

STRUCTURING PRACTICE FOR CHILDREN'S PARTICIPATION

REPORT I FOR THE PARTICIPATION PROJECT: MAPPING AND EVALUATING ORGANIZATIONAL GUIDELINES¹

By

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July 11th, 2022

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¹ This project has received funding from the Research Council of Norway under the Research Programme on Welfare, Working Life and Migration (VAM) (grant no. 320149). Principal Investigator is Professor Marit Skivenes. Disclaimer: Publications from the project reflect only the authors' views. The funding agency is not responsible for any use that may be made of the information contained therein. <https://discretion.uib.no/projects/childrens-right-to-participation/>. The report was discussed at a workshop June 29, 2022, with all partners participating in addition to [Associate Professor Asgeir Falck-Eriksen](#) and [Professor Stefan Schnurr](#). The latter had reviewed the report, and presented their feedback on the workshop. We are very much grateful for all input and comments from partners and reviewers.

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Executive summary

Introduction:

This report is the first analysis conducted for the Children's Right to Participation project (PARTICIPATION). PARTICIPATION is a collaborative knowledge project to promote children's right to participation in child protection-related processes in Norway. It is a partnership between researchers at the Centre for Research on Discretion and Paternalism (DIPA) at the University of Bergen and four partners representing the Norwegian child protection system: the Change Factory (experts by experience in the Norwegian child protection system), the county social welfare boards, the Norwegian courts and their administration, and Bergen municipality. PARTICIPATION weaves together different perspectives and experiences to generate new knowledge, develop measures and produce research expertise that enables society to address the challenge of children's participation in child protection-related processes. In six work packages, the project maps and assesses existing child protection structures, studies the factors preventing and promoting children's participation in child protection processes, and develops and tests new programs. The report encompasses the first and second work packages of PARTICIPATION. The report was presented and discussed at a workshop June 29, 2022, with participants from all partner organisations. In addition [Associate Professor Asgeir Falch-Eriksen](#) and [Professor Stefan Schnurr](#), reviewed the report and had prepared comments that they presented at the workshop.

Purpose:

The purpose of the report is to create a basis for strengthening children's participation in three partner organizations of the project: Bergen municipality, the county boards, and district courts. These organizations represent the administrative backbone of the child protection system in Norway. The report analyzes and evaluates some seminal guidelines for frontline child protection practitioners about children's participation in these organizations, including child protection workers, county board members, and judges. It aims to provide the project partners with concrete suggestions about developing their guidelines to promote children's participation in practice. It also lays the foundation for developing new management, practice, and training programs in the future.

Methods:

We approached the analysis of the organizations' guidelines in several steps: We first consulted Bergen municipality, the county boards, and district courts to determine which guidelines about children's participation practitioners and decision-makers currently use. We analyzed four guidelines: the 2009 Bergen municipality guideline about talking with children, the 2022 county board guideline, and the 2019 and 2021 district court guidelines. We focused on the sections discussing children without party rights (children under 15) because the challenges with participation are particularly critical for children in this age range.

At the same time, we gathered international, European, and Norwegian legal and policy instruments and assessment tools related to children's participation. We then applied a theoretical framework called a Child Equality Perspective (CEP) to synthesize the normative frameworks of these documents. We developed four criteria to evaluate children's participation in the organizational guidelines. A CEP views children as moral equals to adults in administrative decision-making processes. It focuses on how the law, organizations, culture, and a focus on the individual child can promote children's equality in administrative decisions in child protection. The legal and policy instruments and assessment tools we utilized to operationalize children's participation included the following: the United Nations Convention on the Rights of the Child; the European Convention on the Exercise of Children's Rights; the Council of Europe's Strategy for the Rights of the Child; the Council of Europe's Guidelines on Child-friendly Justice; the Council of Europe's Child Participation Tool; the Norwegian Constitution, and the 1992 Norwegian Child Welfare Act.

We developed four criteria based on this operationalization process that we used as a standard for assessing the guidelines:

- *Inclusive participation*: non-discrimination and cultural sensitivity, special attention to children in vulnerable situations, and practical assistance and accommodations to achieve inclusivity
- *Informative, transparent, and accountable participation*: the right to information about rights, support and participation processes and outcomes, and child's visibility in documentation
- *Child-centric and child-friendly participation*: child focus and child-friendly communication and settings, caring and respectful relationships, and adult support in proceedings
- *Safe participation*: safety from harm, power imbalances, unnecessary pressure, and privacy intrusions

These were the data analysis steps: First, we read the guidelines and selected the text corresponding to each of the four criteria. Second, we collated and commented on the text in each measure. In a third step, we compared the contents of each guideline's four criteria and what was missing or could be developed further per the criteria. The three researchers checked the reliability of our analysis by cross-checking each other's work. We wrote this report in English because the project aims to reach an international readership and reviewers. We provided the Norwegian text in footnotes to ensure transparency.

Findings and specific recommendations:

Our findings show that each guideline contain strengths and that the strengths differ by guideline. There is also room for improvement. These are the strengths and weaknesses of each guideline (we provide detailed recommendations in tables 5, 6, and 7 of the report).

The Bergen municipality guideline (BM 2009)

Among other guidelines, Bergen municipality uses a national guideline on talking with children (2009), which the Norwegian Ministry of Children and Families has developed. We analyze this as the guideline for Bergen Municipality as it is a very good guideline and complementary to the guidelines from the two other partners. The guideline targets child protection front line workers and responds to workers' demands for concrete guidance about how they can conduct conversations with children.

- *Inclusive participation*:

BM 2009 provides suggestions about speaking with children in different age groups. It does not provide concrete practice recommendations about conversations depending on a child's abilities, gender identity, sexual orientation, ethnic or cultural background, language, religion, political opinion, or socioeconomic background. The guideline provides concrete age-appropriate examples of questions that practitioners could ask children and where to meet young children. It could give instructions on how to conduct conversations with children with disabilities, children from ethnic, cultural, and religious minority backgrounds, and how to be aware of a child's gender identity in conversations. The document could include visual representations of a diverse group of children, including ethnic minority children, children with a disability, and children with various gender expressions.

- *Informative, transparent, and accountable participation*:

BM 2009 is clear about the importance of practitioners providing information to children and gives instructions about keeping records, recording minutes, and quoting children verbatim in reports. However, BM 2009 says little about how children may review or change meeting minutes. It could suggest how professionals should give weight to children's opinions and the information they provide and follow up with children after a conversation.

➤ *Child-centric and child-friendly participation:*

BM 2009 is impressive in its efforts to achieve child-centric and child-friendly participation. The guideline is complementary in its focus on the child's interests and how the child, not the child protection worker, benefits from being heard. The guideline offers clear and detailed instructions to child protection workers about focusing on the child, ensuring child-friendly settings and communication styles, and providing adult support in proceedings. It communicates the importance of professionals establishing respectful, caring, and trustful relationships and emphasizes that it is helpful for children to have a support person when talking with professionals.

➤ *Safe participation:*

BM 2009 provides robust direction on how to communicate safely with children. Its strengths lie in instructing child protection workers on keeping children safe from power imbalances and explaining how to encourage children to participate in child protection proceedings by offering alternative ways of participating while remaining mindful of pressure on the child. The guideline could offer more explicit instructions about safeguarding children from privacy intrusions.

The 2022 county board guideline (CB 2022)

CB 2022 includes information about approving emergency placements, participation for children with and without party rights, the county board's conversation with children, participation through spokespersons or experts, and children's participation in dialogues. CB 2022 provides guidance on the visibility and weighting of children's involvement in decisions and informing children about case decisions.

➤ *Inclusive participation:*

When considering opportunities for children to participate, the guideline focuses on young children and children with special needs. It could provide direction on how practitioners might consider how children's gender, sexual orientation, ethnic background, religion, and political opinion, could factor into their participation. The guideline considers practical assistance in the form of travel and economic concerns. It could also address specific accommodations for children with disabilities and language-related aid, such as translation and interpretation.

➤ *Informative, transparent, and accountable participation:*

The guideline informs children about their rights, the case contents, and the proceedings. The guideline provides instructions about transparent and accountable participation in the judgments, such as including the child's statements, using the child's direct quotes, and stating how the county board has given weight to the child's opinion.

➤ *Child-centric and child-friendly participation:*

The guideline is robust when providing direction about child-centric and child-friendly participation. It encourages a focus on the child and creates a child-friendly setting and approach to communication. The instructions about communicating with the child are especially rich with details and examples. It emphasizes respect, care, and trust in the child's relationship with the board, spokesperson, and support person. It encourages the child to bring a support person to meetings.

➤ *Safe participation:*

The guideline ensures the child's safety from harm, pressure, power imbalances, and privacy intrusions. We suggest minor improvements, such as making explicit the board's implicit intention to prevent harm to the

child, introducing options to limiting the number of adults in the room, and ensuring the child's safety in remote meetings.

The 2019 and 2021 district court guidelines (DC 2021 and DC 2019)

The courts have two guidelines: DC 2021 and DC 2019. DC 2019 offers practical recommendations about who should hear the child in district courts and court of appeals, where and how judges should conduct the hearing, how the minutes should be written and used, and how feedback to the child should be given and documented. DC 2021 takes a general approach and targets all aspects of a child protection case. It addresses children's participation as one aspect among several. We have focused on section 9, which describes "how to hear children," and sections 6, 8, 13, and 14, which are also relevant.

➤ *Inclusive participation:*

The 2021 guideline is attuned to a child's ethnic, cultural, religious, and linguistic backgrounds, clarifying these backgrounds and whether an interpreter or translation of documents is needed in relation to planning meetings. DC 2019 and DC 2021 do not mention gender identity, sexual orientation, political opinion, or socioeconomic background. DC 2019 considers how a child's special needs and age might affect their communication with judges. It could be more specific about communicating with children of different age groups and include instructions for providing practical assistance to children who live far from the court.

➤ *Informative, transparent, and accountable participation:*

Overall, the guidelines are court- and rule-centered in discussing the provision of information to the child. The tone and tenor of the guidelines focus on providing instructions for the judges and little on the child's perspective and needs. DC 2021 underscores a child's right to be heard and offers relevant case law. It provides little encouragement to judges to inform the child about the case and accommodate solutions to how the child may be heard and what the child can expect in the meeting with the court. The 2019 guideline is very clear about the contents of written statements, making the child's statements and actions visible, focusing on the child's (not the adults') interpretations, and giving the child the opportunity to correct the meeting minutes. DC 2021 specifies that the judgment should contain the child's views, the weight given to the child's opinions, and participation.

The guidelines could ensure that decision-makers provide information to the child about all aspects of the case and the proceedings. It should instruct decision-makers to ensure that children receive support, have options in how they respond to questions, and inform about how they will use the child's information in decision-making. They could direct decision-makers to inform the child about what happens after the meeting, prior to the decision.

➤ *Child-centric and child-friendly participation:*

DC 2019 has the child more clearly in focus than DC 2021 when offering instructions about child-friendly settings and communication styles. The guidelines could be more explicit about representation in proceedings and focusing on the child when informing the child about the case outcome. DC 2019 provides clear instructions about communicating in a child-friendly way by using simple and direct language. The guidelines could give instructions on other forms of communicating with children than talking and could be more explicit about building respect, care, and trust, especially for children who mistrust authorities. The guidelines should acknowledge situations suitable for hearing a child with the help of a spokesperson.

➤ *Safe participation:*

DC 2021 is overall weaker than DC 2019, which provides concrete instructions about ensuring safety from harm and pressure and ensuring a child's privacy but is less attentive to power imbalances. The guidelines

could instruct decision-makers on how to elicit information from a child without undue pressure when a child says they do not want to be heard in a meeting, for example, with the help of alternative forms of expression, such as a letter or video clip to the court. The guidelines should be explicit about their implicit intention to safeguard children from harm concerning distributing minutes and the number of adults in the room.

General recommendations:

Based on our analysis, we provide some general recommendations:

- If several guidelines exist, consolidate them into one guideline and develop a set of clear instructions that balance detail and simplicity.
- Provide instructions about how professionals can promote inclusive participation, especially regarding a child's ability, gender identity, sexual orientation, and socioeconomic background.
- Increase professionals' awareness around information provision and remind them to not make assumptions about what information a child may or may not have.
- Clarify in the guidelines how decision-makers should weigh the child's opinions and how to document this process.
- Embrace an approach to children's participation that goes beyond talking by promoting diverse methods of communicating with children.
- Widen the focus of children's participation beyond hearing the child to transformative participation.
- Acknowledge that building relationships and trust takes time and resources.
- Explicitly address how professionals can reduce power imbalances between children and adults.

1. Introduction

A core insight from public administration research is that organizational arrangements will affect decision-making quality and case outcomes (March, 1988; March & Olsen, 1989; March & Simon, 1993). Therefore, it is essential to map and evaluate these arrangements. This report analyzes the structural frame for children's participation in the Norwegian child protection system focusing on guidelines for practitioners. The report's primary focus is to identify whether and how three critical organizations in the system facilitate and design structures to advise, guide, and direct how decision-makers should understand and implement the legislation on children's participatory rights. A secondary focus is on making recommendations based on our operationalization of children's right to participation. The Convention on the Rights of the Child of 1989 (CRC) promotes this right in Article 12:

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.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

This mapping analysis will focus on three partners in the research project: Bergen municipality, the county social welfare boards, and the district courts. In this report, we concentrate on analyzing the **guidelines or directives in place in these three organizations** because they are organizational tools to guide the implementation of children's participation rights. We assume that guidelines and directives are some of several tools out of a toolkit available to organizations to encourage, direct, guide, and inform their employees about how to undertake their work. We examine formal guidelines to learn whether they adhere to the standards of children's rights as proposed by the CRC, directives proposed by the Council of Europe, the Constitution and national legislation, and a Child Equality Perspective (CEP) developed by Križ, Krutzinna, Pösö, and Skivenes (in preparation).

This report focuses on involving and communicating with children in child protection processes and proceedings. Our focus is on children that do not have party rights, that is, children under 15. In Norway, children have party rights at age 15. However, all children have party rights in specific situations, such as involuntary placements in residential units. The county boards may also grant a child party rights in some cases if they consider it necessary. Our primary focus in this report is on children under the age of 15 because research has shown that younger children are more likely to be excluded from participation (Oppedal, 1999; Vis & Thomas, 2009; Berrick, Dickens, Pösö & Skivenes, 2015; Magnussen & Skivenes, 2015; Skivenes, 2015; Paulsen, 2016; Križ, 2020).

The empirical material for our analysis consists of selected organizational guidelines (see Table 4 for Norwegian titles). For Bergen municipality, we made the choice to only examine one guideline: *Talk with me! A guideline for talking with children in child protection* (2009) (BM 2009 in short). We chose one guideline because the municipality has a range of guidelines, and it is uncertain which of them are actually used by frontline workers. We chose BM 2009, although it is a national guideline from the Ministry of Children and Families, because in our opinion is a very good guideline that also serves as an important supplement to the guidelines of the county boards and courts. For the county boards, we assess the *Guideline – Children's participation* (2022) (CB 2022 in short). For the district courts, we analyze the *National guideline on processing child protection cases* (2021) (DC 2021 in short) and the relevant parts of *Practical recommendations for court proceedings in the best interests of the child in cases under the Child Welfare Act* (2019) (DC 2019 in short).

The report's structure is as follows: The first section presents existing participation principles and rights for children, including those established by the CRC, General Comments on the CRC, the Council of Europe, national legislation on child protection, and the CEP framework. From this, we move on to our methods section, where we suggest an operationalization of criteria for children to participate in child protection processes and proceedings and describe how we arrived at our findings. We then evaluate the guidelines and templates currently in place and discuss our findings.

2. Background

This section first describes the principles established by the 1989 United Nations Convention on the Rights of the Child (CRC) before discussing the Norwegian Constitution and national child protection legislation (including existing law from 1992 and new law pending implementation). It will describe the European Convention on the Exercise of Children's Rights (ECR) and three Council of Europe documents: the Strategy for the Rights of the Child (SRC), the Guidelines on Child-friendly Justice (GCJ), and the Child Participation Tool (CPT). These documents establish the rights framework for this report.

The United Nations Convention on the Rights of the Child (CRC) and General Comments

The CRC is the international legal instrument establishing children's right to participate in matters affecting them. It provides the overarching normative framework for children's participation in child protection underlying the analysis in this report. Administrative processes such as child protection are governed by Article 12 of the CRC, which instituted children's participation right in judicial and administrative proceedings as a policy goal.

Article 12 needs to be viewed in concert with Articles 2, 3, 5, 13, and 19 and the non-binding but supportive General Comments by the United Nations Committee on the Rights of the Child (UNC) (Lundy, 2007). General Comment 5 elaborates on the parameters for implementing Article 12, "including the development of special structures and monitoring, training and other activities in government, parliament and the judiciary at all levels" (2003, p. 2). This comment highlights the accessibility of documents and processes as a condition for implementing Article 12. It also notes the importance of giving children's views due weight as a change mechanism to further children's rights as well as the importance of data collection, analysis, and development of indicators to evaluate states' progress (UNC, 2003).

General Comment 7 discusses the implications of the CRC on young children, which it defines as children "at birth and throughout infancy; during the preschool years; as well as during the transition to school" (UNC, 2005, p. 1). It affirms that young children are rights holders and voices concerns about insufficient attention among member states in implementing the rights of this group of children. Furthermore, "the Committee reaffirms that the Convention on the Rights of the Child is to be applied holistically in early childhood, taking account of the principle of the universality, indivisibility and interdependence of all human rights" (UNC, 2005, p. 2). General Comment No. 7 further discusses what is required of professionals to ensure young children's participation. Specifically, adults are required "to adopt a child-centred attitude, listening to young children and respecting their dignity and their individual points of view" as well as "to show patience and creativity by adapting their expectations to a young child's interests, levels of understanding and preferred ways of communicating" (UNC, 2005, para. 11(c), 7).

