



Purchase of sexual services

A follow-up of the application of the law

**The Swedish National Council for Crime Prevention (Brå) -
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English summary of Brå report 2022:3

Summary

Brå was commissioned by the Swedish government to follow up how the criminal justice system applies the prohibition on the purchase of sexual services (Chapter 6, Section 11 of the Swedish Criminal Code). The commission includes shedding light on several aspects of how the criminal justice system handles sex purchase crimes from police report to verdict and how the criminal justice system and social services cooperate. Brå's commission also encompasses analysing the possible effects of routinely giving injured party status to the seller of sexual acts. In the follow-up, we have reviewed 292 cases of reported sex purchase crimes (preliminary investigations and verdicts), interviewed several representatives of the criminal justice system and social services, conducted participant observation of police work and analysed documents, literature and crime statistics.

The prohibition on the purchase of sexual services was introduced in 1999 and currently reads:

§1. A person who, in cases other than those previously referred to in this Chapter, obtains casual sexual relations in return for payment, is guilty of purchase of sexual services and is sentenced to a fine or imprisonment for at most one year.

§2. The provision in the first paragraph also applies if the payment was promised or made by another person.

At the time of publication of this report, the Swedish government has submitted a bill proposing to increase the minimum penalty for the purchase of sexual services from a fine to imprisonment. The stricter penalty is proposed to enter into force on 1 August 2022 (government bill 2021/22:231).

Sex is purchased in a number of arenas

Brå has not been commissioned to analyse the extent of sex purchase crimes, but on the basis of our interviews and previous research, we can conclude that such offences are committed on a large scale and in a number of different arenas.

Since the introduction of the offence, the number of reported sex purchase crimes has increased steadily, especially over the past two years. Since the purchase of sex is an offence that the police primarily learn about through proactive policing, the number of reports essentially reflects the scope and focus of the associated police work. This is confirmed by the cases that Brå has reviewed, with two thirds of them arising from proactive police work and one third arising from someone tipping off or reporting a crime to the police, including the concerned seller.

Efforts to curtail sex purchase crimes vary across the country

In recent years, efforts by the police to curtail sex purchase crimes have been given a higher priority. At the same time, the extent to which the police work with such initiatives varies greatly across the country. In some places hardly any such work is conducted, while in other places such work is characterized by resources, commitment and structure. The interview material gives the impression that work to curtail the purchase of sexual services is still far too dependent on dedicated individuals or smaller teams. Within most police operations, efforts are also sporadic and scheduled for short periods of time, rather than forming a continuum that can act as both a deterrent to buyers and a point of contact with sellers.

The work of the police to curtail sex purchase crimes is focused on crimes linked to human trafficking, with efforts to curtail the purchase of sexual services mainly based around the human trafficking teams found in five of the seven police regions. However, moving forwards, the idea is for local police districts to work on curtailing individuals from purchasing sexual services while the human trafficking teams focus on the underlying, more serious, crime.

Training initiatives have been conducted in recent years and are considered to have yielded results in the form of significantly more reported sex purchase crimes.

Discovery and investigation of offences

The police mainly work by targeting escort sites

The main focus of police work to curtail sex purchase crimes involves targeting escort sites. Escort sites are public websites with advertisements wholly or partly intended to mediate contact for the purchase of sexual services. A considerable proportion of the sellers on these escort sites are women living temporarily in Sweden in order to sell sexual acts. The police believe that such escort sites are an arena for mediating prostitution through which they can find human trafficking victims. Moreover, the police have established a method for targeting escort sites that has proven successful in enabling the relatively quick and easy prosecution of buyers of sexual services. In brief, it involves arresting the offender more or less in the act, which often results in an immediate confession.

Escort sites are also the dominant arena in the cases that Brå has studied. In these cases, the suspected buyer has generally made contact, often via text message, with the seller or a third party using a telephone number provided in the website advertisement to agree on the time, place, sexual act and price.

Other arenas are considerably less common. In just under one in ten of the cases, the buyer made contact with the seller via other internet forums, such as social communication platforms, dating sites or websites with diverse forms of sexual content. In a few cases, contact was made via a sugar dating site. Contact on the street or in other public places also occurs, but this is relatively uncommon. In only two cases is there a clear link to what is commonly referred to as street prostitution. Four cases of completed offences can be linked to sex purchase crimes involving a massage parlour.

Crimes also discovered by backtracking

Another way for the police to learn about crimes is through backtracking, that is, from information that has come to light during the investigation of a crime that can be used to identify further crimes. For example, the police can discover sex purchase crimes and identify suspected buyers in connection with investigations into human trafficking and procuring. Sex purchase crimes have also been discovered after the police have gained access to the content of a buyer's phone.

