you 2 quick scenarios:

1. If a sex worker is attacked/assaulted/etc, how can he/she call the Gardai for help? If they do, they are compromising their work location meaning they will have to find alternative accommodation or move to another town?

2.If a client meets a sex worker that they suspect might be trafficked, how can they report it to the Gardai without shooting themselves in the foot?.’
[S13]

This reluctance to engage with law enforcement it is argued is rooted in fear, eroding the rights of those selling sex to protection and justice, as emphasised in several submissions, including S7 who stated that

‘Sex workers are not able to go to the police or social services for fear of their own incarceration exposing them to poverty, violence, sexual violence and other human rights abuses.’ [S7]

In addition to reporting challenges, submissions and interviews from this cohort point to active enforcement *‘forcing sex workers underground’* [S7] and exposing workers to more dangerous clients. Submission S13 offered a similar perspective as they contended that s.7A drove away the ‘decent clients,’ including themselves. This mirrors the assertion made by S20 that due to the illegality of their actions, clients are now more inclined to push boundaries resulting in abusive treatment of those selling sex for payment. Submission S69 also stated that those selling sex often take more risks to avoid police detection. The potential implications for the women involved is explored further within the Impact on Safety and Well-being section.

Some submissions from this cohort believe there is a need to address root causes such as inequality, poverty, and abuse, which trap individuals in survival based prostitution. They advocate for increased support, funding, and education-based resources, particularly for An Garda Síochána, to improve the fraught relationships and mitigate the negative consequences of poor enforcement practices. This will be explored further in the following section.

⁹³ NB It is not clear whether the fact that Ugly Mugs, a UK organisation with a base in Northern Ireland, does not have a working relationship with An Garda Síochána is a factor in this Ugly Mugs statistic.

Cohort Two - Supporting the Legislation

Within their submissions, Cohort Two, who generally supported s.7A, also focused on the enforcement of the legislation to determine its effectiveness in achieving its objectives.

The published crime statistics from the CSO were pointed to by Ruhama and the Sexual Exploitation Research Programme (SERP) as a positive indication of the impact of the legislation. In their analysis of this data in 'Shifting the Burden of Criminality', included in their submission, SERP stated:

*'The 2017 Act has made a significant impact on the policing of the sex trade with a major shift in the focus of Garda enforcement from the criminalisation of those selling sex towards the targeting of buyers and organisers. This approach is also reflected in the official statistics, which show a steady decline in recent years in the number of recorded incidents of soliciting, loitering and brothel keeping, accompanied by a sharp increase in the targeting of buyers since the introduction of the 2017 Act.'*⁹⁴ [SERP]

Submission S127 and Ruhama viewed An Garda Síochána's Days of Action initiatives as positive steps towards increasing the recorded incidents related to the purchase of sex. According to S29, this data reflects increased interest and awareness among the Gardaí.

Ruhama stated in their submission that

'In January 2019 we saw the first conviction of a sex buyer, in addition to almost 100 suspected sex-buyers respectively stopped and questioned under Part IV of the 2017 Act. These actions serve the dual purpose of holding buyers to account and raising awareness of the legislation, which is crucial in order to fulfil the normative aspect of the law.' [Ruhama]

The challenge in converting recorded incidents to convictions is considered a factor currently limiting s.7A's potential impact. Many in Cohort Two emphasised that without convictions, sex buyers feel emboldened, believing they can evade consequences.

During discussions with Rape Crisis Network Ireland (RCNI), participants expressed concerns about violence against those selling sex and the challenges in prosecuting offenders. One participant cited SERP research indicating that the number of sex purchasers has not decreased, and the legislation does not have a significant deterrent effect.

'My knowledge from SERP is that numbers of purchasers of sex hasn't abated. There also seems to be a very small number of people convicted for purchasing

⁹⁴ O'Connor, M. and Breslin, R. (2020) *Shifting the Burden of Criminality: An Analysis of the Irish Sex Trade in the Context of Prostitution Law Reform*. Dublin: Sexual Exploitation Research Programme. Available at: https://serp.ie/wp-content/uploads/2023/02/Shifting_the_Burden_Report.pdf (p. 86.)

sexual services. The sense is that the legislation doesn't seem to be having a deterrent effect'. [RCNI]

These enforcement challenges are explored further in the dialogue with both An Garda Síochána and the ODPP.

As outlined above feedback presented by those adverse to the current legislation referred to the increased lack of trust between those selling sex and law enforcement negatively impacting on reporting. Those who support the existing legislation take a contrary view, stating that:

'The overarching trend in the last number of years has been towards a huge improvement through the protective services bureau and the work that they have done there. It is worth reflecting on where does that lack of trust come from and it is often imbued in the individual by those organising the situation around them.'
[Ruhama/ICI]

One interviewee referenced research undertaken by SERP which they stated pointed to an increased awareness amongst women that they are now decriminalised, therefore helping to increase trust⁹⁵.

'...since the law came into place more women understand what the law means for them, they are now decriminalised, women on the streets are aware that they are not the subject of garda enforcement, they are saying that they feel they have a better relationship because the gardaí are out to pursue buyers'
[Academic]

Successful enforcement is linked to awareness, with an understanding of both the implications of s.7A and the amendment of the existing Act to decriminalise the seller being key. Several submission and consultations pointed to a lack of public awareness and awareness amongst those selling sex regarding the current legislation. S127 echoes this sentiment, highlighting the need for public awareness to maximise the law's potential.

'Only by increasing public awareness and support can the Equality Model be a success'. [S127]

This is explored further within the Support Infrastructure section.

Statutory Agencies – An Garda Síochána

The dialogue with those involved in the operationalisation and enforcement of Section

⁹⁵ Breslin, R., Latham, L., and O'Connor, M. (2021) *Confronting the Harm: Documenting the Prostitution Experiences and Impacts on Health and Wellbeing of Women Accessing the Health Service Executive Women's Health Service*. Dublin: The Sexual Exploitation Research Programme, University College Dublin and the Health Service Executive Women's Health Service. Available at: <https://serp.ie/wp-content/uploads/2023/02/Confronting-the-Harm-FINAL-SERP.pdf>

s.7A reveals many of the challenges and opportunities involved in tackling the demand for commercial sex.

The Assistant Commissioner of Organised & Serious Crime has responsibility for eight Bureaus, one of which is the Garda National Protective Services Bureau (GNPSB) which supports the investigation of a wide range of specific crimes including organised prostitution, human trafficking, sexual crime, child protection and online child exploitation, domestic abuse and victims of crime.

'[This] bureau leads the investigation in more complex cases ... liaises with relevant Government Departments, State Bodies and voluntary groups, embracing the essential multi agency approach to tackling these crimes and their causes. Primary considerations in these cases are the protection and welfare of the victims, while ensuring the proper investigation of the alleged activities.... A total of 10 Divisional Units have now been established across nine Garda Divisions'.⁹⁶

The GNPSB also has a Human Trafficking Investigation and Coordination Unit (HTICU) that operates to combat human trafficking. The unit's role includes:

- **Assuming national responsibility** for policy development, coordination, and implementation of policing methods, as well as managing and coordinating investigations within the unit and across divisions nationwide.
- **Providing advice, support, and operational assistance** to investigations conducted at the District level, where necessary.
- **Working in partnership** with Operation Quest to investigate human trafficking for sexual exploitation.
- **Delivering training and raising awareness** within An Garda Síochána on all aspects of human trafficking.

Most relevant to the enforcement of s.7A is the OPIU which was established to police all aspects of organised crime within the sex trade. It was previously called 'Operation Quest'. Its mission is perceived by An Garda Síochána as a demonstrated commitment to protecting vulnerable persons, including victims of human trafficking and those in the sex trade who have been assaulted. The OPIU's objectives include the pursuit of organised crime involved in prostitution, the targeting of demand for the purchase of sexual services and the safeguarding of victims who are exploited for that purpose.

A press release launching the OPIU in February 2021 stated:

'An Garda Síochána are conscious that a significant number of serious attacks on individuals in the Sex Trade go un-reported'.

⁹⁶ An Garda Síochána (n.d.) 'Garda National Protective Services Bureau (GNPSB)'. Available at: <https://www.garda.ie/en/about-us/organised-serious-crime/garda-national-protective-services-bureau-gnpsb/>

It quoted the Detective Chief Superintendent who led the GNPSB at that time.

'A physical or sexual assault on a prostitute is a serious crime and an attack on a vulnerable person in the community. Any person who commits such an attack can expect to be subject to a criminal investigation. Those persons who seek out and purchase sexual services also commit a criminal offence and will be prosecuted... [An Garda Síochána] encourage those in the sex trade to report all such attacks, which will be rigorously investigated'.⁹⁷

The respondents interviewed for the review stated that the organised prostitution cases they see are often linked to crimes of human trafficking for sexual exploitation. There have been very few child trafficking cases prosecuted in Ireland. The typical profile of the trafficked person offering sexual services for payment is that s/he/they are young, have false documentation and are frequently moved by the trafficker on public transport or otherwise, all of which makes it problematic to encounter them. These trafficked people are often indebted to the trafficker to pay for being transported to Ireland and they can be subjected to a bond. Many of them are adamant that they are voluntarily participating in the sale of sexual services, and are independent and in control, but Gardaí can see red flags that imply otherwise. It is typically difficult to communicate with them, but OPIU members endeavour to do so using translation technology. It is commonly discovered that, despite demonstrating considerable linguistic difficulty in English language skills, those engaged in the provision of sexual services do have some (apparently rehearsed) English language phrases stating that they are *'willing to do the work'* and are doing it of their *'own free will'*.

Organised crime groups place those providing sexual services for payment in a shift work structure. Generally, there is a rotation on a weekly basis from various accommodation locations. An important strategy for the OPIU is to identify those who control the properties in question, which are operating as brothels. Brothel-keeping offences fall under s. 11 of the Criminal Law (Sexual Offences) Act 1993, which historically were a primary focus of interest for An Garda Síochána. However, operational priorities have shifted towards providing protection and support to persons involved in prostitution, as facilitated by s.7A of the Act of 1993. This change in focus can be seen in the official statistics outlined in the previous section.

The OPIU Garda Síochána representative was very positively disposed to the introduction of s.7A of the Criminal Law (Sexual Offences) Act 1993 and its impact, where he noted that positive aspects included the non-criminalisation of those who sell sexual services, which has allowed the OPIU to conduct safety and welfare checks. These safety checks include the provision of two dedicated phone lines for direct contact with An Garda Síochána on a 24-hour basis. The Irish Human Rights and Equality Commission (IHREC), which acts as the National Rapporteur, responsible for monitoring

⁹⁷ GNPSB formally establish Organised Prostitution Investigation Unit 2/2/21 retrieved from <https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/press-releases/2021/february/gnpsb-formally-establish-organised-prostitution-investigation-unit%C2%A0-2-2-21-.html>

and reporting on the State's actions to combat human trafficking identified that '*An Garda Síochána also launched a text message safeguarding campaign in November [2022] to offer confidential support to those in the sex trade by sending details of services available in English, Romanian, Spanish and Portuguese. Over 6,000 text messages had been sent with NGOs reporting a positive reaction from the receivers*'.⁹⁸

More recently IHREC reported several days of action where An Garda Síochána conducted targeted operations on the sex industry across sixteen Garda Divisions to strengthen the link between those in the sex trade and law enforcement through increased trust and awareness raising on services available. The operations resulted in 46 people being identified as alleged sex buyers, 65 safeguarding visits, 112 individuals contacted by officers for welfare advice, and over €3,000 seized from a male individual suspected of being involved in organised prostitution. In September 2023, An Garda Síochána ran a second operation with the Workplace Relations Commission (WRC) focused on organised prostitution and trafficking for sexual exploitation that consisted of four unannounced visits to massage parlours in Dublin, from which extensive intelligence was obtained.^{99 100 101}

The representative acknowledged that there is a low-level of reporting amongst victims of crime in this sector, but those who are trying to get out of the provision of sexual services do often reach out to An Garda Síochána for assistance. It appears to the Garda representative in this dialogue, however, that there are very few strategies available to those who wish to exit prostitution. He and OPIU colleagues were of the belief that the introduction of s.7A does not appear to have reduced the number of people who are engaged in the provision of sexual services, and it is obvious that people continue to be exploited.

The dialogue with An Garda Síochána noted several challenges and barriers which hinder effective enforcement. These are explored further below.

Resource intensive

The interviewee noted that the work of the unit is very resource-intensive. The location of the exchange of these services for payment is not identified. Gardaí must therefore use available resources to identify these locations. Gardaí observe people entering and exiting the monitored premises that they have identified but can only stop the individual in question as they exit the premises and enquire if they purchased sexual services.

⁹⁸ Irish Human Rights and Equality Commission (2023) *Trafficking in Human Beings in Ireland: Second Evaluation of the Implementation of the EU Anti-Trafficking Directive*. Available at: <https://www.ihrec.ie/documents/second-evaluation-of-the-implementation-of-the-eu-anti-trafficking-directive/p.184>.

⁹⁹ Ibid

¹⁰⁰ Ibid

¹⁰¹ <https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/press-releases/2023/july/an-garda-siochana-participate-in-eu-wide-action-targeting-human-trafficking-for-labour-exploitation.html>

Limited powers of arrest and required admission of guilt

There is a power of arrest without warrant under s.13 of the Criminal Law (Sexual Offences) Act 1993¹⁰². As amended by s.25 of the Criminal Law (Sexual Offences) Act 2017 this applies where a member of An Garda Síochána reasonably suspects that a person has committed an offence under s.7A. There is also a power to require a suspect to provide their name and address, with a further power of arrest if they fail or refuse to do so or provide false information. However, beyond arresting on suspicion, there is no statutory power to detain a suspect for questioning regarding the offence. Furthermore, due to the summary nature of the offence, Gardaí cannot obtain search warrants or financial orders to aid investigations. In practice, An Garda Síochána will seek admissions during interview, but with absent such admissions, further investigation is limited. The alleged purchaser of sexual services is entitled to a solicitor when being questioned by Gardaí and the interview can be recorded. An Garda Síochána will seek statements of admission.

Challenges in prosecution

Consent of the DPP is not typically required for summary offences, i.e., offences that can be disposed of in the District Court. However, the offence under s.7A, similar to some other offences relating to minors or sexual offences, requires the consent of the DPP before proceeding with prosecution¹⁰³. Where there is no admission by the alleged purchaser, it can be difficult to proceed with the prosecution.

Inconsistency in sentencing

Even when a prosecution is advised it was reported in this dialogue that there is little consistency regarding how different judges deal with sentencing on the conviction of the purchaser of sex. Of a total of 243 incidences in a period of five years from 2017 the ODPP recommended 81 prosecutions. However, 32 of those were 'struck out' i.e., no conviction recorded with donations to a charity being recommended in some cases and another seven did not have convictions recorded under s.1 ss.1 of the Probation of Offender Act 1907¹⁰⁴. It was considered by prosecuting Gardaí, that the non-recording of

¹⁰² Criminal Law (Sexual Offences) Act 1993, s.13. (1) If a member of the Garda Síochána reasonably suspects that a person has committed an offence under section 4, 6, 7, F12[7A,] 8 (2) or 10 (3) of this Act he may—

(a) arrest that person without warrant, or

(b) require him to give his name and address and, if the person fails or refuses to do so or gives a name or address that the member reasonably suspects to be false or misleading, the member may arrest that person without warrant.

(2) A person who fails or refuses to give his name or address when required under subsection (1), or gives a name or address which is false or misleading, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.