General Comment 12 states that children's views are relevant to and should be considered both in decision-making, policymaking, preparation and evaluation of laws and measures (UNC, 2009, p. 5). It goes on to explain the scope of children's participation:

The concept of participation emphasizes that including children should not only be a momentary act, but the starting point for an intense exchange between children and adults on the development of policies, programmes and measures in all relevant contexts of children's lives (UNC, 2009, p. 5).

According to Article 2 of the CRC, states must protect children's rights and prevent discrimination. No child should be discriminated against or excluded based on their or their "parent's or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status" (CRC, 1989, p. 2). Article 3 cements the standard of the child's best interests as a principle in state actions. Article 5 establishes that children have the right to guidance from adults (CRC, 1989), and Article 13 the right to information: "this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice" (CRC, 1989, p. 4). Finally, Article 19 establishes the child's right to be safe "from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child" (CRC, 1989, p. 5).

In summary, the value framework established by the CRC and the UNC has laid a strong foundation for children's participation rights. This foundation embraces the principles of children's participation alongside protection from maltreatment, the child's best interests, non-discrimination and inclusion, the right to information, and guidance from adults who approach children with a child-centric attitude.

The Norwegian Constitution

The Norwegian Constitution of 1814 includes a specific provision about children's right to participation since its comprehensive reform in 2014 (Nylund, 2020). Although they possess general human rights in line with adults, the separate constitutional provision about children has been included as they form a particularly vulnerable group with some specific rights, such as the right to participation (Haugli, 2020, pp. 42-43). The Constitution explicitly mentions children, saying "they have the right to be heard in questions that concern them, and due weight shall be attached to their views in accordance with their age and development" (1814, § 104-1). In the Constitution, children's participatory right is not limited to specific areas but to questions concerning the individual child, and no age limit to children's participation is posed (Haugli, 2020, p. 47).

However, the Constitution has received criticism for utilizing a narrow concept of participation, as it uses the term 'right to be heard.' This wording could mean that the child is allowed only to express their views and not to be actively involved in decision-making (Nylund, 2020, p. 206). According to Nylund (2020),

section 104, subsection 1 of the Norwegian Constitution is a paradox. It refers to the innate human dignity of children, yet the preparatory works reflect an ambiguous understanding of participatory rights. It could be interpreted to encompass instrumental participation only or to advocate empowering participation (p. 208).

Thus, the participation of children risks being tokenistic, and "the question is whether the wording impacts on the interpretation of the Constitution and consequently children's right to participation in Norway" (Nylund, 2020, p. 206).

The Norwegian Child Welfare Act (CPS Act 1992)

The Norwegian Child Welfare Act (1992), which constitutes the main national legislation on child protection services, states the right of children to participate in child protection processes and proceedings. From 2022 to 2023, a new Child Welfare Act will replace the 1992 law – we refer to it as "New CPS Act". However, since the new act has not yet been (fully) implemented, this report mainly discusses the Child Welfare Act of 1992 (CPS Act 1992).

The CPS Act is very clear on children's participation. There is a rule in the introductory chapter of the Act titled "Section 1-6. The child's right to participation." The wording of this rule is as follows:

All children who are able to form their own views have the right to participate in all matters concerning the child under this Act. The child shall receive adequate and adapted information and has the right to freely express his or her views. The child must be listened to, and the child's views must be emphasized in accordance with the child's age and maturity. Children in the care of of the child protective services may be granted the right to bring a person in whom they have a special trust. The ministry may issue regulations that provide further details on the tasks and function of this trusted person (Section 1-6).

Furthermore, the chapter on procedures states that:

a child who has reached the age of 7, and a younger child who is capable of forming his or her own opinions, shall receive information and be given an opportunity to state his or her opinion before a decision is made in a case affecting him or her (Section 6-3).

The preparation of the New CPS Act started with the appointment of a public commission in late 2014, with explicit goals of improving the legal security of the child and putting the child's best interests first (Ministry of Children and Families, 2014). The Child Welfare Act Commission finalized its report in 2016. After organizations such as the Change Factory and the county boards provided input, the Norwegian government presented its proposal for the New CPS Act to the parliament in April 2021.

Some significant changes have been made in the most recent national legislation regarding children's participatory rights and, perhaps most importantly, the New CPS Act has removed the previous mention of age. The law now states that "a child who is capable of forming own opinions has the right to participate in all matters concerning the child under this law" (Section 1-4). Removing the age formulation is in line with General Comment No. 12 (UNC, 2009, p. 9), which emphasizes that children's right to participation should not be age-restricted, encouraging decision-makers to make individual assessments.

Furthermore, the New CPS Act is more comprehensive in treating children's participatory rights and further tilts the power balance towards children. It asserts children's right to "express themselves to the child protection service regardless of the parents' consent, and without the parents being informed of the conversation in advance" (Section 1-4). This change eases children's participation and increases their power by decoupling children from parents' consent and reducing their fear of repercussions from their parents if they express themselves to child protection services. The New CPS Act also contains details about informing the child about case information, giving children more power to determine how organizations use their information:

Children shall be informed about what information from the child can be used for and who can gain access to this information. The child has the right to express herself or himself before it is decided that the information is to be shared (Section 1-4).

The European Convention on the Exercise of Children's Rights (ECR)

The 1996 European Convention on the Exercise of Children's Rights (ECR), which Norway has neither signed nor ratified, provides important and interesting information for this report. The ECR ensures that the member states of the Council of Europe comply with the CRC, especially Article 4, by granting children procedural rights and ensuring that children are "themselves or through other persons or bodies, informed and allowed to participate in proceedings affecting them before a judicial authority" (ECR, 1996, p. 2). The Convention establishes, for example, children's right to be informed and express their opinions during proceedings, to apply for assistance from a person of their choice to help express themselves, and to apply for the appointment of a special representative, also self-selected (ECR, 1996, p. 3).

This is how ECR's Article 6 (1996, p. 3) establishes the norms of judicial decision-making:

In proceedings affecting a child, the judicial authority, before taking a decision, shall:

- a consider whether it has sufficient information at its disposal in order to take a decision in the best interests of the child and, where necessary, it shall obtain further information, in particular from the holders of parental responsibilities;
- b in a case where the child is considered by internal law as having sufficient understanding:
 - ensure that the child has received all relevant information;
 - consult the child in person in appropriate cases, if necessary privately, itself or through other persons or bodies, in a manner appropriate to his or her understanding, unless this would be manifestly contrary to the best interests of the child;
 - allow the child to express his or her views;
- c give due weight to the views expressed by the child.

Article 7 establishes the duty of the judicial authority to act speedily. Article 9 specifies that the judiciary authority can appoint a special representative for the child in cases of conflicts of interest between the child and the parents. Article 10 lists the responsibilities of the representative, including providing information to the child, determining the child's views and presenting them to the judicial authority (ECR, 1996, pp. 3-4).

The Council of Europe's Strategy for the Rights of the Child (SRC)

In this document, the Council of Europe identifies five priority areas and strategies for meeting continuing challenges for the rights of the child in Europe. "Participation of all children," "a life free from violence for all children," and "child-friendly justice for all children" (Council of Europe, 2016b, p. 4) are among the five priority areas. One of the measures related to children's participation is the Council's support of member states using the Council of Europe's Child Participation Assessment Tool as a means to evaluate the progress of children's participation rights established by Article 12 of the CRC. We will discuss this assessment tool below. The SRC states that the Council seeks to involve children, especially children in vulnerable situations, such as children in care, children affected by migration, and children from minorities, in the assessment of the development, implementation, and evaluation of its child-related standards and policies.

To promote child-friendly justice, the Council of Europe will promote *The Council of Europe Guidelines on Child-friendly Justice* "by supporting member States in strengthening access to, treatment in and participation of children in civil, administrative and criminal justice proceedings" (Council of Europe, 2016b, p. 18). The outcome of this strategy is that European member states and other target groups use the Guidelines to change their laws and policies (Council of Europe, 2016b). The document mentions "data collection on selected aspects of child-friendly justice" and "training of legal professionals on child-friendly justice" (Council of Europe, 2016b, p. 19) as some of the outputs of this priority area.

The Council of Europe's Guidelines on Child-Friendly Justice (GCJ)

The Guidelines on Child-friendly Justice describe the fundamental principles underlying child-friendly proceedings in administrative, civil, and criminal law (Council of Europe, 2010). The principles comprise participation, the child's best interests, dignity, protection from discrimination, and the rule of law. Providing children with information is an essential cornerstone of GCJ. So are children's right to be consulted, the child's safety, child-friendliness, and an awareness of potential communication challenges. The GCJ describe the right to participation like this (2010, pp. 17-18):

1. The right of all children to be informed about their rights, to be given appropriate ways to access justice and to be consulted and heard in proceedings involving or affecting them should be

respected. This includes giving due weight to the children's views bearing in mind their maturity and any communication difficulties they may have in order to make this participation meaningful.

2. Children should be considered and treated as full bearers of rights and should be entitled to exercise all their rights in a manner that takes into account their capacity to form their own views and the circumstances of the case.

The Guidelines provide specific suggestions for what a child-friendly justice looks like before, during, and after judicial proceedings. The general elements of a child-friendly justice include (1) providing information and advice to children and their parents, (2) ensuring the protection of the child's private and family life, (3) ensuring children's safety by implementing safety measures, (4) training of professionals, (5) taking a multidisciplinary, collaborative approach between professionals, and (6) rules regarding the deprivation of a child's liberty. Children and their parents should be informed about their rights, systems and procedures, existing support mechanisms, possible consequences, logistical information about the proceedings' time and place, and the outcomes' progress. They should also be informed about the support measures available, the review mechanisms of the decisions affecting the child, and the availability of services. Information and advice should be age-appropriate and culturally sensitive (Council of Europe, 2010).

During judicial proceedings, children should have (1) access to court and remedies to protect their rights, (2) access to their own legal counsel and presentation, and (3) the right to be heard and express their views; (4) Undue delay and adverse consequences on family relations should be avoided; (5) The proceedings should be organized in a child-friendly way with the help of a child-friendly environment, and child-friendly language; (6) and interviews and gathering of evidence from the child should be done by professionals in a manner that is developmentally appropriate and take into consideration any communication difficulties

After the judicial proceedings, child-friendly justice means that the child is informed about the outcome of the decision. When decisions are not enforced, children should be informed about available remedies. Victims of abuse, neglect, and violence should be offered support services, ideally free of charge (Council of Europe, 2010).

The Council of Europe's Child Participation Tool (CPT)

The Child Participation Tool is one of the measures proposed by the Committee of Ministers' Recommendation CM/Rec (2012) to evaluate member states' progress in promoting children's rights to participation in matters affecting them (Council of Europe, 2016a; 2016b). It contains ten basic requirements for effective and ethical participation and reflects measures to protect and promote children's right to participate and create spaces for participation (Council of Europe, 2016a). As stated by the Council of Ministers (2016a), one of the aims of the tool is that:

States will share the Tool across government ministries, throughout local authority administrations, with the courts and judicial systems, with relevant professionals working with children and young people, with academic and civil society partners, and with organisations of and working for children and young people. The greater the transparency and openness in disseminating the Tool, the greater will be its effectiveness in creating a transformation in the right of children to be heard. (p. 5)

The Council of Europe (2016a) recommends that member states disaggregate data to highlight the participation of children who are particularly vulnerable to being excluded from participation and encourages states to analyze whether measures directly or indirectly exclude the rights of children in vulnerable circumstances to participate equally. This applies, for example, to "younger children, children with disabilities, Roma children and those from ethnic minority communities, poorer children, children from rural communities, and children in institutions" (p. 6). Table 1 provides an overview of the tool.

*Table 1. Overview of the Council of Europe's Participation Tool**

Protecting the right to participate

1	Legal protection for children and young people's right to participate in decision-making is reflected in the national Constitution and legislation
2	Explicit inclusion of children and young people's right to participate in decision-making in a cross-sectorial national strategy to implement children's rights
3	An independent children's rights institution is in place and protected by law
4	Existence of mechanisms to enable children to exercise their right to participate safely in judicial and administrative proceedings
5	Child friendly complaints procedures are in place

Promoting awareness of the right to participate

6	Children's right to participate in decision-making is embedded in pre-service training programmes for professionals working with and for children
7	Children are provided with information about their right to participate

Creating spaces for participation

8	Children are represented in forums, including through their own organisations, at school, local, regional and national governance levels
9	Child-targeted feedback mechanisms on local services are in place
10	Children are supported to participate in the monitoring of the UNCRC (including in CRC shadow reporting) and relevant Council of Europe instruments and conventions

*Source: Council of Europe, 2016a, p. 7

The Council of Europe proposes nine basic requirements and associated benchmarks to achieve effective and ethical participation. These requirements constitute one part of the platform for the operationalization of children's participation used in this report (described in the methods section below). Table 2 lists the nine requirements.

*Table 2. Council of Europe's Requirements for Effective and Ethical Participation**

1	Participation is transparent and informative
2	Participation is voluntary
3	Participation is respectful
4	Participation is relevant
5	Participation is child-friendly
6	Participation is inclusive
7	Participation is supported by training for adults
8	Participation is safe and sensitive to risk
9	Participation is accountable

*Source: Council of Europe, 2016a, pp. 28-30

A Child Equality Perspective (CEP)

A Child Equality Perspective provides a conceptual framework for children's position in societies based on the CRC that seeks to change how adults view and treat children in decision-making in public administration (Križ et al., in preparation). Its underlying tenet is that decision-makers must view children as moral subjects with the same moral status as adults (Archard, 2006). A CEP is a comprehensive paradigm that aims at children's social inclusion by encouraging decision-makers in public administrations to view children as equals in public decisions in the child's best interests, offering guideposts related to four components.

The components of a CEP include the law, culture, organizations, and the child. The legal lens focuses on country legislation with the CRC as its basis and follows the CRC. The law covers the characteristics of individual children, groups of children, and children in general. It ensures the monitoring of compliance and breaches of the law and provides recourse to justice and effective remedies for infractions. The cultural component of a CEP keeps the lens on a culture that views children as equals. This culture values and accepts children's rights and views children as subjects or agents. This culture sees children in their individuality, accommodates their individual and collective needs, and focuses on what is important to them. The cultural component highlights that children are informed of their rights and involved as participants.

The organizational component focuses on public administrations that implement the CRC and provide audits of its implementation. This lens involves public administrations creating processes and procedures with children's individual and collective needs in mind, involving children as participants, and training professionals in children's rights. Per the child-lens of a CEP, children are viewed as moral equals to adults. They are considered in their individuality, viewed as capable, and are participants in decisions and visible in the reports about the decisions. Furthermore, decisions focus on what is important to children.

3. Operationalization, methods, and data

Based on the comprehensive information provided in section 2, we begin this section by suggesting an operationalization of a set of criteria that must be in place for children to participate in decision-making in the child protection system. Our operationalization builds particularly on the nine basic requirements for effective and ethical participation developed by the Council of Europe (CPT), the Child Equality Perspective (CEP), as well as the insights of experts by experience (particularly the publications from the Change Factory). We then move on to describe our data collection and analysis strategy.

Our operationalization

To assess the organizational guidelines and directives, we have developed four main criteria that should be fulfilled to ensure children's participation in the child protection system (summarized in Table 3 below). We argue that guidelines should give directions to decision-makers on children's participation being (1) inclusive, (2) informative, transparent, and accountable, (3) child-centric and child-friendly, as well as (4) safe. We also propose dimensions to assess whether these criteria about children's participation in child protection are met in the written guidelines.

Inclusive participation

Inclusive participation is characterized by non-discrimination, cultural sensitivity, and removal of barriers to opportunities to participate. Guidelines should ensure inclusive participation of children by providing opportunities for all children to be involved regardless of their background and by challenging discrimination against children on different grounds.

This is the original formulation of the Child Participation Tool: "Children's participation must provide opportunities for vulnerable children to be involved and should challenge existing patterns of

discrimination. Staff must be sensitive to the cultures of all children participating” (Council of Europe, 2016a, p. 29). We elaborate on our understanding of inclusive participation here:

- *Non-discrimination*: Guidelines are clear that children should not be discriminated against on grounds such as their age, sex, sexual orientation, gender identity, ethnic or cultural background, language, religion, political opinion, socio-economic background, physical or mental abilities, etc. Fostering inclusion in participation means creating an environment in which all children, regardless of their background, have opportunities to participate, and be free of harassment, discriminatory treatment, and intimidating language. Decision-makers meet all children with dignity and respect regardless of their background. Inclusive participation is characterized by trust and safety for all children – characteristics that we describe in more detail below.² The Howard Hughes Medical Institute (2021) describes inclusion like this: “To be inclusive is to create an environment in which all are inspired to interact through mutual respect, support, and appreciation of difference. An inclusive environment deliberately fosters a culture of safety and trust” (p. 3).
- *Cultural sensitivity*: Guidelines encourage cultural sensitivity in participation. Cultural sensitivity refers to decision-makers’ awareness and appreciation of children’s ethnicity, language, religion, nationality, or migrant background. This involves understanding how a child’s culture(s) may influence their approach to participation and communication. It consists of an appreciation of and respect for children’s languages and cultures and an interest in and learning about children’s cultural backgrounds.
- *Special attention to children in vulnerable situations*: Guidelines should have a particular focus on how to remove barriers to participation for children who are in vulnerable situations and at a higher risk of not being heard, such as younger children, children with special needs, and minority groups. This may involve practical assistance and accommodations, such as access and language barriers.
- *Practical assistance and accommodations*: Guidelines offer support for children to overcome barriers to participation in meetings, for example, by providing transportation, translation, the opportunity to meet remotely, adapted meeting environments, augmentative communication aids, and non-verbal communication.

