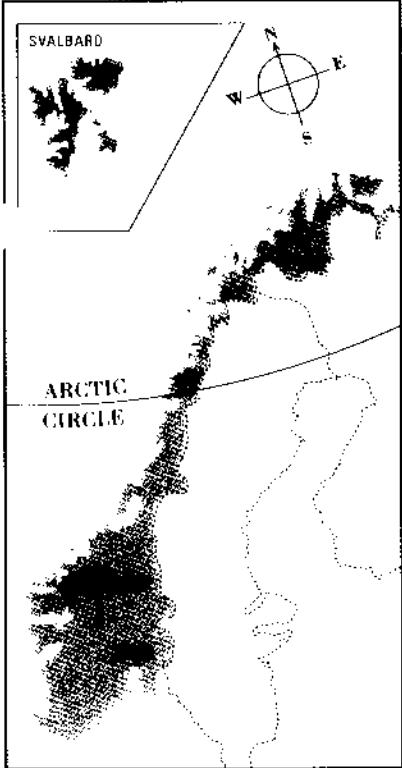


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Commissioner for children in Norway



In 1981 the Norwegian Parliament passed the Commissioner for Children Act, establishing the first ombudsman for children in the world. The Commissioner for Children has a total staff of four people. The Commissioner is appointed for four-year-terms and no one can be Commissioner for more than 8 years. The office has an advisory panel with six members.

Children constitute a weak and vulnerable group within the population. Official goodwill is not always sufficient to ensure that the needs and rights of children are properly protected, nor do they have much chance of winning when the interests of children conflict with the interests of well organized or stronger groups. Children and groups working with and for children – in the Commissioner – have an independent, public spokesperson, which is one way of protecting the interests and needs of children and young people.

Authority and responsibility

According to the Act, the Commissioner does not have authority to decide cases or to change official administrative decisions. The impact of the Commissioner therefore depends on the professional strength of statements and opinions issued by the office. The Commissioner is forbidden by law to handle cases concerning individual conflicts arising within the family, but may give information and advice concerning where the child or parents may obtain help. The problems raised by individual complaints may give rise to issues of principle interest, which belong within the

Commissioner's field of action.

The Commissioner shall not interfere with the work of the courts, so any case being handled by court must be turned down.

The Act states the responsibility of the Commissioner as in general being concerned about the impact of societal change on the conditions under which children, defined as persons under 18 years of age, grow up. The Commissioner shall promote the interests of children in the private as well as public sectors. In particular the Commissioner shall:

- a) on own initiative or as a hearing instance protect the interests of children in connection with planning and reporting in all areas,
- b) ensure that legislation relating to the protection of children's interests is observed,
- c) propose measures which can strengthen children's legal security,
- d) propose measures aimed at solving or preventing conflicts between children and society,
- e) ensure that sufficient information is given to the public and private sectors concerning children's rights and measures required for children.

The first 8 years – some practical experiences

Anyone can apply to the Commissioner for Children. Annually the Office receives approximately 2 000 complaints. As a number of complaints may concern the same problem, not all complaints give

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rise to single cases. Between 10% and 20% of the complaints come directly from children. In addition the Commissioner can raise an issue on his own initiative. The majority of plaintiffs are parents or grandparents, professionals or local organizations or municipal, county or national authorities. The telephone-calls and letters from children are of particular importance, because the children themselves tell what it is really like to grow up in their community and which conditions really create problems. Therefore children bring to the attention of the Commissioner problems of which adults are unaware.

A decline in the number of complaints was expected as the novelty of the office decreased and there was a greater awareness of the types of cases the office would handle. The number of cases has, however, increased steadily. The time spent handling individual cases has decreased, as experience in the more efficient ways of handling various types of complaints was gained. Thus the time available for cases and issues of more principle interest has increased. The Commissioner has been instrumental in creating public awareness of the needs of children, instigating public debate

on a number of issues regarding conditions for children and lobbying for amendments of existing legislation concerning children, e.g. an amendment prohibiting the use of physical punishment and other treatment which might endanger the physical or psychological growth of the child. A new law governing the distribution of videogames and a recent recognition of the needs of children in environmental planning are other such examples. On the local level the Commissioner's statements are widely used, not only in single cases, but also as a source of information in many areas.

In the eight years since the office was established, the Commissioner has become firmly established as a central public service dedicated to protecting the interests of children and young people. In 1981, when the appointment was first made, there was considerable disagreement among politicians as to the need for such a function. After eight years there are no more proposals to shut down the office of the Commissioner.

