

## **Norwegian legal framework and policies on child welfare and protection**

### **Regulations and practices**

**October 2022**



This document is part of the European Erasmus+ KA202 Project, "Participation and Collaboration for Action", acronym PANDA, Sept. 2020 – Aug. 2023. The project involves 4 European Universities: Artevelde University of Applied Sciences (Belgium), Norwegian University of Science and Technology (Norway), Queen's University Belfast (Northern Ireland) and Universidad Complutense de Madrid (Spain). It also involves 4 organisations: Growing Up (Belgium); Trondheim Kommune/Link (Norway); Voice of Young People in Care, VOYPIC, (Northern Ireland) and Fundación Secretariado Gitano, FSG (Spain).

Authors: Langsrud, Elizabeth (section 2, 3 and 4) Skrove, Gaute; Hernes, Solvår (section 5).

# Content

- Introduction..... 3
- 1. Introduction..... 4
- 2. International laws about child participation – what is their significance within Norwegian law? 4
- 3. Internal Norwegian legal guarantees for children ´s right to participate..... 5
  - 3.1 The Constitution of the Kingdom of Norway of 17 of May 1814 (The Constitution)..... 5
  - 3.2 Child Welfare Act of 17 July 1992 no. 100 (current law related to CWS) ..... 5
  - 3.3 Regulations on participation and trustee of 1 June 2014 no. 697 ..... 6
  - 3.4 Child Welfare Act of 18 June 2021 no. 97 (New law related to CWS not entered into force)..... 7
  - 3.5 Other general legislation that expresses child participating or co-determination..... 7
- 4. The application of law: the necessity of practices to ensure children ´s right to participate..... 8
- 5. "Snap-shots" of two organizational actors’ perspectives on child participation ..... 9
  - 5.1. Ålesund and Fjord ..... 9
  - 5.2. Trondheim ..... 10
  - 5.3. Redd Barna..... 10
  - 5.4. Questions ..... 10
  - 5.5. Answers ..... 10
  - 5.6. Summary and comment..... 15
- References ..... 15

# Introduction

The aim of the PANDA project is to promote the participation of young children (aged 12 years and under) in decision making in a transnational context through strengthening professionals' collaboration with young children known to social services, especially in child welfare and child protection.

Led by 8 partner organisations comprising social workers, managers, policy officers, academics and trainers from four countries, Belgium, Spain, Norway and Northern Ireland, the project has three objectives:

- to increase the skills and knowledge of professionals by creating a media library;
- to support organisations to create the conditions necessary for participatory social work with young children by providing a framework for policy officers and managers to support the implementation of a participatory approach;
- to provide trainers with new tools and methods in this area.



Figure 1 PANDA concept (2022)

In this text, you can read about the main legal framework in the four participating countries. It are four examples of how International legislation is translated into regional child welfare and child protection systems.

Each country has structured the presentations somewhat differently, but all have described how the authorities take care of and include the most vulnerable children in their country.

## 1. Introduction

The following text are about the Norwegian legal framework and policy on child welfare and protection, and three organisations reflection on child participation in practice.

## 2. International laws about child participation – what is their significance within Norwegian law?

Convention on the Rights of the Child (CRC) was incorporated into the Norwegian internal Human Rights Act (HRA) in 2003, and therefore applies as Norwegian law.<sup>1</sup> Hereby, the Norwegian authorities are bound to comply with the provisions of CRC. This means that both state authorities and municipal bodies, such as the Child Welfare Service (CWS), must carry out their tasks within the framework of CRC and other human rights.<sup>2</sup> In other words, article 12 of the CRC forms the basis for children's right to participate under Norwegian law. Art. 12 (1) reads as follows:

*1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*

CRC is slowly gaining ground into the Supreme Court of Norway, which has resulted that art. 12 in recent years have been a topic in several cases.<sup>3</sup> The UN Committee on the Rights of the Child has issued a general comment as a guide for states on how to understand and anchor art. 12 within national law.<sup>4</sup> The Supreme Court of Norway has stated that general comments are not legally binding, but that they will be relevant as sources of law in determining the detailed content of CRC´s provisions.<sup>5</sup> Furthermore, The Supreme Court has stated that the weight of this kind of statement depends in the extent to which is anchored to the wording of the CRC.<sup>6</sup>

---

<sup>1</sup>. Cf. Human Rights Act of 21 May 1999 no. 30 Section 2 no. 4.

<sup>2</sup>. Should there be a conflict between one of the provisions of CRC and a Norwegian legal provision, the Provision of CRC shall take precedence, cf. Human Rights Act Section 3.