¹⁰³ Under section 8 of the Garda Síochána Act 2005, the Director of Public Prosecutions issued General Direction No. 3 (HQ Directive 24/2012), mandating that all sexual offences—including those under section 7A of the Criminal Law (Sexual Offences) Act 1993—must be referred to the DPP for a decision to prosecute. Thus, prosecution under section 7A requires the DPP's consent before proceeding.

¹⁰⁴ Power of courts to permit conditional release of offenders. 1.—(1) Where any person is charged before a court of summary jurisdiction with an offence punishable by such court, and the court thinks that the charge is proved, but is of opinion that, having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or any other than a

the conviction of the purchaser of sex in 48% of cases after an elongated process including ODPP scrutiny, was a cause for concern. This was especially so given the perceived high threshold, where only one third of the incidents reached the required level warranting a prosecution, yielding just 14 recorded convictions during the period in question.

Proposed solutions

Within the dialogue, and a separate submission, suggested areas to help improve the enforcement of S.7A were identified these included:

- The rewording of the offence to permit a reasonable inference clause that prostitution is occurring at the premises in question.
- Ensure consistency in judicial handling of convictions by recording all proven cases rather than using alternatives like ‘poor box’ donations or application of the Probation Act, where facts are found but no conviction is made.
- Having a system of on-the-spot fines, Fixed Charge Penalty Notices (FCPNs) for the purchaser of sex.

It was suggested that the FCPNs may help to simplify the prosecution process, reduce the resource burden on law enforcement, and maintain the deterrent effect of the legislation. Their use could offer a quicker and less resource-intensive method for addressing offences in cases where clear evidence exists, such as admissions of guilt or incontrovertible evidence of payment for sexual activity. This approach also helps to avoid the lengthy and cumbersome traditional prosecution process, which often results in minimal penalties and consumes significant judicial and law enforcement resources.

Statutory Agencies – Office of the Director of Public Prosecutions (ODPP)

The dialogue with the Office of the Director of Public Prosecutions (ODPP) highlighted their view that, as currently drafted, s.7A is a difficult offence to prove, resulting in a low number of prosecutions relative to the number of incidents investigated. Cases encountered refer to the person engaged in the sexual activity for payment as women, with, to date, no minors encountered.

The necessary ‘proofs’ for a purchase of sex offence include the offer of the sexual activity, the exchange of money or other remuneration by the purchaser and the fact of subsequent sexual activity. The missing ‘proof’ is the establishment of the fact that the offer and activity is from and with a person selling sex. However corroborative evidence can be presented if a Garda can establish a profile picture of the person selling sex sourced on an online ‘escort’ website or that there is an admission from the person offering the sexual activity that s/he is involved in the sale of sex. Also, the duration of

nominal punishment, or that it is expedient to release the offender on probation, the court may, without proceeding to conviction, make an order either— (i) dismissing the information or charge; or (ii) discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for conviction and sentence when called on at any time during such period, not exceeding three years, as may be specified in the order. Probation of Offender Act 1907 section 1., retrieved from <https://www.irishstatutebook.ie/eli/1907/act/17/section/1/enacted/en/html>

the visit by the purchaser, noting the time that the purchaser entered the premises and the time of exiting it can be corroborative.

The interviewee from the ODPP stated that An Garda Síochána are permitted to place a premises under surveillance, where they have gathered information that the sale of sexual services is occurring within it. The alleged purchaser is stopped by the Gardaí carrying out the surveillance and ‘cautioned’ that the purchase of sexual services is an offence. However, if the suspected purchaser of sexual services refuses to admit or confirm the allegations put to them by Gardaí the latter have no power to stop them walking away. Without an admission, the evidence available to the investigating Garda is factual only and does not have the ‘mental element’ of the offence i.e., the alleged purchaser’s ‘intent’ to commit the offence. The collection of evidence causes difficulties. For instance, in relation to directing or controlling the activities of a prostitute. It is very difficult to establish the necessary coercion element, especially if the person spoken to states that they are not coerced.

Section 7A is a summary offence and is not what is defined as ‘an arrestable offence’¹⁰⁵. Questions may be and are raised by defence representatives of persons accused of being a purchaser of sexual services, where the reliability of any admissions given by the alleged purchaser when stopped by Gardaí are challenged. Where any admissions in such circumstances arise, they must be recorded by the questioning Garda ‘under caution’ as per the law emanating from the Judges Rules¹⁰⁶. An Garda Síochána noted that it is not ideal for such exchanges and admissions to take place on the roadside or in a public street setting.

Statutory Agencies – The Probation Service

The designated representative of the Probation Service (PS) affirmed their role in the delivery of pre-sanction reports to inform the judicial sentencing landscape. Overall, at the time of the interview for the purpose of this review, their involvement in s.7A-related cases had been minimal. There is no record of any court referrals under s.7A since 2017. There are a small number of cases that relate to trafficking of human beings and brothel keeping. At the time of the dialogue there were four cases including one case of the trafficking of a child, one of the sexual exploitation of a child, one regarding the trafficking of an adult and one case of the organisation of prostitution in the context of a money laundering case.

Probation’s framework for engaging with victims of crime was acknowledged. They do not generally engage with victims in terms of those engaged either with the sale of sex or those who have committed offences in regard to the purchase of sex, but victims of

¹⁰⁵ An “arrestable offence” means an offence for which a person of full capacity and not previously convicted may, under or by virtue of any enactment, be punished by imprisonment for a term of five years or by a more severe penalty and includes an attempt to commit any such offence; s. 2(1) Criminal Law Act 1997 retrieved from <https://www.irishstatutebook.ie/eli/1997/act/14/section/2/enacted/en/html>

¹⁰⁶ The ‘Judges Rules’ are non-statutory statement of principles emanating from a time when British laws applied in Ireland that include a rule that when police question a person about a potential crime, they are required to ‘give a caution’ that the evidence could incriminate that person, and that, whenever possible, any statement made is committed to writing, giving the person questioned an opportunity to correct it prior to agreeing its veracity and/or signing the note taken. Whether that evidence is subsequently submitted by a prosecutor, it is a matter for the trial judge to decide whether it is should admitted in evidence.

domestic violence may, through Women's Aid, seek to engage with a Probation Officer. Engagement between An Garda Síochána and the PS may result in a reference to a victim in a probation report.

The PS noted that a small number of pre-sanction reports were completed relating to 'child trafficking' offences. All the perpetrators in those cases were male. Harm to victims has been addressed by reference to statements in the Book of Evidence in accordance with their procedures. There has been no interactions, relating to the sale of sexual services with the Victim Services Team.

Statutory Agencies – Health Service Executive (HSE)

The HSE, through its Women's Health Service (WHS) and Anti-Human Trafficking Team (AHTT), provides crucial health and support services to individuals in the sex trade.

The HSE Women's Health Service (WHS) and Anti-Human Trafficking Team (AHTT) is a statutory service provided by the Health Service Executive. The WHS operates sexual health clinic services and outreach support to all women, cis and transgender, involved in the sex industry. The AHTT has responsibility for care planning for victims of trafficking of all genders in all areas of exploitation. The goal of the AHTT is to connect with service users through a lens of social inclusion, aiding their integration into the community by providing psychological support, promoting wellbeing, and facilitating educational opportunities.^{107 108}

Potential victims are referred into this service from the Garda National Immigration Bureau (Human Trafficking and Investigation Unit) and the team then assess and plans care with the individual according to their particular needs.

Some persons are deeply traumatized by their experiences and a longer rehabilitation and journey of care is necessary. Staff also support persons through the investigation process with GNIB and liaise with all the statutory and NGO services who can offer additional support to victims of trafficking.

There is a sense amongst HSE personnel providing the discrete support outlined, that the amendment to the Criminal Law (Sexual Offences) Act 1993 was not the catalyst for the sale of sexual services 'indoors' as it had been delivered in that manner pre-2017. While WHS/AHTT believe that drug use and related coercive control and violence

¹⁰⁷ Health Service Executive (n.d.) 'Anti Human Trafficking Team'. Available at: <https://www.hse.ie/eng/services/list/5/sexhealth/whp/anti-human-trafficking-team.html>

¹⁰⁸ The following services are provided by AHTT:

- Initial Social Care Assessment with dedicated Social Care Leader to discuss issues of health, safety, finance, housing, education and legal/ international protection
- Formulation of a Care Plan in conjunction with the client to address individual needs
- Access to health and primary care services, including GP, nursing, and mental health assessments
- Guidance on legal, immigration, protection matters, and human trafficking investigations
- Assistance with gaining access to state supports, education, employment, and community resources
- Liaison with Department of Social Protection, HSE services and other State bodies, and support regarding integration into society

against those who deliver sexual services for payment is increasing they do not gather data on such matters and in their opinion this was not directly linked to s.7A. Their view is that nothing has changed in their service delivery since the introduction of s.7A, noting that the number of referrals of clients requiring their support has not increased since 2017.

The contributor to this dialogue stated that there are very few supports for those wishing to exit prostitution. However, one HSE section 38 organisation¹⁰⁹, Ruhama, does provide that support. Their website states that they are:

'the only specialist, frontline NGO in Ireland working specifically to support women, including transgender women, who:

are actively involved in prostitution

are seeking to exit (leave) prostitution

are victims of sex trafficking

have a past experience of prostitution/sex trafficking'.¹¹⁰

The HSE Coordinator noted that there had been an increase of HIV chlamydia and gonorrhoea in heterosexual women between forty and fifty years old. Those amongst this group who are engaged in the sale of sexual services for payment have no prioritisation with regards to access to medical cards and other services. Additionally, the respondent estimated that some 70-80% of them are migrant workers and concerned about their immigration status and therefore are anxious not to be identified.

The HSE emphasised the need for comprehensive support systems and exit strategies for individuals wishing to leave prostitution which is explored further in the Policy Interventions and Supports section.

Statutory Agencies – The Child and Family Agency (Tusla)

In 2017, a framework entitled Joint Working Protocol for An Garda Síochána/Tusla – Child and Family¹¹¹ was established which should be read in conjunction with Children First: National Guidance for the Protection and Welfare of Children¹¹².

Where a parent is engaged in the sale of sexual services, the Children First policy may warrant intervention where the welfare and needs of the child require their protection, due to the unintended consequences of that parent's activity. Tusla emphasise that they are not concerned with the activity of the parent, their priority is to act on any referral

¹⁰⁹ Section 38 Health Act 2004, Arrangements with service providers retrieved from <https://revisedacts.lawreform.ie/eli/2004/act/42/section/38/revised/en/html>

¹¹⁰ Ruhama (n.d.) 'About Ruhama'. Available at: <https://www.ruhama.ie/about-ruhama/>

¹¹¹ An Garda Síochána and Tusla (n.d.) *Joint Working Protocol for An Garda Síochána/Tusla – Child and Family*. Available at: https://www.tusla.ie/uploads/content/CF_Joint_Protocol.pdf

¹¹² Tusla (2017) *Children First: National Guidance for the Protection and Welfare of Children*. Available at: https://www.tusla.ie/uploads/content/Children_First_National_Guidance_2017.pdf

received to ascertain the quality of that referral, whether matters of concern arise, what risks arise for the child and to then address that child's needs.

There are often exacerbating circumstances created where the parent has a drug addiction problem, giving rise to critical issues with regard to child welfare, issues of neglect and lack of supervision. Referrals can be received from partners where information regarding neglect triggers the intervention. Sometimes exploitation becomes apparent during the assessment process.

In its assessment, Tusla seeks to confirm, based on the information provided, that the child is not a victim of child exploitation. Tusla have responsibility in the area of child sexual abuse for children in care. In June 2022 the '*Policy and Procedures for Responding to Allegations of Abuse and Neglect*', which has been in use since 2014 was replaced by The Child Abuse Substantiation Procedure (CASP)¹¹³.

Conclusions on enforcement

Those opposed to the legislation argued that the enforcement of s.7A by An Garda Síochána has not effectively reduced the demand for commercial sex. Instead, the manner of enforcement has led to several unintended consequences that undermine the legislation's objectives. Submissions contended that enforcement disproportionately targets those selling sex rather than clients, creating a climate of fear and mistrust. This fear, particularly around arrest and legal repercussions, drives those selling sex to operate more clandestinely. Consequently, while the visible demand for street-based solicitation might appear reduced, the actual demand persists, albeit in less publicly visible and more covert forms, such as through online platforms.

Moreover, the fear of engagement with law enforcement extends to clients, who may also be less likely to report incidents of violence or exploitation due to fear of legal repercussions. This contributes to a lack of data and understanding of the true scope and nature of demand for commercial sex, making it challenging to implement targeted interventions.

In summary, according to this group, the enforcement of s.7A has not achieved its aim of reducing demand for commercial sex. Instead, it has pushed the industry further underground, increased fear and distrust among those selling sex, and failed to address the broader socio-economic issues that drive demand.

This view is countered by Cohort Two from the submissions and advocates of the legislation from the consultations. They did not agree with the opposing view that the legislation pushes victims further into hiding, instead pointing to a lack of evidence for this claim and stating that the challenges remain unchanged, with some signs of potential improvement. Evidence from statutory agencies was also unable to corroborate the view of opponents of the legislation that the law had created distrust or pushed the sex trade further underground.

¹¹³Tusla (n.d.) 'Tusla Statement on Child Abuse Substantiation Procedure (CASP)'. Available at: <https://www.tusla.ie/news/tusla-statement-on-child-abuse-substantiation-procedure-casp/>

Those who support the legislation believed it has the potential to reduce demand for commercial sex but acknowledged that its current impact is limited by insufficient enforcement and a lack of supportive, wrap around measures.

Feedback from law enforcement supported this view. While s.7A opens up avenues to enable reporting and welfare monitoring, levels of reporting are low. This feeds into relatively low levels of prosecutions and convictions, as seen in the Official Statistics section above.

An Garda Síochána and the ODPP pointed to challenges in the gathering of sufficient corroborative evidence, including its resource intensive nature; the reliance on the admissions of guilt and the lack of arrest powers for detaining suspects for questioning in relation to s.7A as some of the reasons for low levels of prosecutions and convictions.

In this regard, the An Garda Síochána representative pointed to the following areas to enhance the implementation of s.7A:

- The rewording of the offence to permit a reasonable inference clause that prostitution is occurring at the premises in question.
- Having a system of on-the-spot fines for the purchaser of sex.
- Having consistency at sentencing in recording convictions proven, rather than having a 'poor' box donation system or the applications of the Probation Act which finds the facts proven, without moving to conviction.

Additionally, it was highlighted that the limited power of arrest for detaining and questioning suspects was a challenge. Such powers are regarded as beneficial to both the prosecution and the accused and a subsequent legal defence as there are defined legal procedures to safeguard the rights of the detained person.

Support services provided by the HSE, through its WHS and AHTT, are crucial but have not seen significant changes in service delivery or referral numbers since the introduction of s.7A. This suggests that while the law aims to reduce demand, it has not yet led to a significant increase in the use of support services provided by the HSE, through its WHS and AHTT, indicating that the impact on service delivery and referrals may not have increased as might be expected. Tusla's experience of managing child welfare also highlights the complex challenges in protecting children whose parents are involved in prostitution, emphasising the need for comprehensive support systems.

The requirement for additional supports and services to enable the successful implementation of s.7A is explored further in the Support Infrastructure section below.

Enforcement of Other Legislation

As determined by the legislation this Review focuses on s.7A of the Criminal Law (Sexual Offences) Act 1993; however, as outlined in the 'Legislation under review' section, the wider 1993 Act contains other relevant provisions.

The section which was most frequently referenced in submissions, consultations and engagement with State agencies was in relation to brothel keeping from section 11 of the 1993 Act (s.11). Detailed below.

