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# Legal review analysis of Finnish legislation concerning child sexual exploitation and abuse cases

As a part of the Council of Europe – European Union joint project "Ensuring child-friendly justice through the effective operation of the Barnahus Units in Finland"

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# Contents

## Background

This analysis was completed for the "*Ensuring child-friendly justice through the effective operation of the Barnahus Units in Finland*" project implemented by the Council of Europe in close collaboration with the Finnish National Institute for Health and Welfare (THL) during the period 1/9/2021 – 28/2/2024. The project is funded by the European Union's Directorate General for Structural Reform Support (DG REFORM). The analysis was commissioned by the Council of Europe, to a legal expert team composed of *Inka Lilja* (Senior Expert) and *Miina Hiilloskivi* (Junior Expert). The analysis benefited immensely from the expertise of *Taina Laajasalo* (THL) and *Liisa Järvilehto* (HUS) and was carried out with continuous support from the Council of Europe team of Experts *Zaruhi Gasparyan, Teresa Gil Ricol* and *Oksana Pugach* as well as *Adamantia Manta* from the European Commission. We would like to thank all the professionals who shared their valuable expertise for the analyses, and for the following persons who used their precious time to comment on the draft; *Pia Mäenpää and Tanja Pirhonen*.

As stated in the project plan, the goal of the project is to improve access to, and quality of, the justice system for child victims and witnesses of violence in Finland in line with the Barnahus model[1], which is the leading European model for a child-friendly multidisciplinary and interagency response to child sexual exploitation and abuse. Since 2015 the Barnahus model has been promoted as a promising practice by the Council of Europe's Committee of the Parties to the Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention). The project will support the Finnish authorities in addressing the needs and challenges identified in the national Barnahus project, including lack of coordinated support services and significant delays in preliminary investigations involving children. The project has three main components:

1. Improving the legislative and policy framework for the functioning of Barnahus services in Finland.
2. Strengthening inter- and multi-agency coordination mechanisms to reduce the delays in the duration of the judicial processes related to child victims of violence.
3. Increasing awareness on child sexual abuse through child participation.

This report is part of the first component as it describes the current legislative and policy framework and gives recommendations to improve the functioning of the Barnahus services in Finland. The analyses seek to answers the following questions:

[1] https://www.barnahus.eu/en/the-barnahus-quality-standards/

1. How the current legislation supports or prevents multiagency cooperation and information exchange in alleged child abuse or sexual exploitation cases? Who can and cannot access relevant social welfare and health/medical information in child abuse cases, based on what legislation, and is the access direct or indirect? Should the regional LASTA pilot models have similar access to information as the Barnahus Units? And if so, what kind of legislative amendments would this require? Would other legislative amendments be necessary to ensure a comprehensive multidisciplinary approach to child abuse interventions?
2. Based on what legislation and/or guidance the police refer cases to the Barnahus services? Which criteria should be used in referring cases to the Barnahus Units and which cases, using which criteria should be referred to other multidisciplinary working models, such as the LASTA model?
3. What are the legal criteria for hearing a child in criminal investigations? Who should be informed of the hearing, where should the hearing take place, who has the right and an obligation to take part in the hearing, should the hearing be recorded, and can video conferencing be used?
4. Should treatment be a more central task of the Barnahus Units, and if so, would this require legislative changes? Should child witnesses be also supported at the Barnahus Units?
5. Are there any legislation, guidelines or policy decisions related to mandatory time frames for pretrial investigations for child abuse cases?

The report is composed of five chapters. The first Chapter describes the main steps of investigating child abuse cases. Chapter 2 describes the LASTA model, a good practice in multi-agency cooperation, followed by a detailed analysis of the current legislation in relation to right to request and to share confidential information in multi-agency cooperation, and finally discusses the need to legislate on multi-agency cooperation structures. Chapter 3 describes the current criteria for referring cases to, and the services provided by, the Barnahus Units. Chapter 4 analyzes the legislation and guidelines related to hearing a child - a crucial moment in an investigation. Chapter 5 summarizes the findings and proposes two possible models for enhancing access to services in line with the Barnahus standards.

