

Equal rights and opportunities regardless of sexual orientation, transgender identity or expression

Efforts to promote equal rights and opportunities regardless of sexual orientation, transgender identity or expression are a government priority. The right to protection against discrimination on grounds of sexual orientation or transgender identity or expression has been strengthened in recent years. This fact sheet presents a selection of ongoing or implemented measures.

Fundamental law

Under Chapter 1, Article 2 of the Instrument of Government, public institutions shall “combat discrimination of persons on grounds of gender, colour, national or ethnic origin, linguistic or religious affiliation, functional disability, sexual orientation, age or other circumstance affecting the individual”.

As of 1 January 2011, an extended constitutional provision to provide protection against discrimination applies. This means that the protection contained in Chapter 2, paragraph 12 now also covers discrimination on the grounds of sexual orientation.

The Discrimination Act

The purpose of the Discrimination Act (2008:567) is to combat discrimination and promote equal rights and opportunities regardless of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.

In July 2012, the Government decided to appoint an inquiry (ToR 2012:80) that is to propose how requirements for active measures in the Discrimination Act are to be formulated and clarified so as to be more effective in the work to prevent discrimination and bring about equal rights and opportunities.

Penal legislation

There are a number of penalty provisions that counteract actions or expressions of a homophobic or discriminatory nature. Certain provisions directly target such expressions. For example, threatening or expressing contempt for a national or ethnic group or another group of persons with allusion to sexual orientation constitutes the offence of agitation against a national or ethnic group. This offence may lead to fines or up to four years' imprisonment. Another example is the provision on unlawful discrimination, which makes it an offence, for example in the conduct of business, to discriminate against someone on the grounds of sexual orientation.

Even more general penalty provisions – for example those regarding assault, unlawful threats, molestation, insulting

behaviour and defamation – protect individuals against abuse and maltreatment of a homophobic or transphobic nature. If a motive for the offence was to violate a person or group of persons on grounds of sexual orientation or transgender identity or expression, this is a further aggravating circumstance that is to be taken into account when determining the penalty.

Family law

The Marriage Code and other statutes involving spouses are gender neutral. This means that a person's gender has no bearing on the possibility of entering into marriage in Sweden.

Married couples and registered partners are eligible to be considered as adoptive parents. Married couples, registered partners and same-sex cohabitants may also be given joint custody of a child.

On 1 July 2013, the sterilisation requirement for gender identity changes was repealed. This enables transsexual persons who intend to change their gender identity to become parents.

The Law on Genetic Integrity (2006:351) also makes assisted fertilisation with donated sperm permissible when a woman is the registered partner, spouse or cohabitee of another woman. The partner, spouse or cohabitee is to be regarded as the parent of the resultant child together with the fertilised woman, provided that she has agreed to the treatment and that it can reasonably be assumed that the child was conceived through such treatment. The parental status of the spouse, partner or cohabitee is established through acknowledgement or a judgment.

The government decided in June 2013 to appoint an inquiry to consider ways to expand the possibilities for involuntary childless people to become parents. The assignment will include proposing a regulation entailing single people access to assisted fertilisation in the same extent as for married couples and cohabitants and to consider whether surrogacy should be allowed in Sweden, with the starting point that it in that case should be altruistic. The assignment will also include to consider whether egg donation within a marriage or cohabitation should be allowed and whether the woman in a same-sex marriage or cohabitation who has not given birth to the child should be acknowledged as parent of the child when the assisted fertilisation has occurred abroad or privately. The part of the assignment relating to single persons access to assisted fertilisation should be reported no later than 14 May 2014. The remaining parts of the assignment should be reported no later than 24 June 2015.

Agency mandates and measures

Equality Ombudsman

The principal task of the Equality Ombudsman (DO) is to ensure compliance with the Discrimination Act. The Equality Ombudsman receives and investigates complaints relating to the prohibitions against discrimination and harassment specified in the Act. The Equality Ombudsman may also represent victims of discrimination free of charge in court. A further duty of the Equality Ombudsman is to monitor and scrutinise how employers, higher education institutions and schools are meeting the requirements of the Act concerning measures to prevent discrimination.