'A person who—

(a) keeps or manages or acts or assists in the management of a brothel,

(b) being the tenant, lessee, occupier or person in charge of a premises, knowingly permits such premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution, or

(c) being the lessor or landlord of any premises or the agent of such lessor or landlord, lets such premises or any part thereof with the knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel,

shall be guilty of an offence and shall be liable—

(i) on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or

(ii) on conviction on indictment to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 5 years or to both."¹¹⁴

Official Statistics on Section 11

The analysis of the official statistics section (Figure 9) shows a clear reduction in recorded crime incidents in the area of brothel keeping. The dialogue with An Garda Síochána confirmed this as the representative outlined how the OPIU focus on identifying those who control properties which are operating as brothels but while those offences linked to s.11 were traditionally a primary focus they are more interested in providing the protection that s.7A facilitates.

Despite this reduction in use, conflicting views exist as to whether the law on brothels should be amended to acknowledge that it is safer for those who sell sexual services to work together on an equal basis, where no coercion from a third party exists.

Challenges to current legislation

Most submissions from those who oppose s.7A, expressed the view that the brothel keeping provisions under s.11 of the 1993 Act, which had associated penalties

¹¹⁴ Ireland (1993) *Criminal Law (Sexual Offences) Act 1993, Section 11: Brothel Keeping*. Available at: <https://www.irishstatutebook.ie/eli/1993/act/20/section/11/enacted/en/html>

increased in the Criminal Law (Sexual Offences) Act 2017, have further promoted the stigmatisation and discrimination of sex workers. In their submission UNAIDS claimed that:

‘... the brothel laws tend to be interpreted broadly. They have targeted two women living together. There are separate laws around landlords, but it has been used to kick people out of their homes if they are sex workers’. UNAIDS

Several submissions, including S42, referenced a case which had received a lot of media attention where two ‘migrants’ involved in the sale of sex were sentenced to nine months imprisonment in 2019 because they were working together which is illegal under the brothel keeping provisions.

ACT UP Dublin proposed that laws against brothel keeping and benefitting from selling sex for payment can cause instances where a client could anonymously report a person involved in the sale of sex and invite the police to prosecute them instead, or even get them evicted.

It has been widely argued by Cohort One that brothel keeping laws in general can actively reduce safety. Submission S157 of SWAI advocated that the legislation on brothel keeping negatively impacts the safety of those selling sex, in particular migrants. They quote one such person in their submission stating

‘Working with another sex worker should not be seen as something illegal, you should be allowed do that because it's a lot safer if you aren't able to screen a client properly, it makes us feel a lot safer’(Female sex worker, SWAI).

The submission of S8 expressed the view that the legislation on brothel keeping isolates those selling sex from safety networks, consequently putting them at greater risk. He also associated the legislation on brothel keeping with a claimed increase in violent crime against those selling sex as reported by Ugly Mugs. HIV Ireland presented a similar argument, stating that the brothel-keeping legislation places those selling sex in greater danger, as they may choose to work alone despite the risks involved, in order to avoid the increased penalties associated with working together for safety, which could be construed as ‘brothel-keeping.’ ACT UP Dublin asserted that brothel keeping laws often force those selling sex into less desirable situations, increasing the danger of violence or other abuse from clients.

The submission from Belfast Feminists proposed that the current law at s.11 of the Criminal Justice (Sexual Offences) Act 1993 which criminalises brothel keeping activities, should be amended to clarify that small groups of people selling sex and sharing premises for their own safety do not constitute a brothel.

It was suggested by S152 that Small Owner Organised Brothels where up to four persons selling sex operate with equal status and retain their own earnings should be permitted. She also contended that larger brothels should be subject to a certification regime. This submission contended that generally, brothels should be subject to health and safety requirements and must be compliant with employment legislation and it would be an offence to operate an uncertified large brothel. In her opinion, those selling sex would be entitled to sue for breaches of health and safety and or employment

legislation. A similar argument was made by S55 in her submission stating that persons engaged in sexual activity for payment should be allowed to work in groups in facilities that are reputable businesses that treat those selling sex with respect and exercise no coercive control over them and provide security measures such as bouncers and panic buttons.

Positives of current legislation

The views outlined above are countered by some Cohort Two (pro-legislation) submissions, consultations, and dialogues with statutory agencies. The submission S29 advocated for the retention of s.11, stating, "it is central to this view that laws against brothel keeping are in place to indicate the unacceptability of profiting from sexually exploiting others and to act as a deterrent."

Similarly, the submission and research report from SERP supported retaining s.11 but highlighted concerns that need to be addressed. They "flag the need for clarity and guidance in relation to distinguishing between individuals simply living or seeing buyers in premises and those who are organising and profiting from the prostitution of others." This concern is echoed in the submission from the Dublin Rape Crisis Centre (S157), which stated, "There is a serious requirement for all involved—from investigators, through prosecuting and defending lawyers, to judges—to understand how to balance the competing obligations of the State to prosecute and equally to defend the rights of victims."

This need for clarity appears to be recognised in practice, as An Garda Síochána has noted a shift in focus towards providing the protection facilitated by s.7A. In an interview with senior members of the GNPSB, the importance of retaining s.11 was highlighted: "The removal of brothel keeping as an offence would be strongly opposed by An Garda Síochána, as this would effectively make a core element of the organisation of prostitution a non-prosecutable offence."

Those in favour of retaining s.11 emphasised its role in discouraging the organisation and expansion of prostitution putting forward the view that removing the law on brothel keeping could unintentionally create an expansion of the market for sexual services, potentially undermining the goals of s.7A, which seeks to reduce demand by criminalising the purchase of sex.

Others in favour of the legislation point to a misinterpretation of its meaning. Ruhama contends that

'there is nothing in the legislation that says two women working together for safety will get done under this legislation; it doesn't actually say that, so I don't feel that the legislation being there about brothel keeping actually does any harm to women in the sex trade.' [Ruhama]

They further argue that

'legislation against brothel-keeping, which has been in Ireland for decades, should be used to target the organisers and criminal gangs who are controlling the bulk of the sex trade in Ireland.'[Ruhama]

Conclusions

The debate over section 11 of the Criminal Law (Sexual Offences) Act 1993 highlights significant divisions.

Those advocating for decriminalization oppose s.11, arguing it targets *those selling sex*, forces them into unsafe isolation, and increases their risk of violence and exploitation. They suggest amending the law to allow small groups to work together legally for safety.

Supporters of s.7A emphasise s.11's crucial role in deterring organised prostitution and preventing exploitation. They contend that removing the brothel-keeping law could unintentionally expand the market for sexual services, undermining s.7A's goal of reducing demand by criminalising the purchase of sex. While acknowledging concerns about the law's interpretation, they call for greater clarity to distinguish between individuals working together and those involved in organised exploitation.

Finally, law enforcement agencies stress the importance of s.11 in targeting organisers and criminal gangs controlling the sex trade. They also highlight, as demonstrated by the official statistics, that the focus of policing activities is to protect individuals involved in the sale of sex by targeting the purchaser.

Despite differing viewpoints, there is a shared recognition of the need to protect vulnerable individuals and ensure their safety. Therefore steps are required to be taken to address the apparent fears regarding the use of the brothel-keeping legislation and its implications for vulnerable groups, as well as to enhance clarity in the law.

Support Infrastructure

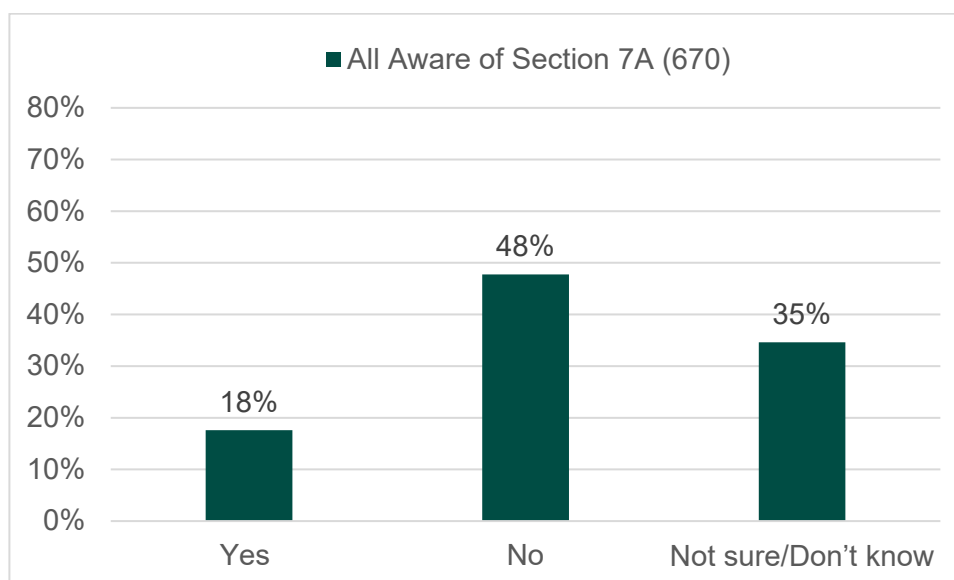
It is evident from the Oireachtas Justice Committee report¹¹⁵ and submissions to this Review that the enforcement of s.7A was envisaged to be accompanied by a range of resources and supports to deliver on the declarative and protective objectives of the legislation.

This includes, but is not limited to, public awareness campaigns, health and wellbeing specialist services, accommodation and other exit supports such as social welfare.

The online public consultation ascertained whether respondents were aware of any other interventions supporting s.7A. Overall less than 1 in 5 (18%) said yes.

It is worth noting that, since the data collection stage of this review, several new policy developments have been introduced this includes the publication and implementation of the Third National Strategy for DSGBV, the establishment of Cuan, a revised National Referral Mechanism (NRM) for victims of human trafficking, and the publication of the Third National Action Plan to Combat and Prevent Human Trafficking. These initiatives, which focus on coordinated victim support and integrated services, should be considered when evaluating the consultations response to questions regarding support infrastructure and its capacity to achieve the objectives of s.7A.

Figure 15: Are you aware of any interventions associated with the offering and purchase of sexual services besides the Act being reviewed (s.7A of the Criminal Law (Sexual Offences) Act 1993)?



The limits of s.7A to deliver on its objectives without a wider suite of supports are acknowledged in the survey and by the majority of contributors to this review. This will be explored further below.

¹¹⁵ Joint Committee on Justice, Defence and Equality (2013) *Report on hearings and submissions on the Review of Legislation on Prostitution*, 31/JDAE/010, p. 80.

Public Awareness Raising

The majority of respondents to the public consultation questionnaire claimed to be aware of the Criminal Law (Sexual Offence) Act 2017 and amongst those who were not, the vast majority were aware that it is illegal to purchase sex in Ireland. However, a smaller proportion were specifically aware of s.7A.

Figure 16: Awareness of the Criminal Law (Sexual Offence) Act 2017

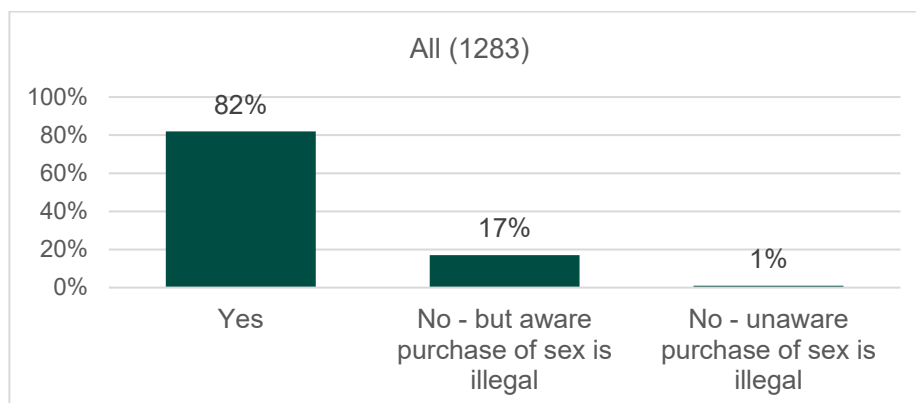


Figure 17: Awareness of Section 7A of The Criminal Law (Sexual Offence) Act 2017

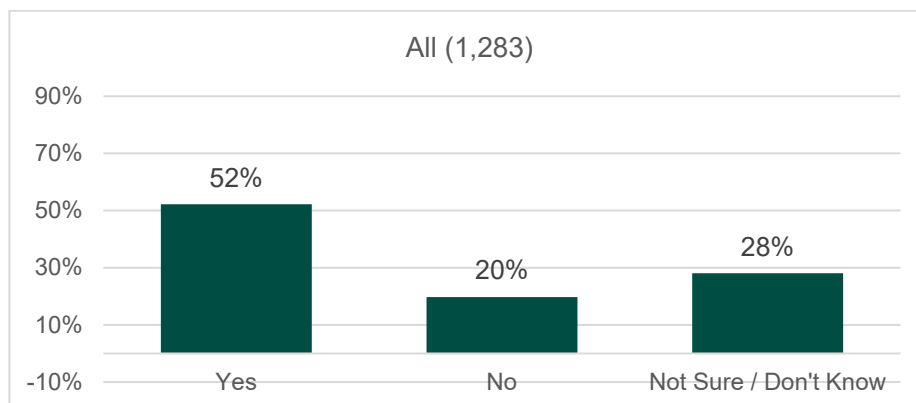
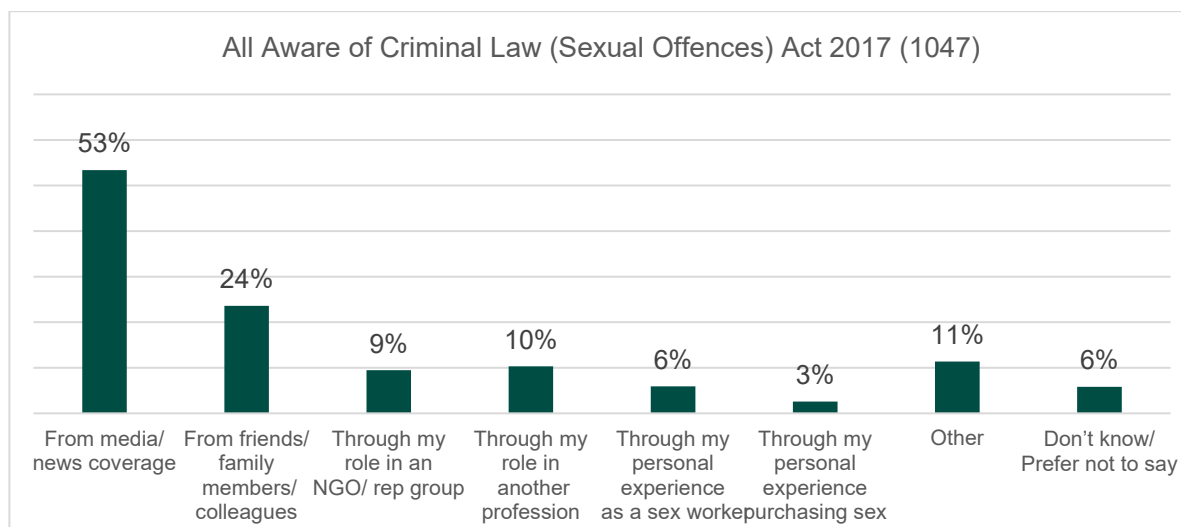


Figure 18: How did you first become aware of The Criminal Law (Sexual Offence) Act 2017?



Over 50% of respondents were aware of the Act through the media and almost one in four (24%) had heard of it through friends/family/colleagues.

While data on awareness levels among the wider population is limited, survey responses and submissions from both Cohort One and Cohort Two suggest that awareness of the legislation remains relatively low, thereby impacting its ability to fulfil its declarative function .