## Methodology

In the first phase of the "*legal review analysis of Finnish legislation concerning child sexual exploitation and abuse cases*", a cross-tabulation of legislation was completed. The outcome, a legislative framework matrix (Annex 1), includes altogether 37 laws that were identified to regulate interventions in suspected child abuse cases, and in

particular regulating the exchange of information between authorities. In the second step, the most relevant sub-regulations and official guidelines were identified. The sub-regulations/guidelines increase the understanding on how the laws should be implemented in practice. The observations from the sub-regulations/guidelines are included in the matrix, when relevant. As a final step, case law (Supreme Court, The Chancellor of Justice, The Parliamentary Ombudsman and Data Ombudsman's decisions) mentioned in literature/reports and in the National Institute for Health and Welfare repository on child protection case law were analyzed.

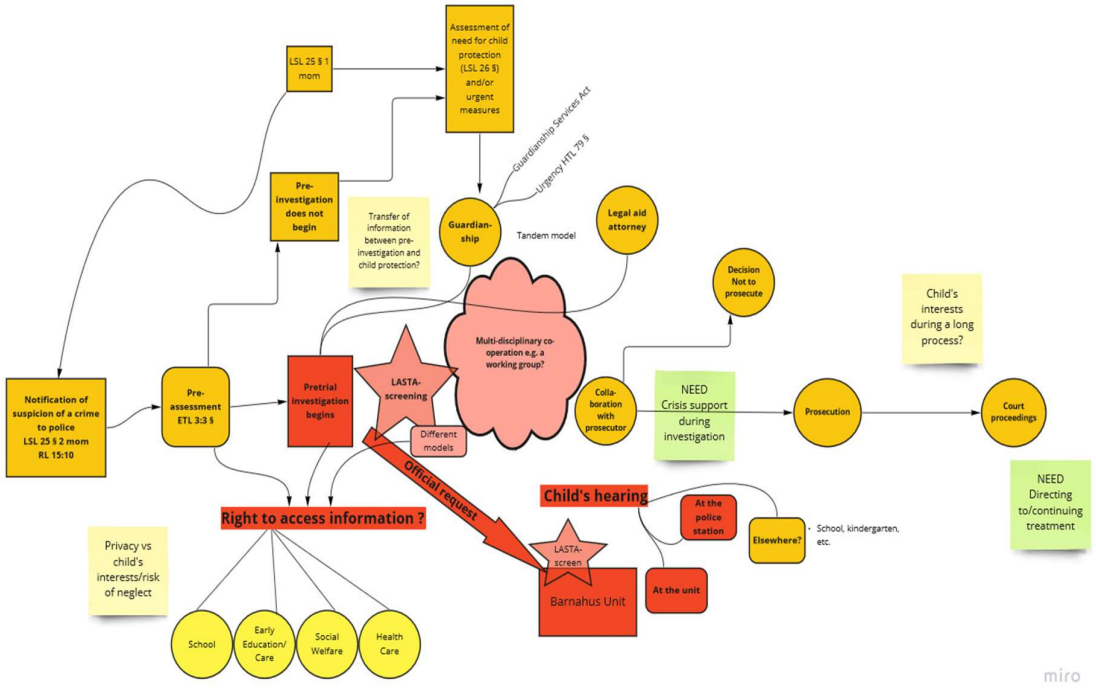
In the second phase, interviews with relevant experts were conducted. The aim of the interviews was to verify that the legal analysis had identified all the relevant challenges, and to hear practitioners' thoughts for some possible solutions. There were resources to only interview a limited number of key personnel identified jointly by the legal experts and the Barnahus project staff. The interviewees included professionals working at the Barnahus Units, the police, the prosecution, child protection services, as well as experts working at the Ministry of Health and Social Affairs, the National Institute for Health and Welfare, the Data Ombudsman's Office, and academia. All together 21 professionals were interviewed. The interviews were conducted via Teams following a semi-structured interview template prepared in cooperation with the project's key personnel. The interviewees are quoted anonymously.