Informative, transparent, and accountable participation

Guidelines should make clear that decision-makers are aware and ensure that children are to be informed in different stages of a child protection case. Furthermore, decision-makers are directed to ensure transparency and accountability by informing the child about:

- Their rights
- The matters of the case
- The proceedings that will take place
- The support that is available to them
- How the information they provide will be used and whom it will be shared with, and which information may be kept confidential
- Possibility to withdraw, correct, or amend information
- How the meeting will be: How it is organized, who will attend, and the child’s role in the meeting
- What weight the child’s opinion will have in the decision
- What type of decision that will be made and that decision-makers have a responsibility to make a decision that is in the best interest of the child, short- and long-term
- The outcome of the decision-making process
- The reasons for the decision

² We have adapted some of the definitions of the Howard Hughes Medical Institute (2022) to define and provide concrete examples of “inclusion” and “non-discrimination”.

- What will happen with the child now and onward
- What will happen in proceeding onward, including appeals of a decision

Child-centric and child-friendly participation

Guidelines should encourage settings, processes, practices, and methods that are centering on and friendly to children, to ensure that children are enabled “to contribute meaningfully to activities” (Council of Europe, 2016a, p. 29). To facilitate child-centric and child-friendly participation, we refer to decision-makers focusing on the child and respectful, caring, trustful relationships, adapting settings and communication to the child, as well as encouraging adult support and representation in proceedings:

- *Child in focus*: Guidelines encourage a focus on children’s views, needs, interests, experiences, and lives and gaining an understanding of the child.
- *Child-friendly settings*: The guidelines instruct decision-makers to adjust material settings and processes to the child, as well as to employ creative methods for exploring the child’s views.
- *Communication style*: Guidelines encourage active listening, actively looking, simple/direct language and questions, dialogue, giving positive feedback and children time to understand, establishing ways for children to communicate that they do not want to answer questions, and avoiding harsh questioning.
- *Respectful, caring, trustful relationships*: There is a focus in the guidelines on the importance of professionals building relationships with children based on respect, care, and trust.
- *Adult support and representation in proceedings*: Guidelines are clear that children should be offered support (including a trusted person) and/or representation (including a spokesperson) in child protection proceedings.

Safe participation

In line with the original formulations of the Child Participation Tool, “adults working with children have a duty of care” and “must take every precaution to minimise the risks to children of abuse and exploitation and any other negative consequences of participation” (Council of Europe, 2016a, p. 29). In the organizational guidelines, this may take the form of securing children:

- *From harm*, whether physical, for example, in the form of violence from family members, or psychological in the form of loyalty conflicts between the child and family members, intimidation, fear of reprisal from other adults, etc.
- *From power imbalances*, whether in interactions, physical environment, language, or documentation.
- *From unnecessary pressure* because children have a right to say no to participation. Alternative forms of participation, such as attending and listening, are presented.
- *From privacy intrusions*: Meetings with children should not be audio or video recorded, and distribution of documentation should be limited to those necessary.

Table 3. Our operationalization of children’s participation

Inclusive	Informative, transparent, and accountable	Child-centric and child-friendly	Safe
<ul style="list-style-type: none"> • Non-discrimination by age, sex, sexual orientation, gender identity, ethnic background, language, religion, political opinion, socio-economic 	<ul style="list-style-type: none"> • Right to information about their rights; the matter of the case; support that is available for them; information about the meeting place 	<ul style="list-style-type: none"> • Child in focus • Child-friendly settings (material settings, processes, methods) • Communication style 	<ul style="list-style-type: none"> • From harm • From power-imbalances • From unnecessary pressure

<p>background, abilities, etc.</p> <ul style="list-style-type: none"> • Cultural sensitivity • Special attention to children in vulnerable situations • Practical assistance and accommodations 	<ul style="list-style-type: none"> • Right to participate, options for participating, what to expect (pre-proceedings) • How information children give will be used and with whom the information will be shared with • How decision-makers will weigh children's opinion • What is happening (during proceedings) • What was decided and how (after proceedings) • What type of decision that will be made, and that decision-makers have a responsibility to make a decision that is in the best interest of the child, both short and long term • Visibility in documentation 	<ul style="list-style-type: none"> • Respectful, caring, trustful relationships • Adult support/representation 	<ul style="list-style-type: none"> • From privacy intrusions
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Data collection

We selected and collected the guidelines and directives on children's participation in collaboration with the partners in the project. First, we created a table overview of tools (guidelines, documents, and training) we assumed were in use in Bergen municipality, the county boards, and district courts. Then, in September 2021, we contacted the partner organizations about whether the tools we had mapped were actively used and whether tools were missing from our initial overview. In Spring 2022, we received updated information on some of the documents, for example, from the county boards about their new guideline on children's participation (CB 2022). For Bergen municipality, a range of guidelines and directives are in place, and preliminary examinations show that it is not straightforward to determine which regulations are used by frontline staff. Thus, we have selected one of the guidelines that many mentioned as important, *Talk with me!* (2009). By our assessment, this national guideline makes an important contribution to the other two organizations' approaches to children's participation and might also be in use in other municipalities, making it highly relevant to analyze.

Guidelines and directives analyzed in this report

The guidelines analyzed in this report are summarized in Table 4. The table contains information about the organization, the Norwegian name of the guideline and the English translation, the abbreviation we use in our subsequent analysis, and the year and length of the guideline. The original Norwegian guidelines are located in their entirety in the Appendix.

Table 4. *Guidelines in our analysis*

Organization	Guideline name and year	Length
Bergen municipality	Talk with me! A guideline on talking with children in child protection [In Norwegian: Snakk med meg! En veileder om å snakke med barn i barnevernet] (2009) (BM 2009)	36 pages
County boards	Guideline – Children’s participation [In Norwegian: Veileder – Barns medvirkning] (2022) (CB 2022)	29 pages
District courts	National guideline on processing child protection cases [In Norwegian: Nasjonal veileder for behandling av barnevernssaker] (2021) (DC 2021). ^A	51 pages
	Practical recommendations for court proceedings in the best interests of the child in cases under the Child Welfare Act [In Norwegian: Praktiske anbefalinger for domstolsbehandling til barnets beste i saker etter barnevernloven] (2019) (DC 2019). ^B	12 pages
^A Delineated to the sections on children’s participation, i.e. sections 9, 6, 8, 13, 14.		
^B Delineated to the sections that DC 2021 is referencing, i.e. sections 1, 2, 3, 4, 6, 7.		

Material not analyzed in this report

We use legislative documents such as the CRC, the Norwegian Constitution, the Child Welfare Act of 1992, and the Directive on Participation and Trustee (2014) as our starting point, assuming that all decision-makers are informed and knowledgeable about principles and statutes. They are however not analyzed by us. We also have not included case law from the Supreme Court. Although all decision-makers in child protection must use and interpret these regulations, they typically do not provide detailed instructions to decision-makers about the participation of children and thus have not been included. June 24th, 2022 the government sent a suggestion for a new comprehensive guideline for children’s participation in child protection proceedings for comments and feedback from concerned organizations and interest groups. Deadline for sending feedback is October 2022. We have not had a chance to include this guideline in our analysis as it came just days before we completed our report. The guideline can be found [here](#).

Management strategies and training programs on children’s participation in the three organizations have also not been analyzed in this first round of the mapping analysis. The courts have two additional documents with practical recommendations – one on parental dispute cases and one on criminal cases with minors. These guidelines are considered outside the scope of this mapping report and have thus not been assessed. Furthermore, in the county boards’ *Quality handbook for county board leaders* (2017), there is a chapter on children’s participation, but this has not been included in the analysis as there is a specific guideline from 2022 on children’s participation.

The county boards have established indirect participation through a spokesperson arrangement. This arrangement has been described in Enroos et al. (2017), amongst others. There is also an arrangement for mediation (County Social Welfare Boards, 2019), in which children without legal party rights in a case can participate.

Analysis strategy

In analyzing the directives and guidelines, we have applied our operationalization described in detail above. Each document has been analyzed separately according to the four criteria, where each of the authors have focused on specific dimensions. To ensure reliability, we have tested each other’s analysis of the guidelines

through discussions and cross-checks. Furthermore, to ensure transparency in the analysis, all citations from the Norwegian guidelines are marked with footnotes containing the original Norwegian wording. We have decided to write the report in English because it allows us to reach a wider (international) audience and reviewers. Furthermore, this is a topic of huge interest across countries and child protection systems, and our analysis may provide important insights for other systems.

4. Findings

This section includes the guidelines and directives relevant to each organization. The presentation of each guideline begins with a short description of its content before we assess the guideline and provide suggestions. We start with Bergen municipality, followed by the county boards and district courts.

Bergen municipality – BM 2009

Among other guidelines, Bergen municipality uses a guideline on talking with children (BM 2009), developed by the Norwegian Ministry of Children and Families (2009). The ministry's guideline is directed at child protection workers in the municipalities and a response to these workers' demands for guidance on how conversations with children can, concretely, be carried out (BM 2009, p. 7). The guideline states that "there is [...] an imperative in this guideline – talking to children and young people about their life situation cannot be ruled out by child protection services"³ (p. 9).

BM 2009 consists of three main sections. The first section on children's and young people's right to participation outlines the importance of participation, adults' responsibility, and listening and talking in ways that encourage the child. The second section on a development-supportive dialogue discusses five principles for conversations with children, building on psychologist Haldor Øvreeide's systematization of such principles. Although recommendations are included in the first two sections, the last section explicitly presents recommendations for conducting conversations with children.

Inclusive participation

Non-discrimination and cultural sensitivity. In the preface, the Minister of Children and Equality explicitly mentions equality of opportunity when it comes to children's involvement:

The information must be adapted to the children's age and maturity, and it must be communicated so that it is understood and helps to create security. Everyone who works with children knows it can be challenging to talk to children. The child protection service faces these challenges every day, and many have requested guidance on how such conversations can be carried out in concrete terms. In good child protection practice, children should and must be included, and we must give all children the same opportunity.⁴ (p. 7)

The focus of this statement, as in the guideline, is on a child's age and level of development. The guideline provides suggestions for speaking with children in different age groups. It does not mention non-discrimination or provides concrete practice recommendations in abilities, gender identity, sexual orientation, ethnic or cultural background, language, religion, political opinion, or socio-economic background. The only mention of non-discrimination in these areas can be found on p. 31: "The use of

³ Translated from Norwegian: "Det ligger [...] et imperativ i denne veilederen – å samtale med barn og unge om livssituasjonen deres kan ikke velges bort av barnevernet" (p. 9).

⁴ Translated from Norwegian: "Informasjon må tilpasses barnas alder og modenhet, den må bli formidlet slik at den blir forstått og bidrar til å skape trygghet. Alle som jobber med barn vet det kan være utfordrende å snakke med barn. Barneverntjenesten møter disse utfordringene hver dag, og mange har etterlyst veiledning om hvordan slike samtaler konkret kan gjennomføres. I godt barnevernarbeid bør og skal barna tas med, og vi må gi alle barn den samme muligheten" (p. 7).

analog and parallel stories can also promote the child's willingness and ability to tell. [...] However, there must not be comparisons that stigmatize the child as 'deviating.'"⁵

Special attention to children in vulnerable situations and practical assistance. The guideline focuses on age and young children and how practitioners can communicate with children in a way that corresponds to their development. BM 2009 states:

It follows from section 6–3 of the Act relating to child welfare services that children aged 7 years and younger who can form their own positions shall be informed and given the opportunity to comment before a decision is made in matters affecting him or her⁶ (p. 9).

The guideline provides concrete age-appropriate examples of questions that practitioners could ask children (p. 22) and where to meet young children: "An office can create a neutral framework for the conversation. Especially for young children, it can also help to make child protection services more concrete"⁷ (p. 27).

In the section about preparation and planning, the guideline states:

Review available relevant information related to the case and the child you are going to talk to before the conversation. Think about the purpose of the conversation and what the child can be informed about/needs to get information about the here and now. It can be useful to have acquired knowledge about the child's linguistic skills, social maturity and typical emotional and behavioral reactions⁸ (p. 25).

It cautions practitioners to "Be sure to adapt the pace and amount of information to the child's age and level of function"⁹ (p. 29).

Informative, transparent, and accountable participation

The BM 2009 is clear on the importance of information to children. Informing and being open with the child are premises for the conversations with children, not only for the decision-makers to be able to make a good decision but also to secure the child's best interest and utilize the healing power in talking about difficult things. This is shown with a distinction between information and processing conversations and investigative conversations:

Information and processing conversations should give the child or young person support for a better understanding of their situation and the opportunity to process difficult experiences. Such a conversation should first and foremost give something to the child. The purpose is to expand and process the child's understanding of their experiences and themselves in relation to what happens, has happened, and what will happen next. Through the conversation, the child gets confirmation and validation of their opinions and experiences. *The investigative conversations* primarily occur to give adults information they can use in their assessments¹⁰ (p. 13).

⁵ Translated from Norwegian: "Bruk av analoge og parallelle historier kan også fremme barnets vilje og evne til å fortelle. [...] Det må imidlertid ikke være sammenligninger som stigmatiserer barnet som "avvikler"" (p. 31).

⁶ Translated from Norwegian: "Det følger av Lov om barneverntjenester § 6–3, at barn som er fylt 7 år, og yngre barn som er i stand til å danne seg egne standpunkter, skal informeres og gis anledning til å uttale seg for det tas avgjørelse i saker som berører ham eller henne" (p. 9).

⁷ Translated from Norwegian: "Særlig for små barn kan det også bidra til å gjøre barnevernet mer konkret" (p. 27).

⁸ Translated from Norwegian: "Gå igjennom tilgjengelig relevant informasjon som gjelder saken og barnet du skal snakke med for samtalen. Tenk igjennom hva som er formålet med samtalen og hva barnet kan informeres om/har behov for å få informasjon om her og nå. Det kan være nyttig å ha skaffet seg kunnskap om barnets språklige ferdigheter, sosiale modenhet og typiske følelses- og atferdsmessige reaksjoner" (p. 25).

⁹ Translated from Norwegian: "Pass på å tilpasse tempo og mengde informasjon til barnets alder og funksjonsnivå" (p. 29).

¹⁰ Translated from Norwegian: "*Informasjons- og bearbeidingsamtaler* skal gi barnet eller ungdommen støtte til bedre forståelse av egen situasjon og mulighet til å bearbeide vanskelige opplevelser. En slik samtale skal først og fremst gi noe til barnet. Hensikten er å

BM 2009 requires decision-makers to meet children with honesty and intention to engage in a conversation that can be transformative for the child and provides a detailed explanation about how to meet and interact with the child based on relations and trust. For example, about how to be a good listener:

Listening is something else and more than “hearing.” It means being aware not only of the words, but also of the intentions and feelings behind them. To achieve this, we must concentrate on the moment. The conversation partner must have our attention, and the urge to yourself tell or plan your answer must wait. Listening also means being quiet, waiting, and following the other. This means being aware of both verbal and nonverbal communication¹¹ (p. 13).

Furthermore, it is clear that the professional or the decision-maker has a responsibility to help and assist the child in the conversation:

Often the child needs us to actively help them find words, complete sentences, make summaries, and we directly try to “mind-read” the child about thoughts and feelings that they, for various reasons, have difficulty expressing themselves. The conversation should be active and participatory but not demanding and overriding¹² (p. 14).

An important distinction between children’s perspectives and the child’s perspective is made clear and explained in BM 2009 (p. 12). The first includes the ambition that decision-makers aim to understand the child’s thoughts, opinions, and attitudes. The adult “translates” what the child states for the purpose of making decisions or choices. The second is the child’s perspective as to how the child themselves see the world, and their feelings and understandings. This is equally important for decision-makers and professionals to be aware of, as it is the child’s experience of the situation and its lived experiences. This distinction makes it evident that a conversation with a child must include both perspectives.

Finally, in terms of accountability, BM 2009, also provides advice and is child-centered in its approach:

When keeping records or writing minutes, it is of great importance that descriptions of specific situations and reactions are written down first, and then separate assessments of the conversation. If the purpose of the conversation is to make decisions, the stories forwarded by the child should be written as verbatim as possible to how the child formulated himself/herself. Remember: it is the child’s voice and perspective that should emerge and be emphasized in the further casework process¹³ (p. 32).

However, BM 2009 does not say much about how children may review or make changes in a minute etc.

Child-centric and child-friendly participation

Overall, BM 2009 is impressive in its efforts to secure child-centric and child-friendly participation. The guideline gives clear and detailed directions to child protection workers both on having the child in focus,

utvide og bearbeide barnets forståelse av erfaringene sine og seg selv, i forhold til det som skjer, har skjedd, og det som skal skje videre. Barnet får gjennom samtalen bekreftet og gyldiggjort opplevelsene og erfaringene sine. *De undersøkende samtalen* gjøres først og fremst for at voksne skal få informasjon de kan bruke i vurderingene sine” (p. 13).

¹¹ Translated from Norwegian: “Å lytte er noe annet og mer enn “å høre”. Det innebærer å være oppmerksom, ikke bare på ordene, men også på intensjonene og følelsene bak. For å få det til, må vi konsentrere oss om øyeblikket. Samtalepartneren skal ha oppmerksomheten vår, og trangen til å fortelle selv eller planlegge eget svar må bero. Å lytte innebærer også å være stille, vente og følge med den andre. Det innebærer å få med seg både den verbale, og den nonverbale kommunikasjonen” (p. 13).

¹² Translated from Norwegian: “Ofte trenger barnet at vi aktivt hjelper til med å finne ord, fullfører setninger, lager oppsummeringer, og at vi direkte prøver å “tankelese” barnet om tanker og følelser det av ulike grunner har vansker med å uttrykke selv. Samtalen skal være aktiv og deltakende, men ikke krevende og overstyrende” (p. 14).