<sup>3</sup> Lucy Smith, FNs konvensjon om barnets rettigheter [UN Convention on the Rights of the Child]. In Njål Høstmælingen, Elin Saga Kjørholt and Kirsten Sandberg (eds.). *Barnekonvensjonen: barns rettigheter i Norge* [The Convention on the Rights of the Child: Children's rights in Norway]. Universitetsforlaget 2020, p. 19-33 (p. 30.).

<sup>4</sup> Cf. General Comment no. 12 (2009) *The right of the child to be heard*.

<sup>5</sup> Cf. Rt. 2009 p. 1261 para. 41, cf. also Rt. 2015 p. 1388 para. 151 and HR-2018-2096-A, para. 14.

<sup>6</sup>. HR-2018-2096-A, para. 14.

### 3. Internal Norwegian legal guarantees for children´s right to participate

#### 3.1 The Constitution of the Kingdom of Norway of 17 of May 1814 (The Constitution)

On 14 May 2014, key human rights provisions were included in The Constitution, including a separate provision on children's rights, cf. Section 104. Subsection 1, second sentence reflects the CRC´s general principle of children´s right to be heard in art. 12 (1). The provision is closely linked to the wording of CRC and gives the right to participate constitutional rank: *They [children] have the right to be heard in matters concerning themselves, and their opinion shall be given weight in accordance with their age and development».*

Both CRC and The Constitution refer to “*the right to be heard*”, which implies a right to participation.<sup>7</sup> However, according to its wording, the latter is limited to issues that directly *concern* a child, in contrast to the CRC where it is sufficient for a child to be *affected*.<sup>8</sup> Therefore, CRC must be used in addition to The Constitution, as the former gives the child extended rights to participate, e.g. rights to participate in society in a general democratic way.<sup>9</sup> However, according to legal theory, art. 12 doesn´t go as far as to give the child party rights in cases which they are involved.<sup>10</sup>

#### 3.2 Child Welfare Act of 17 July 1992 no. 100 (current law related to CWS)

As the CRC already entail legal obligations for the CWS to allow children to participate in all cases concerning the child, the provisions of the Child Welfare Act may seem redundant. Because, even if the general law doesn´t contain a similar provision, art. 12 of the CRC is still a relevant legal source in Norwegian law.<sup>11</sup> However, there are several important reasons for the provisions on children's participation are included – not only in The Constitution – but also in the Child Welfare Act and other general laws that regulate matters concerning children. Firstly, it helps to make visible the right of participation for the law enforcer who takes actions and make decisions that affects children. Secondly, it can help to clarify the significance of the child's participation upon a specific law.<sup>12</sup> In addition, pedagogical references in general legislation may contribute to give this important topic greater attention in Norwegian administrative practice.

---

<sup>7</sup>. Cf. General Comment no. 12, para. 3.

<sup>8</sup>. Lena R. L. Bendiksen and Trude Haugli, *Sentrale emner i barneretten [Key topics in Children´s law]*. Universitetsforlaget 2021, p. 56.

<sup>9</sup>. Kirsten Sandberg, «Barns rett til å bli hørt» [Children´s right to be heard]. In Njål Høstmælingen, Elin Saga Kjørholt and Kirsten Sandberg (eds.). *Barnekonvensjonen: barns rettigheter i Norge [The Convention on the Rights of the Child: Children´s rights in Norway]*. Universitetsforlaget 2020, p. 98-130 (p. 99).

<sup>10</sup>. Prop. 133 L (2020-2021) *Lov om barnevern (barnevernsloven) og lov om endringer i barnevernsloven [Child Welfare Act and Act on amendments to the Child Welfare Act]*, p. 372.

<sup>11</sup>. Bendiksen and Haugli 2021, p. 45.

<sup>12</sup>. Kirsten Sandberg, *Barnets beste i lovgivningen. Betenkning til Barnevoldsutvalget [The best interest of the child in law. Report to the Child Violence Committee]*. 2016, p. 5.