Most of the names of the Acts as well as quotes from the Acts are own translations due to lack of official translations. The original names of the Acts along with their English translations are listed in the legislative matrix. However, in case of abbreviations, the commonly known Finnish abbreviation for an Act is used. Throughout the text some terms are specified in Finnish in brackets to ensure the correct translation. Barnahus Unit term is used for the University Hospital Units given by the Act on Organizing the Investigation of Sexual and Assault Offences against Children the task of conducting examinations in alleged cases of child abuse. The LASTA model or LASTA screening is another term used often in the text and it is explained in detail in Chapter 2.2. The term child abuse is used in this report to include all forms of physical, sexual, or mental violence against a child.

# CHAPTER 1 Investigating child abuse

The below picture (Annex 2) describes the main steps taken in a suspected child abuse case. The criminal process follows essentially the same steps as any criminal process, but the process, and the relevant legislative framework, becomes more complex due to the involvement of several other authorities tasked to protect and support a child. These actors include the child protection services, the public guardianship services, the public

legal aid services, and healthcare providers, including the Barnahus Units. The steps marked in red, and pink are the focus of this report and will be further analyzed in the following Chapters. Red marks crucial moments in the process, and pink indicates current best practices, which are not regulated/mandatory. The post-it stickers include challenges and unmet needs.




To start with, **numerous authorities have a duty to report a suspected child abuse** to the police based on the Child Protection Act (LSL, Section 25.3). The same authorities have a simultaneous duty to report a suspicion to child protection services, or in some cases only to child protection, if the concern is not grave enough to qualify as a criminal offense (LSL, Section 25.1). In practice, many actors are more aware of the duty to report a suspicion to child protection, and therefore sometimes it is the child protection officers who report a case further to the police (the arrow in the left upper corner of the above diagram indicates these cases). The child protection authorities have a statutory duty to evaluate a child's need for support and to take any necessary urgent protection measures to ensure the safety of a child (LSL, Section 26).

Once the police have received a notification of a suspected offense, **the police will first complete a pre-assessment** (ETL, Section 3:3) to determine whether it is beyond reasonable doubt that a criminal offense has taken place. The police can already at this phase gather information and hear parties to decide whether to commence a full-fledged criminal investigation. The assessment phase is not legislated in a such detailed manner

as the pre-investigation phase. The Police Guideline on Child Investigation regulates that official hearings cannot be done during the assessment phase, and gives instructions for interacting with the child during the assessment phase.[2] The new Police Handbook on Child Abuse Investigations also notes that it is not advisable to conduct any extensive hearings of a child during the assessment phase, precisely because there are no clear procedural safeguards ensuring the best interest of a child.[3] In any case, the threshold for commencing a criminal investigation is rather low in child abuse cases. According to Section 5:1 of the Criminal Investigation Act, **the public prosecutor shall be notified of the commencing of a criminal investigation** in certain offenses. The Guideline of the Prosecutor General's Office determines as such offences for example investigations of child abuse, except for mild forms of abuse.[4] The notification process is important, as the prosecutor can support the decision making in relation to e.g., defining the title of the offence, in considering who should hear the child, and whether a legal guardian should be sought (see below). The prosecutor must also be able to take part in the hearing of a child in the pretrial investigation (see Chapter 4).

