



Norway - Parental responsibility, custody and guardianship - and the principle of the best interests of the child

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Parental responsibility - the Norwegian Children's Act

- As of 1 January 2020, all parents have joint parental responsibility.
 - Parents who are married shall have joint parental responsibility for children of the relationship – *Children's Act section 34*
 - Parents who are not married shall have joint parental responsibility for children of the relationship – *Children's Act section 35*
 - If the parents are not cohabiting, and the mother wants to have sole parental responsibility, she may notify the National Population Register accordingly within one year after paternity has been established.
 - This shall also apply when the father does not want to have joint parental responsibility.
 - When one of the parents has submitted such notification, the mother shall have sole parental responsibility.



Parental responsibility vs custody



- Parental responsibility includes the right and duty to make important decisions regarding the upbringing, health, education, and other significant aspects of the child's life.
- Custody involves the daily care of the child. This includes responsibility for the child's daily needs such as food, clothing, housing, and daily care. It also involves deciding where in Norway the child will live.
- Custody can be shared between the parents (joint custody), or it can be awarded to one parent (sole custody) with visitation rights granted to the other parent.

Parental Responsibility when parents separate

- Married parents who separate or divorce have joint parental responsibility if not agreed otherwise.– *Children's Act section 34*
- Cohabiting parents who move apart, have joint parental responsibility if not agreed otherwise – *Children's Act section 35*



- Change, from the main rule of joint parental responsibility, must occur by agreement or by the parents bringing a case before the court

Agreements on parental responsibility

- Agreements concerning parental responsibility shall be notified to the National Population Register.
- Agreements concerning parental responsibility which are not notified to the National Population Register are not valid



The judicial handling of cases concerning parental responsibility

- If the parents disagree on who is to have parental responsibility, custody or access, either of them may bring an action to the court.
 - A parent may also bring an action for parental responsibility for the court when it is impossible to reach an agreement because the other parent does not reside in the country and he or she cannot be traced
- *A condition for bringing a case before the Court is that the parents can present a valid mediation certificate*



The Child Welfare Service assumes custody of a child



- In cases where the Child Welfare Service has serious concerns about a child's care situation, the Child Welfare Tribunal may decide that the Child Welfare Service shall assume the care of the child.
- The Child Welfare Service will then have daily care/custody of the child, including deciding where the child shall live.
- In most cases where the Child Welfare Service assumes care of a child, the parents will retain parental responsibility.
- In a few cases, where the Child Welfare Service has custody, the Child Welfare Tribunal may decide to remove parental responsibility from the parents
 - In such instances, a guardian will be appointed for the child.

Legal Guardian

- Parents with parental responsibility are the minor's legal guardian.
- If the minor is without an effective guardian, the County Governor shall appoint a new or temporary guardian.
- If no one holds parental responsibility for the minor, the guardian shall make decisions that fall within the scope of parental responsibility.



Parental responsibility when families move to Norway from another state

- Parental responsibility or any analogous relationship of authority under the law in a state where the child previously was habitually resident shall be given effect in Norway
 - Universal and applies even to countries not party to the 1996 Hague Convention.
- Established parental responsibility after decision of foreign court
 - 1996 Convention State – Recognition under the 1996 Hague Convention



The Child's Best Interests – and the Right to Participate

- Section 104 of the Norwegian Constitution states that children have the right to be heard in all matters affecting them and for actions and decisions that affect children, the best interests of the child shall be a fundamental consideration.
- Children Act
- Child Welfare Act
- Guardianship Act



The best interests of the child shall be a primary consideration in all actions concerning and affecting the child. Before parents or others make decisions about personal matters concerning the child, the child has the right to receive information and the opportunity to be heard.

Thank you for your attention