In 2018 amendments were made in the Child Welfare Act that clarified the child's right to participation and introduced new requirements of documentation.<sup>13</sup> According to Section 1-6, children who can form their own views have the right to participate. The provision emphasizes that it applies in "*all matters concerning the child*".<sup>14</sup> There is *no age limit* for the child's right to participate – which is in accordance with both the CRC and The Constitution. The absence of an age limit requires the CWS to exercise discretion in the individual case regarding *when* and *how* the child should participate. However, this harmonizes with the understanding of the Child's right to be heard as an integral element in the CWS's assessment of what's in the child's best interest – a consideration that must be taken into account in every case, regardless of the child's age.<sup>15</sup>

The right to participation is further strengthened through Section 1-7 of the Act, which stipulates that the CWS shall carry out its work with respect for and as far as possible in collaboration, not only with the parents, but also with the child. Plus, Section 6-3a stipulates, that the CWS's reasons for the decisions made must contain, among other things, the child's opinion and how this is emphasized in the case.

In Section 6-3, Subsection 1 there is a special rule which sets a minimum age of 7 years for participation in connection with legal and administrative decisions made by the CWS or the County board. According to the preparatory work, the age limit imposes an unconditional duty on the authorities to provide the child with information and allowing the child to express themselves. And moreover, an obligation for the CWS or the County board to make a specific assessment in the individual case whether a younger child can form his or her own views.

In addition to provisions that directly address the child's right to participate, the Act also contains provisions where this right is reflected more indirectly, such as Section 4-3 where conversations with the child are emphasized as a key activity in an investigation.

### **3.3 Regulations on participation and trustee of 1 June 2014 no. 697**

The Children's Committee's recommendation is that participation in practice takes on the character of participation, in the form of an ongoing exchange of information and exchange of opinions between the adults and the children.<sup>16</sup> This elaboration of how the child's right of participation can be translated into the CWS's practice is expressed in Norwegian law in a separate regulation to the Child Welfare Act.<sup>17</sup> Section 5 of the regulations operationalizes the child's right to participation as "*a process that must be exercised throughout the course of the case*".

---

<sup>13</sup>. Cf. Regulations of 1 June 2014 no. 697 on participation and trustee Section 7.

<sup>14</sup>. Cf. Prop. 169 L (2016-2017). *Endringer i barnevernloven mv. (bedre rettsikkerhet for barn og foreldre)* [Amendments to the Child Welfare Act etc. (better legal security for children and parents)]. The provision entered into force 1 July 2018.

<sup>15</sup>. Cf. General Comment no. 12, para. 74 and General Comment no. 14 (2013) *on the right of the child to have his or her best interest taken as a primary consideration* (art. 3, para. 1), para. 53.

<sup>16</sup>. Cf. General Comment no. 12 para. 3.

1.1.1 <sup>17</sup>. Cf. Regulations on participation and trustee, cf. Section 4-1 of the Child Welfare Act.

### **3.4 Child Welfare Act of 18 June 2021 no. 97 (New law related to CWS not entered into force)**

As a result of the European Court of Human Rights' (ECtHR) to repeatedly found that Norway has violated art. 8 of the European Convention of Human Rights (ECHR), the Storting asked the government to ensure that the proposals in the new child welfare law are in line with Norway's human rights obligations.<sup>18</sup> On the basis of this general focus on child rights, the new Child Welfare Act contains several provisions that aim to contribute to strengthening children's rights and participation in child welfare cases.<sup>19</sup> Among other things, a new provision that entails an exception from private parties' right to access documents to facilitate the child being able to explain themselves as freely as possible to the CWS. For pedagogical and legal security reasons, reference is also made to the Act's introductory provision on the child's right to participation elsewhere in the Act, such as in chapter 10 which regulates institutional placement of the child.<sup>20</sup> Plus, the earlier mentioned 7-year reference in the previous law has been omitted.<sup>21</sup>

### **3.5 Other general legislation that expresses child participating or co-determination**

The following list of examples which address children's rights to participate (or co-determination), is not directly related to the duties of CWS, however, it helps to draw a picture on the influence from the CRC upon the internal laws. In accordance with art. 12 these provisions, together with those mentioned above, are only stating *the right* for the child to express themselves and does not in any way impose any legal obligation to participate.

- Section 31 of *Act relating to Children and Parents* (8 April 1981 no. 7) gives the child a right of co-determination in the family, following the parent's duty to hear the child's opinion before they make decisions about private matters concerning the child.
- Section 17, Subsection 4 of *the Guardianship Act* (26 March 2010 no. 9) gives the young person the right to be heard in financial matters regarding him or her.
- Section 11-1, 11-1a, 11-15 and 11-15a of *the Education Act* (17 July 1998 no. 61) gives students co-determination in school through the council's duty to appoint student councils and allow students to participate in the school's cooperation committee etc.
- Section 3 of *the Kindergarten Act* (17 June 2005 no. 64) gives the child a right to participate and co-determination at daily activities in the Kindergarten.
- Section 3-1, Subsection 1 third and fifth sentence of *Patients' Rights Act* (18 July 1999 no. 63) gives children the right to information and to be heard, in accordance with the child's age and

---

<sup>18</sup>. Cf. Decision of request of 28 May 2020 no. 637.