Generally, the police must investigate a crime when there is reason to suspect that a crime has been committed (ETL, Section 3: 3.1). **However, the prosecutor may exceptionally decide**, when proposed by the lead investigator, **that an investigation will be limited** (*esitutkinnan rajoittaminen*). The decision to limit an investigation is based on an overall consideration, which requires information on the overall situation of a child. Such information includes e.g., measures already taken by other authorities as well as a plan for how the matter will be dealt with in the future. This "risk analysis" involves collecting data from different authorities and making an overall assessment of where the focus is on the case, and how it should be taken forward. There are different possible reasons for limiting an investigation. One aspect to consider is the best interests of the child, and this question is addressed in the Police Handbook extensively. According to the Handbook, the best interest of a child is always a case-by-case consideration taking into account all aspects of the life of a particular child. One aspect is to ensure that the person accused is found and the case trialed. Another aspect is assessing how the child will cope with the criminal process. From this point of view, the best interests of the child could be to limit an investigation and to refrain from prosecuting the case.[5]

**If a criminal investigation is opened, it must also be considered whether a legal guardian must be sought for the child** (ETL, Section 4:8). A guardian shall be appointed for a child, if there is a justifiable reason to assume that the person having the

[2] Police Guideline, p. 17
[3] Police Handbook, p. 25
[4] VKS 2018:1
[5] Police Handbook, p. 50-57

care and custody of the child cannot objectively ensure the interests of the child in the matter. This situation is usually at hand, in particular, when the suspect is the child's parent. Usually in these cases both parents are considered unable to objectively ensure the interest of the child. The lead investigator (*tutkinnanjohtaja*) has the responsibility to apply for the appointment of a legal guardian when it is considered necessary. The Police Guideline notes that a legal guardian should be sought in the beginning of the investigation before hearing a child.[6] The new Police Handbook on Child Investigations has detailed discussion on the appointment of a legal guardian including highlighting that the guardian should be sought already at the very first phases of the investigation.[7] Section 79 of the Guardianship Services Act can be relied on to appoint a temporary guardian in an expedited procedure in certain situations. Since the purpose of the Section is safeguarding, the option for interim guardian can be used regardless of the stage of the proceedings and the decision can be made as soon as the matter is brought to court. The order can be issued at the district court's office, and it is not necessary to consult the person whose interests are at stake (i.e., the parent or current guardian) due to the urgency of the decision.[8] The Parliamentary Ombudsman has noted that, if there is a need for a legal guardian, the request for a guardian cannot be delayed based on investigative reasons. The Parliamentary Ombudsman has also noted that, if there is a need to appoint a legal guardian without the parents being aware of the investigations, Section 79 of the Guardianship Act should be relied on to appoint a temporary guardian.[9] The current challenges in the guardianship services, as well as proposed solutions, are discussed in a National Plan for the Development of Guardianship Services in Criminal and Child Protection Matters commissioned by the Barnahus project, and are therefore not discussed in detail in this report. [10]

**The police or the prosecution must request from the court the appointment of a legal aid counsel** for a child victim, if the requirements of the Criminal Procedure Act are met (ETL, Section 4:10). According to Section 2:1a of the Criminal Procedure Act, the court may appoint a legal aid counsel for a victim of a crime for the criminal investigation and for a trial, in sexual offences and in abuse offences, if justified with consideration to the relationship between the victim and the suspect, in cases concerning an offense against life, health or liberty, if this is to be deemed justified with consideration to the seriousness of the offense, the personal circumstances of the injured person and the other circumstances. Suspicions of violence and sexual offenses against children can be classified as serious crimes and therefore the right to legal assistance

[6] Police Guideline, p.19
[7] Police Handbook, p. 39-45
[8] HE 146/1998, p. 67
[9] EOAK/1299/2018 and EOAK/3150/2019
[10] A National Plan for the Development of Guardianship Services in Criminal Matters and in Child Protection

should be ensured. The police have the responsibility to ensure that the child has applied for legal aid as soon as the pre-trial investigation begins.[11] The legal guardian and the legal aid counsel have different rights and responsibilities. The legal guardian must ensure that the matter proceeds in the best interests of the child and has standing on behalf of a child. The legal aid counsel ensures that all the aspects relevant for a criminal process are considered, and also makes the necessary claims for punishment and for compensation.[12] There are various discussions in relevant sources on the roles of the legal guardian and the legal aid counsel, in particular, whether they should or should not be the same person.[13] Finally, based on Section 4:10 of the Criminal Investigation Act, the police have to forward, upon a victim's consent, his/her contact details to a victim support service provider in order for the support organization to be able contact the victim and to offer support.