Submission S29 noted

'The fact that lack of awareness is still an issue, even at this early stage, is disappointing. The Act cannot achieve the gains hoped for if the public at large, and those involved in the sex industry remain in ignorance of it.' [S29]

The lack of visibility of the ongoing work of the Gardaí was pointed to by Ruhama and the ICI in their dialogue.

'... in the background, there is a huge improvement [with the Gardaí], not perfect but a huge improvement but the visibility of this to migrant women in prostitution or trafficking situations is very limited.' [Ruhama/ICI]

Submission S30 contended that further investment and a coordinated approach will facilitate the achievement of the original objectives of s.7A and there is much work yet to be done on educating the public first and foremost about the existence of the law, and secondly about the impact the law can have. She stated that awareness of this change in the law is a basic prerequisite for an improved relationship between those who engage in sexual activity for payment and An Garda Síochána together with adaptations in policing methods.

Submission S26 argued that if there is a commitment to the necessary public awareness campaigns, training, and education for appropriate personnel, as well as the

establishment of appropriate and necessary supports for those wishing to leave prostitution its objectives may be achieved.

Amongst the minority of survey respondents who were aware of any interventions (see Figure 15) awareness raising was spontaneously referenced by some but perceived impact appears relatively limited.

- *'Has raised awareness - to an extent - that buying sex is an offence' .[A professional/policy maker working in this area]*
- *'Awareness raising about the law - but this needs to be more continuous in order to really persuade buyers to stop their behaviour and accept its harm' [Other]*
- *'Independent sex workers know the laws and are aware so they take extra precaution' [Individual selling sex]*

Support Services

In relation to exit supports for those currently working in the sale of sex there were some references to positive changes:

'in tandem with the act the resources for victim support are increasing as well which gives us greater resources to be able to support victims that are coming out of the situations that they are in and that will assist the Act in terms as well. You are beginning to build the infrastructure' [Ruhamá/IC]

However, many submissions from Cohort Two expressed concerns about the lack of resources and support accompanying the legislation, which advocates of the legislation had understood would be delivered in parallel.

'the three prongs were criminalising the buyer and those who profit, organise and exploit, decriminalise the seller and ensure exiting supports are available for them. We haven't done enough on that third prong. Ireland has more work to do in that sense particularly in terms of the state resourcing that work because if we are saying to women, we want to reduce buyers then we need to offer them options and sustainable routes out.' [Academic]

In their submission and *Shifting the Burden* report¹¹⁶ SERP point to the findings from Dr Shannon's High Level Working Group report from 2020¹¹⁷ where concerns were raised regarding the insufficient resources being provided to support the legislative change. This report goes on to explore the requirements of women presenting themselves to Ruhamá.

'Unsurprisingly, women who have been involved in the sex trade present to support services with a wide range of complex needs demanding a multi-disciplinary approach. Initially, women tend to require a range of practical supports relating to their immediate needs, such as accommodation, financial

¹¹⁶ O'Connor, M. and Breslin, R. (2020) *Shifting the Burden of Criminality: An Analysis of the Irish Sex Trade in the Context of Prostitution Law Reform*. Dublin: The Sexual Exploitation Research Programme, UCD, p. 28.

¹¹⁷ Shannon, G. (2020) *Interim Report of the High-Level Working Group – The Implementation of the Criminal Law (Sexual Offences) Act 2017, Part IV – An Interim Review*. Dublin: HLWG..

*support, access to health care and legal advice. Once these more immediate needs have been addressed, women can choose to continue to engage with longer-term support, which includes trauma healing, the building of confidence and life skills, counselling, education and training programmes, support with job seeking and work placements.*¹¹⁸

The appropriateness of the supports and care that should be in place were discussed during the dialogue with the Immigrant Council.

'The cultural appropriateness of the care that is available that is constantly a problem and a resource issue, let's say if you look at things like psychological counselling, PTSD, the level of diversity of counsellors is pretty minimal at the moment, the level of language ability is minimal... Civil society are a part of it as well, counselling services, State provided and private are part of that as well, training counsellors are part of that as well.' [ICI/Ruhama]

Additionally, submissions emphasised that addressing underlying root causes like poverty, gender and race discrimination, and coercive control is crucial to guarantee the law's effectiveness.

Safe Ireland and others call for enhanced trauma recovery and safety supports to address these root causes.

'There is currently a significant deficit in wrap-around trauma-informed specialist supports for all survivors of sexual violence, including prostitution, and other forms of sexual violence including domestic abuse/coercive control. Considerable investment and integrated work is required to ensure the most vulnerable victims of prostitution are aware of their rights and have access to recovery supports when they are suffering from the traumatic effects caused by sexual violence and coercion. In addition, there is a need to strengthen specialist supports for people who are trying to exit prostitution but are unable to do so because of a range of barriers including, coercion, intimidation, economic dependence and trauma.' [Safe Ireland]

Amongst Cohort One, who are generally opposed to the current legislation, the focus of submissions was on the inability of individuals to access support services due to fear of legal repercussions. These issues are explored further in the following section.

Conclusion

In summary, while supporters of s.7A believe it has the potential to reduce demand for commercial sex, they argue that its current impact is limited by insufficient enforcement and a lack of supportive measures. Increased resources, public awareness campaigns, and comprehensive, dedicated and tailored support services are necessary to fully realize the legislation's objectives and effectively reduce demand.

¹¹⁸ Ibid. p.54-55

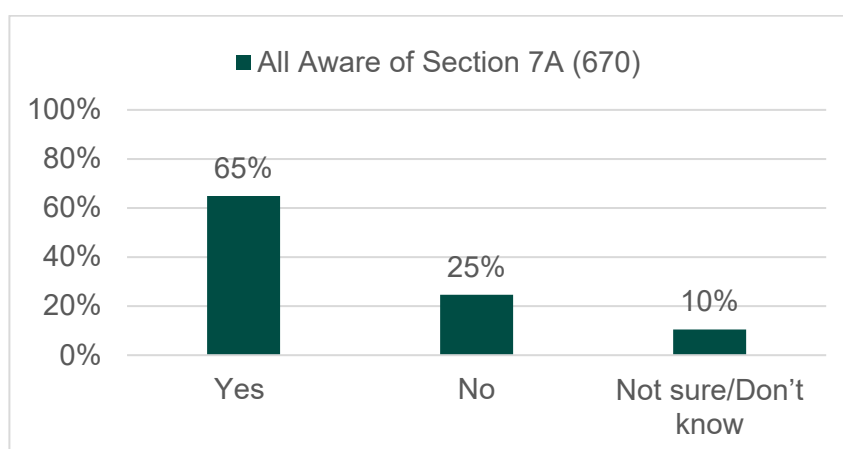
Impact on Safety and Well-being

This assessment will evaluate the impact of s.7A on the safety and well-being of individuals engaged in sexual activity for payment, drawing on contributions from surveys, submissions, and consultations.

Public consultation survey

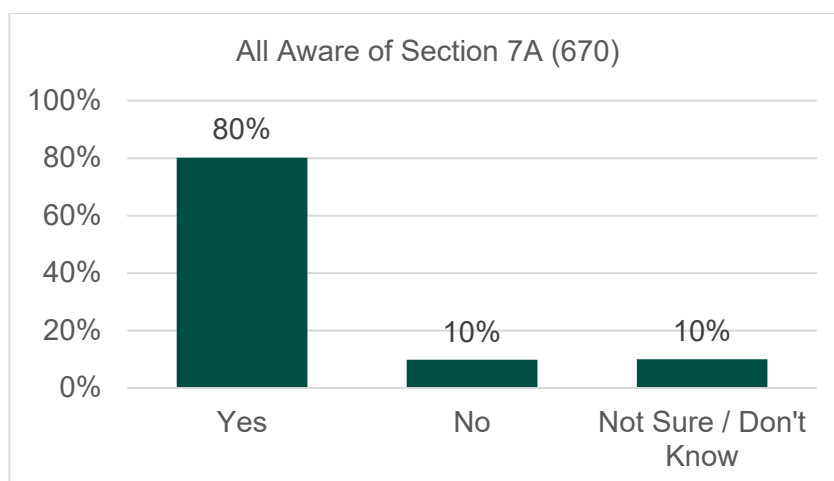
Two in three of those responding to the public consultation felt that enforcement of the Act had impacted on the safety and well-being of persons engaged in sexual activity for payment.

Figure 19: In your opinion, has the enforcement of the Act had an impact on the safety and well-being of persons who engage in sexual activity for payment?



Four in five of those aware of the Act also felt that there were unintended risks to vulnerable people because of how the law currently operates.

Figure 20: Do you think there are any unintended risks to vulnerable people because of how the current law in this area operates?



The main negative impacts on safety referenced included:

- Forcing sex work underground

- *'Because our clients and us fear arrest so much, we find ourselves being forced underground and forced into increasingly unsafe situations in order to hide from Gardaí'.* [Individual selling sex]
- *'Even though the selling of sex is legal, the avenues where we can make ourselves safe are illegal such as multiple providers working together and such. Clients will only meet in unsafe areas due to the fear of being prosecuted which puts the providers in a vulnerable position.'* [Individual selling sex]
- *'People are struggling to enforce their own safety measures. In order to maintain an income they are having to protect their clients and compromise on safety as client numbers have reduced.'* [An interested member of the public with no representative role]
- Women working alone instead of in pairs increasing personal risk
 - *'...I get asked a lot if I am working alone...Working alone and also admitting it, when speaking to a potential client means criminals can use that knowledge to target me.'* [Individual selling sex]

The main positive impacts on safety cited were:

- Allows those selling sex to report to authorities and access other supports
 - *'Women feel it is possible to seek information often through a third party, State [agency] or NGO without prosecution.'* [A professional/policy maker working in this area]
- Reducing demand
 - *'Because it acts as signal to buyers that their activity is exploitative and de facto places the onus of responsibility on them'* [An interested member of the public with no representative role]

Suggestions around how to improve the safety and well-being of persons who engage in sexual activity for payment included:

- Decriminalising and regulating the industry
 - *'Decriminalisation of both the sale and purchase of sex between adults will greatly improve the safety and well-being of all parties involved. Sex workers will be able to hire people to provide security while people who pay for sex will not be able to exploit them for being in a vulnerable legal position'* [An interested member of the public with no representative role]
- Allow those who engage in sexual activity for payment to work together
 - *'Remove the criminal offence of "brothel keeping". Allow sex workers to work together without penalty, for their own security.'* [A purchaser/previous purchaser of sex]
- Provide more direct support for those who engage in sexual activity for payment including supports for exiting the trade
 - *'... more services to support prostituted women to get away from those abusing and exploiting them. That means help with accommodation,*

- education and therapeutic services. [A professional/policy maker working in this area]*
- *The Government is not providing and must provide more resources to ensure effective enforcement of this legislation including: Training of Gardaí, provision of protection, accommodation, legal assistance, exit routes and victim support for those who wish to exit. Public awareness and education of young girls and boys is essential as a preventative measure in relation to the recruitment of girls and to deter young men from becoming buyers of sex. [An interested member of the public with no representative role]*
 - *Better funding to support real exit strategies and to protect them in this. Better communication that purchasing sex is a crime by the purchaser only, that consent cannot be bought [An interested member of the public with no representative role]*
 - Focus on prosecuting sex trafficking
 - *Focus on the traffickers! And real criminals behind the scenes. Not the workers and clients. [Individual selling sex]*
 - *Better financial supports, more powers for Gardaí to track and remove victims of trafficking, harsher penalties for those found to be trafficking, pimping or purchasing [An interested member of the public with no representative role]*
 - Work to improve the relationship between those who engage in sexual activity for payment and the Gardaí so that they feel comfortable reporting abuse
 - *Garda Liaison for workers [Prefer not to say]*
 - *Garda pigeon holes in shops/stations, post offices, pharmacies etc where sex trafficked victims can leave information if they are being held against their will [An interested member of the public with no representative role]*

Submissions and consultations opposed to Section 7A

Opponents of s.7A argue that the existing legislation harms the safety and well-being of individuals involved in the sale of sex and those who are victims of human trafficking for sexual exploitation. The respondents highlight several areas of concern in relation to the current function of the law. While many of these are interrelated they have each been explored below.

Safety

SWAI's submission asserted that s.7A places an undue burden on sex workers to protect the safety of their clients rather than themselves, as their clients are essentially their source of income. This results in those selling sex placing themselves at more risk.

Reference was made to the number of violent crimes allegedly committed against those who engage in sexual activity for payment. S83, representing a group of academics, noted that between March 2015 and March 2017, 385 violent crimes were reported to Ugly Mugs. From March 2017 to March 2019, this had risen to 740.¹¹⁹ They also referred to the World Health Organisation's views in regard to a broad range of countries that:

'Law enforcement authorities and laws governing prostitution have, in some cases, increased the risk of violence against sex workers rather than protected them against it'. [S83]

According to the submission of S39 safe sex negotiations are hampered as buyers of sex are disinclined to provide details of their personal information in case it is used against them, which implies that pre-2017 buyers were more forthcoming. It has also been submitted by S54:

'When clients are afraid of arrest, it's impossible to tell the difference between someone who is scared & someone who is scary' which can potentially negatively impact the safety and well-being [S54]

As previously highlighted in the analysis of enforcement challenges, several submissions within Cohort One claim that client criminalisation forces those selling sex underground exposing them to more dangerous clients. S20 asserts that due to the illegality of their actions, clients are now more inclined to push boundaries resulting in abusive treatment of those selling sex. This submission also inferred that underground engagement in selling sex has also led to a more competitive market.

She also referred to the statistics from Ugly Mugs, cited by others in this cohort, which report that since the 2017 Act came into force, incidents of abuse or crime reported to Ugly Mugs rose from 4,278 in 2015-2017 to 10,076 in 2017-2019.¹²⁰

During the dialogue with individuals involved in the sale of sex they expressed concerns about their safety and well-being under s.7A. Some noted that it may have increased dangers by discouraging those selling sex from seeking police assistance due to fear of harassment or exploitation by officers. The visibility of law enforcement was said to discourage clients, forcing those selling sex into riskier situations.

Additional concerns regarding increased instability and a lack of safety were highlighted in Dublin Central Housing Action's submission stating that:

'Our organisation has provided guidance and direct support to a number of sex workers whose housing situations have been negatively impacted by the Act. A sizeable number of sex workers, based in the Dublin 1 and Dublin 7 areas in

¹¹⁹ Ugly Mugs (2019) 'Crime has almost doubled in the two years since the new law came in'. Available at: <https://uglymugs.ie/wp-content/uploads/um-statement-26-mar-2019.pdf>

¹²⁰ Ibid.

particular, have reported issues around attempted evictions, discrimination from neighbours and threats of violence.' [Dublin Central Housing Action]

Access to health services

The submission from the Migrant Rights Centre Ireland [MRCI], critiqued the legislation due to its claimed negative impact on the safety and well-being of sex workers and asserted that s.7A has:

'...forced sex workers to operate in ways that jeopardise their health, safety, working conditions, access to basic health services and impacted access to justice.' [MRCI]

HIV Ireland agreed with the MRCI view arguing that s.7A

'fails to respect, protect and fulfil the right to the highest attainable standard of health under Article 12 of ICESCR and underlying determinants of health...'[HIV Ireland]

The HIV Ireland submission referred to the UNAIDS 2020 Global Aids Update¹²¹ stating that s.7A has the potential to negatively impact the health outcomes for those selling sex as it makes it difficult for them to manage risks and access health supports. They felt that s.7A has resulted in a reluctance to disclose their experiences as someone who is engaged in sexual activity for payment, due to stigma. They argued that stigma consequently impacts the health of those selling sex, and it can also negatively impact vulnerable groups as they might be unwilling to 'open up' due to their fear of being denied medical or therapeutic interventions which they might need or want.

