



Exploitation of a child through the purchase of a sexual act

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 2022:4

Summary

The Swedish government has commissioned Brå to follow up and analyse the application of the prohibition on the exploitation of a child through the purchase of a sexual act (Chapter 6, Section 9 of the Swedish Criminal Code). The commission includes shedding light on several aspects of how the criminal justice system handles sex purchase crimes against children from police report to verdict as well as the cooperation between the criminal justice system and social services.

In the follow-up, Brå has reviewed documents from 69 cases of reported purchases of a sexual act from a child (preliminary investigations and verdicts) from 2019, conducted multiple interviews with representatives of the criminal justice system and social services, conducted participant observation of police work and studied documents, literature and crime statistics.

The prohibition on the purchase of a sexual act from a child was introduced in 2005 and in 2020 was given the current classification of exploitation of a child through the purchase of a sexual act. The penal provision is regulated in Chapter 6, Section 9 of the Swedish Criminal Code and reads as follows:

§1. A person who, in cases other than those previously referred to in this Chapter, induces a child under eighteen years of age to undertake or submit to a sexual act in return for payment, is guilty of exploitation of a child through the purchase of a sexual act and is sentenced to imprisonment for at most four years.

§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 exploitation of a child through the purchase of a sexual act to imprisonment for six months. The proposition also includes a special range of punishments of imprisonment for at most one year for the exploitation of a child through the purchase of a sexual act that is less serious. The stricter penalty is proposed to enter into force on 1 August 2022 (government bill 2021/22:231).

Few crimes discovered and a large number probably go unreported

Several Swedish surveys have studied child and youth experiences of providing sexual acts in return for payment. In the most recently published study (Svedin et al. 2021), just over one per cent of pupils in the third year of upper secondary school reported having performed sexual acts in return for payment at some point, and this was slightly more common among girls than

boys. Based on the Public Health Agency of Sweden's survey on sexuality and health among young people in Sweden (2017), the Swedish National Audit Office has estimated that in 2020 there were about 10,000 children in Sweden with experience of sexual acts in return for payment (2021).

This can be compared to the fact that according to Brå's crime statistics, only 234 sex purchase crimes against children were reported in 2021. Interviewees also believe that there is a large number of unreported crimes, with many more crimes each year than appear in the report statistics.

Limited proactive policing initiatives

According to the interview material, it is seldom the children themselves who report being victims of crime. Instead, the crimes that are reported are often discovered by the police in the course of other investigations, such as when analysing the content of mobile phones or other storage media. Proactive policing initiatives to discover sex purchase crimes against children are limited in extent. However, there is a proactive work method aimed at preventing and discovering sex purchase crimes against children. This approach involves the police using an alias to interact with children on sugar dating sites to arrange meetings with them. The primary aim is to prevent children from being subjected to sex purchase crimes, although these efforts can also help to discover crimes that have already been committed. Within the police organisation, this method has generated debate concerning, for example, the legal and ethical aspects, and it is used by only a few police officers in Sweden. At the same time, this is currently the only work method the police have at their disposal for identifying children who already are or risk being exploited for the purchase of sexual acts.

Cooperation between police and social services in proactive efforts

When the police do use this proactive work method, they do so in cooperation with social services and, based on the interview material, this cooperation seems to work well. The role of social services includes providing the child with support when contact is made, attending the handover to and duty-of-care talk with the parents, and acting as a link to longer-term support from local social services.

At the same time, interviewees had differing opinions on whether the police or social services should have overarching responsibility for actively seeking out children who are or risk being exploited for the purchase of sexual acts. In Stockholm, the police and the municipality have signed a cooperation agreement on work to curtail the purchase of sexual services and exploitation of a child through the purchase of a sexual act. Such formalised cooperation, whereby the police and social services benefit from each other's expertise and

assume joint responsibility for these proactive initiatives, can aid both the prevention and the discovery of sex purchase crimes against children.

To identify vulnerability, social services, like other organisations who come into contact with children and youth in their day-to-day activities, also need to improve at asking questions about sexual acts in return for payment. There is a need for efforts to improve knowledge as well as procedures for reporting to the police when made aware that a crime has been committed, provided that filing a police report is not contrary to the best interests of the child.

Staff shortages in teams investigating this type of crime

The formal recommendation of the Swedish police authority's National Operations Department (NOA) is that the exploitation of a child through the purchase of a sexual act is to be investigated at one of the regional cybercrime centres (RC3). However, according to interviews, in four out of seven police regions, other investigation teams are responsible for this type of crime, such as teams for crimes in intimate relationships at police district level. The variation in how the work is organised risks creating problems in how these efforts are managed, and thereby also within method development and follow-ups (Swedish National Audit Office 2021). Moreover, sex purchase crimes against children are described in interviews as crimes that risk being overshadowed by increasing reports to the police of other sexual assault crimes against children. There are also staff shortages in the teams investigating sex purchase crimes against children, and for several years there have been too few internal training courses on the subject.

At the same time, the expertise required to investigate sex purchase crimes against children is judged to be wholly adequate among the staff who actually investigate them. Key to these investigations is to establish a good relationship with the injured party, so that they are willing and able to participate in the legal process. Factors important to successfully achieving this are trained child interviewers and prompt access to counsel for the injured party.

Reported crimes often involve serious exploitation

Brå has reviewed 69 cases of reported purchases of sexual acts from children from 2019. The review shows that about four out of five of the injured parties are girls while one out of five are boys. The average age of the injured parties is 15 years. The suspects are all male and the average age is 35 years.

The circumstances and investigations in these cases are often complex, for example because the same injured party is the victim of several different offences, or because several different injured parties are suspected of being

the victims of sexual offences against children by the same offender. The review also shows that many cases involve serious sexual exploitation. Often, it can be seen that the child's boundaries have been shifted, such as through gradual normalisation and manipulation and by the perpetrator simply taking advantage of the power imbalance between child and adult.