**According to the Criminal Investigation Act, a criminal investigation must be conducted following the principles of proportionality, of causing least harm and of sensitivity** (ETL, Sections 4:4 and 4:5). The Act also recognizes the needs of children in a criminal investigation via Section 4:7 The Section regulates that during a criminal investigation a child shall be treated in a manner appropriate for his or her age and level of development. Care shall be taken to ensure that the investigation does not cause a child unnecessary inconvenience at school, at work or in other environments important to him or her. According to the same Section, investigations of cases involving children should, to the extent possible, be assigned to investigators specialized in investigating child cases.[14] An investigator shall, if necessary, consult a doctor or other expert as to whether a child may be subject to an investigative measure. These principles apply to child witnesses alike.

The Act on Organizing the Investigation of Sexual and Assault Offences against Children (the Organizing Act) grants expert units at University Hospitals, referred to as **Barnahus Units** in this report, the task of conducting examinations and interviews in child abuse cases, when so requested via an official request of assistance by the police, the prosecution, or the courts. In practice, the official request for assistance is submitted by the police. The Criminal Investigation Act does not have a reference to the Organizing Act, and there is no obligation to refer a case to a Barnahus Unit. The criteria for referral as well as the services provided by the Barnahus Units will be discussed in detail in Chapter 3. Alongside the Barnahus Units, different multi-agency responses,

[11] P. 70-71
[12] Ellonen and Rantaeskola, p.70-71
[13] See e.g.,, Police Handbook, p. 46, Police Guideline, p. 7-8 and the National Plan for the Development of Guardianship Services in Criminal and Child Protection
[14] OM 2022:14 proposes that also the lead investigator (tutkinnanjohtaja) should be specialized in child investigations. The wording is “to the extent possible”, not obligatory.

most notably the **LASTA screening model,** have been developed and taken into use. The LASTA model is not recognized by legislation but is of great interest for this analysis as it has been identified as a good practice in interagency cooperation. The LASTA model will be discussed in Chapter 2.

**Hearing a child** is an important step of the process. Even more so since a child below the age of 15 is not obliged to take part in person in a court hearing, and therefore, a recording of the pre-trial hearing can be used as evidence in a trial (OK, Section 17:24). It is a statutory requirement to record the hearing of a child below the age of 15 (ETL, Section 9:4), including the hearing of a child witness. The hearing of a child between 15-17 years must also be recorded in most cases. The Criminal Investigation Act regulates the general requirements of hearing, including taking into consideration the age and level of development of the person being heard. The legislation does not define the place of hearing. The Police Guideline on Child Investigation and the new Police Handbook give detailed instructions for hearing a child, including instructions for requesting assistance for the hearing from a Barnahus Unit, when deemed necessary. Hearings will be discussed in detail in Chapter 4.

According to Section 3:1 of the Criminal Investigation Act, **a criminal investigation must always be conducted without undue delay.** If a person under the age of 18 is suspected of an offense, the investigation must be conducted as a matter of urgency. The urgency requirement only applies to under-aged suspects, not to underaged victims of crime. Pre-investigation measures may be prioritized if circumstances so require (ETL, Section 3:11.3). According to the Police Guideline on Child Investigations, if a child is a party (whether a suspect or a victim) to a criminal offense, the investigation must be initiated immediately and must be carried out without delay. The Parliamentary Ombudsman has remarked on several occasions that the preliminary investigations in child abuse cases take too long and has proposed legislative changes to ensure urgency in cases involving child victims of violence.[15] As will be discussed in Chapter 5.2, the Ministry of Justice has recently proposed such an amendment.[16]