<sup>19</sup>. Cf. Prop. 133 L (2020-2021), Innst. 625 L (2020-2021) *Innstilling fra familie- og kulturkomiteen om Lov om barnevern (barnevernsloven) og lov om endringer i barnevernsloven [Recommendation from the Family and Culture Committee on the Child Welfare Act (the Child Welfare Act) and the Act on Amendments to the Child Welfare Act] and Lovvedtak 173 (2020-2021) Lov om barnevern (barnevernsloven) [Legislative resolution. 173 (2020-2021) Child Welfare Act (Child Welfare Act)]*.

<sup>20</sup>. Cf. Section 10-2, Subsection 1 first sentence which refers to the child's right to be heard and participate in accordance with Section 4-1 of the Child Welfare Act.

<sup>21</sup>. Cf. Prop. 133 L (2020-2021), p. 88.

maturity.

- Section 17, Subsection 1 second sentence of *Public Administration Act* (10 February 1967) gives the council's a duty before making administrative decisions to let minor parties express his or her opinion on the matter.
- Section 5-12 of *the Local Government Act* (22 June 2018 no. 83) gives children co-determination at the societal level by stipulating that all municipalities must have their own youth body or a similar forum.
- Section 3-3, Subsection 3 of *Planning- and Building Act* (27 June 2008 no. 71) gives a duty to establish a system to safeguard children's interests during preparation of municipal plans.

#### **4. The application of law: the necessity of practices to ensure children's right to participate**

However, children's rights can not only be viewed as formal guarantees of legal security such as legal provisions. Although a good legal basis is a necessary precondition for the child's right to participation, the safeguarding of such rights will largely depend on factors other than the law.<sup>22</sup> In practice, the rule of law will not extend beyond what is actually followed by, e.g. the CWS. Whether, and to what extent, CRC, and national provisions on the right of children to participate in practice is considered, depends on whether the provisions are known to those who are set to administer them. Despite a legal basis for participation, audits reports and research reveals that many children are not heard in CWS cases.<sup>23</sup> This knowledge base indicates the need for knowledge, skills, and willingness of those who take actions and decisions that affects children to ensure the protection of the child's rights through their practice. This is largely about the challenging *how* to operationalize a right to participate.

An example that can illustrate the important relationship between the legal basis and the application of the law is the ECtHR's handling of a large number of Norwegian child welfare cases, where Norway so far has been convicted in 8 out of 10 cases for violating art. 8 of the ECHR.<sup>24</sup> According to the judgments, the challenge does not lie in a contradiction between CRC and our current Child Welfare Act, but in the CWS and Norwegian courts practice of the legal basis – more precisely not making a “fair balance which has to be struck between the relevant competing

---

<sup>22</sup>. Sandberg 2016, p. 5.

<sup>23</sup>. See e.g. Sivilombudsmannens uttalelse i sak SOMB 2016/1152 om *Barns rettigheter ved barneverntjenestens avgjørelser* [Ombudsman's statement in Case SOMB 2016/1152 about *Children's rights within administrative decision from the CWS*] and Havnen, Karen J. Skaale et. al. (2020). *Barnevernets undersøkelsesarbeid – fra bekymring til beslutning. Delrapport 5 [The Child Welfare services investigation work – from concern to decision. Interim report 5]*, pp. 61-70.

<sup>24</sup> . ECtHR has communicated a total of 39 cases admitted to the court, and so far, 10 cases have been processed.

interests".<sup>25</sup> The criticism from the ECtHR is being followed up by the Norwegian government in different ways, including a forthcoming establishment of criteria for the weighting of the child's views against other considerations.<sup>26</sup>

## **5. "Snap-shots" of two organizational actors' perspectives on child participation**

In order to illustrate, very tentatively, how the legal framework of child participation can look like from an actor-perspective, we have asked several informants from three organizations five questions. Two of the organizations are municipal child welfare services from two different cities in Norway. One is Ålesund and Fjord child welfare service, which is an associated partner in the PANDA - project. The other is Trondheim child welfare service. The municipality of Trondheim is a partner in the PANDA-project. The third participant asked is the Norwegian branch of a NGO, Redd Barna (Save the Children), with whom PANDA Norway have had some correspondence. One informant from Redd Barna answered the questions during an internet meeting, while a research assistant wrote notes from the conversation. One informant from Ålesund and Fjord sent a written response. The information from the inquiry is not "thick" data, and the following presentation, by one of the research assistants and a social work practitioner working with PANDA Norway, is meant to be illustrative. These are snapshots of how actors describe the topics addressed by our questions.