A substantial percentage of reported sex purchases are cleared

In 58 per cent of the cases studied by Brå, the police have been able to complete their preliminary investigation and present it to the prosecutor. The highest clearance rate is seen in those cases where the crimes were discovered during proactive policing, with nine out of ten cases being reported to the prosecutor. Other cases often present less favourable conditions with a higher proportion of cases closed.

Of the cases that the police have presented to the prosecutor, in most the prosecutor has issued a summary fine, although a considerable proportion result in prosecution. A decision to prosecute rather than issue a summary fine is most often made when the suspected buyer has not confessed to the crime or when the case has been coordinated with other cases requiring a court verdict, such as for procuring. In the vast majority of the cases decided by the courts, the suspected offender has been convicted. Common to the dozen or so cases where the accused has been acquitted is that the suspect has largely denied the crime and the seller has not been heard in court, which has contributed to the weight of the accused's testimony.

Common practice remains 50 day-fines

As in previous reviews of the penalties imposed for the purchase of sexual services, Brå's case study shows that 50 day-fines are common practice for a single sex purchase crime. In only one case where the penalty concerned a single sex purchase crime did the district court impose a more severe fine. The stricter penalty was decided on the basis that it must have been obvious to the buyer that the seller was in a particularly vulnerable situation. All in

all, only two verdicts on sex purchase crimes have detailed aggravating circumstances, otherwise no reasoning for the chosen penalty is generally given.

Male buyers and female sellers

In the cases Brå has reviewed, essentially all suspected buyers are men. The median age is 35 years, 65 per cent are single, just under a quarter are married or cohabiting and the rest live in the same household as their parents. Education and employment levels among buyers are lower than those of the general population.

One third of the suspected buyers are foreign citizens and about half have a foreign background regardless of citizenship. The proportion of suspected buyers who have a foreign background is higher in cases discovered through proactive policing targeting escort sites than in other cases. The age of the suspected buyers is also lower in these cases. Interviewees from the police and social services say that men who are well established in Sweden are often well aware of the focus of police work. To minimise the risk of getting caught, they choose arenas other than escort sites for their sex purchases.

Among the sellers in the cases studied, all but four are women. The median age is 27 years. Some 43 per cent of the sellers are foreign nationals while 36 per cent are Swedish nationals. There was insufficient information to establish the nationalities of the other sellers. The percentage of sellers who are foreign nationals is particularly high on escort sites and in cases discovered through proactive policing.

The fact that the work of the police is almost exclusively focused on a specific arena means that other arenas with other groups of sellers are excluded from this work. These include, for example, financially vulnerable women living permanently in Sweden, people with substance abuse problems, LGBTIQI people, men in prostitution and sex purchases involving massage parlours.

Aggravating circumstances not considered in the legal chain

The case study includes several examples of cases involving diverse types of aggravating circumstances in connection with the sex purchase crime. For instance, the seller may have been under the influence of drugs or alcohol and the sex purchase may have been arranged by a third party. These are circumstances that, according to the legislative history of the sex purchase legislation, justify a more severe penalty than day-fines for the concerned sex purchase crime. It also means that, due to the lack of proper consent, the sex purchase crime could possibly have been investigated and tried as rape or negligent rape.

However, Brå's review of the cases shows that these types of circumstances have rarely resulted in more severe penalties or any documented suspicion of rape. Interviews and conversations in conjunction with Brå's participatory observation also confirm that the entire legal chain could improve at considering aggravating circumstances.

Rape convictions in connection with sex purchase crimes uncommon

Brå has also specifically studied suspected rapes in connection with sex purchase crimes. The 2018 sexual offences reform broadened the crime of rape. One change of particular relevance to sex purchase crimes is the broadening of the criminal liability for rape to even encompass situations in which the victim has been threatened by someone other than the person performing the sexual act. Human trafficking for sexual purposes is a concrete situation in which this broadened criminal liability could be relevant (government bill 2017/18:177 p. 39).

Of the cases of reported purchases of sexual services in Brå's review, sixteen cases also include a report of rape. A qualitative analysis of these cases shows that in the majority of them, a prearranged sex purchase has resulted in rape due to the buyer's actions. The only case that has resulted in a rape conviction involved the perpetrator using physical force to perform sexual acts other than those previously agreed. None of the reported rapes can be considered to involve a situation in which the arranged sex purchase *itself* constitutes rape as a result of the seller being threatened by someone other than the person who performed the sexual act, nor as a result of the buyer knowing that the seller's participation in the sex purchase was not voluntary or exhibiting gross negligence in whether this was the case.

A quarter of cases have documented links to procuring

In 25 per cent of the cases studied, there is documentation indicating that the sex purchase crime is linked to human trafficking, procuring or human exploitation. The most common link is to procuring, whereas only one case has documented links to human exploitation. Brå's analysis has been based on a strict interpretation in which we have only included clearly documented links. Based on the interview material, the actual percentage of cases in which the seller is linked to such crimes is probably much higher.