Stigma and discrimination

The prevalence of a sense of stigma and discrimination in the lived experience of those selling sex is evident from the submissions and its links to issues around safety and wellbeing were identified by many in Cohort One. The content of submission S131 stated that the marginalisation and stigma experienced by those who engage in sexual activity for payment is compounded by s.7A which, in his opinion, contradicts international evidence and recommendations. Similarly, S100 claimed that s.7A 'strips sex workers of their identity' fuelling stigma.

It was contended by S143 that s.7A hyper-criminalises people who engage in sexual activity for payment, especially those from a migrant and or ethnic minority background. S40 of the Abortion Rights Campaign made a similar point when she suggested that the enforcement of s.7A is racially discriminatory. She submitted that since the enactment of s.7A:

¹²¹ UNAIDS 2020 Global Aids Update
<https://www.unaids.org/en/resources/documents/2020/global-aids-report>

'only one Irish person has been charged with a crime related to sex work. Eighteen people have been charged for brothel keeping, ten of whom were from Romania, five from Hungary and three from China'. [S143]

It should be noted that the Official Statistics section of the report provides the officially reported data on prosecutions and convictions.

Submission S11 explicitly attributed the reluctance and fear of individuals selling sex to report incidents of abuse to the police to the stigma they experience. The submission from S112, which was drafted by a panel that self-identified as having 'extensive expertise and contact with women in the sex trade' claimed that perceived stigma and discrimination deny those selling sex the opportunity to report assault and abuse.

The submission of S154 emphasised that stigma facilitated by the law creates an environment of secrecy and avoidance of contact with the relevant Garda and health and safety services.

Immigration

Several submissions explicitly reference the challenges faced by migrants due to their heightened vulnerability. These concerns reflect broader migration issues that extend beyond the scope of S.7A. Research submitted by Ugly Mugs¹²² cited the work of Sweeney and FitzGerald where they found that female, migrant sex workers in Ireland feared reporting their experiences of crimes and abuse to An Garda Síochána due to the risk of self-identifying as persons selling sex, their precarious legal status in Ireland and the associated risk of potential deportation as well as language difficulties.¹²³

SWAI also contended that immigration status increases the vulnerability of those selling sex in the sex trade because a migrant worker may not have fluent English which can hinder their ability to negotiate safe sex with clients.

Submission S26 highlighted that proportionally a high level of risk is inflicted on migrant women, as they are proportionally the majority of those engaged in sexual activity for payment, being an average of 84% of women in prostitution across 13 European countries¹²⁴.

Submission S121 also raised an analogous point by referring to the work of Elena Lam who has suggested that those who engage in sexual activity for payment are faced with differing experiences of policing and legal and social frameworks due to differences in race, gender, language barriers, class, and immigration status. These barriers negatively impact their access to resources, information, protection, power dynamics and rights. The submission of S121 suggested that migrants and asylum seekers are

¹²² Campbell, R., Smith, L., Leacy, B. and Ryan, M. (n.d.) 'Not collateral damage: Trends in violence and hate crimes experienced by sex workers in the Republic of Ireland', *Irish Journal of Sociology*.

¹²³ Sweeney, L.A. and Fitzgerald, S.A. (2017) 'A case for a health promotion framework: The psychosocial experiences of female, migrant sex workers in Ireland', *International Journal of Migration, Health and Social Care*, 13(4), pp. 419–431..

¹²⁴ United Nations Office on Drugs and Crime (UNODC) (2010) *The Globalisation of Crime: A Transnational Organised Crime Threat Assessment*. Vienna: UNODC.

disadvantaged in this regard as they often fear deportation and or their asylum applications being delayed. This view was reiterated by S8 who stated that

‘undocumented immigrants in Ireland are currently disincentivised from reporting violence or trafficking due to fears of deportation.’ [S8]

Acknowledging these challenges submission S12 asserted that the Nordic Model does not prevent stigma, racism, and anti-migrant sentiments. The submission of S29 argued that the poverty and social exclusion compounded by a historic stigma around the sex industry means that those in this position are frequently unaware of services available from various agencies and they may be unwilling to seek help from An Garda Síochána.

Submissions and consultations supportive of Section 7A

Submissions from those, supporting s.7A stated that selling sex, by its nature, involves a high risk of violent behaviour regardless of any impact of s.7A. The National Women’s Council (NWC) referred to the Ruhama 2018 Annual Report which noted that they:

‘...heard reports of sexual and physical assaults, threats of the same, and robberies. 42% of these reports involved physical violence, and 42% reported sexual violence. The majority of this violence was experienced at the hands of sex-buyers’.¹²⁵

NWC cited the 2020 SERP Report as it found a surge in robberies and assaults in 2017 where women were seen as easy targets for violence and intimidation. Submission S30 from the NGO *Not Buying It* also noted the prevalence of violence inflicted against those who engage in sexual activity for payment.

The dialogue with Ruhama and ICI focused on whether the legislation made the environment safer or more dangerous for those involved in prostitution. Participants argued there was no empirical evidence suggesting increased danger post-legislation, and the reports from service users suggest they feel safer as they are no longer prosecuted, and the focus has shifted to prosecuting buyers. Another participant noted the additional resources and funding for victim support since the legislation.

The Irish Women Lawyers Association and submission S138 expressed the opinion that there is no evidence to suggest that the Equality/Nordic Model i.e. the criminalisation of the purchase of sex, has led to increased violence against women in prostitution. Likewise, submission S162 stated that the law reduces trafficking, abuse, and exploitation.

It was suggested by S172, a self-identified 'survivor' of the sex trade, that there is no available evidence that indicates that there has been a significant increase in violence towards women engaged in sexual activity for payment. Rather, it was noted by them that there is evidence that women engaging in sexual activities for payment are in fact

¹²⁵ Ruhama (2019) Annual Report 2018 P.13

building stronger relationships based on trust with An Garda Síochána. An anonymous Ruhama client also believed that s.7A promotes safety and reduces abuse and stigma.

The Latvia MARTA Centre's submission expressed a similar view by contending that the legislation safeguards against sexual exploitation and holds those who exploit people in the sex industry accountable. The submissions of S44, S149, CARE Northern Ireland, and S171 also expressed support for the current law in this regard.

During the dialogue discussion with academics and professionals working in this area one participant cited research they conducted in the Women's Health Service showing that decriminalisation of sellers has led to improved relationships with the police and increased reporting of assaults by those selling sex on street. Those selling sex also report a less heavy-handed approach from Gardaí.¹²⁶

Statutory Agencies

An Garda Síochána indicated that because the legislation places penalties on the buyers of sex rather than the sellers, this has permitted safety and welfare checks on women to be carried out, which suggests a positive impact on the safety and well-being of those selling sex.

The HSE noted that it had not seen an upshot in referrals since the introduction of s.7A in 2017. They went on to raise concerns about access to healthcare in general for those involved in the sale of sex stressing the need for comprehensive health and support services for those selling sex.

Conclusions

The perspectives on the impact of the legislation on safety and well-being are, as with the debate and literature in this area, contentious and highly polarised.

Those opposed to the legislation argue that the introduction of s.7A is negatively impacting on the safety and wellbeing of those working in the sale of sex. This includes lived experience testimonials and data provided by the not-for-profit organisation Ugly Mugs, published in the Irish Journal of Sociology.¹²⁷

Amongst this cohort the main impact of s.7A highlighted at all stages of the review process was driving those selling sex 'underground' exacerbating risks in relation to health and safety. They point to multiple factors driving this increased risk including:

- increased exposure to more dangerous clients as they (the client) are more reticent to share personal information for fear of prosecution.
- a lack of trust between law enforcement and sex workers which impacts on their ability to report crimes, including violence, and to accessing support services.

¹²⁶ Breslin, R., Latham, L. and O'Connor, M. (2021) *Confronting the Harm: Documenting the Prostitution Experiences and Impacts on Health and Wellbeing of Women Accessing the Health Service Executive Women's Health Service*. Dublin: The Sexual Exploitation Research Programme.

¹²⁷ Campbell, R., Smith, L., Leacy, B. and Ryan, M. (n.d.) 'Not collateral damage: Trends in violence and hate crimes experienced by sex workers in the Republic of Ireland', *Irish Journal of Sociology*.

- increased stigma making them unlikely to disclose their occupation and to avail of necessary healthcare.

Conversely those advocating for s.7A counter that these issues of safety and wellbeing were ever present. They identify research which highlights the inherent risks involved in the sale of sex but dispute the links to the legislative changes in driving an increased level of risk.¹²⁸ In fact, they identify positive changes in terms of trust and engagement with An Garda Síochána reported by both the Gardaí and those involved in the sale of sex. Some submissions refer specifically to the welfare checks by An Garda Síochána which they claim improves safety.

Submissions from two individuals who had previously been involved in the sale of sex both highlighted the positive impact s.7A has had focusing on the declarative function which has helped to reduce stigma and increase trust in authorities.

Inherently linked to safety and well-being is the impact on human trafficking, explored further below. Submissions from those advocating for s.7A point to the ability for the legislation to hold those responsible for sexual exploitation to account and the positive message that this sends to these vulnerable groups.

¹²⁸ O'Connor, M. and Breslin, R. (2020) *Shifting the Burden of Criminality: An Analysis of the Irish Sex Trade in the Context of Prostitution Law Reform*. Dublin: The Sexual Exploitation Research Programme, UCD, p. 74.

Human Trafficking

What is human trafficking?

Human trafficking is a severe violation of human rights and a form of modern-day slavery involving the exploitation of individuals through coercion, deception, or force¹²⁹. It encompasses various forms of exploitation, including:

1. **Sexual Exploitation:** Forcing individuals into prostitution or other forms of sexual exploitation.
2. **Labour Exploitation:** Compelling individuals to work under abusive conditions in various sectors such as agriculture, construction, and domestic work.
3. **Forced Criminal Activities:** Coercing individuals into committing crimes, such as drug trafficking or theft.
4. **Organ Removal:** Exploiting individuals for their organs.

In Ireland, human trafficking occurs in various forms, including sexual exploitation, labour exploitation, involvement in criminal activities, and other types of exploitation. Sexual exploitation is the most prevalent, mirroring global trends, accounting for 55% of trafficking cases and involving victims being forced into prostitution and other sex-related activities.¹³⁰

Victims, predominantly women and girls, are coerced or deceived into prostitution and other forms of sexual exploitation. This illicit activity is facilitated by various means, including online platforms and technology, which traffickers use to recruit, control, and advertise their victims.

One major channel for sexual exploitation in Ireland is through web-based platforms for commercial sex. These platforms have been implicated in facilitating trafficking by providing a means for buyers to purchase sex, potentially from trafficked women.

The prevalence of trafficking for sexual exploitation in Ireland is underscored by the data gathered through the National Referral Mechanism (NRM). In 2022, 57% of all trafficking victims identified related to sexual exploitation. This form of trafficking remains a persistent issue, with a number of victims being children. The majority of victims identified in these cases are females, highlighting the gendered nature of sexual exploitation.

Technologically facilitated trafficking is a growing concern. The internet and communications technology have revolutionised the commercial sex trade, extending

¹²⁹ United Nations Office on Drugs and Crime (UNODC) (n.d.) 'Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime'. Available at: <https://www.unodc.org/unodc/en/human-trafficking/protocol.html>

¹³⁰ Irish Human Rights and Equality Commission (2023) *Trafficking in Human Beings in Ireland: Second Evaluation of the Implementation of the EU Anti-Trafficking Directive*. Available at: https://www.ihrec.ie/app/uploads/2023/01/Trafficking-in-Human-Beings-in-Ireland-2023_FA_web-Final.pdf

traffickers' reach and business opportunities. Websites and social media platforms are extensively used to recruit, advertise, and exploit victims. These platforms allow traffickers to operate with relative impunity, making it challenging for law enforcement agencies to detect and investigate these crimes effectively.

The Irish government, in collaboration with various stakeholders, has been actively engaged in efforts to combat trafficking for sexual exploitation. These efforts encompass legislative measures, the enhancement of law enforcement capabilities, and the provision of support services for victims. Despite these initiatives, several challenges persist. Notably, there are ongoing difficulties in regulating online platforms that facilitate trafficking and in ensuring that victims receive adequate support and protection.

Ireland's anti-human trafficking law and policies

Ireland adheres to the comprehensive legal framework of the EU Anti-Trafficking Directive, which encompasses criminalisation, prevention, protection, assistance, and support for victims. The Criminal Justice (Human Trafficking) Act 2008, along with its subsequent amendments and more recently the Criminal Law (Sexual Offences and Human Trafficking) Act 2024, form the cornerstone of the country's legal approach to combating trafficking.

National structures and mechanisms play an important role in Ireland's anti-trafficking efforts. IHREC, acts as the National Rapporteur, responsible for monitoring and reporting on the State's actions to combat human trafficking. Ireland has developed multiple National Action Plans that outline strategies and measures to address trafficking, the most recent of which was published, since the commencement of this Review, in November 2023.¹³¹

Key organisations and agencies are central to Ireland's anti-trafficking response. An Garda Síochána, play a critical role in investigating trafficking cases and protecting victims. The HSE provides medical and psychological support to trafficking victims. Various NGOs offer essential support services, including legal aid, shelter, and rehabilitation for victims.

Recent developments in Ireland's anti-trafficking landscape include: the publication of the Third National Action Plan in 2023 and the enactment of the Criminal Law (Sexual Offences and Human Trafficking) Act 2024, which revises the NRM placing the identification and protection of victims of human trafficking on a statutory footing and expanding the number of bodies that can identify a victim beyond An Garda Síochána; enhanced coordination and funding for NGOs assisting victims; and judicial guidance on sentencing for trafficking offences.

However, according to IHREC, challenges persist, such as the lack of child-specific identification and assistance mechanisms, legislative gaps, particularly in protecting victims from prosecution for crimes committed as a consequence of trafficking, and

¹³¹Third National Action Plan to combat and prevent Human Trafficking, <https://www.gov.ie/pdf/?file=https://assets.gov.ie/275645/a08d95b1-9701-41a3-87f6-5424625ad325.pdf#page=null>

persistent issues in providing equal treatment and support to all victims, regardless of their immigration status.¹³²

Section 7A and Human Trafficking

As part of this Review, the ToR seek commentary on the risk of individuals engaged in sexual activity for payment becoming victims of human trafficking, along with recommendations for their identification and protection. Although s.7A is not directly linked to human trafficking, it remains relevant because it addresses the demand for sexual services. By criminalising the purchase of sex, s.7A seeks to reduce this demand. This is significant given that, as noted in the Third National Action Plan, prostitution is 'inherently exploitative of vulnerable persons' and often involves coercion through trafficking, addiction, homelessness, or poverty. The Government's approach is further informed by An Garda Síochána, which advises that prostitution is 'inextricably linked with human trafficking'¹³³. Consequently, the rationale for s.7A includes a supportive role in combating human trafficking by reducing demand for sexual services, which is a key factor in the prevalence of trafficking.

Prevalence - Submissions and Consultations

The official statistics on recorded incidents, prosecutions and convictions provide limited insight into the links between those involved in the sale of sex and human trafficking and of the impact of s.7A on victims of human trafficking. As previously outlined, there has been a successful prosecution in relation to human trafficking for sexual exploitation. In 2021, two individuals were convicted of trafficking women from Nigeria to Ireland for sexual exploitation. The ODPP appealed their sentences, and in a landmark ruling by the Court of Appeals in February 2023, their sentences were increased.