From 1989 two new measures were put in hand:

The Children's Hotline In

This is intended to give children the possibility to contact the Commissioner and have their cases reviewed, with due regard to their special need to choose their own form of communication. The system consists of the so-called "Children's Hotline In", whereby children under 18 can free of charge record their message on an answering machine/tape recorder and "Clear Message Out" – a television programme which is transmitted every second week.

The young people's fund for the future

The purpose of the fund is to give young people in the 12-17 years age group the possibility to dispose jointly of funds from both public and private sources. The Commissioner invites the young people to propose projects for funding and to participate personally in voting over the actual size of the grant. The intention behind the idea is to instill into young people a sense of responsibility for community matters and to draw the attention of adults to the commitment of the young people.

Literature:

- 1: Seminar on marketing to children and young consumers – tactics for today and strategies for tomorrow (Esomar 1984, page 199)

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Act no. 5 of 6 March 1981 Relating to the Commissioner for Children

§1 Purpose

The purpose of this Act is to contribute to promoting the interests of children in society.

§2 Commissioner for Children

The King shall appoint a Commissioner for Children for a period of four years.

The King shall appoint a Panel which shall act as an advisory body to the Commissioner for Children.

§3 Duties of the Commissioner

The duties of the Commissioner are to promote the interests of children vis-à-vis public and private authorities and to follow up the development of conditions under which children grow up.

In particular the Commissioner shall:

- a) on own initiative or as a hearing instance protect the interests of children in connection with planning and study-reports in all fields,
- b) ensure that legislation relating to the protection of children's interests is observed,
- c) propose measures which can strengthen children's safety under the law,

- d) put forward proposals for measures which can solve or prevent conflicts between children and society,
- e) ensure that sufficient information is given to the public and private sectors concerning children's rights and measures required for children.

The Commissioner may act on own initiative or at the request of other people. The Commissioner for Children himself decides whether an application offers sufficient grounds for action.

§4 Access to institutions and duty to provide information, etc

The Commissioner shall have free access to all public and private institutions for children.

Government authorities and public and private institutions for children shall, notwithstanding the pledge of secrecy, give the Commissioner the information needed to carry out the duties of the Commissioner pursuant to this Act. Information which is needed for the accomplishment of the Commissioner's tasks pursuant to §3, second paragraph, litra b, may also, notwithstanding the pledge of secrecy, be demanded from others. When information can be demanded pursuant to this item, it may also be required that records and other documents be produced.

The rules laid down in subsection 1,

204 and §§205-209 of the Civil Disputes Act are correspondingly applicable to the Commissioner's right to demand information. Disputes as to the application of these rules may be brought before the District and City Courts, which decide the question by a court ruling.

§5 Statements from the Commissioner

The Commissioner has the right to make statements concerning conditions included in his working sphere. The Commissioner himself decides to whom these statements shall be directed.

§6 Instructions for the Commissioner and the Panel

The King lays down general instructions for the organization and procedures of the Commissioner and the Panel. Beyond this the Commissioner and the Panel carry out their functions independently.

§7 Entry into force, etc

This Act is also applicable to Svalbard.

The Act shall enter into force from the date prescribed by the King.

Instructions for the Commissioner for Children and the Advisory Panel

Laid down by Royal Decree of 11 September 1981 pursuant to §6 of Act no 5 of 6 March 1981 relating to the Commissioner for Children.

§1 Duties

In accordance with these instructions the Commissioner for Children shall carry out the duties of the office according to the Act relating to the Commissioner for Children. The Commissioner in pursuing his duties shall work to ensure that the needs, rights and interests of children are given the necessary consideration in all areas of society. The Commissioner does not have the authority to decide cases or set aside decisions in the administration. The term children shall here be understood to mean persons up to the age of majority.

The Commissioner should ensure that the public is informed about his work.

§2 How cases are taken up

The Commissioner takes up cases on his own initiative or at the request of other people.

Anyone may apply to the Commissioner. The Commissioner shall ensure that verbal applications are put into writing.

A person applying to the Commissioner should, insofar as possible, explain the grounds for the application and submit whatever information and documents are available in the case.

If an application concerns a specific child and the application does not come from the child himself, the Commissioner shall not deal with the case without the permission of the relevant child. When the child's age so indicates, the permission of the guardian shall also be obtained. If general considerations so indicate, the Commissioner may deal with the case even though permission as mentioned above has not been obtained.

