

CHILDREN HAVE RIGHTS

The UN Convention on the Rights of the Child (UNCRC) gives children some procedural rights, which describe how children should be met, in all actions and decisions concerning the child. The child's right to receive information, to express themselves freely and to express themselves before any information about the child is shared, must be ensured before the best interests of the child can be assessed.

Children's right to information

- Implicitly follows UNCRC art. 12, see: CRC GC no. 12 sections 16, 25 and 41
Children have the right to receive all information that is necessary for the child to be able to express themselves freely. The right to information is a prerequisite for the child to be able to express themselves freely about actions and decisions to be made about them.

The right to information means that the child must, among other things, receive information about:

- The situation and the matter at hand
- What information the adults have and from whom
- What happens if the child shares information
- Which decisions must be taken and which alternative solutions exist
- What consequences the decisions may have

The information must be given in a considerate and understandable way, it must be repeated when needed, and the child must receive new information that comes along the way

Children's right to express themselves freely

- UNCRC art. 12

Children have the right to express themselves freely in all matters concerning the child, and the child's opinion shall be given weight. Children's right to express themselves is an independent right that children have, which neither parents nor other adults can limit. The authorities have a duty to ensure this right for every child, without exception.

That children are allowed to express themselves freely is done by ensuring that:

- The child receives useful and understandable information (GC no. 12 section 25),
- The child feels safe and respected (GC no. 12 section 23),
- The child is allowed to speak without influence, pressure or manipulation (GC no. 12 section 22), and
- The child may speak without the consent of parents or other guardians.

As a starting point, the child's best interests cannot be used as justification for children not being heard in various processes. If other solutions are chosen than what the child wants, the child must be given a say on how the child thinks this will turn out. If it's considered that the child's statements shouldn't be given weight, it must be documented and justified what significance and consequences it may have for the child to act contrary to the child's statements.

There is no age limit for when the child must be heard; the key is whether the child is able to express themselves freely about the question. The UN Children's Committee emphasises that the state has a duty to examine the child's ability to express their opinion, and that expressing themselves can take place in many ways. For those children who cannot express themselves verbally by speaking, they can, for example, express themselves through body language. (General Comment No. 12 paragraphs 20-21).

Children's right to privacy

- UNCRC art. 16 and ECHR art. 8

No child shall be subjected to arbitrary or unlawful interference with their privacy. This means, among other things, that adults cannot automatically share information from or about the child with others in the same service, other services or guardians. Sharing may only be done when absolutely necessary and when there is authority in law.

In many cases, information from or about the child can be shared, without the child's right to privacy being assessed. If information is shared without the child's knowledge, the child may lose trust in the adult who shares. Safeguarding children's right to respect for their privacy is an important prerequisite for ensuring children's right to express themselves freely.

The child needs to know what can happen to what the child says, before an adult starts talking to a child. When professionals consider sharing information from or about the child with others, it's an "action" or a "decision" that "affects" the child. The adult must therefore inform the child that they're considering sharing information, and let the child express themselves freely about this, before information is shared. This applies to all children regardless of age. Based on this, it must be assessed whether it's in the child's best interests to share the information.

This does not mean that other professionals, services or parents should never receive information from or about the child. But the procedure of giving the child information and letting them speak first must be followed. In addition, there must be a basis for sharing and the adult must assess whether it's necessary and in the best interest of the child.

The best interests of the child

- UNCRC art. 3 and GrI. § 104

The best interests of the child shall be a fundamental consideration in actions and decisions concerning a child. It must be decided on the basis of a concrete assessment. The child's own opinions shall be central. Before the best interests of the child can be assessed, the child must have been given sufficient information, been able to express themselves freely about what is to be decided and be allowed to express themselves on how information may be shared.

Making the child's opinion central to the decision is done by:

- Always let the child have their say before anything is decided
- Take the child seriously and make sure the child understands
- Explain that you can find solutions together Listen carefully to what the child says to understand what the child means
- Talk to the child enough to make sure you understand correctly
- Follow the child's opinion as far as possible when deciding something
- Talk to the child if you have to decide against the child's wishes
- Try to always follow some of what the child wants. take what the child has said seriously and do something about it