

## Questions and answers – proposed regulations to Education Act and Kindergarten Act

1. Who defined the proposed changes? Administration in local government, the political leadership in Longyearbyen or the ministry?

Arild Olsen: First, I would like to say that this hearing proposal is the Ministry of Education's, and it is they who have written it. But the question has been relevant since 2008 and the ministry is dependent on a factual basis to be able to make a hearing proposal. Then it is natural that they obtain information from us as school and kindergarten owner, in addition to other relevant actors.

At the bottom of page 32 in Svalbardmeldingen 32 (2015-2016) it says:

The government will in dialogue with amongst others, Longyearbyen local council continues to work on clarifying the local council's obligations in these areas. See also chapter 6.3.4 on this.

2. Who has taken the initiative for the change in regulations, administration in local government, the political leadership in Longyearbyen, the Ministry of Education or other ministries?

Arild Olsen: The Government has announced a change since Stortingsmld 22 in 2008 - 2009, as well as the Svalbardmeldingen 32 and 2015-2016. The current regulations have been unclear for both user and provider (school). Both local and national politicians and authorities have wanted to clarify, so that the regulations become clearer.

3. Why are representatives of the Local Board (LL), which is one of the hearing proposal bodies, answering questions in this information session and not the Ministry of Education and Research, which is the sender of the document and is responsible for the hearing note?

Anne Jahre: As far as we know, it is not common for the ministry to hold an information meeting in its hearing rounds. We have invited Longyearbyen's citizens to this information meeting to try to clarify the facts and answer some of the questions we see many are wondering. In addition, LL wants to have the broadest possible factual basis around the hearing proposal, there is a desire for influence and that this is reviewed thoroughly.

4. Is there an opening for the administration in LL and or elected representatives to work to postpone the entire hearing proposal for all hearing bodies until 15 September, and not as now only for the Local Board.

The local council has had its hearing proposal response postponed since this must be dealt with politically. The case will be processed in OKU 31.8 and the Local Board on 14 September. We can

therefore not respond until mid-September. Other actors who wish to provide input must apply for a postponed deadline if desired.

5. Does the administration in Longyearbyen local council agree with the ministry and want to adopt these regulations?

Frode Westby Thorstad: The Ministry has listened to the challenge picture we have presented and come up with good clarifications that will make it easier for LL's administration, school and kindergarten.

Either we must have rules that apply on the mainland, or the rules that will apply to Svalbard must be clarified and delimited. LL is neutral in relation to the hearing.

6. Is this a document that is well rooted in the political elected representatives in Longyearbyen?

Kristin pine Grøtting: We hope that it is / will be and expect all local politicians to familiarize themselves thoroughly with the document. Everyone must read and we expect debates to take place internally in the various parties! At the same time, it is the case that both the Upbringing and Culture Committee and the Local Board have been briefed on the content. It is precisely to ensure a good foundation that LL has requested a postponed deadline.

7. Where and when has it been decided that LL will not provide benefits that have a clear social profile? Is reference made here to the Social Services Act?

Anne Jahre: It is stated in the Stortingsmelding, chapter 6.3.4 page 49.

"The Government therefore believes that the adapted school offer and the restrictive practice that is used today should be continued, and that it is not a goal that offers should be given beyond the current level.

Thus, LL shall also not provide benefits that have a clear social profile.

"As also mentioned in Chapter 5.3.5, in light of this, further work will be done to clarify the local board's obligations with regard to the Kindergarten Act, the Education Act and the proposed Act on Gender Equality and the Prohibition of Discrimination."

And what is the social profile to which it refers?

Everyone can come to Svalbard, but they must be able to provide for themselves. There are no social assistance schemes, the Act on Municipal Health and Care Services, the Act on Social Services does not apply to Svalbard.

8. How does LL define the difference between rights and obligations?

Arild Olsen: This is a big question, but if we look at the definition itself, rights are something we are entitled to, but can opt out of.

Duty is what one must accept or do.

Does LL consider it irresponsible of parents not to accept all the rights a child may have?

Whether a parent is irresponsible or not will depend on the current situation of the individual, it is a question that cannot be generalized.

9. Is it correctly perceived that LL, if this goes through, is free not to offer cultural school, homework help, SFO and camp school?