§3 Rejection

The Commissioner shall reject applications for concrete, individual conflicts between a child and its

guardians, between the guardians mutually concerning the exercise of parental responsibility and similar matters. The Commissioner shall in such cases give the reason for the rejection and offer information about any existing instances established for the purpose of handling conflicts of this nature.

A rejection by the Commissioner cannot be appealed.

§4 Referrals

Applications relating to conditions which in the main concern questions relating to the application of the law or the handling of the case are to be referred by the Commissioner to the Storting's ombudsman for Public Administration when this is relevant.

If an application concerns a situation which may be brought before an administrative agency, the person applying to the Commissioner for Children may be advised to take the matter up with the relevant body. The Commissioner himself may also send the matter to this body.

If an application concerns a situation which can be referred to the Public Prosecution Authority or a special supervisory body, after a more detailed investigation of the circumstances of the case the Commissioner may send the case to the relevant authority if the conditions pursuant to subsection 6 of §13 b of the Public Administration Act obtain.

§5 Shelving of cases

If the Commissioner finds that application has been made for a situation which does not offer grounds for criticism or for any other follow-up procedure, the case may be shelved. The Commissioner may also shelve a case if the situation which the application concerns has been remedied or has ceased to exist.

At any stage in the proceedings, the Commissioner may also shelve a case

for reasons connected with work. However, the Commissioner should try to deal with a representative selection of cases.

Anyone who has applied to the Commissioner shall be informed of the shelving of the case and the reasons for this.

The shelving of the case by the Commissioner cannot be appealed.

§6 Rules for dealing with cases

Chapters I-III of the Public Administration Act and the Freedom of Information Act are applicable to the activity of the Commissioner.

Before making his statement the Commissioner shall ensure that the case is clarified as far as possible. The Commissioner determines what steps should be taken to clarify the circumstances in the case.

Also when this does not follow from other rules the Commissioner shall preserve secrecy about the source of information he has used when the source has expressly requested this.

§7 The Commissioner's statement on the case

The Commissioner shall personally adopt a standpoint on all cases which have been taken up for discussion and have not been shelved pursuant to §5 of the Instructions. As a basic rule the opinion of the Commissioner shall be formulated as a written statement, giving the grounds for this.

The Commissioner himself decides to whom the statement shall be directed. The statement can also be directed to the press and the broadcasting corporation or others to the extent which the Commissioner finds expedient.

The Commissioner shall not express an opinion on the position in regard to

the law when the Storting's Ombudsman for Public Administration has made a statement or when the situation has either been decided by the courts or has been brought before the courts for a decision. Even so, the Commissioner may criticize the factual and legal situation which has been revealed by the Ombudsman for Public Administration's statement or by the decision of the courts.

§8 Annual report

Each year by 1 April the Commissioner shall submit a report to the Ministry about his activities in the preceding calendar year. The report shall be available to the public.

§9 Personnel and financial administration

The Commissioner is appointed by the Council of State for a period of four years. No one can be Commissioner for more than a total of eight years.

The Commissioner has a secretariat available to him to assist with his work. The staff of the secretariat are employed according to rules laid down by the Ministry.

The Commissioner's Head of Division is the permanent deputy for the Commissioner. The Commissioner and his Executive Officers should have varied professional backgrounds.

The rules for the administration of the finances in the Ministries and the rules for the organization and work procedures of the Ministries shall be applicable insofar as possible.

§10 The Advisory Panel for the Commissioner for Children

In connection with the office of the Commissioner a Panel has been established. The Panel is appointed by the Council of State for a period of four years. It consists of eight members. The Panel has its own leaders, and the Commissioner for Children is a member of the Panel.

The Ministry is empowered to make additional appointments if a member or a proxy resigns during the period.

The Panel shall function as an advisory, consultative body for the Commissioner for Children and shall assist the Commissioner in his work by discussing questions concerning the activity of the Commissioner. Both the

Commissioner and the rest of the Panel members may take up questions they believe should be discussed. The Commissioner may submit questions on the solution of individual cases also to individual members of the Panel.

The Panel shall not have any externally-oriented function, nor any decision-making powers in relation to the Commissioner.

The Panel should meet at regular intervals at least four times a year. If at least two members of the Panel so demand, the Panel shall be summoned to an extraordinary meeting. The summons to the Panel meetings are given by the Commissioner with at least two weeks' notice. The agenda and the documents in the case shall be sent out at least one week before the meeting.

The Ministry is entitled to take part in the meetings of the panel. The Commissioner may permit other people to participate in the meetings.

Minutes shall be kept of the meetings of the Panel.