### **5.1. Ålesund and Fjord**

The Norwegian child welfare system consists of a municipal part and a state part. The municipal part (the child welfare services) is responsible for ensuring children and young people safe and good conditions for growing up. The state part is, among other things, responsible for establishing and operating institutions and assisting the municipalities in recruiting and arranging foster homes. Ålesund municipality and Fjord municipality have a joint child welfare service. The service has two branch offices. Ålesund municipality were, in 2020, registered with 59,8 man-years in the child welfare service. 46,4 of these were man-years associated with administration and proceedings. For Fjord municipality the number of man-years were 3,9 for both the total child welfare man-years, and man-years associated with administration and proceedings (SSB, 2021). The general legal frame, with relevance for the welfare services activities related to child participation, is discussed above (more will be said about frameworks for both informants under the headings 3.1, 3.2 and 3.3). Our informant leads the investigation-team of Ålesund and Fjord child welfare services.

---

<sup>25</sup> . E.g. European Court of Human Rights. *Case of Strand Lobben and others v. Norway* (37283/13), 2019, para. 203.

<sup>26</sup> . Cf. Prop. 133 L (2020-2021), p. 60.

## **5.2. Trondheim**

The child welfare services of Trondheim serve a greater population than Ålesund and Fjord. It has five branch offices and comprise both casework and counselling programs. We have spoken with five separate caseworkers representing three of the branch offices. The general legal frame, with relevance for the welfare services activities related to child participation, is discussed above (headings 3.2, 3.3 and 3.4).

## **5.3. Redd Barna**

Redd Barna is a member of the global Save the Children, which has over 24,000 employees in 122 countries. Redd Barna is a member-run organization, politically and religiously neutral, and has about 200 employees. The head office is located in the Norwegian capital, Oslo, and there are five regional offices. Redd Barnas work is anchored in statutes (Redd Barna, 2018), adopted by the Redd Barnas national board, articles of association (Redd Barna, 2019a), adapted by the member board, and Norwegian law. The statutes are above the articles of association. Save the Children's values are based on the UN Convention on the Rights of the Child and the Universal Declaration of Human Rights, and this is reflected in Redd Barnas statutes and articles of association, as well as their political strategy document (Redd Barna, 2018b). Our informant is an advisor on children's participation in the domestic program of Save the Children Norway.

## **5.4. Questions**

1. Which guides published by the government do you use when addressing children's participation and cooperation with children?
2. Have separate "guides" been made for the organization? Does the organization have its own guides for children's participation and collaboration with children?
3. Can you tell us about your practices regarding children's participation in general and children under 12 in particular?
4. What would you say about the degrees of freedom (the Norwegian word "rom" translate to "room" or "space") for exercising discretion in matters of children's participation and cooperation with children?
5. Is the theme of children's participation and cooperation with children included in the organization's quality plans?

## **5.5. Answers**

### Answers to questions 1, 2 and 5

These three questions are related, and are treated as one in this presentation.

**Ålesund and Fjord:** Ålesund and Fjord municipalities hasn't made local guides for children's participation but use the guide "Snakk med meg!" ("Talk with me!"), published by the Ministry of Children and Equality in 2009. [This is a "package", intended to be an aid at getting more skilled talking to children and young people in child welfare, which consists of an inspirational DVD and a

guide built around two questions. Why is the conversation important? How can it be implemented? The DVD provides inspiration for how the conversations can be conducted, and the guide substantiates with theoretical understanding and practical advice.] According to the informant, the organization has experienced, in recent years, an increasing focus on talking with children. For example, templates have been prepared for writing decisions, which ensures that the child's voice is always documented. Among other things, the decision must show how the child has been allowed to participate and say his or her opinion, such as what the child thinks about his or her situation, and her or his opinion about measures to be implemented. If a child interview hasn't been conducted, this must be justified. Furthermore, it must say something about how the child welfare service professionally assesses what the child thinks, what the service believes is in the child's best interests, and why. The tool "Snakkemedbarn" (trans. "Talkwithchildren"; see [www.snakkemedbarn.no](http://www.snakkemedbarn.no)) is also used by several employees. [This is an open access internet-tool package consisting partly of simulations of conversations ("snakkesim") with children where there are reasons for concern, and partly other material for developing understanding and skills]. Ålesund and Fjord has an operational plan where children's participation and cooperation with children is a theme, according to which children's voices should be heard and children have the right to participate in all stages of a child welfare case.