Several proponents of s.7A highlight the pervasiveness of sex trafficking in their submissions. S29 asserts that Ruhama reported human trafficking for sexual exploitation as one of the most profitable criminal activities, extensively infiltrating Ireland. In 2018 alone, Ruhama worked with 122 victims of sex trafficking from 29 counties¹³⁴. Referencing UN sources, this submission highlights that trafficking for sexual exploitation is highly gendered, with women and girls constituting 94% of all detected victims¹³⁵. Globally, sexual exploitation is the predominant form of trafficking, with 72% of all victims identified worldwide being female.¹³⁶

The discussion with the RCNI highlighted significant concerns and challenges related to human trafficking, especially within the context of the sex trade in Ireland. Participants noted that 90% of those selling sex are foreign nationals, which is indicative of human

¹³² Irish Human Rights and Equality Commission (2023) *Trafficking in Human Beings in Ireland: Second Evaluation of the Implementation of the EU Anti-Trafficking Directive*.

¹³³ Department of Justice (2023) *Third National Action Plan to Prevent and Combat Human Trafficking 2023-2027*. Dublin: Government of Ireland, p. 17.

¹³⁴ S29 reference - Ruhama (2019) Annual Report 2018, P.12

¹³⁵ S29 reference - UN Women (2020) *Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic*, p.6 Available: <https://www.unwomen.org/en/digital-library/publications/2020/08/policy-brief-covid-19-and-conflict>

¹³⁶ Ibid, p.5

trafficking or smuggling. They emphasized the complexity of proving such cases due to the fear and control exerted by traffickers. One participant stated

'The main fear is the terror of being punished by the pimp, who does not work alone. They don't know where to go for help and might also be wary of the police from previous experiences.' [RCNI]

Another participant who identified themselves as someone formerly involved in the sale of sex stresses the connection between prostitution and human trafficking noting the severe exploitation within the sex industry. The participant also highlighted historical failures in prosecuting trafficking, noting, 'One of the arguments we ran up against frequently... was that implementing this legislation [referring to s.7A] was unnecessary because women were already protected via the trafficking law despite the fact that there hadn't been a single prosecution for a very long time.'

Conversely, during the dialogue with SWAI, the participant questioned the accuracy of these commonly cited statistics, stating that figures like '90% of those involved in the sex industry today are from a foreign national background and about 65% are trafficked' are speculative. They noted difficulties in obtaining reliable statistics and the general lack of concrete data on trafficking prevalence. They emphasised the need for reliable data, noting, 'I can't find enough information to form an opinion, which is bad.'

A dialogue with those currently and formerly selling sex presented mixed views on s.7A. Participants questioned whether the law had effectively deterred human trafficking, noting traffickers now use covert methods like refugee routes.

Those opposed to s.7A claim that there is no evident decrease in trafficking since the introduction of the Act in 2017. Some of the submissions from this cohort pointed to the *Trafficking in Persons* (TIP) reports as a source of evidence for evaluating the impact of s.7A. At the time of consulting, Ireland had been downgraded to the Tier 2 Watchlist. S5 stated that "Ireland has been downgraded to Tier 2 Watchlist on the *Trafficking in Persons* Report; this is the second downgrade since the introduction of the 2017 Act." However, it should be noted that since these submissions, the July 2022 TIP Report elevated Ireland back to Tier 2, citing a recent successful prosecution. Ireland maintained its Tier 2 rating in 2023. While the claims about Ireland's tier rating are correct, it is important to note that the downgrades were not directly attributed to the performance or failures of s.7A. The reasons for the downgrade included broader issues such as insufficient victim identification and inadequate investigations and prosecutions of trafficking crimes, which were unrelated to the specific provisions of s.7A. The upgrade in 2022 was similarly driven by Ireland's first human trafficking convictions and improvements in law enforcement efforts, factors that reflect a wider governmental response rather than the efficacy of s.7A alone.¹³⁷

Prevalence - State Agencies

An Garda Síochána acknowledge human trafficking cases, particularly in connection with organised prostitution, indicating an ongoing risk among persons engaged in sexual

¹³⁷ <https://www.state.gov/trafficking-in-persons-report/>

activity for payment. Training is ongoing within An Garda Síochána in regard to human trafficking and organised prostitution with 5,000 being trained at the time consultations were conducted (February 2022).

The HSE made reference to a lot of staff having completed training for human trafficking and identification of victims. They also noted that they receive referrals from An Garda Síochána and other statutory bodies.¹³⁸

Distinction between selling sex and trafficking

As shown previously in Figure 20, four in five respondents to the public consultation who were aware of s.7A felt there were unintended risks to vulnerable people because of the current operation of the law. Amongst those who felt there were unintended consequences, a minority cited the importance of distinguishing between those who are willingly selling sex and those who are not, with others stating that the focus should be on exploitative practices such as human trafficking and modern slavery and not on the entire sex trade.

Several submissions made similar points believing that the distinction between those being exploited and those who are utilising their free will is essential to make the legislation more effective in combatting human trafficking. S40 argues that distinguishing selling sex from trafficking requires recognising selling sex as legitimate work and listening to the expertise of those engaged in it, without necessarily condoning or celebrating it.

Additionally, S68 stated that

‘previous research has noted that the police, social services and the judicial system have been unable to distinguish those who have been trafficked for sexual exploitation from those who have not (The Centre for Social Justice, 2013; Goodey, 2004). The outcome of this may be that victims of sex trafficking are not being identified and therefore left under the control of traffickers, or that non-victims of sex trafficking are assumed to have been trafficked and their agency ignored.’ [S68]

An academic submission by S83, representing some 80 academics, suggests that a legislative framework under which sex traffickers can be prosecuted already exists.

‘We acknowledge the intersection between this issue and that of human trafficking and exploitation. However...we do not believe that the current laws enhance the safety of trafficked and exploited persons. Further, there is already a legislative framework under which those crimes can be prosecuted. If it is the case that this is not proving effective, it should be revised. The answer is not to conflate these two issues.’ [S83]

¹³⁸ A training programme is in development within the HSE, this builds on the training delivered to date by the AHTT and will encompass the new NRM.

Another submission, S18, suggests that selling sex is not inherently sex trafficking, nor is it inherently violent. Sex trafficking, according to this submission, involves sexual abuse and exploitation. S18 argues that sex trafficking can only be addressed when the law distinguishes between sex trafficking and the selling of sex more generally.

Risk

Several submissions and dialogues specifically highlighted the potential risk introduced through criminalising the purchase of sex.

The discussion with representatives from UNAIDS and other advocacy and support organisations raised a number of concerns regarding human trafficking and s.7A. One participant argued that ‘the act has not helped with the Gardaí and has made things worse,’ suggesting that those selling sex might be less likely to report crimes due to fear of criminalisation of their clients. This was supported by another participant in the discussion, who mentioned that ‘criminalising sex work exposes sex workers to more violence and from police.’

In response to this identified risk, some of those opposed to s.7A argue for decriminalising the sale of sex, with submission S40, from the Abortion Rights Campaign, claiming this will assist in combating human trafficking.

‘Sex workers who no longer fear arrest, prosecution, or deportation can become valuable allies in the fight against trafficking by reporting their concerns about particular individuals and sharing their insights on effective strategies to help trafficked persons regain their freedom.’ [S40]

Additionally the Sex Workers’ Rights Advocacy Network (SWRAN) in Central and Eastern Europe and Central Asia argues that criminalising clients is often promoted by ‘abolitionist feminists’ as a tool to combat trafficking. However, many global organisations fighting against trafficking advocate for a rights-affirming approach to the sale of sex, including full decriminalisation, as the most effective strategy. HIV Ireland’s submission posits that full decriminalisation of the sale of sex would enhance harm reduction efforts, including better access to relevant information, improved training for medical professionals and law enforcement, and creating an environment where those selling sex can openly engage with healthcare providers.

Supports and the NRM

It should be noted that feedback in relation to supports for human trafficking victims and the workings of the NRM were given prior to the publication of the Criminal Law (Sexual Offences and Human Trafficking) Act 2024. The 2024 Act significantly enhances support for victims of human trafficking by establishing a revised NRM, designed to streamline the identification and support process. The NRM expands the role of various state bodies and NGOs, such as Tusla, HSE, and the WRC, allowing them to formally identify victims and refer them to appropriate services. Once identified, victims are entitled to a range of supports including social welfare benefits, accommodation, legal aid, and access to education, training, and employment opportunities. The Act also includes specific provisions for child victims by presuming minority status to ensure they receive adequate protection. Additionally, it offers an appeals process for denied applications to

the NRM, providing further safeguards and ensuring that victims have multiple avenues for receiving the necessary assistance and support they need^{139 140}.

A lack of suitable supports to meet the needs of victims of trafficking was identified by several submissions. These overlap with those identified within the Impact on Safety and Well-being section.

The discussion with service providers (Ruhama, Children's Rights Alliance and the ICI) emphasised the lack of gender-specific accommodation for female trafficking victims and the need for comprehensive support systems, including stable housing and financial aid. As one participant noted,

'The stable base is lacking if there is no gender-specific accommodation for victims of human trafficking. Where they are housed now in direct provision is horrendous and you can't do any kind of work with them in terms of trauma therapy.' [Children's Rights Alliance/Ruhama/ICI]

The discussion underscored the complexity of trafficking, which often involves victims who were exploited outside of Ireland before arriving in the country, and highlighted the need for proactive strategies, especially in light of the current global crises.

The dialogue with RCNI touched on the inadequacies of current training for service providers in identifying signs of trafficking. One participant highlighted that *'Training to service providers about signs of trafficking or violence might assist with this,'* indicating the necessity for improved education and awareness among those likely to encounter trafficking victims. Delays and administrative burdens within the current NRM were criticised during the dialogue with Children's Rights Alliance, Ruhama and ICI], with one participant stating:

'The delays in identification and communication undermine the efforts to support a victim because the time that somebody is sitting in a direct provision centre often isolated, often in a rural part of the country without good support services around them and the risk of re-trafficking is significant.' [Children's Rights Alliance/Ruhama/ICI]

Additionally, the need for better training for social workers and other relevant authorities to identify and support trafficking victims was emphasised. Overall, the participants stressed that while some progress has been made, much more needs to be done to protect and support trafficking victims effectively. They pointed out the critical need for health experts in risk assessments, noting:

'There is a strong need for access to health experts to conduct a joined-up risk assessment, especially if there is concern for a trafficked child alongside the absence of a parent.'

¹³⁹ <https://www.irishstatutebook.ie/eli/2024/act/28/enacted/en/html>

¹⁴⁰ <https://emn.ie/human-trafficking-legislation-ireland/>

The discussion, with UNAIDS, also touched on the need for better support systems for those wishing to exit the sex trade. One participant, noted that ‘programmes that will allow women to do what suits them best’ are essential, stressing that these should not be judgmental or coercive. They added that ‘social protection schemes, housing, health care, different forms of education, vocational training’ are necessary components of effective support for exiting the sex trade.

There was a consensus on the need for a multiagency approach to better address human trafficking. The suggestion was made that *‘Ruhama should sit down with AGS and maybe DPP and SERP Project to develop a collaborative approach towards agreed guidelines or legislation.’* [Ruhama/ICI]. This collaboration could enhance the identification and support for trafficking victims.

Tusla play a crucial role in addressing child exploitation and human trafficking, particularly concerning unaccompanied minors and cases linked to prostitution and drug use. Their process involves a thorough intake and assessment procedure to determine if a child is at risk of harm and to establish the necessary protection measures. The importance of the new NRM in relation to children is underscored by *‘a strong need for access to health experts to conduct a joined-up risk assessment, especially if there is concern for a trafficked child alongside the absence of a parent.’* [Tusla representative].

Migration Issues

The ICI highlighted that the identification of trafficked persons is still delegated to An Garda Síochána, which the US Trafficking in Persons Report identifies as problematic. This creates a potential conflict of interest between enforcing migration law and providing protection to often undocumented migrant victims. Submission S29 expands on this point, arguing that this conflict is a significant barrier for migrant women and those in direct provision who are involved in the sex industry.

The discussion involving Ruhama, the Children's Rights Alliance, and the ICI also underscored the difficulty in gaining the trust of trafficking victims. As one participant mentioned,

‘It is very difficult to convince victims to go to An Garda Síochána. The challenge is to create opportunities to build up trust.’ This mistrust is compounded by fears of repercussions for the victims' families, making it challenging for them to seek help. [Children's Rights Alliance/Ruhama/ICI]

Conclusions

Although s.7A is not directly linked to human trafficking, it remains relevant because it addresses the demand for sexual services. By criminalising the purchase of sex, s.7A seeks to reduce this demand.

In relation to persons engaged in sexual activity and their risk of being victims of human trafficking there is consensus amongst contributors that there can be a link and therefore risk to those involved in some circumstances. However, the prevalence of human

trafficking in relation to those involved in the sale of sex in Ireland is disputed and the lack of reliable data is referenced by both those advocating for and opposed to s.7A.

While all agree that tackling human trafficking is of the utmost importance there is evident disagreement about the strategies for doing so and a challenge in effectively assessing the impact of the same.

Opponents argue that s.7A has failed to decrease trafficking, misallocates resources, and conflates the sale of sex with trafficking, ultimately making conditions more dangerous for those involved in the sale of sex. They advocate for a rights-affirming approach, including decriminalisation, to better support and protect vulnerable individuals.

Supporters, on the other hand, believe that criminalising the purchase of sex can reduce demand and disrupt trafficking networks. They highlight the need for improved support systems, gender-specific accommodation, and comprehensive training for law enforcement and service providers. A multiagency approach, involving collaboration between various stakeholders, is seen as crucial for effectively addressing human trafficking.

Despite differing views on s.7A, both opponents and supporters agree on several key areas of focus to assist in tackling human trafficking. They emphasise the need for accurate data, improved identification processes, comprehensive support systems, improved training for law enforcement and service providers, and enhanced multiagency collaboration. Both sides also stress the importance of a National Referral Mechanism (NRM) that includes third-party organisations. These identified priority areas align closely with actions from the Third National Action Plan to Combat and Prevent Human Trafficking.

Conclusions

The evidence presented in this review demonstrates the ongoing, contentious debate surrounding the sale of sex and the most appropriate response. As seen prior to the introduction of the Criminal Law (Sexual Offences) Act 2017 there are two distinct cohorts who have provided detailed and insightful views in relation to the operation of s.7A and its impact to date.

Returning to the ToR the below summarises the findings of this review.

Section 7A Objectives

The objectives of introducing s.7A, in line with the Nordic model, were to reduce the demand for the purchase of sex by criminalising the act of purchasing. In conjunction with enforcement of this legislation, it was thought to have a normative function, signalling to wider society that Ireland does not tolerate the exploitation of vulnerable populations. Additionally, s.7A plays a protective role by supporting persons who engage in sexual activity for payment, and, while not specifically aimed at human trafficking, it remains relevant as it addresses a key factor linked to trafficking: the demand for sexual services.

Official Statistics

In summary, since 2017, according to the CSO, there have been 280 recorded incidents of payment for sexual activity. Conversely recorded incidents of soliciting and brothel keeping have both dropped to less than 5 in 2023. To date (August 2024) there have been 161 directions to prosecute and 15 convictions relating to the purchase of sex.¹⁴¹

Extent to which objectives have been achieved and identified barriers to achievement

Overall, the Act has made progress towards its objectives however, the review does identify key challenges to be addressed. Additionally, the polarised views of contributors to the review is evident.