Arild Olsen: The short answer is yes, but I want to add a "maybe". The ministry does not want to oblige LL to have SFO, homework help, cultural school and camp school. At the same time, the regulations do not prohibit offers being made better, and this is where my "maybe" comes in. The fact is that 60% of LL's budget goes to non-statutory offers. The probability that LL will discontinue services is therefore low.

10. Is it considered that LL can also stop with other measures with a social profile, such as the Solfest event, Cork Money and the Tyfysstatuetten? And what about LL's subject leader in volunteering, is it a position with a social profile?

Kristin Furu Grøtting: We will continue with this. It is not comparable. These are social activities and events.

11. Or does this only apply to benefits that have a clear social profile for children and young people and not adults?

Kristin Furu Grøtting: Act on municipal health and care services, Act on social services does not apply to anyone staying on Svalbard.

There is no difference between children and adults.

12. There are many who think it is children's best almost regardless of living here in LYR, but my opinion is that you quickly become lonely here - there is little environment, few with special needs, and also high turnover of professionals, a small and vulnerable professional environment – far to specialists and expertise. How is this experienced at school, at PPT etc.?

Frode Westby Thorstad: It is important that parents make a thorough assessment of the child's best interests no matter where they settle. At the school, we experience that we can get into situations where we must compensate for services that are not provided in Longyearbyen, and the staff goes to great lengths to provide the best possible training for the students. On a general basis, we can also say that it can be challenging to see students who could have received a better adapted and comprehensive offer elsewhere.

13. The low tax level, which reflects the range of services available on Svalbard, means that we in the world's richest countries cannot afford to practice equality for children in Longyearbyen and on Svalbard?

Kristin Furu Grøtting: In the hearing proposal, there are no suggestions that make a difference between children and students in Longyearbyen based on whether they have a connection to mainland Norway or not. On the other hand, there is a difference in what services children and students can receive when their wishes or needs cannot be met in Longyearbyen. We cannot maintain all services, in Longyearbyen there are social differences. Svalbard cannot be compared to the mainland.

14. For example, is it likely that the state will introduce ordinary tax here to pay for increased service provision?

Arild Olsen: In short - This depends on how society develops, and what services we require in relation to what the Storting believes. It is worth mentioning that the State has previously tried to raise the tax and can do so again, because there is a clear connection between the service offer and the tax level.

15. Is it correctly understood that LL cannot afford to give children a day-care place?

Arild Olsen: It is up to LL to dimension the kindergarten offer according to what LL believes is the right scope. In the Svalbard budget, a fixed framework is transferred to LL as a unit. LL prioritises its offers, both statutory and non-statutory, within this fixed annual framework that does not consider population and demographics.

16. Is it correctly understood that LL is not required to offer more than 15 places?

Anne Jahre: As of today, the Kindergarten Act does not apply. LL is then also not obliged to run a kindergarten. Through the regulations, the ministry now wants to oblige LL to run day-care activities. In order to fulfil the requirement for day-care activities, reference is made to section 6 of the Day-care Act, which is a minimum requirement:

§ 6 point b) "the number of children present at the same time is ten or more when the children are three years or older, possibly five or more when the children are under three years".

17. Is it correctly understood that it will not be allowed with a private kindergarten in Longyearbyen?

Anne Jahre: It is correct that the ministry believes we should not allow private kindergarten operations in Longyearbyen. Private kindergartens will trigger financial obligations related to government subsidies. The Ministry does not wish to impose administrative tasks and costs on LL in connection with assessing approval applications, supervising or controlling and supervising private day care centres.

18. Is it correctly understood that Family Kindergartens will not be allowed in Longyearbyen?

The Ministry does not want to allow for the establishment of family kindergartens due to practical conditions such as safety, organization and the quality and size of the houses and outdoor areas. Does not wish to impose on LL administrative tasks and costs related to assessing approval applications, supervising or controlling and supervising family kindergartens.

19. Is it correctly understood that LL cannot afford to have children who need specially adapted education?

Frode Westby Thorstad: No - we do offer and will continue to offer special education. We can afford it. The public service offered on Svalbard is not dimensioned as is usual in mainland Norway. This means that families and children with special needs may not have access to the health services and other support services they need. The school and kindergarten services shall not compensate for services Longyearbyen does not have.

20. Is it correctly understood that since there is an equal right to access to Svalbard, it is believed that children who need special education should not have access?