**Trondheim:** All work is regulated by the Child Welfare Act. The Child Welfare Act states that all children who receive services under the Child Welfare Act have the right to participation and information about their own case. There is a demand that they be seen and heard and explained what their family concern is. This collaboration with children must be documented. In addition, the "Barnesamtalen" (Conversing with children) has been implemented as a method of talking to younger children. "Barnesamtalen" is a form of conversation that is to ensure that the children are taken care of and given time to come up with thoughts and opinions about their own situation.

The organization has not made its own written guidelines, but the informants report that there are clear organizational values that contain the importance of collaborating with all children. This is also a topic in common discussions, and in supervision. They support and supervise each other to find genuine and appropriate ways to involve the children. It has become more focused on participation and collaboration with children in recent years, though there still is a way to go.

**Redd Barna:** Redd Barna works on the basis of a perspective putting children's rights at the center. Their work on child participation deals primarily with what derives from Article 12 [respect for the views of the child] of the Convention on the Rights of the Child. Articles 13 (freedom of expression), 14 (freedom of thought, belief and religion), 15 (right to organize (freedom of association), 16 (right to privacy) and 17 (access to information from the media) are also relevant and central. The Committee on the Rights of the Child's (CRC) General Comment on art. 12 (CRC, 2009) is highlighted as a central document, and this is used roughly as a "guide". This document contains a formulation of 9 requirements / prerequisites for participation and for children to be heard (ibid. pages 29-31; see also Save the Children, 2021) which are of special interest. [All processes in which a child or children are heard and participate, must be: a) Transparent and informative b) Voluntary c) Respectful d) Relevant f) Child-friendly g) Inclusive h) Supported by training i) Safe and sensitive to risk j) accountable (ibid.). These nine criteria are elaborated upon by the CRC] Redd Barna, and Save the Children internationally, monitors and make plans based on these criteria. As part of their work

with children's participation, the criteria are actively applied. They are also used in the production of tools and aids. Sometimes Redd Barna adjust the formulations of the various criteria, making them more understandable, relevant and easier to act upon by various target groups. One example of this is a guide for student councils in Norway, where these prerequisites are communicated to those who participate in, and work with, student councils ("Elevrådshåndboka"). Participation can often be "a lot of form, and little content", and the nine principles lead attention to the quality of the work and process. The UN Committee on the Rights of the Child's General Comment also emphasizes this by seeing participatory work as process-oriented. Guides have also been created for participation in and for Save the Children (see <https://resourcecentre.savethechildren.net>). In particular, Redd Barna highlights a six volume manual for monitoring and evaluating children's participation (Lansdown & O'Kane, 2014). [covering topics such as conceptualizing participation, indicators for evaluating and monitoring participation, methods for involving children and stakeholders, and tools to help monitor and evaluate the scope, quality and outcomes of children's participation in any given service, programme, initiative or project]. These are publicly available and used by Save the Children both internationally and in Norway.

### Answers to question 3

**Ålesund and Fjord:** According to the informant, interviews with children must be conducted in every child welfare case. Ålesund and Fjord organizes employees in teams by which kinds of task they execute (see [https://www.bufdir.no/en/English\\_start\\_page/The\\_Norwegian\\_Child\\_Welfare\\_Services/stages\\_in\\_a\\_child\\_welfare\\_case/](https://www.bufdir.no/en/English_start_page/The_Norwegian_Child_Welfare_Services/stages_in_a_child_welfare_case/) for an overview of the different stages of a Norwegian child welfare case in English), and separates between the investigation team, the measure team and the out of home care team. The out of home care team, who works with the children and young people placed in foster care or in an institution, must always talk with the child [when making decisions, research assistant's interpretation]. For the investigation team, when conducting an investigation, the focus is on informing the children what the child welfare service is, and why it is desirable to talk to the child. An assessment, based on the child's age and maturity, is always made of what information the child should receive. Furthermore, the child is informed about the outcome of an investigation, and the child is asked what kind of help she or he wants for himself/herself or for the family. In practice this is not done in all cases, but Ålesund and Fjord's routines are in the process of being revised, in order for this to be implemented in all cases, including the youngest ones. If the children are not asked what kind of help they want, this is often due to an assessment of age and maturity. It also depends on what was the content of the note of concern is. In the measure phase, conducted by the child welfare service's measure team, the case managers will have conversations with the children, in order to evaluate whether the child is experiencing change / improvement. If whether an active case should be closed or not is under consideration, the child welfare service should always talk to the child first. This is adapted to the child's age and maturity. The CW measures team's self-assessment indicate they can profitably talk with children under 12 years of age more often than current practice.