The extent to which identified barriers may, or will, be addressed by new policy initiatives which have been introduced since the data collection phase of this review will need to be considered. These recent policy changes include the launch of the Third National Strategy for Domestic, Sexual, and Gender-Based Violence (DSGBV), the establishment of Cuan, the initiative to expunge previous convictions for the sale of sex, the creation of a new National Referral Mechanism (NRM) for Victims of Human Trafficking under the Criminal Law (Sexual Offences and Human Trafficking) Act 2024, and the introduction of the Third National Action Plan to Combat and Prevent Human Trafficking.

¹⁴¹ See page 45 in the Official Statistics section.

Demand reduction and enforcement

The measurement of demand continues to be challenging due to the lack of official and/or independent statistics being consistently and uniformly collected. This is evident across all jurisdictions and is driven by the nature of conducting research in this area.

As outlined above the official statistics identify a shift away from the targeting of the seller to the purchaser. Law enforcement activities are only partially represented within these statistics and the dialogues with statutory agencies identify the work being done by the OPIU and the ODPP, including national action days, campaigns and training, to enforce and prosecute under s.7A.

Key challenges exist for both An Garda Síochána and the ODPP namely; the resource intensive nature of identifying incidents, the limited power of arrest for the purposes of detention and questioning, the required admission of guilt, challenges in prosecuting due to the necessary 'proofs' and claimed inconsistency in sentencing.

Additionally, concerns were identified among some stakeholders regarding the perceived approach to the enforcement of s.11 of the Criminal Law (Sexual Offences) Act 1993, which related to brothel keeping.

Declarative

While stakeholders who engaged in the review were aware of s.7A and the wider legislative framework there was a perception that awareness levels amongst the wider population were limited and importantly understanding amongst vulnerable groups may also be limited.

As identified in section 1.1.3 of the first implementation plan for the Third National Strategy for Domestic, Sexual and Gender Based Violence¹⁴² there is a need for public awareness raising campaigns focused on communicating the illegality of purchasing sex, the action already being taken to address this by law enforcement and more broadly on the potential harm of prostitution and its impact on wider gender equality.

Protective

Views on the impact of s.7A in relation to the protection of vulnerable groups are deeply divided. Those who advocate s.7A highlighted the work of the OPIU in working to protect and securing the trust of vulnerable populations. Conversely, those opposed to the legislation claimed the legislation has had the opposite effect further exposing those selling sex to more risk.

There is a general agreement between both supporters of and opponents to s.7A that the ability to successfully support and protect is hindered by a lack of adequately resources services including healthcare, housing and exit routes. These would need to be delivery through a multiagency response, as detailed in 2.6.3 of the DSGBV

¹⁴² Government of Ireland (n.d.) *Third National Strategy on Domestic, Sexual & Gender-Based Violence Implementation Plan*. Available at: <https://assets.gov.ie/228481/69e48889-49ea-49d6-8143-982f6cc28bac.pdf>

implementation plan¹⁴³. The extent to which this action and other new policy initiatives meet the challenges identified needs to be considered.

Impact of the Act's operation safety and well-being

While risks in terms of the safety and well-being of persons who engage in sexual activity for payment are clearly identified, the link with the implementation of s.7A is debated. Advocates of s.7A claim that there is no evidence to suggest a change to these individuals safety since the introduction of the legislation and that the risks involved have been ever present. Additionally, qualitative feedback from those involved in the sale of sex points to some instances of people feeling safer. However, there is a strong view help by those opposed to the legislation claiming that it negatively impacts on the safety of those involved in sexual activity for payment driving them more underground and thus exposing them to greater risk, this is supported by some testimonials and data from Ugly Mugs. The proposed solutions to managing these risks, from contributors to the review, remains in line with the pre-legislative debate either the retention of s.7A with additional supports in place or the decriminalisation of the purchase of sex.

Risk of persons engaged in sexual activity for payment being victims of human trafficking

The majority of contributors acknowledged the links between payment for sexual activity and human trafficking. However, again the best way to address the issue was divisive and the impact of s.7A was also disputed.

Opponents argue that the law has failed to decrease trafficking, misallocates resources, and conflates the sale of sex with trafficking, ultimately making conditions more dangerous for those involved in the sex trade. Supporters, on the other hand, believe that criminalising the purchase of sex can reduce demand and disrupt trafficking networks.

Despite differing views on s.7A, both opponents and supporters agree on several key areas of focus to assist in tackling human trafficking. They emphasise the need for accurate data, improved identification processes, comprehensive support systems, improved training for law enforcement and service providers, and enhanced multiagency collaboration. Both sides also stress the importance of a NRM that includes third-party organisations. These shared concerns highlight the potential for unified strategies to more effectively combat human trafficking and support victims in Ireland.

Next steps

Overall, this review has identified several key areas to be addressed to fully realise the objectives of s.7A and, most importantly, to continue prioritising the safety and well-being of those involved in the sale of sex. Suggested next steps are outlined in the following section, in alignment with significant policy and legislative developments that have occurred since the review's initiation. These include the introduction of the Third National Strategy for Domestic, Sexual, and Gender-Based Violence (DSGBV), the establishment of Cuan, the launch of the Third National Action Plan to Combat and

¹⁴³ Ibid

Prevent Human Trafficking, and the creation of the National Referral Mechanism (NRM) for victims of human trafficking under the Criminal Law (Sexual Offences and Human Trafficking) Act 2024.

Recommendations

The review of s.7A of the Criminal Law (Sexual Offences) Act 1993, as amended by Part 4 of the Criminal Law (Sexual Offences) Act 2017, was conducted in accordance with the Terms of Reference as provided by the Department of Justice. This review sought to consider the effectiveness of s.7A in achieving its legislative objectives, particularly concerning the safety and well-being of individuals engaged in sexual activity for payment, and to provide recommendations for improvement.

The review included an analysis of official statistics, stakeholder consultations, public submissions, and an examination of relevant literature. These efforts aimed at developing a greater understanding of the broader impact of s.7A on the sale and illegal purchase of sex, law enforcement practices, and the individuals involved, particularly those at risk of exploitation and human trafficking.

The recommendations presented here focus on key areas identified in the Terms of Reference and have emerged from the review of s.7A. These areas include:

- enhancing the legislative framework,
- improving enforcement strategies,
- ensuring the well-being of individuals engaged in sexual activity for payment, and
- strengthening the overall approach to combatting human trafficking.

These recommendations are grounded in the evidence gathered during the review process and aim to address the identified gaps and challenges effectively.

Recent policy developments

In considering these recommendations it is important to consider the changes in the policy and legislative landscape since the commencements of the review and particularly the data collection.

These changes include the introduction of the Third National Strategy for Domestic, Sexual, and Gender-Based Violence (DSGBV), the establishment of Cuan, the launch of the Third National Action Plan to Combat and Prevent Human Trafficking, and the creation of a new National Referral Mechanism (NRM) for Victims of Human Trafficking under the Criminal Law (Sexual Offences and Human Trafficking) Act 2024. These initiatives collectively represent a comprehensive, coordinated, and whole-of-government approach to tackling DSGBV and human trafficking in Ireland.

1. Third National Strategy for DSGBV: This strategy outlines a zero-tolerance policy towards DSGBV and incorporates prevention, protection, prosecution, and policy coordination as its core pillars. The recommendations within this review must be aligned with the Third National Strategy, particularly its objectives related to providing trauma-informed, victim-centred services, enhancing legislative responses, and improving multi-agency cooperation. The strategy's focus on a comprehensive approach that considers the diverse needs of vulnerable groups, including individuals involved in the sale of sex, provides a critical framework for considering improvements to s.7A.

2. Cuan: As the newly established statutory agency responsible for addressing DSGBV, Cuan has been tasked with coordinating and leading national efforts to provide victim support, improve service standards, and drive awareness-raising initiatives. Given Cuan's mandate, any recommendations to enhance the enforcement and support mechanisms under s.7A should align with its ongoing initiatives and make use of its infrastructure to ensure comprehensive victim support and policy integration.
3. Third National Action Plan to Combat and Prevent Human Trafficking: This action plan sets out a multi-agency, victim-centred approach to human trafficking in Ireland. It includes the establishment of a new NRM, comprehensive training for professionals, dedicated accommodation for victims, and pathways for exit from exploitative situations. The recommendations made in this review should be informed by this action plan's objectives to ensure consistency with ongoing efforts to combat trafficking and provide robust support to victims. This includes recognising the overlap between trafficking and prostitution and ensuring that measures under s.7A are aligned with broader anti-trafficking efforts.
4. National Referral Mechanism (NRM) for Victims of Human Trafficking: Established under the Criminal Law (Sexual Offences and Human Trafficking) Act 2024, the NRM is a direct outcome of the Third National Action Plan and provides a statutory framework to facilitate the identification and support of victims of human trafficking. The revised NRM expands the range of entities that can formally identify victims to include not only An Garda Síochána but also other competent authorities like the Health Service Executive (HSE), Tusla, and designated NGOs as "trusted partners". This legislative change significantly enhances the capacity to identify and support trafficking victims, including those involved in the sex trade, and addresses some of the barriers identified in the review concerning victim support and cooperation with law enforcement.

Integrated and coordinated approach

In light of these recent developments and the legal frameworks that support them, the recommendations in this review could be implemented through existing strategies and aligned with broader policy development efforts across all government sectors. This includes collaboration with Cuan and other relevant Departments such as Housing, Local Government and Heritage (DHLGH), Health (DoH), and Social Protection (DSP). Considering the recent advancements in policy and legislative action, it is crucial that any proposed changes or updates to s.7A complement and reinforce these initiatives rather than conflict with or duplicate them.

The successful implementation of these recommendations necessitates a whole-of-government approach. Many recommendations extend beyond the criminal justice system and require coordinated efforts across multiple sectors to ensure effective implementation and impact. This encompasses actions related to awareness-raising, training, enforcement, and multi-agency collaboration to effectively address the complexities of DSGBV and human trafficking, and the broader socio-economic challenges faced by those involved in the sale of sex.

Recommendations

1. Legislative Framework and Awareness

Clarification and Communication of Legislative Objectives:

- Develop targeted communication campaigns to raise public awareness about the illegality of purchasing sex, the harms associated with prostitution, and the policing activity being undertaken by An Garda Síochána. Special consideration should be given to reaching vulnerable, non-English speaking populations. This effort should align with existing government commitments on disseminating information to help identify victims and conduct online targeted outreach to vulnerable groups.^{144 145}

Collaboration with Media and Community Partners:

- Engage with media outlets, NGOs, community groups, and educational institutions to disseminate information and raise awareness about the objectives and impacts of s.7A. This should be done in line with current commitments on awareness-raising.¹⁴⁶

2. Enhancement of Data Collection and Research

Data Collection Improvements:

- Review and enhance current data collection, analysis, and sharing practices among enforcement bodies and service providers to improve understanding of the sex trade in Ireland and the impact of s.7A.¹⁴⁷
 - Support the facilitation of regular data sharing among service providers and the publication of anonymised data in key areas such as:
 - Number and profile of individuals presenting to support services.
 - Contact made with the Garda helpline or reports made to Gardaí.
 - Regular monitoring data from relevant websites.

¹⁴⁴ *Third National Action Plan to Combat and Prevent Human Trafficking*. Actions 1.2.1- Focus on disseminating information to help identify victims and Actions 1.3 and 1.7 - conduct online targeted outreach to vulnerable groups

¹⁴⁵ *Zero Tolerance: Third National Strategy on Domestic, Sexual, and Gender-Based Violence*. Action 1.1.4 - communicate prostitution's impact on gender equality and its links to trafficking.

¹⁴⁶ *Third National Action Plan to Combat and Prevent Human Trafficking*. Action 4.2.1 – educational outreach

¹⁴⁷ *Third National Strategy on Domestic, Sexual, and Gender-Based Violence*. Action 4.3. - Develop enhanced coordination of data collection strategies

Research Development:

- Fund and support ongoing qualitative and quantitative research, particularly longitudinal studies, to monitor the longer-term impact of s.7A and understand barriers to exiting the sex trade.^{148 149}
- Support the Irish Human Rights and Equality Commission (IHREC) to use qualitative and quantitative data to examine the impact of s.7A on the prevalence of human trafficking over the coming years.

3. Evaluating and Improving Enforcement Strategies**Regular Assessments and Best Practices Sharing:**

- Conduct regular assessments of enforcement strategies, including targeted action days, to identify strengths and areas for improvement. This should include feedback from frontline personnel, State service providers, and civil society stakeholders.¹⁵⁰
- Organise workshops to share best practices and successful enforcement strategies among different agencies, including civil society organisations.¹⁵¹

Impact of the National Referral Mechanism (NRM) on Human Trafficking Cases:

- Examine the impact of the newly established NRM on human trafficking cases and apply learnings to the enforcement of s.7A.¹⁵²

4. Overcoming Barriers to Enforcement**Enhance Law Enforcement Capabilities:**

- Build on existing strategies, such as targeted action days and awareness campaigns, to increase enforcement effectiveness and provide clear communication on enforcement practices related to laws like section 11 (brothel keeping) to alleviate fears among vulnerable groups. This should be coordinated with Cuan and aligned with the Zero Tolerance Strategy's prosecution and protection pillars.¹⁵³

¹⁴⁸ *Third National Action Plan to Combat and Prevent Human Trafficking*. Action 4.4.1 - supporting research into the scale of undetected human trafficking

¹⁴⁹ *Third National Strategy on Domestic, Sexual, and Gender-Based Violence*. Action 4.2. - Ensure an effective, robust research and evaluation strategy

¹⁵⁰ *Third National Action Plan to Combat and Prevent Human Trafficking*. Action 3.2 – review law enforcement response

¹⁵¹ *Third National Action Plan to Combat and Prevent Human Trafficking*. Action 3.3 – law enforcement cooperation and information exchange

¹⁵² *Third National Action Plan to Combat and Prevent Human Trafficking*. Action 3.2 – review law enforcement response

¹⁵³ *Third National Strategy on Domestic, Sexual, and Gender-Based Violence*. Action 1.1 – enhancing public understanding

- Consider enhancements to law enforcement capabilities, including the feasibility and appropriateness of:
 - Permitting a reasonable inference clause that prostitution is occurring at the premises in question.
 - Consider further examination of challenges such as the limited power of arrest for detention and questioning, along with other highlighted issues, in order to enhance the practical effectiveness of Section 7A.
 - Issuing Fixed Charge Penalty Notices (FCPNs) to those guilty of purchasing sex in cases where there is an admission of guilt or incontrovertible evidence of payment for sexual activity.

Continuing to Build Trust with An Garda Síochána to Improve Reporting:

- Continue to improve the relationship between individuals involved in the sale of sex and An Garda Síochána through trauma-informed, culturally appropriate, targeted training.¹⁵⁴
- Raise awareness of the safe ways to make contact with the OPIU, including the app and the phone line.

5. Enhancing Safety and Well-being through Wraparound Supports and Services

Improve Accessibility and Coordination of Support Services:

- Ensure vulnerable individuals are aware of and can access available supports through targeted campaigns. These efforts should emphasise accessible information in multiple languages for migrants and at-risk groups.¹⁵⁵
- Establish a coordinated, multi-agency response for comprehensive support services, including healthcare, housing, and exit routes, ensuring these are well-integrated with existing support systems.¹⁵⁶

Review Resource Allocation to Ensure Adequate Support:

- Examine existing support services that assist individuals in exiting the sex industry to determine how services might be improved and whether additional funding is required.¹⁵⁷

¹⁵⁴ *Third National Strategy on Domestic, Sexual, and Gender-Based Violence*. Action 3.1.1 – Education/Training / *Third National Action Plan to Combat and Prevent Human Trafficking*. Action 1.1.2 - Develop a training programme for all members of An Garda Síochána

¹⁵⁵ *Department of Justice, 2022. Third National Strategy on Domestic, Sexual, and Gender-Based Violence*. Action 2.6 - *Ensure those, primarily women, in prostitution have access to safety, health care, support and exit routes*

¹⁵⁶ *Ibid*

¹⁵⁷ *Ibid*

6. Stakeholder Collaboration and Capacity Building

Enhanced Stakeholder Collaboration:

- Establish regular forums for engagement and collaboration among stakeholders, including law enforcement, NGOs, and government agencies. Encourage knowledge and information sharing, including best practices for engaging with vulnerable individuals in a trauma-informed, culturally sensitive manner.