¹³ Translated from Norwegian: “Ved journalføring eller referatskriving er det av stor betydning at konkrete situasjons- og reaksjonsbeskrivelser nedtegnes først, og deretter egne vurderinger av samtalen. Dersom formålet med samtalen er å ta beslutninger, bør fortellingene barnet har kommet med, skrives så ordrett som mulig slik barnet selv formulerte seg. Husk: det er barnets stemme og perspektiv som skal komme frem og legges vekt på i den videre saksbehandlingsprosessen” (p. 32).

ensuring child-friendly settings, communication style, and adult support in proceedings, as well as establishing respectful, caring, trustful relationships.

Child in focus. Throughout BM 2009, there is a focus on the child's views, needs, interests, experiences, and lives, and gaining an understanding of the child is encouraged. In its first section on children's and young people's rights to be heard, the guideline explicitly says that it wants to remind child protection workers that "the child – as the owner of own thoughts, opinions, experiences, perceptions, feelings, and needs – is an expert on their own situation"¹⁴, and that it is the adults' responsibility to understand the child's message (p. 10). In this way, BM 2009 clearly puts focus on the child's views, experiences, and needs. The guideline furthermore directs child protection workers in centering on the child's feelings (e.g., pp. 29-30), thus encouraging a deeper understanding of the child.

The guideline is complementary in its reoccurring focus on the child's interests and what the *child*, not the child protection worker, gets out of being heard. BM 2009 conveys that the conversation is not mainly a way for professionals to gain information, as it describes how the conversation, for example, can make a challenging situation better for the child, send the signal that the child is important, and thus strengthen their self-worth and self-respect as well as give the child a better understanding of their own feelings, reactions, and needs (p. 10). BM 2009 in a way encourages child protection workers to have a focus on the child also outside of the concrete conversation, as it, for example, notes that the conversation can give the child energy to meet challenges in everyday life (p. 10).

Child-friendly settings. Under the section with recommendations, BM 2009 (p. 27) has a subsection on how to create good frames for the conversation, in detail outlining what constitutes child-friendly material settings and processes. Here, BM 2009 encourages conducting conversations in a neutral space such as an office; however, adjusted to conversations with children (with, e.g., adjusted tables and chairs) and not too cramped (p. 27). Furthermore, the guideline says that the room should be organized so that the child has the opportunity to regulate the distance to the child protection worker, continuing with detailed instructions on where the professional should sit in relation to the child (pp. 27-28). Additionally, BM 2009 emphasizes the need for the conversation to be uninterrupted by, for example, telephones (p. 28).

Positively, BM 2009 also encourages child protection workers to use more creative and unconventional ways than talking to involve the child. Specifically, the guideline directs professionals in having drawing materials, games, and flip-overs available, noting that activities and play can be used to help the child and adult create a dialogue and make the conversation less demanding of the child (p. 27). The importance of alternative ways to engage the child is also mentioned later in BM 2009 (pp. 31-32) when saying that dolls or simple figures, dollhouses, images, or books can be used as starting points for children to tell their own stories.

Communication style. Employing a child-friendly communication style is addressed in several sections of BM 2009. In the first section on children's and youth's right to participation, BM 2009 (pp. 13-14) describes what "listening" to the child entails and how it will contribute to the child's participation. It gives child protection workers concrete recommendations such as being aware of intentions and feelings behind statements by concentrating on the moment, not commenting too fast but being patient, as well as not being completely silent but actively helping children express themselves, etc. In addition to emphasizing how to listen to make children talk, BM 2009 also highlights how to talk to make children listen. Child protection workers are encouraged to add to the dialogue, with BM 2009 (p. 14) stating that the child may find it relieving not to have to answer questions but instead listen.

Child protection workers are also given directions on child-friendly communication in the second section of the guideline when outlining five principles for a development-supportive dialogue (pp. 18-21). BM 2009

¹⁴ Translated from Norwegian: "barnet – som eier av egne tanker, meninger, opplevelser, erfaringer, forestillinger, følelser og behov – er ekspert på sin egen situasjon" (p. 10).

encourages professionals to follow the child's initiative and attention and take that as their starting point. The guideline even states:

If the child's response to the adult's follow-up fails, or the child starts talking about something else, this can indicate that the adult has not understood where the child has its focus. Then we must try again to understand what the child is concerned with and direct the gaze the way the child does.¹⁵ (p. 18)

Furthermore, child protection workers are encouraged to add perspectives relevant and useful to the child, giving a concrete example to illustrate (p. 19). They are also directed in giving children space to organize themselves (pp. 19-20) by giving children time to express themselves in their own tempo. Creating rhythm and turn-taking in the conversation (p. 20) is encouraged, with concrete recommendations to the child protection worker, e.g. slowing down, using shorter sentences, not filling pauses with small talk but allowing the child to respond. BM 2009 (p. 21) furthermore directs professionals in taking leadership, giving a concrete example of how to open the conversation with the child.

Additionally, instructions on child-friendly communication are addressed in the third section on recommendations for conducting the conversation. Regarding the initial phase of the conversation, BM 2009 (pp. 28-29) directs the child protection worker to invite dialogue and interaction with the child, introducing themselves and the topic of the hearing. Importantly, the guideline presents specific questions the professional can ask relating to what is described as different levels of the conversation (pp. 29-31). Overall, BM 2009 gives clear direction when it comes to child-friendly communication, instructing the worker to, for example, repeat the child's expressions, ask open questions, use generalizing/normalizing statements and parallel stories about other children. The guideline even presents examples of different questions of add-ins the worker may have to support the child in telling their story, depending on the individual child (p. 31), giving the worker communication tools to use in different circumstances.

Respectful, caring, trustful relationships. Through BM 2009, the importance of trustful relationships is clearly communicated. The guideline states that the initial phase of the conversation is important for establishing contact and trust, but also that "The exchange between the child and you [the child protection worker] in this first phase will characterize the conversation further, but the conversation leader must work for contact and trust throughout the whole process"¹⁶ (p. 28). Creating a good conversation is emphasized as a central contribution to building a trustful relationship between the child and adult (p. 10). BM 2009 further describes how professionals can build trust by adding to the dialogue and validating the child's reactions and experiences. The guideline states that creating trust will again encourage the child's participation (p. 14).

Although more implicit than mentioning trust, BM 2009 also directs child protection workers on the importance of respect and care in their relationship with the child. Being caring for the child is emphasized, for example, as BM 2009 states:

Our task is to be sensitive to the child's needs here and now [...]. No one can do anything about what has happened. The help we can provide is to make the difficult events understandable and manageable so that everyday life becomes as meaningful as possible and the future safer.¹⁷ (p. 12)

¹⁵ Translated from Norwegian: "Hvis barnets respons på den voksnes oppfølging uteblir, eller barnet begynner å snakke om noe annet, kan dette indikere at den voksne ikke har forstått hvor barnet har sitt fokus. Da må vi prøve på nytt å forstå hva barnet er opptatt av, og rette blikket den veien barnet gjør det" (p. 18).

¹⁶ Translated from Norwegian: "Utvexslingen mellom barnet og deg i denne første fasen vil prege samtalen videre, men kontakt og tillit må samtaleleder fortsatt jobbe for gjennom hele prosessen" (p. 28).

¹⁷ Translated from Norwegian: "Vår oppgave er å være sensitiv overfor barnets behov her og nå [...]. Det som har hendt, kan ingen gjøre noe med. Den hjelp vi kan gi er å gjøre de vanskelige hendelsene forståelige og håndterbare slik at hverdagen blir mest mulig meningsfull, og fremtiden tryggere" (p. 12).

Furthermore, the professional is encouraged to ensure the child's need for calm by being prepared for the conversation and thus transfer the feeling of calm onto the child (p. 25), as well as to respect their need for overview and control by avoiding abrupt endings to the conversation (p. 32). There is also a powerful message in the guideline that child protection workers should have great respect for the child's perspective: "the child's experience of reality, and also the strains they live under, are usually different than we think. If we do not bring out the child's understanding, feelings, and thoughts, we can risk doing it wrong"¹⁸ (p. 12).

Adult support and representation in proceedings. BM 2009 explicitly says that in most conversations with children, and sometimes also with youth, it is helpful to have an adult support person present to help the child, the process, and the subsequent follow-up (p. 26). The guideline describes different ways the person may support the child. For some children, the best support is listening to the child and obtaining information about the child. For other children, support may also take the form of adults talking and the child listening and thus gaining an understanding of their own situation (p. 27).

In addition to the support person, BM 2009, throughout the guideline, encourages the child protection worker to lead the conversation to support the child. This is evident, for example, when the guideline states that "In conversations with children and young people, it is the adult who is responsible for leading the conversation and directing it so that the child or young person feels taken care of and as safe as possible"¹⁹ (p. 21).

Safe participation

BM 2009 provides strong instructions to child protection workers on securing children from power imbalances and gently applying some pressure on children to participate in child protection proceedings by offering alternative ways of participating while being aware of what constitutes too much pressure. However, the guideline could be more straightforward on safety from privacy intrusions.

From harm. In a subsection on who should be present when conducting the conversation with the child, BM 2009 (p. 26) recommends carefully considering who should be included. The guideline also says that:

Where parents or others are directly involved as perpetrators of, for example, episodes of violence, abuse, or substance abuse, they should, as a general rule, not be involved. The same applies if the other parent has been passive and/or has not tried to protect the child from violence and other abuse²⁰ (p. 26).

BM 2009 encourages talking to the child outside the home (p. 27). Although this is not commented on in BM 2009, being careful about who else is present during the conversation between the child and child protection workers and where to conduct the conversation are ways to reduce the risk of harm to the child. The guideline also addresses that confidentiality must be clarified when a support person is present in the conversation between child protection services and the child (p. 26).

From power imbalances. Overall, BM 2009 directs child protection workers in reducing power imbalances through various means. Concerning interactions, the guideline shifts power from professionals to children by explicitly encouraging the adults to bring out the child's perspective – its understanding, feelings, and thoughts – to not make decisions that are "wrong" for the child (p. 12). Child protection workers are furthermore encouraged to reduce power imbalances in interaction and physical environment by avoiding

¹⁸ Translated from Norwegian: "barnets opplevelse av virkeligheten, og også de belastninger de lever under, er som oftest annerledes enn vi tror. Får vi ikke frem barnets forståelse, følelser og tanker, kan vi risikere å gjøre det urett" (p. 12).

¹⁹ Translated from Norwegian: "I samtaler med barn og unge er det den voksne som er ansvarlig for å lede samtalen, og styre den slik at barnet eller ungdommen føler seg ivaretatt og så trygg som mulig" (p. 21).

²⁰ Translated from Norwegian: "Der foreldre eller andre er direkte involvert som utøver i for eksempel voldsepisoder, overgrep eller rusmisbruk, bør disse som hovedregel ikke være med. Det samme gjelder om den andre forelder har vært passiv og/eller ikke prøvd å beskytte barnet mot vold og andre overgrep" (p. 26).

making the child feel trapped. For example, they are recommended to position themselves so that the child can choose when to make eye contact and position the child's chair so that they have free access to the door (pp. 27-28).

The guideline encourages the child protection worker to lead the conversation and to take notes before and after the conversation, not during it (p. 28). Although it could be more explicit, one intention of avoiding notetaking seems to be to make the child feel safer and reduce power imbalances: "To the extent that the meeting leader still chooses to take notes along the way, he or she should tell the child what is noted. This avoids the child becoming unnecessarily insecure"²¹ (p. 28).

From unnecessary pressure. BM 2009 states that "it is up to the child to decide for themselves whether they want to express their opinion. The child should not feel pressured to speak"²² (p. 9). Thus, professionals are directed not to apply unnecessary pressure on the child. This is specified later in the guideline, for example, when active listening rather than silence is encouraged during the conversation, as silence can put pressure on the other person (here: the child) to provide an answer (p. 14). Open questions and encouragement are also recommended in BM 2009, as "Children often cannot answer our direct questions. They have no words for the answers but will still try to satisfy us to the best of their ability and become more concerned with our wishes and needs than their own"²³ (p. 30).

The guideline furthermore presents alternative forms of participation, such as attending and listening, and it explicitly comments that "Children can experience relief from not having to answer questions, and rather listen to our thoughts, reflections and guessing attempts to describe how it could possibly be "being me"²⁴ (p. 14).

From privacy intrusions. BM 2009 (p. 28) recommends that the child protection worker takes notes before and immediately after the conversation with the child and not during the meeting. Despite not addressing this directly in the guideline, it seems implicit that the conversation should not be recorded.

Suggestions for Bergen municipality

Table 5. Reflections on BM 2009 – summarized according to themes

<i>Inclusive participation</i>	
1.1	Clarify what practitioners should be aware of when conversing with children with hearing and speech impairments and emotional, physical, or intellectual disabilities, including anxiety and depression.
1.2	Consider discussing how practitioners could communicate with very young children. How could they be involved in conversations?
1.3	Provide advice about how to communicate with children who are newcomers to Norway. Include guidance about how to have conversations with an interpreter in the room.
1.4	In terms of gender identity, instruct how to communicate with gender identity awareness.
1.5	Include images of a visibly diverse group of children in the guidelines, such as children with a visible disability and children of color.
<i>Informative, transparent, and accountable participation</i>	

²¹ Translated from Norwegian: "I den grad samtaleleder likevel velger å notere underveis bør han eller hun fortelle barnet hva som noteres. Slik unngås at barnet blir unødvendig usikker" (p. 28).

²² Translated from Norwegian: "det er opp til barnet selv å avgjøre om det vil si sin mening. Barnet skal ikke føle seg presset til å uttale seg" (p. 9).

²³ Translated from Norwegian: "Barn kan ofte ikke svare på våre direkte spørsmål. De har ikke ord for svarene, men vil allikevel forsøke å tilfredsstille oss etter beste evne, og bli mer opptatt av våre ønsker og behov enn sine egne" (p. 30).

²⁴ Translated from Norwegian: "Barn kan oppleve lettelse over å slippe å skulle svare på spørsmål, og heller lytte til våre tanker, refleksjoner og gjettende forsøk på å beskrive hvordan det muligens kan være "å være meg"" (p. 14).

2.1	BM 2009 could include recommendations that the child should review written minutes.
2.2	BM 2009 could include suggestions on how decision-makers should give weight to children's opinions and the information they provide.
2.3	BM 2009 could be more robust on how decision-makers or professionals should follow up on children after a conversation.
<i>Child-centric and child-friendly participation</i>	
3.1	Although BM 2009 has a section specific to recommendations for conducting the conversation, there are recommendations scattered around different parts of the guideline, especially on how to communicate with children. This could make the guideline more challenging for child protection workers, and we advise having a clearer guideline structure.
3.2	Using generalizing statements could be leading the child, as child protection workers express what they expect the child to feel. Although it is explicitly mentioned in BM 2009 (p. 30) that questions should not be perceived as demanding specific answers from the child, the guideline could be clearer on the need to be careful about generalizations potentially being leading.
3.3	Repeating the child's statements, as encouraged on p. 31, could be tiring for the child and work opposite of the intention by making the child stop talking (Change Factory, 2020, p. 19). BM 2009 (p. 25) mentions that each conversation is unique but could remind the child protection worker that the communication style needs to be adjusted based on how the child responds.
<i>Safe participation</i>	
4.1	BM 2009 should give explicit instructions to child protection workers that meetings with children should not be audio or video recorded.

County boards – CB 2022

The county board guideline (CB 2022) has recently been finalized (February 2022). It replaces the 2019 guideline on speaking with children, offering what we assess as nuanced, detailed instructions to decision-makers in the county board. CB 2022 includes information about approving emergency placements, participation for children with and without party rights, the board's conversation with children, participation through spokespersons or experts, and children's participation in dialogue processes. In addition, CB provides guidance on the visibility and weighting of children's participation in decisions and on orienting children about case decisions.

CB 2022 distinguishes between proceedings in which the child is 15 years or older and a party in the case and proceedings in which the child is under 15 years old. Our primary focus in this report is on children under the age of 15.

Inclusive participation

Non-discrimination and cultural sensitivity. CB 2022 provides recommendations about opportunities for children to be involved, especially for young children and children with special needs. The guideline offers specificity about participation regarding children's young age, thus challenging age discrimination. It offers less specificity about children with special needs than saying that an expert may be appointed to hear the child. It does not mention children's gender, sexual orientation, gender identity, ethnic background, religion, political opinion, socioeconomic background, or sensitivity to the cultures of children who are participants.

CB 2022 emphasizes that children should not be discriminated against in their right to participate based on their age and maturity. CB 2022 cites the Supreme Court as saying that a child's right to participation stands firm and that exceptions can only be made in extraordinary circumstances (p. 23). The stated starting point

of children's right to participation is that "The right of participation applies regardless of age"²⁵ (p. 5). This value statement is expressed strongly about how the county board assesses *how* to consult the child (p. 5) and the question of whether the county board should reject a case based on not having the necessary local competence (p. 27).

CB 2022 states that the decisive factor in participation is a child's ability to form their own opinion, which must be assessed given the concrete situation (p. 5 and p. 22):

A specific assessment must therefore be made in each individual case as to whether the child is able to form their own views on the matter. At the same time, the Committee on the Rights of the Child has emphasized that the child does not need to have a complete understanding of the entire case to say something of significance to the case²⁶ (p. 22).

Referencing the Child Welfare Act, CB 2022 states that the county board must justify if the child has not been informed of the case and been able to express their view in cases where their age and maturity dictate participation (p. 19) – a measure of accountability supporting children's right to participate regardless of age and maturity.