**Trondheim:** Since caseworkers in Trondheim are bound by the same guides and law requirements, they report in quite similar ways as Ålesund and Fjord do to make sure participation takes place.

They also emphasize that in Trondheim all caseworkers are trained in “Barnesamtalen” which is a much-used tool. The children's ability to absorb information is assessed. What type of information can the child handle and when does information become a burden, etc.? The child is informed about his or her own case to the greatest possible extent. They must talk to the child several times during the investigation period. This is done through meetings at the children's home, at school or other arenas. In addition, information is obtained from others who know the child in order to gain a broader understanding of how the child is doing. When the children are between 6-12 years old, they must be carefully informed that the family is in contact with the child welfare service. After information has been provided, they can choose whether they want further meetings with the child welfare service or just be informed about the further proceedings. Caseworkers make arrangements to meet children in places chosen by the child. It can be at home, at school or other suitable places. When the children are under the age of six, caseworkers consider more carefully what information is given, however, their goal is to talk to every child over the age of four.

Our informants report that they use a number of methods when talking with young children. In addition to the "Barnesamtalen", they play games, draw, use clay, go for walks together and do other activities like writing personal letters, etc.

The informants continue to say that participation is a topic of reflection among colleagues. It's important to come across as genuine when meeting children. The values of being flexible, down to earth, respectful, and competent to establish a rapport are essential. They experience that it is best when they are confident in themselves and do not have too high expectations for the conversation. The most important thing is to be honest and open in order to help the young children understand why the child welfare services are meeting with them and to hear what the child wishes for. Being aware of non-verbal communication and reflecting emotions is possibly more important with young children, one informant said. The children can always bring a person in close relation to meetings with the child welfare service. After the assessment is done, the child has a say in the continued plan. It looks like the success rate for participation in this matter depends more on the relations between the family and the child welfare system than the age of the child. There are examples where the family, for different reasons, doesn't want their children to talk to the child welfare worker. This can be accommodated if the content of the note of concern “allows it.”

**Redd Barna:** In relation to children's participation, “influence” is a key concept in Redd Barna. Children must have influence in their own lives and in matters and decisions that concern them. Redd Barna works towards increasing children's influence in their own lives and in the societies where they live, and children's influence is also a guiding principle for their own activity that involves children. RB works with children's participation in both of these dimensions. In addition to development projects and national projects, Redd Barna/Save the Children also works locally, through local teams, and participates at the community level through consultations and collaborative projects with various state, regional and international actors. Among other things, they work with various research-networks, and with questions concerning how to utilize research. Redd Barna wants formal structures to be established, which ensure that children's influence is systematic, and the degree of children's influence is not accidental. Both advocacy work, and influence as a working principle, apply to work with all children, including children under 12 years

of age. More specifically, in work processes that involves children directly, Redd Barna works largely on the basis of Participatory Learning and Action (PLA) [a method developed further on the basis of Participatory Rural Appraisal. PRA's general aim is to incorporate the knowledge and opinions of rural people in the planning and management of development projects and programmes]. One example of a technique / application is "the Body Map". In this technique, the children draw an outline around the body, on large rolls of paper, and then use the body map as a means of communicating their view and experience of a topic of relevance to them. The informant in RB has used this method, for example, in connection with themes such as children's experiences of marital breakdown and children's experiences as refugees, and with children down to 8 years of age. The head can represent thoughts. The feet and hands can represent location. The mouth can represent whether or not you talk about a topic or experience. The heart is often the most central/crucial aspect in what children say. Shoulders can carry burden, become lighter, heavier, and so forth.

#### Answers to question 4

**Ålesund and Fjord:** Ålesund and Fjord describes using discretion in relation to whether one needs to talk to children, and when. The degrees of freedom for exercising discretion [about whether or not to talk with children] can be seen as more limited now than it was before. If they do not talk to the children, an assessment must be made of why / why not, and this assessment must be documented. There must be a professional assessment of why one does not talk to children at all stages of a child welfare case. It is, however, possible to exercise discretion as to when the child interview is conducted. For instance, at the beginning of an investigation - does one talk to the child or the parents first? To a large extent Ålesund and Fjord talks to the parents first.