No - the access is the same, but the right is limited. Everyone has the same right to access Svalbard, but it is assumed that one can support oneself. But if you need services beyond what is available in Longyearbyen, the individual must contact their home municipality or home county municipality in mainland Norway or their home country if it is not Norway.

21. If we look at geographical and climatic conditions; What about Finnmark, at the far end of the ocean, and other places where no one could believe that anyone could live in Norway? Can they also avoid following the Gender Equality Act?

Arild Olsen: The Discrimination and Gender Equality Act applies on Svalbard, with an exception in Chapter 3 of the Act on universal design and facilitation in kindergartens and for pupils and students. In addition, the activity obligation related to disabilities on Svalbard does not apply.

Frode Westby Thorstad: Many small places in Norway have greater challenges than Longyearbyen when it comes to recruiting and accessing professional staff. The Immigration Act applies everywhere other than here. In addition, it is unique that we must consider the overall Svalbard policy in everything we do. Unlike all other places in Norway, we must have regulations that take these governing rules into account.

22. Is it correctly understood that this consultation note calls for non-compliance with the UN Convention on Human Rights, the UNICEF Convention on the Rights of the Child and all other human rights conventions?

Arild Olsen: The hearing proposal does not ask to be exempted from the conventions, but clarifies the legal relationship with the special conditions on Svalbard, which may lead to the fact that not all rights that follow the Constitution and international conventions can be realized on Svalbard.

23. Is it correctly understood that one asks that LL should not have to follow national and international conventions to stop discrimination because there is such a low tax here, and because it is so special climatically and geographically?

As mentioned earlier, no request is made to be exempted, but an independent legal clarification / definition has been made.

24. Is it correctly understood that LL, our local and elected politicians, OKU, the management at Longyearbyen school and the Ministry of Education with the Directorate for Integration, propose that the ministry and / or the King in Council should approve a new regulation that allows LL to choose when and if it is appropriate for them to comply with the UN, UNICEF and other adopted human rights conventions?

No, the hearing proposal do not allow LL to choose when to relate to the UN, UNICEF and other adopted human rights conventions. On the other hand, the ministry makes a legal clarification; in other words, the proposed legal technical right for schools and day-care facilities rests on the ministry's legal assessment that this does not violate the mentioned conventions.

25. Are the proposed delimitations justified by the fact that LL cannot afford it, and Longyearbyen's geographical conditions?

We cannot see this in relation to LL's "momentary" economy. It is both a question of fixed assets in relation to statutory services, and the relationship with other local institutions - or absence from - around the citizen. This is the state's policy and the special framework in Svalbard policy.

26. Who will define which children will receive kindergarten and school places?

Frode Westby Thorstad: LL, as the kindergarten owner and the school owner. The authority is delegated to the principal of the school. In some special cases, you will not be able to offer a school place if you cannot provide adequate services.

27. By whom and how should one make a "child's best" assessment?

Anne Jahre: One should assess the child's best interests against the total service needs the child has and what can be offered. It is mainly the parents' responsibility.

28. Have the ripple effects of the hearing proposal- if passed - been assessed? Has an analysis been made of how many are affected, how many must move away from the island, or what it does to society in general?

Arild Olsen: The hearing proposal has not considered this, but it indirectly asks us for an overview of who is affected. The school has the best overview there.

Frode Westby Thorstad: We do not want to specify examples, but we do not envisage changes taking place in the middle of the school year regardless of when the consultation takes effect, in the long run it may be that offers available today cannot be continued. No assessments have been made as to which students this may affect, but it may affect the offer to some students.

29. It sounds like you are defending and want the hearing proposal implemented. Is this easier than fighting to strengthen children's rights in Svalbard?

Arild Olsen: What is expressed here today is only an information about the facts, the content of the hearing proposal and questions themselves.

There is no political debate and this question leads to political discussion. We expect good discussions in LL when this is to be dealt with.

Frode Westby Thorstad: The school has recorded that it is difficult to administer the regulations as they are today. As of today, it is unclear where the boundaries go. We must move in the direction that there are either the same regulations as on the mainland or clear boundaries are given.

Arild Olsen: The question has been going on since 2008 - without taking a position on the actual content of the hearing proposal, the politicians have asked for clarification. As of today, it is a bad legal text and leads to the user having to "fight" for rights at the same time as those who are closest to the user - such as the principal - must interpret unclear regulations. This is unfortunate for all parties. It is therefore a political responsibility to clean up this.