# CHAPTER 2 Multi-agency cooperation and information exchange

There are several authorities working simultaneously on a suspected child abuse case, which makes it extremely important to coordinate actions. Cooperation between authorities is mentioned in many sources as a prerequisite for an efficient child abuse

[15] EOAK 1084/2019, EOAK/3462/2019, EOAK/5625/2020
[16] OM 14:2022

investigation and for ensuring timely support for a child. The Barnahus project's publication describes this need well: "Reconciling the care needs of a child who has experienced violence with the requirements of the criminal investigation is a critical step in the success of the service path. It is at this point that the risk of a child falling between services without adequate and timely support is at its highest. The cooperation of all professionals has a significant impact on how to succeed in these situations."[17]

A recent government commissioned report examined the duration of criminal process in child sexual exploitation cases and noted that in regions in which authorities had common policies and practices of cooperation, the duration of child sexual exploitation investigation was shorter compared to regions where there was less structured cooperation. The research report also noted that the number of cases reported to the police has increased significantly in recent years, partly due to an amendment in the child protection law lowering the threshold for reporting, and it has become even more crucial to decide which process (criminal investigation or child protection) to use in each case. These decisions mean demanding balancing between efficiency, legal certainty, and the rights of the child.[18] In order to make informed decisions, the authorities need information to assess the situation of the child, and this requires access to sensitive personal information. However, the right to sensitive personal information must be balanced with the right to privacy.

## 2.1. Data protection and confidentiality in public services

**Under the Act of the Openness of Government Activities, documents of public authorities are public by default,** unless otherwise laid down for the purpose of, for example, protecting the privacy of individuals. This applies to documents both created by and submitted to public authorities (Section 5.2 of the Act). Documents concerning an individual's family life, social welfare, health or disability, or healthcare are considered confidential. In terms of confidentiality obligations, other authorities are also third parties, and the grounds for confidentiality thus also limit the exchange of information between authorities as a main rule. However, a public authority may request confidential information from another public authority in certain situations. Confidential documents and information may be shared with another public authority either based on the relevant individual's consent[19], or when it has been explicitly laid down in law that sharing is permissible (Sections 26.1 and 29.1 of the Act). An official request for information must be clear in terms of what information is being requested,

[17] THL 17/2020, p.172
[18] TEAS 3:2021, p.95
[19] See more discussion on consent in Voutilainen, 2021 and in the draft government proposal: "Hallituksen esitys eduskunnalle laiksi sosiaali- ja terveydenhuollon asiakastietojen käsittelystä sekä eräiksi siihen liittyviksi laeiksi"

and the need for information must be justified. The request must include the legal basis for sharing the information, the purpose of the request and, upon request, an outline of how the confidentiality of the information shall be guaranteed. The public authority in possession of the information shall decide whether to share the information, and if not so justify the decision (Sections 13 and 14 of the Act).

**The General Data Protection Regulation (GDPR) sets out the principles, rights, and obligations on the processing of personal data.** The scope of the regulation is wide: it defines personal data as any information related to an identified or identifiable person and processing as practically any activity related to that data which form part of a filing system. The GDPR applies to public and private entities alike. There are special laws, for example on patient records, which prevail over the GDPR when they are applicable. That being said, all acts on confidential information and processing of personal data are based on similar principles; they highlight the importance of confidentiality unless otherwise expressly laid down in law. For instance, the aforementioned criteria for sharing confidential information with another public authority reflect the legal bases of consent and legal obligation for the processing of personal data as set out in Article 6(a) and (c) respectively of the GDPR.