**Trondheim:** In addition to what Ålesund and Fjord has described, the informants from Trondheim experience that there is room to be creative and find new ways to collaborate with children. However, the increased demands from regional and national regulations, can cause more standardized work methods, which can have a negative effect on employees' motivation to be creative and think outside the box.

**Redd Barna:** Redd Barna describes discretion as a principle which must be exercised. Children and young people are involved and influence the way the organization work. But some principles are fixed (cf. the committee on the right of the child's 9 criterias). One example of use of discretion is in discussions concerning children's participation in the public sphere and the balance between exposure and protection. This can be a dilemma, and there is much room for discretion. With freedom, there might also be risk, and risk is not always something negative. To Save the Children, it is important to find a good balance between these two, and not least to involve children themselves, and often also their parents and guardians, in the discussion. With freedom, there is also risk. This dilemma, as another example, Redd Barna sometimes encounters in connection with the dissemination of its own projects, where young people may want to take part in the discourse, and sometimes against the parents' wishes.

## 5.6. *Summary and comment*

Firstly, the guides and guidelines, which are referred to by the child welfare service, are more specific than the guides referred to by the NGO. While the latter are general enough principles to be applied almost universally, the first address particular practices within the child welfare case administration and proceedings.

Secondly, when describing practice, Ålesund and Fjord focus on securing that the child is heard. Redd Barna describes, on the one hand, an attempt at influence policy and thus strengthening children's participation. On the other, Redd Barna describes work with groups of children exploring different topics or life situations.

Thirdly, the Ålesund and Fjord-informant refers to discretion in relation to the where, when, if of talking to children. The Redd Barna-informant refers to discretion in relation to dilemmas occurring when principles, such as freedom and risk, are in conflict.

It could be interesting to contrast these two (types of) organizations more thoroughly than this format allows. While the child welfare service's work, on the one hand, is always concrete, in the sense of relating to an individual child's needs, and also determined by its own resources (or lack of resources), and child participation mediates between these two relatively material dimensions within the legal boundaries of the Child Welfare Act, the NGO's activities, on the other hand, are more directly rooted in children's rights, and is, perhaps, therefore freer to communicate a principled approach to strengthening children's participation, and, perhaps, to a greater extent relate their activity to the normative / ideal.

## References (chapter 5)

Lansdown and O'Kane. 2014. A toolkit for monitoring and evaluating children`s participation. Booklet 1. <https://resourcecentre.savethechildren.net/library/toolkit-monitoring-and-evaluating-childrens-participation-introduction-booklet-1>

Ministry of Children and Equality. 2009. *Snakk med meg*. [https://www.regjeringen.no/globalassets/upload/bld/barnevern/q-1156b-snakk-med-meg\\_web.pdf](https://www.regjeringen.no/globalassets/upload/bld/barnevern/q-1156b-snakk-med-meg_web.pdf)

Redd Barna. 2018a. *Redd Barnas statutter*. [https://www.reddbarna.no/content/uploads/2021/02/Redd\\_Barnas\\_statutter\\_2018.pdf](https://www.reddbarna.no/content/uploads/2021/02/Redd_Barnas_statutter_2018.pdf)

Redd Barna. 2019. *Vedtekter for lokalt og regionalt arbeid*. [https://www.reddbarna.no/content/uploads/2021/02/Redd-Barnas-Vedtekter-2019-2021\\_versjon-nov-2019-1.pdf](https://www.reddbarna.no/content/uploads/2021/02/Redd-Barnas-Vedtekter-2019-2021_versjon-nov-2019-1.pdf)

Redd Barna. 2018b. *Redd Barnas strategi 2019-2021. Treårsplan fram mot 2030*. <https://www.reddbarna.no/content/uploads/2021/02/Redd-Barnas-Strategi-2019-2021-2.pdf>

Redd Barna. (no publication date found). *Elevrådshåndboka*. The book is available for schools; see <https://www.reddbarna.no/>

Save the Children. 2021. The nine basic requirements. For Meaningful and Ethical Children's Participation. [https://resourcecentre.savethechildren.net/node/19385/pdf/basic\\_requirements-english-final.pdf](https://resourcecentre.savethechildren.net/node/19385/pdf/basic_requirements-english-final.pdf)

SSB. 2021. Table 12305: *Man-years in Child Welfare Services, by region, contents and year*. <https://www.ssb.no/en/statbank/table/12305/>

The Committee on the Rights of the Child. 2009. *GENERAL COMMENT No. 12 (2009). The right of the child to be heard* <https://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>