Special attention to children in vulnerable situations. CB 2022 acknowledges that a child's vulnerabilities will affect how a conversation with the child will be conducted. It mentions that "an expert with a limited mandate to hear the child"²⁷ (p. 6) may be appointed to have the conversation with the child in the case of young children and children "who have disabilities or are otherwise vulnerable, or who have difficulty expressing themselves verbally"²⁸ (p. 6 and p. 15), which may apply especially to children under seven and children with special needs (p. 15).

The recommendations in section 5.1 ask the county board to "consider whether there are special circumstances that must be taken into account when conducting the conversation [with the child]"²⁹ (p. 8), including when conducting a hearing remotely. It notes that conversations with the child should preferably be conducted in a face-to-face meeting (p. 8). CB 2022 mentions that information should be adapted to the child's age and maturity (p. 10) and suggests how to deal with younger children's attention span.

Practical assistance. CB 2022 states that travel and economic concerns should not hinder the child from meeting physically on the county board premises if the child wishes to do so (p. 7). Here the guideline hints at the board assisting in practical manners relating to children's participation, but without going into detail. Assistance for the child in the form of having an interpreter in the meeting and documents translated is not included in the county board guideline.

Informative, transparent, and accountable participation

CB 2022 is overall very strong in promoting every aspect of information to the child. There are only a few areas in which we believe it would be necessary to suggest improvements. In terms of ensuring that the child is informed, the CB 2022 has explicitly addressed that the children should receive information that is adjusted to their competency level. They should be informed about their rights, the content of the case, and the proceedings. CB 2022 makes the responsibility for involving children explicit: "The board is responsible

²⁵ Translated from Norwegian: "Medvirkningsretten gjelder uavhengig av alder" (p. 5).

²⁶ Translated from Norwegian: "Det må derfor foretas en konkret vurdering i hver enkelt sak om barnet er i stand til å danne seg egne synspunkter om det saken gjelder. Barnekomiteen har samtidig fremhevet at barnet ikke trenger å ha full forståelse av hele sakskomplekset for å kunne mene noe av betydning for saken" (p. 22).

²⁷ Translated from Norwegian: "en sakkyndig med et begrenset mandat til å høre barnet" (p. 6).

²⁸ Translated from Norwegian: "som har funksjonsnedsettelse eller på annen måte er sårbare, eller som har vansker med å uttrykke seg verbalt" (p. 6).

²⁹ Translated from Norwegian: "Vurder om det er særlige forhold som det må tas hensyn til ved gjennomføring av samtalen [med barnet]" (p. 8).

for facilitating that the child receives the necessary information through the assignment given to the child protection service or the spokesperson”³⁰ (p. 6).

With regard to how the meeting will be, how it will be organized, who will attend, and the child’s role in this, CB 2022 has a section on how the county board shall prepare and handle the actual conversation with a child. It states that the best interests of the child are the decisive factor for conducting the hearing and that the county board chair is responsible for preparations. CB 2022 expands on the various practical themes that may occur and seem to be highly child-centric in its approach. It is also an outline of how to think about the setting of the conversation with the child, questions to be asked, who shall take notes etc.:

The conversation with the child is led by the chair of the board or the expert member. If the conversation is to be led by the expert, this should be clarified in a reasonable time before the conversation is to take place so that the expert has sufficient time to prepare. During the discussion, the other members of the board should be given the opportunity to ask supplementary questions. The chair of the board must inform the board’s members about the framework for the conversation and what significance this has for the conversation and questions that must/can be asked, a plan for the content and implementation of the conversation itself, who takes notes etc. It can be an advantage for someone other than the person leading the conversation to take notes³¹ (p. 9).

CB 2022 contains a section on the form and format of the report/minutes from the conversation with the child, including giving a description of non-verbal communication (laughter, tears, etc.). It underscores that the report/minutes must make sure to contextualize the child’s statements and opinions:

The summary must reflect the main points of the conversation. Refer especially key statements from the child. The summary should be designed so that it is possible for others to see the child’s answers in connection with the questions that were asked³² (p. 12).

The guideline is clear about accountability and transparency in the sense that decision-makers are encouraged to use direct quotes from the child, which should be in focus in the documentation rather than the decision-makers’ interpretations of the child’s statements and actions/behavior (p. 10 and p. 12). Furthermore, it is clear that the child’s opinion and statements shall be referenced in the judgment and that it should be mentioned if the child decides not to be a part of the proceeding.

CB 2022 includes a section that states that the child’s involvement and how their opinion has been given weight shall be documented in the written judgment (p. 18).

Weighting of the child’s opinion in the decision: The child’s opinion is central in deciding what is in the child’s best interests. The weight of the child’s opinion in the overall assessment will depend on its age and maturity. The child’s opinion should be made visible in the decision and weighed against other considerations, in order to clarify what is in the child’s best interests. If the board’s

³⁰ Translated from Norwegian: “Nemnda har ansvar for å legge til rette for at barnet får nødvendig informasjon gjennom oppdraget som gis til barneverntjenesten eller talspersonen” (p. 6).

³¹ Translated from Norwegian: “Samtalen med barnet ledes av nemndleder eller det fagkyndige medlemmet. Dersom samtalen skal ledes av den fagkyndige bør dette avklares i rimelig tid før samtalen skal gjennomføres, slik at den fagkyndige får tilstrekkelig tid til forberedelse. Under samtalen bør nemndas øvrige medlemmer gis anledning til å komme med supplerende spørsmål. Nemndleder må orientere nemndas medlemmer om rammene for samtalen og hvilken betydning dette har for samtalen og spørsmål som skal/kan stilles, plan for innhold og gjennomføring av selve samtalen, hvem som tar notater mv. Det kan være en fordel at andre enn den som leder samtalen tar notater” (p. 9).

³² Translated from Norwegian: “Referatet må gjengi hovedpunktene fra samtalen. Referer særlig sentrale uttalelser fra barnet. Referatet bør utformes slik at det er mulig for andre å se barnets svar i sammenheng med de spørsmål som ble stilt” (p. 12).

decision goes against the child's view, it should be clear from the decision why the child's opinion is not given decisive weight³³ (p. 19).

CB 2022 discusses who is to convey the result of the process to the child. It underscores that if it has been mentioned that one specific person should inform the child about the result, this must be adhered to. Although it does not explicitly mention that the child also should be given a justification for the decision, it seems to be the anticipation that this will happen. What is emphasized is that the child should be informed about how their views have been taken into account and given weight (pp. 20-21).

Child-centric and child-friendly participation

Overall, CB 2022 is strong on each of the dimensions of child-centric and child-friendly participation. The guideline encourages having the child in focus and employing settings and communication styles that are friendly to the child, and it furthermore centers on the importance of respectful, caring, trustful relationships and adult support/representation in proceedings.

Child in focus. There is much focus in CB 2022 on different ways to hear the child, and professionals are encouraged to assess the need for adjustments based on the child's wishes (e.g., p. 5). CB 2022 encourages identifying what is important for the child to feel safe in the conversation (e.g., p. 6), putting the child's needs in focus, and professionals are given specific instructions on, for example, how to act and move forward to engage the child to talk about opinions on different outcomes, centering on the child's views (p. 11). In several sections, CB 2022 mentions the need for professionals to say to the child that their opinion is important and what they want to hear (e.g., p. 10). However, professionals should also make the child aware that the county board decides the case. Concerning this point, CB 2022 could encourage more child-friendliness and be more specific on how to communicate this to the child in a non-confusing and non-discouraging way.

Child-friendly settings. Although opening for remote meetings, for example, when the child wishes to, CB 2022 encourages physical meetings to be the norm as this is believed to be better in terms of establishing good contact and communication between the decision-makers and the child (p. 8). The guideline recommends that the meeting is conducted in a room adapted for children and mentions specific factors that are important in making the room child-friendly, as well as advising decision-makers to not use too formal clothing (p. 8).

Communication style. CB 2022 includes a rich outline – over two full pages – of the board's conversation with the child (section 5.2, pp. 10-12), where the decision-makers are given detailed instructions on communicating with the child. The guideline emphasizes that informing and talking to the child should be a dialogue and not a monologue or questioning (p. 10 and p. 11). It provides concrete examples of how to make the child feel comfortable communicating to the board that it does not want to answer questions (p. 11). CB 2022 (p. 11) also gives detailed instructions on how to interact with the child, including examples of open questions the decision-maker could ask, and it encourages showing natural interest and using simple but direct language. The communication encouraged is focused on the child's perspective and is on the child's premises. For example, when the guideline states, "Be flexible and "follow" the child in what the child is talking about. The child's thought process does not necessarily follow the chronology the county board has envisioned"³⁴ (p. 11). CB 2022 further describes how the board can check with the child if it has

³³ Translated from Norwegian: "Vekting av barnets mening i vedtaket: Barnets mening er sentral i avgjørelsen av hva som er til barnets beste. Hvilken vekt barnets mening skal ha i den samlede vurderingen, vil være avhengig av dets alder og modenhet. Barnets mening bør synliggjøres i vedtaket og veies opp mot andre hensyn, for å klarlegge hva som er til barnets beste. Dersom nemndas avgjørelse går imot barnets syn, bør det komme frem av vedtaket hvorfor barnets mening ikke er tillagt avgjørende vekt" (p. 19).

³⁴ Translated from Norwegian: "Vær fleksibel og "følg" barnet i det barnet forteller om. Barnets tankerekker følger ikke nødvendigvis den kronologien nemnda har sett for seg" (p. 11).

understood the child correctly, which functions as a way for decision-makers to show active listening (p. 11). When ending the hearing, the guideline also encourages giving the child positive feedback (p. 12).

Respectful, caring, trustful relationships. CB 2022 emphasizes the need for respect, care, and trust both in the child's relation to the board, spokesperson, and support person. Regarding finding out if and how the child wants to be heard, the guideline states that a spokesperson could be appointed and that "this can be a suitable solution if the child or parents have a great distrust of the child protection service"³⁵ (p. 6). Thus, the guideline hints at the importance of trustful relationships. In relation to spokespersons, CB 2022 opens for using someone the child has particular trust in (p. 13), encouraging asking the child about this when appointing a spokesperson (p. 7). Furthermore, CB 2022 instructs the board on trust-building in conversations: establishing good contact, showing natural interest, and giving adjusted information are emphasized (p. 10). For the follow-up after the decision-making, this is described as important for children to be taken seriously, hinting to respect and care for children in follow-up (p. 20).

Adult representation and support in proceedings. In several places, CB 2022 (pp. 6-7, p. 9, and p. 18) encourages giving the child an opportunity to bring a support person when speaking to the board, the spokesperson, or when attending a dialogue meeting. As explicitly addressed in relation to the county board hearing of the child, "The support person can be an important support for the child and the child's opportunity to freely express their views"³⁶ (p. 9). When being informed about the case outcome, having a trusted support person present to take care of the child is also encouraged by CB 2022 (p. 20). The opportunity of the child to be represented by an impartial spokesperson, if the child wishes, is mentioned several times in CB 2022 (e.g., p. 5 and p. 6) in addition to the section on participation through spokespersons (section 6, pp. 13 ff.). Thus, much emphasis is placed on the importance of adult support and representation in child protection proceedings.

Safe participation

Overall, instructions in CB 2022 ensure the child's safety from harm, pressure, power imbalances, and privacy intrusions. However, on all dimensions except for privacy intrusions, we would suggest some smaller improvements to strengthen the guideline's intention of securing the child from harm.

From harm. CB 2022 (p. 4) encourages the decision-maker to consider possible "negative consequences" for the child if an emergency placement is not approved, thus giving instructions on being aware of the risk of harm. Concerning the outcome of the case, the guideline clearly states that it should be emphasized to the child that a decision in line with the child's wishes does not put the responsibility of the case outcome on the child, as it is the board that has made a decision. This could reduce the child's fear of reprisal etc., but it could furthermore be communicated to the child that also the *parents* are informed that the decision is not the child's responsibility.

Regarding special arrangements when conducting the conversation, CB 2022 (p. 9) mentions that the child may not want to meet their parents on the county board's premises and that biological or foster parents should not be present during the conversation between the board and child. However, the guideline does not mention that there could be a possible risk of physical or psychological harm if the child were to meet their parents on the county board premises or during the hearing, and the guideline could be clearer on this. CB 2022 clearly informs the child about the distribution of meeting minutes to parents and the child protection services, which we see as a way of reducing the risk of harm to the child. This is not commented on explicitly in the guideline, however, as it simply says that:

³⁵ Translated from Norwegian: "Dette kan være en egnet løsning dersom barnet eller foreldrene har stor mistillit til barneverntjenesten" (p. 6).

³⁶ Translated from Norwegian: "Trygghetspersonen kan være en viktig støtte for barnet og barnets mulighet til fritt å gi uttrykk for sine synspunkter" (p. 9).

The child must be made aware that a report of the conversation will be written, and that the report will be given to the parents and the child protection service. It is important to be clear on this premise of the conversation.³⁷ (p. 11)

From unnecessary pressure. CB 2022 emphasizes that the county boards need to ensure that the child understands it has a real opportunity not to voice its views (p. 6). The guideline also offers instructions on how the county board can establish alternative ways for the child not to answer questions, for example, by shaking or nodding their head (p. 11).

Although physical meetings are the norm, the child could, under some circumstances, participate remotely (p. 8). If the child participates from home, this could potentially put pressure on the child or expose it to harm, and CB 2022 could be more specific on *how* to ensure safety for the child when the meeting is remote. It is not clear from the guideline what it means that “If the conversation is conducted remotely, the board chair must be particularly aware that the conversation takes place in a responsible manner, where the child is free to express his or her views”³⁸ (p. 8).

From power imbalances. Although CB 2022 recommends that all county board members are physically present when the child is heard, it is stated that “It can be overwhelming for the child to have a conversation with the entire board, and thus place restrictions on the child’s ability and willingness to express his or her views”³⁹ (p. 9). Introductions/role clarifications and one person leading the conversation are mentioned as important to make the situation less intimidating. CB 2022 also emphasizes that the child may bring a support person, which could function to reduce some of the power imbalance in the meeting, although this is not described as a purpose. The conversation will likely be characterized by strong power imbalances, especially if the board is extended. As an improvement, the guideline could include ways to reduce power imbalance by, for example, presenting it as an option to the child that some board members follow the meeting through streaming from another room. Hearing the child through an expert is also described as a way to reduce the number of adults the child is in contact with (p. 16) and could thus be a more power-balanced hearing of the child.

Regarding the meeting minutes, CB 2022 directs decision-makers to read them to the child (p. 11). Reading/summarizing the minutes could help reduce power imbalance in documentation, especially if the professional stops to summarize during the meeting, as CB 2022 (p. 11) encourages.

From privacy intrusions. On the county board’s conversation with the child, CB 2022 clearly states that “The purpose of the conversation is to realize the child’s right to participate in their own case. Therefore, audio and video recordings of the conversation should not be taken”⁴⁰ (p. 9). The guideline discourages recording the meeting also on the basis that this raises questions around privacy concerns, instructing the board on securing children from privacy intrusions. When the child is heard by a spokesperson, it is specified that “the spokesperson shall shred the report when the assignment is completed”⁴¹ (p. 14) – again of importance to securing the child from privacy intrusions.

³⁷ Translated from Norwegian: “Barnet må gjøres kjent med at det vil bli skrevet et referat av samtalen, og at referatet vil bli gitt til foreldrene og barneverntjenesten. Det er viktig at man er tydelig på dette premisset for samtalen” (p. 11).

³⁸ Translated from Norwegian: “Dersom samtalen gjennomføres ved fjernmøte, må nemndleder være spesielt oppmerksom på at samtalen foregår på en forsvarlig måte, hvor barnet fritt får gitt uttrykk for sitt syn” (p. 8).

³⁹ Translated from Norwegian: “Det kan samtidig oppleves overveldende for barnet å ha samtale med hele nemnda, og dermed legge begrensninger på barnets evne og vilje til å gi uttrykk for sine synspunkter” (p. 9).

⁴⁰ Translated from Norwegian: “Formålet med samtalen er å realisere barnets rett til å medvirke i egen sak. Den er ikke et bevisopptak eller avhør. Det bør derfor ikke tas lyd- og bildeopptak av samtalen” (p. 9).

⁴¹ Translated from Norwegian: “Talspersonen skal makulere rapporten når oppdraget er fullført” (p. 14).