Massage parlours are highlighted by interviewees as an arena where there is often reason to suspect procuring, human trafficking and human exploitation. Despite intensified efforts to target these types of arenas, according to interviews and observations it is still difficult for law enforcement to successfully target human trafficking, procuring and sex purchase crimes involving massage parlours because they are hiding behind a

legal business. Several interviewees believe that the number of unreported sex purchase crimes involving massage parlours is high.

Regional coordinators key to cooperation between police and social services

Brå has also studied the cooperation between the police and social services seen in connection with proactive policing targeting escort sites. When the police and social services cooperate in proactive policing, social services can, among other things, provide immediate support to sellers and try to help them to escape from human trafficking. The regional coordinators play a key role in this cooperation. Regional coordinators are social workers who are specialised in human trafficking and work closely with the police, with responsibility for an entire police region. According to interviewees, the cooperation between the police and the regional coordinators is considered extremely successful.

However, the regional coordinators are unable to physically attend all police operations targeting sex purchase crimes. The idea is for local social services to get involved instead and to provide immediate and long-term support. However, this does not always work. In some places, cooperation between the police and local social services is well-established, but in many other places such cooperation is non-existent. Cooperation may also be hampered by the fact that local social services sometimes lack the knowledge and resources needed to help victims of human trafficking.

There are also several arenas for the purchase of sexual services for which there is hardly any cooperation at all, such as sex purchase crimes involving sellers who are addicts. Specific support for buyers of sexual services is lacking in many places as well.

Sellers rarely given injured party status in sex purchase crimes

Since the introduction of the prohibition on the purchase of sexual services, the penal provision has had dual protective purposes: the law is to protect both the public and the individual seller. This means that there is the possibility of giving the seller injured party status in the sex purchase crime. However, Brå's study shows that common practice is to treat the seller as a witness. Only one in ten sellers in completed and attempted crimes have been given injured party status, and in these cases there are usually other crimes associated with the sex purchase.

Difficulties in routinely giving injured party status to sellers of sexual acts

Brå has analysed the possible effects of routinely giving injured party status to the seller of sexual acts, including whether this would improve the support provided to the seller of sexual acts in the legal process. According to the analysis, routinely giving injured party status would have effects on several levels. For the individual seller, this would mean increased access to support and information throughout the legal process. At the same time, these additional rights place greater demands on the authorities comprising the criminal justice system and, as a result, increase the resources required to handle this type of crime. It should also be noted that people who sell sexual acts are not a homogeneous group. While injured party status would help to highlight the vulnerability experienced by many sellers, there are others who may find it offensive to be made a victim unwillingly.

The introduction of injured party status would also impact proactive policing initiatives and investigations. On the one hand, according to interviewees, it could lead to the crime being given higher priority and improved investigations of aggravating circumstances. On the other hand, it would be more difficult for the police to wait for the crime to be completed before arresting a suspected sex buyer. In turn, this could lead to problems with evidence and difficulties in prosecuting offenders. The opportunities for proactive policing in human trafficking cases may also be impacted if the possibilities to delay intervention are limited.

The report also identifies a broader criminal law dilemma with a possible change in injured party status in sex purchase crimes, in terms of both the balance between the various protective interests of the law and the ability of the seller to give exonerating consent.

Brå's assessment

Based on the fact that the prohibition on the purchase of sexual services is to help to curtail human trafficking and other organised prostitution activities, the police focus on escort sites is reasonable. This method of targeting escort sites also makes it possible to relatively quickly and easily discover, investigate and prosecute a large number of sex purchase crimes. At the same time, in many places the work is characterised by sporadic efforts and certain arenas fall completely outside the work of the police.

To act as a broader deterrent and create the right conditions for protecting and supporting more groups of vulnerable sellers, the work needs to be more ongoing and widened to encompass more arenas. This is work that benefits from being conducted at local police district level. Police plans for more locally based work to curtail the purchase of sexual services should therefore be implemented. Brå's material includes good examples of how local ongoing

efforts involving cooperation between the police and social services have acted as a powerful deterrent against sex purchase crime.

Furthermore, the pursuit of resource- and time-efficient legal proceedings in police work methods must not hamper the investigation of aggravating circumstances or other crimes against the seller when there are grounds for such investigation. In such situations, there is already the possibility to give injured party status to the seller of sexual acts. Brå's assessment is that improved investigations of aggravating circumstances and injured party status for sellers in such cases is better than routinely giving injured party status to sellers of sexual acts. This needs to be combined with generally improved support for people in prostitution through increased cooperation between the police and social services and increased knowledge within social services of the situation faced by sellers and the help they need.