Instructions to government agencies

The rights and opportunities of lesbian, gay, bisexual and transgender (LGBT) persons are also addressed in Government mandates to public agencies.

The Government has given the National Agency for Education several assignments that involve particular consideration of the situation of young LGBT persons, including a renewed mandate to strengthen the fundamental values of schools and efforts to combat discrimination and abusive treatment, and a mandate to carry out gender equality initiatives within the school system. These assignments are being run between 2011 and 2014.

The Swedish National Board for Youth Affairs has had a government assignment to conduct an in-depth analysis of the health situation among young LGBT persons and young transgender persons. The analysis shows that improving the health of young LGBT persons requires safe meeting places where no one is questioned due to their sexual orientation or transgender identity or expression. As a consequence, the Government instructed the Board to develop methodological materials aimed at youth recreation leaders. The material was completed in March 2011 and aims at making it easier for existing local meeting places to more explicitly include young LGBT persons in their activities. Since it is important to develop the skills of youth recreation leaders and create open and prejudice-free environments for young LGBT persons, the Government has tasked the National Board for Youth Affairs to carry out training programmes between 2011 and 2013.

On Government instructions, the Board has also conducted a study of the attitudes and experiences of boys and young men concerning gender equality, masculinity and violence. On the basis of the findings, the Board will implement educational measures in 2013 and 2014 to disseminate methods and provide knowledge support to initiatives on attitudes and values regarding gender equality, masculinity and violence.

The Board has also been instructed to survey the efforts of local associations to prevent and hinder the sexual abuse of children and young persons based on a child rights and gender equality perspective. The survey is also to focus on young LGBT persons. A report is to be presented by 2 February 2015.

Strategic work

Human rights work in Sweden

Systematic and continuous work for the protection and

promotion of human rights in accordance with Sweden's international commitments is a priority for the Government. The Government's human rights work at national level has been conducted on the basis of two action plans (Govt. Communication 2001/02:83 and Govt. Communication 2005/06:95). Since the expiry of the second action plan, opinions and other material regarding the future work have been gathered. Among other measures, a survey of the human rights situation in Sweden has been conducted.

The Government's work to combat violence in the name of honour and violence in same-sex relationships

The Government is following up the major initiative introduced within the context of the action plan to combat men's violence against women, violence and oppression in the name of honour and violence in same-sex relations. Among other things, the Government is stepping up efforts to prevent and combat rape and other sexual abuse. The Government is contributing to efforts to develop an organisation at Karolinska University Hospital for the prevention of sexual violence (Preventel), the Swedish National Board of Housing, Building and Planning has been instructed to improve security in urban and densely populated areas and the National Police Board will carry out a campaign to encourage more persons to report violence in close relationships. As a part of the task of promoting gender equality, the National Agency for Education offers in-service training to school principals, teachers and other staff on how they can work with issues concerning honour-related violence and oppression in their fields.

The county administrative board in Östergötland will implement initiatives to prevent and hinder young persons from being forced to marry against their will or being subjected to violence and oppression in the name of honour. These initiatives will draw attention to the situation of girls and boys, young women and young men, and young LGBT persons.

The Government continues to reinforce initiatives to counter violence in close relationships, including violence against LGBT persons. In April 2012, a national coordinator was tasked with making a concerted effort in this area. The coordinator's tasks include bringing together and supporting the relevant agencies, municipalities, county councils and organisations to improve the effectiveness, quality and sustainability of the work. Where relevant, the coordinator is to take account of the LGBT perspective within the framework of the assignment.

The National Board of Health and Welfare distributes funds to organisations that work to develop criminal victim activities for LGBT persons who have been subjected to violence in a close relationship. The assignment will continue until 2014.

The Government's work to combat prostitution and human trafficking for sexual purposes

The Government's ongoing efforts to combat prostitution and human trafficking for sexual purposes continue to be highly ambitious.