Suggestions for the county boards

Table 6. Reflections on CB 2022 – summarized according to themes

<i>Inclusive participation</i>	
1.1	CB 2022 could specify the particular circumstances of a child's disability or vulnerability that could facilitate conversations (with or without an expert). These accommodations could include avoiding bright lights or noises for children with sensory hypersensitivity and specific accommodations for deaf children, autistic children, or children who express themselves in a language other than Norwegian. It is important to consider emotional or practical assistance when the child has a physical disability, mental health-related diagnoses, or speaks a language other than Norwegian.
1.2	The guideline mentions that an expert can be appointed to communicate with children in vulnerable situations, including children who have difficulty expressing themselves verbally, young children, and children with special needs. The guideline could clarify the threshold for expert involvement and who supervises the expert.
1.3	It might be important to consider how professionals should adapt the information in circumstances where children's disabilities or language issues require adaptation, so the information is accessible.
1.4	The guideline could consider how the county board should consider how a child's and the county board members' gender, sexual orientation, and ethnicity might affect the conversations and participation dynamics. Professionals could ask children about their preferred pronouns so as not to misgender a child in conversation or consider how a child's minority ethnic background might affect the conversation dynamics in a room with county board members who are non-minorities.
<i>Informative, transparent, and accountable participation</i>	
2.1	The discussion of the weighting of the child's opinion against other interests could be expanded. It is notoriously difficult to explain and display in a transparent way how an opinion has been given weight, either a child's or an adult's opinion. Often it is easier to regard the weighting process as an either-or situation, with the decision-makers concurring with the opinion (that is, giving it weight) or not concurring, and thus the opinion is not given weight.
2.2	There could also be mention about what will happen with the child now and onward; for example, the period between the hearing and the decision being made, but it is possible that this is the child protection agency's responsibility.
2.3	The guidelines could be more robust in explaining to the child what type of decision will be made, and that decision-makers have a responsibility to make a decision that is in the child's best interest, both short and long term.
<i>Child-centric and child-friendly participation</i>	
3.1	Drawing materials are mentioned as a method to make the county board meeting room more child-friendly but using more unconventional or creative ways to explore the child's views, for example, through drawing or storytelling, should be included in the guideline.
3.2	Overall, CB 2022 could be clearer on meeting distrustful children by including a separate section on this or incorporating it into existing sections, such as on the conversation with the child (section 5.2) and conveying the outcome (section 10).
3.3	Regarding the child's orientation of the case outcome (section 10, p. 20), the guideline could include information about how to communicate the outcome to the child in a friendly and gentle way, especially when the outcome is not in line with the child's wishes.
<i>Safe participation</i>	

4.1	The implicit intention of preventing or securing children from harm, for example, in relation to parents not being present during hearings and distribution of minutes, should be explicit.
4.2	Options to reduce the number of decision-makers in the physical room during the conversation with the child should be included.
4.3	The guideline discusses challenges related to remote meetings and information about the child. It could also discuss <i>how</i> to ensure safety for the child in remote meetings.

District courts – DC 2021 and DC 2019

The courts have two guidelines: DC 2021 and DC 2019. DC 2019 offers practical recommendations for the courts on how children should be cared for throughout the court process. The guidelines cover who should hear the child in district court and court of appeals, where and how the hearing should be conducted, how the minutes should be written and used, and how feedback to the child should be given and documented. It is the result of an interdisciplinary working group that has received input and recommendations from children from the Change Factory with experience in the legal system (DC 2019). According to DC 2019,

The main message from the pros [the children from the Change Factory who provided recommendations] to the implementation of child protection cases is largely about creating safe frameworks in the legal process by allowing the children to get involved in the process; about getting sufficient information to understand what is going on and at what point; about being allowed to bring a trusted person in the conversations with the judge and expert, and allowing children to speak directly to those who will decide the case (the judges) when the children wish to do so.⁴² (p. 2)

The 2019 document emphasizes that the recommendations are meant to be a tool used at the discretion of the judges, and the primary consideration is the child's best interests. It highlights the need for increased resources for the courts because implementing the recommendations may require additional time on the part of the judges.

In 2021, a working group of judges and court administration representatives developed a new national guideline because of the many judgments on Norwegian child protection cases in the European Court of Human Rights. DC 2021 takes a general approach and targets all aspects of a child protection case and thus only addresses children's participation as one aspect amongst several in handling a case. In DC 2021, section 9 describes "how to hear children," and sections 6, 8, 13, and 14 are also relevant in relation to hearing children. We have reviewed the guideline in full but analyzed in detail the mentioned sections. It is clearly stated in the introduction to DC 2021 (p. 3), that the national guideline should be seen in connection with the practical recommendations in DC 2019. DC 2021 references six sections from DC 2019 (sections 1, 2, 3, 4, 6, and 7), and they are therefore selected to be included as a basis for our analysis. In the following, we will merge the analysis of these two court guidelines and focus on children without party rights.

Inclusive participation

Non-discrimination and cultural sensitivity. DC 2021 is attuned to children's cultural and linguistic backgrounds. The guideline provides specific advice to speak with the child about their culture, ethnicity, religion, and language:

⁴² Translated from Norwegian: "Hovedbudskapet fra proffene til gjennomføringen av barnevernssakene, handler i stor grad om å skape trygge rammer i rettsprosessen ved å la barna bli involvert i prosessen, at de får tilstrekkelig informasjon til at de forstår hva som foregår og til hvilket tidspunkt, at de får ha med seg en tillitsperson i samtaler med dommer / sakkyndig, samt å la barna få snakke direkte med de som skal avgjøre saken (dommerne) når barna ønsker det" (p. 2).

If the child is heard, they should be given the opportunity to comment on the significance of their cultural/ethnic/religious/linguistic background in deciding the issue. This applies both in matters of care orders, revocation of care orders, choice of a foster home, determination of visitation, and adoption. Children and parents may have different views on this topic⁴³ (p. 11).

Assessing the need for an interpreter or translation of documents is not addressed other than in DC 2021 in relation to the planning meeting and thus in cases where children have party rights. Neither DC 2021 nor DC 2019 include language about gender identity, sexual orientation, political opinion, or socio-economic background.

Section 14 of DC 2021 states that “children with party rights and children who have spoken out shall be provided with adapted information about the result of the case [...]. The child should also be given a justification for the result”⁴⁴ (p. 17). This appears to discriminate against children who could understand information about the result of the case but have not spoken because of language impairment, mental health issues, etc.

Special attention to children in vulnerable situations. DC 2019 considers a child’s special needs in the planning meeting in the district court and court of appeals. It states:

Clarify in the planning meeting whether the child wants to talk directly to the judges, whether they have special needs, or if there are reasons why the child should not be heard by the judges, but rather talk to a pediatric expert.⁴⁵ (p. 4)

DC 2019 discusses the child’s age a few times. Section 3.1 of DC 2019 on how the judges should conduct their conversations with children mentions that judges should tailor their language to the child’s age and development. Other than “speak simply and concretely”⁴⁶ (p. 8) and mentioning younger children’s shorter attention span, DC 2019 does not provide specificity about how to speak with children in different age groups. With regard to age, DC 2021 states in section 9 that:

Children who are seven years of age and younger children who can form their views on the case in question [...] shall be given the opportunity to comment on issues affecting them [...]. In this assessment, consideration must be given to the child’s age, development, situation, and any special needs, when the child was last heard, and whether the child wishes to speak⁴⁷ (pp. 11-12).

Practical assistance. In DC 2021 (p. 5), there is explicit mentioning of practical assistance in the form of a translator and translation of documents in relation to children speaking a language other than Norwegian, but only in relation to the planning meeting. Assistance in the form of transportation to children who live at a distance from the court’s premises is addressed in neither DC 2021 nor DC 2019.

⁴³ Translated from Norwegian: “Hvis barnet høres, bør det få anledning til å uttale seg om hvilken betydning dets kulturelle/etniske/religiøse/språklige bakgrunn bør ha for avgjørelsen av sakens spørsmål. Dette gjelder både i spørsmål om omsorgsovertakelse, tilbakeføring, valg av fosterhjem, fastsettelse av samvær og adopsjon. Barn og foreldre kan ha ulike oppfatninger om dette temaet” (p. 11).

⁴⁴ Translated from Norwegian: “Barn med partsrettigheter og barn som har uttalt seg, skal få tilpasset informasjon om resultatet i saken, jf. barnevernloven § 1-6. Barnet bør også få en begrunnelse for resultatet.” (p. 17).

⁴⁵ Translated from Norwegian: “Avklar på planmøtet om barnet ønsker å snakke direkte med dommerne, om det har spesielle behov, eller om det er årsaker til at barnet ikke bør høres av dommerne, men heller snakke med en barnefaglig sakkyndig” (p. 4).

⁴⁶ Translated from Norwegian: “Snakk enkelt og konkret” (p. 8).

⁴⁷ Translated from Norwegian: “Barn som er fylt 7 år, og yngre barn som er i stand til å danne seg egne synspunkter om det saken gjelder, jf. HR-2021-763-F, skal gis anledning til å uttale seg om spørsmål som berører dem, jf. Grunnloven § 104 første ledd, FNs barnekonvensjon artikkel 12 jf. FNs barnekomites generelle kommentarer nr. 12, og barnevernloven § 6-3 første ledd. I denne vurderingen må det blant annet tas hensyn til barnets alder, utvikling, situasjon og eventuelle særlige behov, når barnet er hørt sist, og om barnet ønsker å uttale seg” (p. 11).

Informative, transparent, and accountable participation

Examining DC 2021 and DC 2019, the tone and approach are centered around providing instructions for the judges, the court's requirements, and the legal platform, and little on the perspective of the child and what the child would need. An example of a court- and rule-centered focus in the guidelines is evident in relation to informing the child and how it is underscored that the court must not give the child any information about the facts in the case – which seem to be a harsh approach to a child that requests information or is interested in the case:

The judge should examine what kind of information the child has received about the case. If the child requests specific information, e.g. the content of an expert's statement, the judge should inform the child that they will convey this request for information to the child protection service. The judge must not provide information about the fact(s) to the child⁴⁸ (DC 2019, p. 7).

An alternative, we think, might be to inform judges about how to approach this in a child-friendly manner, and perhaps a suggestion is that they can inform the child about some but not all parts of the case.

The DC 2021 guideline informs decision-makers about children's rights to be heard and includes case law with direct links to various cases raising different issues concerning children's participation. However, it provides little encouragement to inform the child about the case; to accommodate solutions to how the child may be heard, what to expect in the meeting with the court; and so forth. Primarily, the court is concerned with how to organize themselves, as is illustrated in the following quote:

If the child is to speak directly to the court, all the judges who are to decide the case should be present. This can be done in various ways, including the use of remote meeting technology may be appropriate, so that not all judges need to be present in the same room as the child. If the child participates in the conversation via remote meeting technology from a place other than the court premises, the court should ensure that the circumstances surrounding the child are justifiable and suitable for such conversation⁴⁹ (DC 2021, p. 12).

However, there is more focus on the child's perspective in these matters in the DC 2019 guideline. For example, the child should know that three judges will listen in or be present when the child provides their information and input.

Decision-makers are informed about the legal right of children in care and how to bring a support person, and the document includes some considerations for whom the child may bring (DC 2019, p. 4).

Section 3 in DC 2019 provides advice on whom should meet the child and what type of information the child should receive. Concerning the latter, the recommendations state: "The expert judge must initially give a brief account of what the case is about, the background to the conversation, that the child has the right, but not the obligation, to express himself/herself in the case, and make sure that the child has understood the information"⁵⁰ (p. 7).

⁴⁸ Translated from Norwegian: "Dommeren bør undersøke hva slags informasjon barnet har fått om saken. Dersom barnet etterspør konkrete opplysninger, f.eks. innholdet i en sakkyndigerklæring, bør dommeren opplyse barnet om at han / hun vil formidle dette ønsket om informasjon videre til barneverntjenesten. Dommeren må ikke gi informasjon om faktum til barnet" (p. 7).

⁴⁹ Translated from Norwegian: "Dersom barnet skal uttale seg direkte til retten, bør alle dommerne som skal avgjøre saken, være til stede. Dette kan gjennomføres på ulike måter, blant annet kan bruk av fjernmøteteknologi være hensiktsmessig, slik at ikke alle dommerne behøver å være til stede i samme rom som barnet. Dersom barnet deltar i samtalen via fjernmøteteknologi fra annet sted enn domstolens lokaler, bør retten forsikre seg om at omstendighetene rundt barnet er forsvarlige og egnet for slik samtale" (p. 12).

⁵⁰ Translated from Norwegian: "Fagdommeren må innledningsvis kort redegjøre for hva saken gjelder, bakgrunnen for samtalen, at barnet har rett, men ikke plikt til å uttale seg i saken, samt forsikre seg om at barnet har forstått informasjonen" (p. 7).

The DC 2019 guideline advises decision-makers to read aloud their notes from the meeting to the child so that the child can correct and confirm that this is what they have meant and said, continuing with an encouragement:

Take enough time and make sure that the nuances of the child's formulations are reproduced correctly. It can be very important for the child if you replace one word with another. It is important that the child is given a real opportunity to correct or add information to the report⁵¹ (p. 9).

There is also a detailed section on the written statement and what information it should include (DC 2019, pp. 9-10), and it is suggested that the same template should be used for all these written summaries, whether the statement is written by an expert or a judge (p. 10). Concerning the minutes, the decision-maker is instructed to make the child's statements and actions/behavior visible and center the documentation on the child, not professionals' interpretations (p. 9). DC 2019 (p. 8) also instructs the decision-maker to inform the child about the reading of minutes at the end of the hearing. Such a reading is important for the child's (real) views to be in focus in the documentation, but DC 2019 could encourage repeating this information during the conversation and giving the child opportunity to correct statements underway, as this could be important to ensure a *real* chance for the child to correct information. Furthermore, the referent is instructed to document corrections/additional information from the child to the minutes and the child's wishes about being informed about the case decision (DC 2019, p. 9).

Decision-makers are advised to explain to the child what status the child's opinion and participation have in the proceedings, underscoring that the child does not have a responsibility or is to be blamed for there being a case or to find solutions:

The expert judge must also explain to the child that it is not the child who decides the result, but that the judges will emphasize the child's view together with the other information in the case when they are to decide it. It is important to emphasize that it is not the child who is responsible for the fact that there has been a case or the solution to this⁵² (DC 2019, p. 7).

DC 2021, section 14, is about informing the child about the court's decision and giving the child a justification. It should be documented that this information has been given to the child. It is not mentioned that the child should be asked about whom the child wishes should inform the child, but it is mentioned that the court may ask the expert whom they think should inform the child.

The court is instructed to include, in the written judgment, information about the child's views, the weight given, and the child's participation: "The child's opinion and the weight given to this should be stated. If the child is not heard, the reason for this should be stated"⁵³ (DC 2021, p. 15).

Child-centric and child-friendly participation

Concerning participation being child-centric and child-friendly, the court's national guideline, DC 2021, is overall weaker in its instructions than the practical recommendations in DC 2019. The latter guideline is relatively strong on having the child in focus, child-friendly settings, and communication style, but less so

⁵¹ Translated from Norwegian: "Bruk god tid, og sørg for at nyansene i barnets formuleringer blir riktig gjengitt. Det kan ha stor betydning for barnet om man bytter ut et ord med et annet. Det er viktig at barnet gis en reell mulighet til å korrigere eller legge til opplysninger til referatet" (p. 9).

⁵² Translated from Norwegian: "Fagdommeren må dessuten forklare barnet at det ikke er barnet som bestemmer resultatet, men at dommerne vil vektlegge barnets syn sammen med de andre opplysningene i saken når de skal avgjøre den. Det er viktig å understreke at det ikke er barnet som har ansvaret for at det er blitt en sak, eller løsningen på denne" (p. 7).

⁵³ Translated from Norwegian: "Barnets mening og hvilken vekt dette er tillagt, bør fremgå. Hvis barnet ikke er hørt, bør årsaken til det fremgå" (p. 15).

on the importance of respectful, caring, trusting relationships and adult support/representation in proceedings.

Child in focus. Having the child in focus is emphasized by the court guidelines only to some degree. DC 2021 does instruct decision-makers in having a focus on the child's culture, ethnicity, language, and religion and how the child sees this in relation to the case (p. 12). It also specifically mentions the child's wishes in relation to being heard directly (p. 11) and that the child's situation and interests should be described in court decisions (p. 15). Concerning the possible appointment of an expert, relevant factors to consider are listed, such as whether the appointment is needed to fulfill the child's right to be heard (p. 9). However, the child's views and wishes are not listed as a relevant factor. The guideline furthermore lacks instructions on having the child in focus when informing the child about the case outcome: DC 2021 states that the expert can be asked about who they think should inform the child, with no mention of establishing or respecting the *child's* wishes concerning this question.

DC 2019 puts more emphasis on decision-makers having the child in focus. They are instructed and encouraged to establish the child's needs and wishes in different processes, for example, concerning how children want to be heard in court (p. 4), sharing meeting minutes (p. 8), and receiving information about the case decision (p. 9). In contrast to the national guideline, DC 2019 clearly instructs decision-makers to ask the child who they want to tell them about the case outcome, encouraging focus on the child.

Child-friendly settings. If the child is participating remotely from somewhere else than the court premises, ensuring justifiable and suitable surroundings is encouraged in DC 2021 (p. 12). However, the national guideline could be more specific about what aspects are important in this assessment and how the court should ensure it. DC 2021 does not put direct emphasis on child-friendly material settings but does in the section on hearing the child (DC 2021, section 9, p. 11) refer to some selected sections in DC 2019 – including one on where to hear the child (DC 2019, section 2). For material settings, DC 2019 mentions that the child's court hearing may occur in a child-customized room. However, besides stating that the conversation with younger children could benefit from an adjusted room and that, when being heard by experts, a neutral place could make it easier for children to express their views freely (p. 7), the section on material settings is primarily a description of where the hearing is usually conducted rather than a set of recommendations.

Communication style. DC 2021 does not give instructions on child-friendly communication but refers on p. 11 to DC 2019, where this is covered in section 3.2 on how to conduct the hearing of the child. DC 2019 gives the court professionals detailed instructions on using a child-friendly communication style. Specifically, DC 2019 offers direction concerning greeting the child (p. 7), establishing contact, initiating the hearing, and asking open and follow-up questions about case-related matters (p. 8). Furthermore, the DC 2019 guideline encourages decision-makers to use simple and direct language as well as be explorative rather than confrontational and aggressive in their communication with the child (p. 8).

Respectful, caring, trustful relationships. While the relational aspect and focus on respect, care, and trust are missing in DC 2021, DC 2019 communicates that it is important to show respect, care, and trust in relation to the child. However, the focus on respect, care, and trust is more implicit than explicit and covered in a few different sections of DC 2019. For example, judges are encouraged to respect the child's need for control over the process of distributing court meeting minutes (DC 2019, p. 8). It emphasizes that giving a thorough explanation of the case outcome is of particular importance when the outcome is contrary to the child's wishes (p. 10). As an improvement, DC 2019 could explicitly state the need to show extra care when informing the child of the decision made contrary to its wishes. Furthermore, both court guidelines lack a focus on how to meet distrustful children, which could be a point of improvement.