Previous studies have shown that children and youths with experience of sexual acts in return for payment are more likely than other youths to be vulnerable in numerous ways, such as due to substance abuse, mental illness and previous subjection to sexual assault (Swedish Agency for Youth and Civil Society 2009; Svensson et al. 2013; County Administrative Board 2015; Public Health Agency of Sweden 2017; Svedin et al. 2021). This picture is confirmed by the cases studied, in which many of the injured parties are not coping so well psychologically and find themselves in difficult and stressful life situations, both historically and as a result of being a victim of crime.

About a third of cases linked to sugar dating

The sexual acts are most commonly compensated financially, and the amounts vary greatly. There are also a large number of cases in which alcohol, tobacco or drugs were either the only compensation or part of the compensation for the sexual acts.

About one third of the cases are linked in some way to sugar dating. In most such cases, contact has been made via a sugar dating site, although it can also be via regular dating sites or social media or a continuation of earlier contact between the injured party and the suspected offender.

A relatively high percentage of the reported offences are attempted offences. These include cases in which the injured party found a proposal for sexual acts in return for payment offensive and had no intention of performing any sexual acts, as well as cases in which other circumstances led to the offence not being completed.

In only a few cases is there any documented link to human trafficking or procuring.

About half of the cases have been closed

In more than half of the cases, the police report was made on the basis of the police's own information. This information has come to light in connection with either proactive policing initiatives or other police investigations. In almost a third of the cases, the report is based on information provided directly by the injured party.

About half of the cases have been closed. The highest percentage of closed cases is found among those concerning attempted offences. Also, all cases in

which the injured party did not participate in the investigation, or participated only to a limited extent, have been closed.

In all the cases decided in court that Brå has reviewed, the accused has been convicted of a crime. However, in some cases, the offence has been classified as something other than purchase of a sexual act from a child in the verdict.

Probation the most common sentence

Just under a third of the 69 cases studied have resulted in a conviction for the purchase of a sexual act from a child. On 1 January 2020, the range of punishments for sex purchase crimes against children was increased from a fine or imprisonment for at most two years to imprisonment for at most four years. As a result, in addition to the verdicts in the original material, Brå has also conducted a secondary review of all verdicts on offences committed after the stricter penalties were introduced.

The government bill leading to the introduction of stricter penalties in 2020 stated that the legislator hoped that expanding the scope of the range of punishments would pave the way for more nuanced verdicts and stricter penalties for more serious offences (government bill 2018/19:157). A large age difference, dependency, the influence of alcohol and mental illness are examples of aggravating circumstances that are commonly seen in the case study and that could be taken into account to justify stricter penalties.

However, Brå's review shows that the full range of punishments is not used and that custodial sentences are uncommon. In the studied verdicts in which the exploitation of a child through the purchase of a sexual act is the main offence, no one has been sentenced to prison, either before or after the introduction of stricter penalties. Only a few cases have been decided since the introduction of the stricter penalties, but it seems that the penalty value is still considered too low to justify a custodial sentence. Instead, probation is the most common penalty.

Rape legislation could be tested more widely

To answer the question as to the extent to which persons are convicted of rape or negligent rape in sex purchase crimes against children, Brå has conducted a detailed analysis of the cases in which the police investigation also includes suspected rape. A total of three cases have resulted in convictions for rape or rape of a child. None of the rape convictions concern a situation in which the sexual acts in return for payment themselves constitute rape as a result of the offender knowing that the injured party's participation was not voluntary or exhibiting gross negligence in whether this was the case.

In sex purchase crimes against children, it is sometimes difficult to draw a line between circumstances that could only justify a stricter sentence for the actual sex purchase crime and those that could warrant investigation, prosecution and conviction for rape or negligent rape. Based on the case study, whether the injured parties have participated in the sexual acts voluntarily is in many cases questionable, and the adult offenders can be expected to have insight into this. Despite indications of a lack of proper consent, it is uncommon for these cases to include reports of suspected rape or negligent rape. In the light of this, it would be possible to test the rape legislation more widely in the context of sex purchase crimes against children.

Brå's assessment

Exploitation of a child through the purchase of a sexual act is a serious crime and the number of unreported cases is assumed to be high. Brå's assessment is that together the police and social services need to ensure that proactive efforts are conducted. If the police are unable to use the methodology they have already developed, then they need to develop new work methods for discovering and preventing crimes. Moreover, social services need to take greater responsibility for protecting children from sexual assault through outreach work. The cooperation between the police and social services can, as is the case in Stockholm, be formalised both at an overarching strategic level and in concrete activities within day-to-day operations. To ensure that this type of crime does not fall through the cracks, as well as to create the right conditions for follow-ups and methodological development, the work should be organised in a more uniform manner, both between and within police regions.

At the time of publication of this report, the Swedish government has submitted a bill proposing a further increase in the minimum penalty for the exploitation of a child through the purchase of a sexual act to imprisonment for six months (government bill 2021/22:231). In its response to the concerned government inquiry (SOU 2021:43), Brå does not state its position on the proposal for stricter penalties with reference to the knowledge that the present report is intended to contribute. Based on Brå's review of cases and verdicts, we can conclude that there are often aggravating circumstances and circumstances that bring into question whether the injured parties engaged in the concerned sexual acts voluntarily. Despite this, custodial sentences remain uncommon when exploitation of a child through the purchase of a sexual act is the main offence. It is also uncommon for the rape legislation to be tested when children are exploited by means of sexual acts in return for payment. Accordingly, Brå's assessment is that the proposed stricter penalties are justified.