Under the Government's action plan against prostitution and trafficking for sexual services, the Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights (RFSL) investigated the scope and situation of persons who buy and sell sexual services and persons who are vulnerable to trafficking for sexual purposes within LGBT groups and to spread the knowledge that they have acquired. RFSL presented its findings in a report presented to the Government Offices in March 2011.

In 2012, the National Board for Youth Affairs was tasked with producing information that targets girls and boys to prevent them being exposed to sexual exploitation via the internet and other interactive media where the situation of young LGBT persons needs attention. A report on the assignment is to be presented on 15 February 2014.

At the end of 2012, the National Board of Health and Welfare was instructed to regularly examine development trends in prostitution and the need for support and assistance as seen by the persons who sell and buy sexual services. Within the framework of the assignment, the National Board of Health and Welfare is to examine whether the health and medical care system is in need of further knowledge in order to better meet these persons needs. The assignment includes planning in order to support the implementation of the knowledge support that is developed/ revised. LGBT persons who purchase and sell sexual services will also be highlighted within the framework of the assignment. The Board is to cooperate with other relevant authorities, for example the County Administrative Board and its work on issues regarding prostitution and trafficking. The National Board of Health and Welfare is to report on this assignment every other year, beginning in March 2014.

The Government's work for more equality in health care

In December 2012, the Government presented the *Strategi för en god och mer jämlik vård 2012-2016* (Strategy for quality and more equality in health care 2012–2016). The Strategy provides a basis for the Government's efforts to combat unjustified disparities in health care.

One of the areas where there are challenges is LGBT persons access to equality in health care. It is important that county council and municipal health care services have the knowledge required to provide quality and professional treatment where individual patients have confidence and trust in the health care services. This includes LGBT persons not having to forgo care for fear of being subjected to hidden or unconscious discrimination. In light of this, in June 2012 the Government instructed the National Board of Health and Welfare to develop a training package for the in-service training of health care staff on different aspects of dignified and professional treatment and behaviour in health care services. This task is part of the Government's strategy for equality in health care and is to be carried out in dialogue with the Office of the Equality Ombudsman, the Swedish Association of Local Authorities and Regions and relevant organisations.

The training package is to include knowledge about the groups covered by the legislation's protection against discrimination and that typically risk being subjected to

discrimination. A further aim of the training package is to impart knowledge about current legislation and the role of the health and medical care system in reducing disparities in the prospects for the highest attainable standard of health. The training package will also provide information on how discrimination is manifested in health care, the importance of targeted information and methods to systematically work with how LGBT persons are treated, such as accessibility in one's own organisation. This involves imparting knowledge about the importance of not taking irrelevant consideration of gender, gender identity, gender expression and sexual orientation.

Strengthened knowledge support in the care of transgender persons The report *Transsexuella och övriga personer med könsidentitetsstörningar* (Transsexual and other persons with gender identity disorders, Socialstyrelsen 2011) states that there are shortcomings in health and medical services with regard to the care and treatment of transsexualism and transgender persons.

In light of this, the National Board of Health and Welfare has been instructed to develop knowledge support aimed at the health and medical care profession with recommendations on the content of assessments, care and treatment as well as aftercare and follow-up of transsexualism. It is also to contain recommendations on the content of assessments and any care and treatment as well as aftercare and follow-up of other gender identity disorders. The knowledge support will draw attention to the situation of adults, children and young persons.

The National Board of Health and Welfare will also produce information for patients, based on the knowledge support and, where relevant, the conditions required to obtain a declaration of changed gender. Furthermore, information aimed at health and medical care staff is to be produced. The Board is also to take account of the target groups' possible need for information about discrimination legislation.

Continued work to strengthen the rights of LGBT persons

LGBT persons are still subjected to discrimination and other degrading treatment in Swedish society. This is unacceptable and the work for equal rights and opportunities for LGBT persons is a priority issue for the Government. Several measures have already been taken to strengthen rights and opportunities regardless of sexual orientation and transgender identity or expression. The matter of how the rights and opportunities of LGBT persons can best be promoted is currently being considered at the Government Offices.