Adult support/representation in proceedings. DC 2021 and DC 2019 mention the option for the child to bring a support person in proceedings (DC 2021, p. 12; DC 2019, p. 4, p. 7, and p. 10). The instructions in DC 2019 are more explicit and persistent; for example, it encourages a trusted adult to be present when the child is informed of the case decision: “When giving feedback to the child, the child should bring an adult they are confident in, for example, the trustee”⁵⁴ (p. 10). However, we do believe that the intention and importance of providing support and a safer environment for the child could be explicitly commented on in the guideline so that the offering of a support person is not a box to tick off but a way to make court proceedings more supportive of children and their participation. Concerning representation in proceedings, DC 2019 mentions that spokespersons should not be used because the quality of the arrangement has been uneven and because it is not required in court proceedings (p. 4).

Safe participation

Concerning safety, DC 2021 is generally weaker than DC 2019, which is strong on safety from harm and pressure but less attentive to power imbalance.

From harm. There is little emphasis on securing children from harm in DC 2021, but more so in DC 2019. The attention on securing children from harm is made explicit when DC 2019 instructs the court not to place the responsibility of a decision on the child (p. 10). In addition, DC 2019 directs the judge to assess confidentiality issues and loyalty conflicts if the child wishes to bring a support person who is not the appointed trustee (p. 5). In this context, it also mentions that biological and foster parents should not normally be present in the conversation between the court and child, implying that this may also impose loyalty and confidentiality issues (DC 2019, p. 5 and p. 10). DC 2019 furthermore instructs court professionals to inform the child about the distribution of meeting minutes (p. 8), which could function to secure children from harm. However, this is not commented on explicitly in the guideline.⁵⁵

From power imbalances. Both in DC 2021 and DC 2019, different options are presented on who should talk to the child. DC 2021 mentions that remote meetings could be an alternative for reducing the number of adult professionals physically in the room with the child (p. 12). This could reduce power imbalances, although this is not mentioned directly. Furthermore, if an expert is appointed in a parallel parental dispute, DC 2021 recommends using the same expert in the child protection case to reduce the number of people the family is in contact with (p. 6). In DC 2019, more concrete examples of different options are presented on who should talk to the child in district court meetings. The link to reducing power imbalance is more clearly stated, as it says that “A concrete assessment of the procedure must be made so that the conversation is least stressful as possible for the child”⁵⁶ (p. 4).

From unnecessary pressure. While DC 2021 mentions that the child is not obliged to voice its views (p. 11), DC 2019 goes one step further and instructs the court professionals to not apply pressure if the child does not want to be heard: “It is important to be clear that if the child does not want to talk to the judges, that is perfectly fine. The conversation can then be ended”⁵⁷ (p. 7).

⁵⁴ Translated from Norwegian: “Når det gis tilbakemelding til barnet, bør barnet ha med seg en voksen det er trygg på, f.eks. tillitspersonen” (p. 10).

⁵⁵ Not regarding the meeting with the child specifically but the court process in general, both guidelines direct the court to be careful in cases where the child lives at a hidden address. While DC 2021 (section 1 on case preparations) instructs the court to check if documents should be sealed, DC 2019 (section 9 on hidden address) is more persistent and urges the court to exercise great care not to reveal the child’s whereabouts or new identity.

⁵⁶ Translated from Norwegian: “Det må gjøres en konkret vurdering av fremgangsmåten slik at samtalen blir minst mulig belastende for barnet” (p. 4).

⁵⁷ Translated from Norwegian: “Det er viktig å være tydelig på at dersom barnet ikke ønsker å snakke med dommerne, så er det helt i orden. Samtalen kan da avsluttes” (p. 7).

From privacy intrusions. Of the two court guidelines, only DC 2019 directs the decision-makers not to videotape the hearing, as the hearing is not an obtaining of evidence (DC 2019, p. 4; overall section is referenced in DC 2021, p. 11).

Suggestions for the district courts

Table 7. Reflections on the DC 2021 & 2019 – summarized according to themes

<i>Inclusive participation</i>	
1.1	The guidelines could mention allowing children to comment on the significance of their ethnic background on the decision. In this context, they could also include gender identity (or whether the child is in gender transition and therefore has related health care needs). This would be important in the choice of a foster home or a decision about moving back home.
1.2	The guidelines could provide more specificity about how to speak and connect with children in different age groups and clarify the attention span of children of different ages. Concerning young children, they should be clearer on how the courts could hear their opinion independently from the child protection services, for example, as using spokespersons is discouraged in DC 2019 (p. 4).
1.3	The guidelines could clarify that even children who do not speak (because of language impairment, shyness, or mental health issues) should have the opportunity to receive an adapted version of the court's decision and the justification for the decision.
<i>Informative, transparent, and accountable participation</i>	
2.1	The guidelines could ensure the decision-makers provide information about all aspects of the case and the proceedings to children.
2.2	The guidelines could ensure that decision-makers see to it so that children may have support and options in how they may respond to questions and how the information will be used.
2.3	The guidelines could clarify how a child's testimony and information will be used in decision-making.
2.4	The guidelines could tell decision-makers to inform the child about what will happen after the meeting and until a decision is made and presented to the child.
<i>Child-centric and child-friendly participation</i>	
3.1	There is no mention of using other ways to engage the child than talking, and the court guidelines should present alternative, more creative ways of facilitating or supporting children's participation (e.g., drawing or storytelling). DC 2019 could frame the section on material settings as clear instructions to decision-makers on the importance of child-friendly material settings and provide details about what constitutes a child-customized room.
3.2	The guidelines could make the focus on respect, care, and trust more explicit and clearly state the need to show extra care when informing the child of a decision made contrary to their wishes.
3.3	Both court guidelines lack a focus on how to meet distrustful children.
3.4	The guidelines should acknowledge situations suitable for hearing the child through a spokesperson, and DC 2019 should not be so firm in its recommendation not to appoint spokespersons. For example, suppose the child has previously been heard by a spokesperson in the county board and achieved good contact with this person. In that case, exploring the child's wish to be heard by the same spokesperson in court proceedings could be beneficial.
<i>Safe participation</i>	
4.1	In a gentle way, the guidelines could encourage professionals to explore the child's reason for not wanting to be heard and seek resolutions without applying unnecessary pressure on the child.

	They could also consider alternative forms of “conversations,” including a note, letter, or short video.
4.2	The implicit intention of preventing or securing children from harm, for example, in the distribution of minutes and reducing the number of adult decision-makers in the room, should be explicit in the guidelines.

5. Discussion

In this section, we discuss the findings of our analysis of guidelines on children’s participation used in Bergen municipality, the county social welfare boards, and the district courts. We start by advancing some general points about the guidelines. Then, we circle back to how the organizational guidelines could promote inclusive, informative, transparent, accountable, child-centric, child-friendly, and safe participation.

General points about the guidelines

Different views on children and their participation

The guidelines embrace different views on children and children’s participation. The CB 2022 highlights that children’s involvement is the way to go and the norm for all proceedings. It emphasized that if there are any obstacles, they can be solved. Quite exemplary in our view is that CB 2022 and BM 2009 state that the emphasis must be on how the child can participate, rather than if the child wishes to participate: “Especially for small or particularly vulnerable children, there should be a focus on **how** participation can take place in a caring/gentle way, rather than **whether** the child should participate”⁵⁸ (CB 2022 p. 5). Overall, CB 2022 and BM 2009 strongly express that children must be involved and participate. BM 2009 puts the child in the center and assigns professionals the role of facilitators for children’s participation. The document frames participation as positive and essential for the child. It does not focus on the professionals ensuring children’s legal rights because legislation says so, but on empowering children and ensuring that the child also benefits from the participation.

When we analyzed DC 2021 and DC 2019, we found that the tone and approach are centered around the court’s requirements and the legal platform. The documents pay little attention to the perspective of the child and what the child would need. An illustration is the description of the purpose of the meeting with the child. DC 2019 states that it is an opportunity for the child to convey their meaning, whereas it does not express that it is crucial for the court because they can be informed and improve their basis for making decisions: “The conversation with the child shall not be an admission of evidence or interrogation. The conversation is only intended as an opportunity for the child to express his opinion in the case if they have any”⁵⁹ (DC 2019, p. 8).

Overall, the DC 2021 is a rather formalistic document that addresses and reflects the law and the judges’ needs. It focuses less on the individual children and how they may be encouraged to act in certain ways. The child appears as an object in this document but could be said to be treated in the same way as adults or other parties in the case. DC 2019 is different in its approach, as the focus is much more on the particularities of a child and their needs and feelings.

Comparing the guidelines included in this mapping report, BM 2009 is the one we believe puts the most emphasis on children’s rights with a strong focus on both participation (CRC Art. 12) and best interests (CRC Art. 3). For example, if the child protection workers adhere to the five principles of a development-supportive conversation outlined in the guideline, “The conversation has then contributed to a feeling of

⁵⁸ Translated from Norwegian: “Særlig for små eller spesielt sårbare barn bør det heller være søkelys på **hvordan** medvirkning kan skje på en ivaretakende/skånsom måte, enn **om** barnet bør medvirke” (p. 5).

⁵⁹ Translated from Norwegian: “Samtalen med barnet skal ikke være et bevisopptak eller avhør. Samtalen er kun ment som en mulighet for barnet til å gi uttrykk for sin oppfatning i saken dersom det har noen” (p. 8).

dignity, the experience of greater coherence in life, and most likely also to a better experience of oneself. These factors strengthen mental health and prepare for better development”⁶⁰ (p. 21). With the help of sentences such as “Children see, experience and know a lot”⁶¹ (p. 10), BM 2009 paints a picture of children as competent and knowledgeable and on equal footing as adults as service users.

One guideline is sufficient

While working on this report, we found that some partner organizations have several guidelines on children’s participation. Especially for frontline workers in Bergen municipality, multiple guidelines exist and are in use. There is also uncertainty about which of the two district court guidelines is the main document for instructing court professionals about children’s participation and how they can be combined in an appropriate and effective way.

The management in each partner organization must ensure clarity to decision-makers about which guideline(s) prevails within the organization. We strongly recommend that organizations limit themselves to one defined guideline. If multiple guidelines are used, the management needs to be explicit about how they differ in, for example, purpose and recommended use. The existence of several guidelines can namely present challenges for decision-makers and the fulfillment of children’s participatory rights.

We assume that the circulation of multiple guidelines within an organization creates confusion among decision-makers about their starting point. Furthermore, it is particularly problematic that guidelines used within the same organization may guide decision-makers in different directions by simply giving different advice or using different formulations. For example, the two court guidelines provide somewhat different instructions on who should hear the child. In DC 2021, the general recommendation seems to be to hear the child directly if that is possible, as it is said that “Children who are to be heard should be given the opportunity to speak directly in court if they so wish, as long as the best interests of the child do not speak against it”⁶² (DC 2021, p. 4). However, in DC 2019, there is more focus on the child’s wishes: “Clarify at the planning meeting whether the child wants to talk directly to the judges, whether they have special needs, or whether there are reasons why the child should not be heard by the judges, but rather talk to a pediatric expert”⁶³ (p. 4).

Balancing detail and simplicity

When a written guideline is created or further developed, the management within the organization should focus on formulating a set of instructions that balance detail and simplicity. Guidelines need to be of sufficient detail to give meaningful directions to decision-makers, but without being so comprehensive that the guidelines are challenging to use in practice and take up too much of decision-makers’ limited time.

In terms of details, guidelines should (and some do) make explicit what decision-makers may take for granted, such as not wearing too formal clothes when meeting with and talking to children. Particularly BM 2009, is detailed in its instructions, making explicit, for example, how child protection workers should sit concerning the child and the need to put away phones during the conversation. However, although several of the elements of the guideline are exceptionally good, seen in isolation, our overall impression is that part of BM 2009 should be used as material for basic training of decision-makers, and as an operative guideline

⁶⁰ Translated from Norwegian: “Samtalen har da bidratt til en følelse av verdighet, opplevelse av større sammenheng i livet, og med stor sannsynlighet også til en bedre erfaring med seg selv. Disse faktorene styrker psykisk helse og ruster for en bedret utvikling” (p. 21).

⁶¹ Translated from Norwegian: “Barn ser, opplever og vet mye” (p. 10).

⁶² Translated from Norwegian: “Barn som skal høres, bør gis anledning til å uttale seg direkte til retten dersom det ønsker det, så fremt ikke hensynet til barnets beste taler imot det”.

⁶³ Translated from Norwegian: “Avklar på planmøtet om barnet ønsker å snakke direkte med dommerne, om det har spesielle behov, eller om det er årsaker til at barnet ikke bør høres av dommerne, men heller snakke med en barnefaglig sakkyndig” (p. 4).

could be too detailed in some of the instructions. It is also structured in a way that may make it challenging for decision-makers to use by scattering instructions in different sections.

There is no single solution to how detailed or comprehensive a guideline should be, but based on our analysis, we find that the county board, with their guideline on children's participation (CB 2022), has managed to achieve a good balance between detail and simplicity. Overall, decision-makers are given clear but concise instructions on what they should do to ensure inclusive, informative, accountable, transparent, child-centric/-friendly, and safe participation. The instructions are placed in clearly defined sections, making it presumably easy for decision-makers to use the guideline on children's participation.

Inclusive participation

We found that DC 2019 is powerful in promoting non-discrimination regarding culture and language. Overall, the guidelines could provide more concrete advice and instructions for how professionals can promote inclusive participation, especially regarding ability, gender identity, sexual orientation, and socioeconomic background. Non-discriminatory, inclusive participation requires cultural sensitivity, humility, and learning on the part of professionals. It also demands awareness of a child's socioeconomic background, disability-competency, and SOGIE-competency (sexual orientation, gender identity and expression). The guidelines could provide instructions on how professionals could apply these competencies to promote children's participation. The following section offers food for thought about how organizational guidelines could promote inclusive participation.

Cultural sensitivity and cultural humility

In their report on minorities, the Change Factory (2013) puts forward an explicit request: "We ask those of you who know little to learn about the cultures we come from"⁶⁴ (p. 11). Change Factory (2013) advocates for practitioners' awareness of communication patterns in other cultures, including an ability to interpret facial displays and gestures and showing interest in the child's family's culture, and how a child's culture may influence their choice of out of home care, for example. They emphasize that language is an integral part of a child's cultural identity and that professionals need to ask children about it, for example, when removing them from home and taking them into care (Change Factory, 2013). This quote by the Change Factory (2013) shows the importance of non-discrimination to children from an ethnic minority background in Norway who encounter the child protection system:

Children and young people have the right to be treated as equals and as very important informants about their own lives. Our description of life up to now, our experience of life now, and our thoughts and wishes for the future must be requested, listened to, and taken seriously. All parts of the child protection service must take this responsibility. Our thoughts and advice must then be the starting point for plans and decisions⁶⁵ (pp. 33-34).

The Change Factory wants practitioners to listen to children's opinions about foster care, contact with siblings and extended family, etc.

⁶⁴ Translated from Norwegian: "Vi ber de av dere som kan lite, lære om kulturene vi kommer fra" (p. 11).

⁶⁵ Translated from Norwegian: "Barn og unge har rett til å bli møtt som likeverdige mennesker og som svært viktige informanter om eget liv. Vår beskrivelse av livet fram til nå, vår opplevelse av livet nå og våre tanker og ønsker for framtida må etterspørres, lyttes til og tas på alvor. Alle deler av barnevernet må ta dette ansvaret. Våre tanker og råd må deretter være utgangspunkt for planer og beslutninger" (pp. 33-34).

The minority children and youth of the Change Factory (2013) write that it is intimidating when child protection caseworkers arrive at the family's door with uniformed police officers at the point of removal because of prior experiences with the police:⁶⁶

If we need to be moved urgently, we're not asking you to bring people in police uniforms. This has to end. If it has to be with the police, we ask that they dress in plain clothes. It can be very frightening that there are people in uniform at the door, and it can also be very scary to see parents' reactions to this. Remember that many of us carry stories and bad memories from contact with the police⁶⁷ (p. 21).

The Change Factory (2013) emphasizes the importance of non-discrimination of children with a migrant background and children who are Muslim:

Some of us have experienced that the child protection service discriminates. Some of you have prejudices against us from countries you know little about and against our families. Some of us young Muslims believe that Norwegian child protection services differ in relation to Muslims. We believe that they take children from foreign families faster than if the children came from ethnic Norwegian families⁶⁸ (p. 11).

Organizations may harbor unwritten rules that disadvantage children from migrant backgrounds by expecting competency in the majority language (see, for example, Free & Križ (2022) about the education system). Križ and Skivenes's (2010) research has shown the saliency of professionals' attention to interpretation and translation because child protection workers can lose information, time, trust, and rapport-building when working with interpreters. These are "ingredients" essential to promoting children's participation (see, for example, Duncan, 2019, Križ, 2020).

The Change Factory (2013) recommends increasing the diversity of practitioners because it is important for minority children to be able to interact with practitioners of the same cultural background: "It is a good idea if, in all institutions, there work people who are confident of meeting people with different languages and religions – and with different thoughts and traditions"⁶⁹ (p. 28). They advocate for practitioners who actively listen, take them seriously, and care for them: "It is nice if you are a bit like a father or mother to us"⁷⁰ (Change Factory, 2013, p. 35). Other demands of the Change Factory related to participation are transparency of decision-making, access to information promptly, and practical support for participation, including meetings outside of school hours, so appointments do not interfere with children's education. The Change Factory's advice relates to the intersectional cultural humility perspective described by Ortega and

⁶⁶ In authoritarian countries, the police can be part of the infrastructure of oppressive regimes, and encounters with the police may result in incarceration, torture, and death. In addition to their fear involved in being removed from their families, migrant children may fear child protection services as a potentially repressive government agency, or they may fear that involvement might lead to the family's detention and removal from the country. Migrant children's fears may result in significant barriers to building rapport with professionals, which hampers participation (Slayter & Križ, 2015). A migrant family's documentation status may also create participation barriers (Križ & Skivenes, 2012). Practitioners will need to minimize minority migrant children's fears to promote participation with the help of "fear management" (Križ, Slayter, Iannicelli, & Lourie, 2012). One of the ways they can do so is by providing information and knowledge, brokering services, promoting children's dignity, and learning about their culture (Križ, Slayter, Iannicelli, & Lourie, 2012).