Comprehensive Training Programs:

- Deliver on commitments to train health and social care professionals and Civil Registration Services staff working in the HSE to identify potential victims of trafficking.¹⁵⁸
- Build on the above to ensure content specifically focuses on supporting those involved in the sale of sex, ensuring that the correct services and supports are clearly indicated in a culturally appropriate way.

¹⁵⁸ *Third National Action Plan to Combat and Prevent Human Trafficking*. Action 1.1.5 – 1.1.8 – Training provision and funding

Appendices

Appendix A – Bibliography

Legislation

Ireland

1. Criminal Law (Sexual Offences) Act 1993
2. Criminal Justice (Public Order) Act 1994
3. Criminal Law (Human Trafficking) Act 2008
4. Criminal Law (Sexual Offences) Act 2017

Sweden

1. Swedish Penal Code, Chapter 6: Sexual Crimes, section 11 (as amended)

Books

1. Hanly, C. (2015). *An Introduction to Irish Criminal Law* (3rd edn). Dublin: Gill.
2. Luddy, M. (2007). *Prostitution and Irish Society 1800 – 1940*. Cambridge: Cambridge University Press.
3. Flanigan, J. and Watson, L. (2019). *Debating Sex Work*. Oxford: Oxford University Press.

Articles in Journals

1. Bacik, I. (2020). 'Criminal Legislating for the Nordic Model: Insights for Ireland – Part I'. *Irish Law Times*, 38(17), 254.
2. Bacik, I. (2020). 'Criminal Legislating for the Nordic Model: Insights for Ireland – Part 2'. *Irish Law Times*, 38(18), 270.
3. Bacik, I. (2021). '#MeToo, Consent and Prostitution – The Irish Law Reform Experience'. *Women Studies International Forum*, 86.
4. Beegan, R. and Moran, J. (2017). 'Prostitution and Sex Work: Situating Ireland's New Law on Prostitution in the Radical and Liberal Feminist Paradigms'. *Irish Journal of Applied Social Studies*, 17, pp. 59-72.
5. Ekberg, G. (2004). 'The Swedish Law that Prohibits the Purchase of Sexual Services'. *Violence Against Women*, 10(10), 1187-1205.
6. Ekberg, G. and Wahlberg, K. (2011). 'The Swedish Approach: A European Union Country Shows How to Effectively Fight Sex Trafficking'. *Solutions Journal*, 2(2), 1.

7. FitzGerald, S. and McGarry, K. (2015). 'Problematizing Prostitution in Law and Policy in the Republic of Ireland: A Case for Reframing'. *Social & Legal Studies*, 25(3), 289.
8. Flubacher, M.-C. and Busch, B. (2022). 'Language Advocacy in Times of Securitization and Neoliberalization: The Network LanguageRights'. *Language Policy*, 21, pp. 545-560. Available at: <https://doi.org/10.1007/s10993-022-09617-4>.
9. Luddy, M. (1997). "Abandoned Women and Bad Characters": Prostitution in Nineteenth-Century Ireland'. *Women's History Review*, 6(4), 485.
10. Ryan, D. (2017). 'The Proposed Reform of Prostitution Law in Ireland – Moral Discourse and the Perpetual Exclusion of Sex Workers'. *Irish Criminal Law Journal*, 27, 12.
11. Skilbrei, M.L. and Holmström, C. (2011). 'Is there a Nordic Prostitution Regime?'. *Crime & Justice*, 40, pp. 479-517.
12. Ward, E. (2010). 'Prostitution and the Irish State: From Prohibitionism to a Globalised Sex Trade'. *Irish Political Studies*, 25(1), pp. 47-63.

Book Contributions

1. Bacik, I. (2019). 'Prostitution Law'. In Black, L. and Dunne, P. (eds.), *Law and Gender in Modern Ireland: Critique and Reform*. Oxford: Hart Publishing.
2. Powell, W. and Steinberg, R. (eds.) (2006). 'Nonprofit Organizations and Political Advocacy'. In *The Nonprofit Sector* (2nd edn). New Haven: Yale University Press, pp. 307-332.
3. Turner, J. (2012). 'Means of Delivery: The Trafficking of Women into Prostitution, Harms and Human Rights Discourse'. In Coy, M. (ed.), *Prostitution, Harm and Gender Inequality: Theory, Research and Policy*. UK: Ashgate Publishing Ltd.
4. Ward, E. (2017). 'The Irish Parliament and Prostitution Law Reform: A Neo-Abolitionist Shoe-In?'. In Ward, E. and Wylie, G. (eds.), *Feminism, Prostitution and the State: The Politics of Neo-Abolitionism*. Routledge.

Governmental Reports / Action Plans / Strategies

1. Department of Justice and Equality. (2012). *Discussion Document on Future Direction of Prostitution Legislation*. Dublin: Government Publications.
2. Joint Committee on Justice, Defence and Equality. (2013). *Report on Hearings and Submissions on the Review of Legislation on Prostitution* (31/JDAE/010). Dublin: Government Publications.
3. Department of Justice. (2022). *Third National Strategy on Domestic, Sexual and Gender-Based Violence 2022-2026*. Dublin: Government of Ireland, Department of Justice.

4. Department of Justice. (2022). *Zero Tolerance Third National Strategy on Domestic, Sexual and Gender Based Violence 2024 Implementation Plan*. Dublin: Government of Ireland, Department of Justice.
5. Department of Justice. (2023). *Third National Action Plan to Prevent and Combat Human Trafficking 2023-2027*. Dublin: Government of Ireland, Department of Justice.
6. United States Department of State (2017-2024) *Trafficking in Persons Report: Ireland*.

Research Reports / Reviews

1. Cox, G. and Whitaker, T. (2009). *Drug Use, Sex Work and the Risk Environment in Dublin*. Dublin: National Advisory Committee on Drugs.
2. Ellison, G., Ni Dhonaill, C., and Early, E. (2019). *A Review of the Criminalisation of Paying for Sexual Services in Northern Ireland*. Belfast: Department of Justice Northern Ireland.
3. Kelly, L., Coy, M., and Davenport, R. (2008). *Shifting Sands: A Comparison of Prostitution Regimes across Nine Countries*. London: London Metropolitan University.
4. Layte, R. et al. (2006). *The Irish Study of Sexual Health and Relationships*. Dublin: Crisis Pregnancy Agency and Department of Health and Children.
5. National Observatory on Violence Against Women. (2004). *First Country Report from the Republic of Ireland*. Dublin: May 2004.
6. O'Connor, M. (2018). *Comparative Report: Disrupt Demand*. Dublin: Immigrant Council of Ireland.
7. O'Connor, M. and Pillinger, J. (2009). *Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant Women in Ireland*. Dublin: Immigrant Council of Ireland.
8. O'Connor, M. and Breslin, R. (2020). *Shifting the Burden of Criminality: An Analysis of the Irish Sex Trade in the Context Of Prostitution Law Reform*. Dublin: The Sexual Exploitation Research Programme UCD.
9. Ruhama. (2013 – 2020). *Annual Reports*. Available at <https://www.ruhama.ie/annual-reports/>.
10. Shannon, G. (2020). *The Implementation of the Criminal Law (Sexual Offences) Act 2017, Part IV – An Interim Review*. Dublin: High-Level Working Group.
11. Valiulis, M. et al. (2008). *Interdisciplinary Report on Prostitution in Ireland*. Dublin: Centre for Gender and Women's Studies, School of Histories and Humanities, Trinity College Dublin.

12. Valiulis, M., Redmond, J., Bacik, I., Rogan, M., Woods, M., O'Driscoll, A., and Hughes, C.B. (2007). *Interdisciplinary Study on Prostitution and Trafficking and Its Impact on Gender Equality for the Irish Human Rights Commission*. Dublin: Centre for Gender and Women's Studies, Trinity College Dublin.
13. Yonkova, N. and Keegan, E. (2014). *Stop Traffick! Tackling Demand for Sexual Services of Trafficked Women and Girls*. Dublin: Immigrant Council of Ireland.
14. UNAIDS 2020 (2020) *Seizing the Moment, Global Aids Update*. Available at. <https://www.unaids.org/en/resources/documents/2020/global-aids-report>

Policy Documents

1. Amnesty International. (2016). *Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers* (POL 30/4062/2016).

Press Releases

1. Irish Government News Service. (2017). *Press Release: New Laws on Sexual Offences Take Effect from Monday – Fitzgerald* (27 March). Available at https://merrionstreet.ie/en/news-room/releases/new_laws_on_sexual_offences_take_effect_from_monday_-_fitzgerald.html.
2. Sex Workers Alliance Ireland. (2015). *Press Release: Sex Workers Oppose Northern Ireland's New Law* (1 June).
3. Sex Workers Alliance Ireland. (2015). *Press Release: Sex Workers and Supporters Hold Vigil at Dáil to Mark International Day to End Violence Against Sex Workers*.

Miscellaneous

1. Maguire, P. (2012). *Profiting from Prostitution*. RTE. Available at [\[https://www.rte.ie/news/player/2012/0207/3193909-prime-time-profiting-from-prostitution\]](https://www.rte.ie/news/player/2012/0207/3193909-prime-time-profiting-from-prostitution)(<https://www.rte.ie/news/player/2012/0207/3193909-prime-time-profiting-from>

Appendix B – Public Consultation Online Survey Questionnaire

The Criminal Law (Sexual Offences) Act 1993 was amended and replaced by s.7A of Criminal Law (Sexual Offences) Act 2017 (The 2017 Act) which made it illegal to purchase sex in Ireland. The intent of the legislation is to protect vulnerable persons, especially those involved in prostitution and victims of human trafficking. It aimed to allow such persons to provide information to the Gardaí without fear of prosecution for selling sexual services, in circumstances where they have become victims of crime perpetrated by their clients or others. An additional section of The 2017 Act (s.27. (1)) mandated a review on the operation of that Act which is the basis of the current s.7A Review process.

In line with Government policy on public consultation, The Department of Justice and Equality is canvassing your views through this Public Consultation Questionnaire. Your feedback will be considered in the development of further policy and operational responses following completion of the Review Report.

Please click next to continue to take part in the consultation survey. This survey should take about 10- 15 minutes to complete. All your responses are anonymous and will not be attributed to individuals. If you wish to provide a more detailed response or have any queries regarding this process please email s7areview@justice.ie

1. Are you aware of The Criminal Law (Sexual Offence) Act 2017

Yes

No

2. Are you aware that it is illegal to purchase sex in Ireland?

Yes

No

3. How did you first become aware of The Criminal Law (Sexual Offence) Act 2017?

Please select all that apply

From media/news coverage

From friends/family members/colleagues

Through my role in an NGO/representative group

Through my role in another profession

Through my personal experience as a sex worker

Through my personal experience of purchasing sex

Don't know/can't remember

Prefer not to say

Other (please specify)

4. Are you aware of Section 7A of The Criminal Law (Sexual Offence) Act 2017

Yes

No

Not Sure / Don't Know

5. Do you think that to date Section 7A of the Criminal Law (Sexual Offence) Act 2017 has been proactively enforced by An Garda Síochána?

Yes

No

Not Sure / Don't Know

6. Why do you think Section 7A of the Criminal Law (Sexual Offences) Act 2017 is being proactively enforced?

7. Why don't you think Section 7A of the Criminal Law (Sexual Offences) Act 2017 is being proactively enforced?

8. In your opinion, are those purchasing sexual services being prosecuted?

Yes

No

Not Sure / Don't Know

9. In your opinion, has the enforcement of the Act had an impact on the safety and well-being of persons who engage in sexual activity for payment?

Yes

No

Don't know/Not sure

10. Why do you think that Act **has** had an impact on the safety and well-being of persons who engage in sexual activity for payment?

Please write in below:

11. In your opinion, what could be done, that is not currently being done to ensure the safety and well-being of persons who engage in sexual activity for payment?

Please write in below:

12. Are you aware of any interventions associated with the offering and purchase of sexual services besides the Act being reviewed (s.7A of the Criminal Law (Sexual Offences) Act 2017)?

Yes

No

Not Sure / Don't Know

13. If yes, what, if any, impact do you think these policies have had?

14. Do you think there are any unintended risks to vulnerable people because of how the current law in this area operates?

Yes

No

Not Sure / Don't Know

15. If yes, what do you think could be done to reduce or prevent these risks?

16. In addition to what has been discussed above what other impacts, if any, do you think the introduction of the Act has had?

17. Do you have any other comments/feedback you would like to make in relation * to this review?

Please note you are not required to respond to the following couple of questions to complete the survey.

18. Are you responding to this survey as... ?

An interested member of the public with no representative role

On behalf of an NGO

On behalf of a representative group
A professional/policy maker working in this area
A purchaser/previous purchaser of sex
A sex worker/prostitute
Other (prefer not to say)
Prefer not to say

19. Are you ... ?

Male
Female
Non-Binary
Other
Prefer not to say

If you have any further comments in relation to this review please contact
s7areview@justice.ie

THANK YOU FOR TAKING THE TIME TO COMPLETE THIS SURVEY.

Appendix C- List of submissions

A total of 199 submissions were received in contribution to the review

Organisations

1. Alliance for Choice
2. Amnesty International Ireland
3. Associazione Iroko
4. Brazilian Left Front (BLF)
5. CAP International
6. CATU
7. Children's Rights Alliance
8. Coalition Against Trafficking in Women (CATW)
9. Coalition Against Trafficking in Women Australia
10. Cross Party Group
11. CREA
12. Dublin Central Housing Action
13. Dublin Rape Crisis Centre
14. Fingal Feminist Network
15. Gay Health Network
16. The Global Network of Sex Work Projects (NSWP)
17. HIV Ireland
18. Irish Congress of Trade Unions
19. Irish Nurses and Midwives Organisation
20. Irish Sex Work Research Network (ISWRN)
21. ICRSE - International Committee on the Rights of Sex Workers in Europe
22. Immigration Council of Ireland
23. JFM Research (formerly known as Justice for Magdalenes)
24. Latvia MARTA Centre
25. Labour Party

26. Men's Development Network
27. Migrant Rights Centre Ireland
28. Nordic Model Information Network
29. National Ugly Mugs
30. National Women's Council
31. Not Buying It
32. PICUM - Platform for International Cooperation on Undocumented Migrants
33. Reclaim the Night Belfast
34. Rape Crisis Network Ireland (RCNI)
35. Ruhama
36. Safe Ireland
37. Samaritans Ireland
38. SERP - the Sexual Exploitation Research Programme at UCD
39. Sex Workers Alliance Ireland (SWAI)
40. Sex Workers' Rights Advocacy Network in Central and Eastern Europe and Central Asia
41. Soroptimist International Republic of Ireland
42. SPACE International
43. Strass
44. TDF Geschaeftsfuehrung
45. Tearfund Ireland
46. The Abortion Rights Campaign
47. The English Collective of Prostitutes
48. The Norwegian Sex Workers Rights Organisation
49. Transgender Equality Network Ireland
50. TU Dublin Student's Union
51. Union of Students in Ireland
52. UNAIDS

53. Uplift

54. UK Feminista

55. Women's Aid

56. Youth Alliance

Individuals

The remaining 143 submissions were made by individuals in their personal capacity.