Support to organisations

The National Board for Youth Affairs deals with applications for government grants in accordance with three ordinances, all of which aim to promote equal rights and opportunities regardless of sexual orientation and other factors. Such grants are available to organisations for LGBT persons, to activities against racism, homophobia and similar forms of intolerance, and to local anti-discrimination bureaux.

International work

Homosexuality is still prohibited in some 80 countries. In a number of states, there is considerable reluctance to treat homosexuality as a human rights issue, let alone discuss sexual orientation or transgender identity or expression.

Sweden works actively to encourage all countries to decriminalise sexual contact and love relationships between adults of the same sex and is pressing for the introduction of legal protection against discrimination on grounds of sexual orientation and transgender identity or expression. Sweden also raises the situation of LGBT persons in policy dialogues with other countries and as part of the Universal Periodic Review conducted under the auspices of the UN Human Rights Council.

The operational toolkit that was launched in 2010 in support of EU delegations' and EU ambassadors' work to strengthen LGBT persons human rights is being used and followed up. The negotiations on the EU guidelines for this work are ongoing.

Together with a number of other Member States, Sweden call for a comprehensive approach on LGBT issues, aiming at improving human rights and mainstreaming equality for LGBT persons across the European Union.

In the Council of Europe, Sweden has worked actively to promote both the drafting and the final adoption of a recommendation on protection against discrimination on grounds of sexual orientation or transgender identity or expression. The recommendation was adopted by the Committee of Ministers in March 2010. Sweden, like many other countries, has reported to the Council on the implementation of the LGBT recommendation.

The right to freedom from discrimination and persecution on grounds of sexual orientation is not explicitly listed among the grounds of discrimination in UN human rights conventions. However, several of the monitoring committees assigned to monitor the application of the conventions have noted that the prohibition of discrimination in the conventions also includes sexual orientation. The European Court of Human Rights has made the same interpretation.

In June 2011, the UN Human Rights Council adopted a historic resolution that expresses deep concern about the acts of violence and discrimination against LGBT persons. In December 2011, the High Commissioner for Human Rights submitted its first report on conditions facing LGBT persons in accordance with the resolution that was the subject of a panel debate in which Sweden contributed its expertise. Work on following up the resolution is ongoing.

The rights and conditions of LGBT persons are among the EU's priorities for work in the United Nations General Assembly. Sweden worked actively at the 2012 United Nations General Assembly concerning the resolution on extrajudicial killings, which now refers to both 'sexual orientation' and 'gender identity'.

The rights of LGBT persons are one of the prioritised areas that the Government emphasises in development cooperation. The overall aim is to help improve the living conditions of LGBT persons in the countries with which Sweden has development cooperation. The Swedish International Development Cooperation Agency (Sida) is currently producing a new action plan for its work on these issues that is to apply from 2013. Support to organisations working on the rights of LGBT persons has increased in recent years and, within its International Training Programme (ITP), Sida is contributing to capacity development and processes of change with courses on LGBT persons and human rights.

Issues concerning LGBT persons comprise a major strategic area for Sweden's work to promote sexual and reproductive health and rights (SRHR) in bilateral and multilateral development cooperation. In 2012, the Government adopted a regional strategy for development cooperation in Africa targeting HIV and AIDS, SRHR and the rights of LGBT persons.

New EU directive on discrimination

In July 2008, the European Commission presented a proposal for a directive prohibiting discrimination on grounds of religion or belief, disability, age or sexual orientation. The aim is to combat discrimination outside working life by ensuring the same level of protection against discrimination regardless of the grounds of discrimination. The Government has advocated a broad anti-discrimination directive and considers that it is important to ensure a common minimum level of protection against discrimination within the EU regardless of the grounds of discrimination.

Read more

Government website: www.regeringen.se

The Government's human rights website:

www.manskligarattigheter.gov.se

Office of the Equality Ombudsman: www.do.se

National Board for Youth Affairs:

www.ungdomsstyrelsen.se



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Questions about the contents of this fact sheet can be addressed to the Division for Discrimination Issues, tel: +46 8 405 10 00. Additional copies of the fact sheet can be printed from the Government website: www.regeringen.se/publikationer.

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