⁶⁷ Translated from Norwegian: "Om vi må flyttes akutt, ber vi dere ikke ha med folk i politidrakter. Dette må det bli helt slutt på. Om det må være med politi, ber vi om at de er kledd i vanlig tøy. Det kan oppleves veldig skremmende at det står uniformerte folk på døra og det kan også være veldig skremmende å se foreldrenes reaksjon på dette. Husk at mange av oss har med oss historier og dårlige minner fra kontakt med politi." (p. 21).

⁶⁸ Translated from Norwegian: "Noen av oss har opplevd at barnevernet forskjellsbehandler. Noen av dere har fordommer mot oss som kommer fra land dere kjenner lite til og mot familiene våre. Noen av oss unge muslimer mener norsk barnevern forskjellsbehandler i forhold til muslimer. Vi mener at de tar barn fra utenlandske familier fortere enn om barna kom fra etnisk norske familier" (p. 11).

⁶⁹ Translated from Norwegian: "Det er lurt om det på alle institusjoner jobber folk som er trygge på å møte folk med ulikt språk og religion – og med ulike tanker og tradisjoner." (p. 28).

⁷⁰ Translated from Norwegian: "Det er fint om du er litt som en mor eller en far for oss" (p. 35).

Coulborn Faller (2011). The researchers have described “cultural humility” like this: “a cultural humility perspective encourages workers to take into account an individual’s multiple identities and how their social experiences impact their worldview, particularly as it relates to their expression of their culture” (Ortega & Coulborn Faller, 2011, p. 33).

Socioeconomic background

Guidelines should highlight the intersectionality between a child’s minority and socio-economic backgrounds and disability and socio-economic position. Almonte Nucico (2019) emphasizes the latter type of intersectionality in the context of the welfare regime in the United States:

A strong indicator of the co-occurrence of poverty and family economic distress is the fact that families caring for a person with a disability have a greater dependence on means-tested benefits. Low-income families of children with disabilities are more likely to experience severe stress due to low socioeconomic status and limited access to services for both children and parents (p. 17).

Non-discrimination and cultural sensitivity might involve considering how a child’s socio-economic background may impede participation, for example, by creating practical problems to access meetings and creating feelings of constraint or a lack of entitlement in interactions with professionals. Lareau’s (2002; 2015) research on poor/working-class and upper/middle-class families in the United States has shown how the “cultural knowledge” of children from different socio-economic backgrounds differs. Her research illustrates how their social class constrains poor and working-class children when communicating with (upper) middle-class professionals (Lareau 2002; 2015). The guidelines could pay explicit instructions about how professionals can narrow social class gaps between children and professionals in communications and meetings to promote participation.

Ability

Inclusive participation requires disability competency from professionals when promoting children’s participation. Lightfoot (2014) writes about the United States:

There is a growing body of evidence that shows that children and youth with disabilities are not only quite prevalent within the child welfare system, but also that they receive lesser quality services and have poorer outcomes. It is imperative that those working within the child welfare system have a firm understanding of their unique needs and concerns (p. 40).

Disability competency remains a challenge according to international literature. In a recent literature review about children’s participation in assessment in child protection in Ireland, Flynn (2021) notes: “despite practical tools and conceptual frameworks, it remains the case that capturing the voice of disabled children in social work assessment, is a formidable challenge” (p. 340). Flynn discusses augmentative communication aids, non-verbal communication, and triangulation in the assessment process. Taylor et al.’s (2016) study of practitioner experiences practicing with disabled children in Scotland noted:

Overall, there was a strong commitment by practitioners to the principles of child centredness, yet in practice, significant barriers were identified to ensuring that disabled children were consulted, informed and had the opportunity to give their views about decisions affecting them (p. 69).

How can practitioners ensure the participation of children with disabilities? Almonte Nucico’s (2019) resource guide provides case examples and concrete suggestions about how to involve children with disabilities that would be useful for further developing the current guidelines.⁷¹ For instance, Nucico (2019, p. 15) mentions that professionals might assume that children with language impairments might have

⁷¹ Another good source is Vanderminden, J., Cameron, A., Fry, D., & Lannen, P. (2017).

intellectual delays or be unsure how to communicate with them. Children who do not speak may have other ways of communicating, for example, with the help of sign language or gestures. Guidelines should point out these forms of communication (p. 16).

Sexual Orientation, Gender Identity, and Expression (SOGIE)

Professionals' SOGIE (Sexual Orientation, Gender Identity, and Expression)-competency is a prerequisite for inclusive participation. SOGIE-competency in promoting LGBTQ+ children's involvement is vital in finding safe and affirming placement options for children and youth (Human Rights Campaign Foundation, n. d.). Guidelines should be explicit about how professionals can promote the participation of children and youth who identify as LGBTQ+ and gender-variant individuals. They could recognize the impact of language practitioners use in interactions, using gender-neutral and inclusive terms and expressions, and avoiding misgendering individuals (County of Santa Clara, n. d.). The latter can be more easily achieved by documenting a child's gender identity and expression and keeping this information current. It is essential that practitioners actively involve children in disclosing this information (Center for the Study of Social Policy (CSPP), 2013). CSPP states that "child welfare agencies should have written policies and procedures governing the management of information related to the sexual orientation, gender identity and gender expression of children and youth under their care" (2013, p. 20).

Matarese, Greeno, and Betsinger (2017) underline the importance of safe and supportive relationships for LGBTQ+ children and youth and diversity training for child welfare professionals to decrease biases and stereotypes. They mention using respectful, appropriate, and inclusive language and letting LGBTQ+ children and youth know that their information will be kept confidential and that they will be supported. One of Matarese et al.'s (2017) suggestions is: "Refer to youth using their preferred name and pronoun and allow them to express their gender identity through clothing, hairstyles, and mannerisms at a point in time where they are comfortable to do so" (p. 27).

Organizational structures should reflect an LGBTQ+-affirming environment. According to Matarese et al. (2017):

Child welfare agencies should take concrete steps such as including visual reminders throughout the organization and the community that support the messaging that the agency is LGBTQ2S-affirming, not just LGBTQ2S-accepting. This may include displaying rainbow pride flags, posting anti-discrimination policies, using LGBTQ2S-affirming messaging, announcing upcoming LGBTQ events or media, and posting agency assurance statements in key locations across the organization (p. 26).

According to the Children's Bureau (2016), child protection agencies aiming to be culturally inclusive should:

provide children, youth, and families with the opportunity to see themselves mirrored in the agency's art and photos; feel visible instead of invisible; fill out forms inclusive of sexual orientation and gender identity; and receive respectful treatment from support staff, frontline staff, training staff, and supervisory staff (p. 6).

Informative, transparent, and accountable participation

Information is key

A basic premise for everyone that is going to participate in a decision-making situation or proceedings, is to have information about all aspects of the situation. Otherwise, it is not possible to form an opinion about what can and should be done, and neither what is in an individual's interests. For adults, it is assumed that they have an understanding and a knowledge about society, systems and their own situation. For children, this cannot be assumed, and it requires special attention to informing children so that they can exercise

informed participation. In addition, for children in the child protection system, it must be assumed that they need a particular awareness around their support and the information provided to them, because of the circumstance of neglect and abuse. Thus, professionals must have knowledge about how this impacts a child, and we know for example from experts by experience that trusting adults is difficult.

The guidelines analyzed in this report, all have focus on information that should be provided to the child, although to a varying degree. BM 2009 is clearly exemplary on this issue. The recommendation for all organizations that are involved in decision-making that involves children, is to heighten the awareness around information provision and to not take anything for granted in terms of assumptions on what is known or not known for the child. Information is a prerequisite to make solid decisions and to ensure participation, but it also has the added value of inclusiveness and showing a person respect.

Transparency and accountability

Transparency in decision-making is a continuation of being informative, with the intent of securing predictability and openness about whom, what, and when in a proceeding. All three partner organizations are, as public institutions, transparent with informative web pages and available information for the general public and concerned families. Transparency also bears with it an opportunity for accountability, as other entities than those involved and/or part of a system can review and control what is going on – this is relevant both for the system in general but also for the specific case. For the latter, we see that for all three organizations at least two accountability mechanisms are in place. First, there are minutes included from the conversations with the child, and the child is offered, at least to a certain degree, an opportunity to review and correct/withdraw information. Second, the mechanism is in place in terms of the written decision/judgment, in which decision-makers can display both how the child's opinion and wishes have been weighted but also in how the child is described and portrayed in the written records. Admittedly, for all three guidelines examined for this report, the instructions on how to weigh the child's opinion and to document this, is vague and could be expressed much clearer. In terms of written decisions, there is a growing base of research that documents that the child is often to a little degree visible in the county boards' decisions (Krutzinna et al., submitted; Križ et al., accepted; McEwan-Strand & Skivenes, 2020; Krutzinna & Skivenes, 2021; Magnussen & Skivenes, 2015), and this also seem to be the case for district courts (Magnussen & Skivenes, 2015).

We know that there is an increased awareness around presenting the child's views in county boards and courts, which is also reflected in the electronic templates for written decisions/judgments. A clear advice is to ensure that there are rich descriptions of the child, and their circumstances, as well as a presentation of their opinion (when an opinion has been given), and how the opinion and situation of the child have been considered and have impacted the outcome.

Child-centric and child-friendly participation

Several of the guidelines in this report embrace a somewhat narrow view of child-centric and child-friendly participation, focusing on children expressing themselves through talking and emphasizing the concrete hearing or meeting and the relationship between the decision-maker and child in this specific meeting. However, BM 2009, the guideline used by Bergen municipality, stands out with its broader perspective on what constitutes child-centric and child-friendly participation, which could inspire managers in the other partner organizations.

More than just talking

Professionals in the child protection system have a toolbox of various creative or child-friendly methods to engage children. Playful techniques such as drawings can effectively tease out these children's views, especially for younger children (Archard & Skivenes, 2009). Music has the potential to encourage

participation by, for example, letting children express their thoughts and feelings through songwriting (see, e.g., Krüger, 2018). Furthermore, it may be easier for some children to express themselves in more unorthodox circumstances, such as on a walk or car ride (Archard & Skivenes, 2009).

Of the guidelines we analyzed, BM 2009 is the only one exploring the potential of using creative or child-friendly methods such as drawings or storytelling to facilitate children's participation. Overall, we believe there is potential to include more children if guidelines encourage decision-makers to think outside the box and explore other, more creative ways of engaging children than just through talking.

Widen the focus beyond the instrumental aim of a hearing

Guidelines tend to focus specifically on children's experiences and needs relating to the conversation without making connections to their lives outside of the concrete hearing or meeting. However, the BM 2009 guideline is noteworthy because it clearly emphasizes the best interest dimension for children, and how the child can be empowered, through the conversation, in their everyday lives. The therapeutic force in information, describing in words what has happened and conversations, is a premise for the BM 2009 guideline and its recommendations. The successful conversation is presented as important, for example, for the child's self-confidence in facing challenges at school. Thus, the concrete conversation is placed in a larger context and points to the transformative aspect of participation: Children learn from, develop opinions and gain self-confidence from positive conversations with professionals. As BM 2009 powerfully states, "Talking about how they [children] feel can be crucial to their continued lives. Everyone, both children, young people, and adults, seek to continuously understand and create meaning in what we experience"⁷² (p. 11). In this way, we believe the guideline gives compelling arguments to decision-makers about the importance of engaging children in their child protection cases.

Building relationships and trust takes time and resources

The relational aspect of participation is important, and research shows that positive, trusting, stable relationships between the child protection worker and child are essential to ensure children's participation (see, e.g., the review of Kennan et al., 2018). Although BM 2009 has more focus on relationships and trust-building being a *process*, this is not sufficiently communicated in the guidelines analyzed in this report. Trust takes time to build, and the Change Factory (2020) highlights how children often need to meet the frontline worker more than once to feel safe telling them what is most important to them. Street-level bureaucrats in the child protection system experience a lack of resources relative to their workload (Lipsky, 2010), resulting in pressure on child protection workers, county board members, and judges to limit their time spent on individual cases. Limited resources are likely to contribute to the lack of focus in the guidelines on building relationships and trust over time, which we in line with the Change Factory (2020) argue will hinder some children from expressing their (honest) opinion.

We believe it is vital that guidelines recognize that relationships and trust are built over time and explore opportunities for continuity. It is positive that several of the guidelines emphasize the importance of children having a support person in meetings, but there is potential for more collaboration between the partner organizations. For example, we would argue that the courts should not write off hearing a child through a spokesperson if the child has positive previous experience with talking to a spokesperson.

⁷² Translated from Norwegian: "Å bli snakket med om hvordan de har det, kan komme til å bli avgjørende for livet videre. Vi søker alle, både barn, unge og voksne, kontinuerlig å forstå og skape mening i det vi opplever" (p. 11).

Safe participation

Power imbalances – inherent but not explicitly addressed

In the guidelines analyzed in this report, there is little explicit mention of reducing and not adding to existing power imbalances, which is puzzling given the inherent imbalance in power between adult decision-makers and children in this particular system. In her book on children's participation in child protection, Duncan (2019) describes how, in hearings and meetings with children, adult decision-makers have the power to intervene and make decisions based on their assessments of the best interests of children, impacting children's lives and often resulting in feelings of powerless. The power imbalance further strengthens as professionals possess an understanding of the system that children do not have, and as children are typically meeting the child protection workers, county board members, and judges on the grounds or in the space of *professionals* (Duncan, 2019). Attempting to theorize children's participation, Duncan builds on Habermas and argues that communication between child protection professionals and children could be seen as mutual attempts to convince the other part of their views, but that communication "is distorted further by the adult's power to judge what the child says" (2019, p. 147). This may again lead to skepticism among children.

An important factor for the power imbalance in the hearing or meeting with the child is how many adults are physically present in the room. In a recent report, the Change Factory (2020) emphasizes that "Often, there are too many adults in the meetings for children to speak honestly"⁷³ (p. 39). In line with Duncan's above argumentation, more adult decision-makers in the room could, from the child's perspective, be perceived as being further outnumbered by professionals who intervene, understand the system, judge the child and, ultimately, make decisions concerning the child's life.

There seems to be little focus in the guidelines in the partner organizations on children having a say in how many and who attends hearings and meetings with the child. For example, in their guideline (CB 2022), the county board acknowledges that it may be overwhelming for the child that all board members are present in the physical meeting. Still, possible objections to this are not raised. To facilitate children's participation and expression of their honest opinions, it is crucial that children have a say in who is present. Furthermore, it is essential that they are asked about this in confidence and not put on the spot, as emphasized by the Change Factory (2020) in this quote:

Many of the children say that it is difficult to say that they do not want to have more [persons] there when there are important conversations or meetings. If they are asked alone in a room, they may be able to object. But then they [children] must know that those concerned are not told that it was the child who said no. If the question of whether they want to talk alone is asked in front of the people concerned, it is almost impossible for the children to object⁷⁴ (p. 29).

⁷³ Translated from Norwegian: "Det er ofte altfor mange voksne i møtene til at barna kan snakke ærlig" (p. 39).

⁷⁴ Translated from Norwegian: "Mange av barna forteller at det er vanskelig å si ifra at de ikke ønsker å ha flere der, når det er viktige prater eller møter. Hvis de blir spurt alene i et rom kan de få til å si det. Men da må de vite at de det gjelder ikke får vite at det var barnet som sa fra. Hvis spørsmål om de vil snakke alene blir stilt foran personene det gjelder, er det nesten umulig for barna å si fra" (p. 29).

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Appendix

Overview of guidelines used in the report

Bergen municipality

Ministry of Children and Families [In Norwegian: Barne- og familiedepartementet]. (2009). *Talk with me! A guideline on talking with children in child protection [In Norwegian: Snakk med meg! En veileder om å snakke med barn i barnevernet]*. Retrieved from: https://www.regjeringen.no/contentassets/2240b330760646f5a03b254837e73919/snakk-med-meg_web.pdf

County boards

County social welfare boards [In Norwegian: Fylkesnemndene for barnevern og sosiale saker]. (2022). *Guideline – Children’s participation [In Norwegian: Veileder – Barns medvirkning]*.

District courts

Vogt-Lorentzen, L., Skogvang, T. F., Haugseth, B., Lassen, R., Hopsø, T., & Hekneby, A. J. (2021). *National guideline on processing child protection cases [In Norwegian: Nasjonal veileder for behandling av barnevernssaker]*. Retrieved from: <https://www.domstol.no/globalassets/da/veiledere-og-rapporter/barn/nasjonal-veileder-for-behandling-av-barnevernssaker-08.10.21.pdf>

Court administration [In Norwegian: Domstoladministrasjonen]. (2019). *Practical recommendations for court proceedings in the best interests of the child in cases under the Child Welfare Act [In Norwegian: Praktiske anbefalinger for domstolsbehandling til barnets beste i saker etter barnevernloven]*. Retrieved from: <https://www.domstol.no/globalassets/da/veiledere-og-rapporter/barn/praktiske-anbefalinger-barnevernsaker.pdf>

Guidelines in full

See below for the original Norwegian guidelines, in full, in the same order as the above overview.