In addition to the above-mentioned general laws laying down the basic principles for processing personal data in public services, **there are specific laws regulating the processing of personal information in different sectors**. The specialized laws have been developed to a large extent in silos and do not form a coherent entity. To start with, there are many regulatory models for the exchange of information between authorities. The law may provide for the authority a right to information, the right to disclose information, the obligation to notify, the obligation to provide information on its own initiative or allow disclosure of information based on consent of a client. Thus, the right and/or obligation to share information between authorities in different situations can be difficult to interpret and even contradicting. The Constitutional Law Committee (*perustuslakivaliokunta*) has noted on several occasions that the processing of sensitive data should be limited to only what is necessary, by precise provisions and a clear and comprehensible legislative solution should be sought regarding the regulation of the processing of sensitive personal data.[20]

**The challenges in multi-agency information exchange are not new,** and there have been several efforts to develop the legislation. In 2013, the Ministry of the Interior set up a working group to analyze legislation governing exchange of information between authorities promulgated by the need to better prevent domestic violence and related

[20] See e.g.,, Voutilainen & Muukkonen, Kansanen, Katila, PeVL 14/2018 vp, p. 5—6, PeVL 3/2017, p. 5, PeVL 3/2017 p.5, PeVL 4/2021 and https://www.edilex.fi/uutiset/69606

child deaths. The working group's final report stated that there are no grounds to renew the legislation, even though the consultations indicated that the legislation is complex and open to interpretation. The working group did agree that uncertainties in interpretation may lead to reluctance to exchange information, even in situations where there is no reason to do so.[21] Simultaneously, the THL was commissioned to develop a guide for professionals working with children and families describing the legislation governing information exchange and rules of confidentiality. The guide and a related training package were implemented and can be found on THL's website but have not been updated in recent years.[22] The government commissioned again in February 2022 a research project to identify challenges and to propose solutions for smoother multi-agency information exchange in the security and crime prevention sector. The research plan also mentions the LASTA model as an example of multi-agency work which suffers from a lack of clear legislation enabling information exchange between authorities.[23]

**The situation is slightly clearer for exchanging information between social welfare and healthcare providers,** as these fields are closely interlinked and, to certain extent, used to cooperating. An example of this is the new Act on the Electronic Processing of Client Data in Healthcare and in Social Welfare which came into force in November 2021. The aim of the Act is to bring legislation in line with the GDPR, to implement the government's strategic plans on digitalization as well as to ensure smooth personal data processing in the future Welfare Regions. The most relevant changes in the new Act are the inclusion of social welfare customer data to the national healthcare information system (the Kanta system), enabling also storing and transfer of social welfare customer data through the system, as well as reforming the principles of patient's consent/right to prohibit sharing of patient/customer files in line with the GDPR. The Act has long transition phases for some of the requirements for processing data. The preparatory works of the Act recognized the need to regulate more clearly on the transfer of information between social welfare and healthcare, and to accomplish this a new bill is currently pending.[24]

**The new pending bill** "Hallituksen esitys eduskunnalle laiksi sosiaali- ja terveydenhuollon asiakastietojen käsittelystä sekä eräiksi siihen liittyviksi laeiksi" **aims to combine all the existing regulation on social welfare and healthcare customer information processing into one Act**. The above-mentioned rather recent Act on the Electronic Processing of Client Data in Healthcare and Social Welfare and the Act on

[21] SM 1/2014, p. 40-41 ja 47
[22] Luo luottamusta - Suojaa lasta. Opas yhteistyöstä lapsia ja perheitä työssään kohtaaville
[23] https://tietokayttoon.fi/-/viranomaisten-valinen-oma-aloitteinen-tietojenvaihto-virvotieto-
[24] HE 212/2020, p. 66. The draft is titled: "Hallituksen esitys eduskunnalle laiksi sosiaali- ja terveydenhuollon asiakastietojen käsittelystä sekä eräiksi siihen liittyviksi laeiksi"

Social Care Client Documents are proposed to be repealed and the relevant sections would be moved to the new Act. Additionally, the relevant sections of the Patient Rights Act and the Act on the Status and Rights of Social Welfare Clients, including the sections to be discussed in the following subsections, are to be removed to the new Act. The aim is to harmonize the regulations related to processing customer information in social welfare and in healthcare. The rationale is that healthcare and social welfare services are more and more interconnected, and both services will be soon provided by the new entities - the Welfare Regions. However, the proposal settles on systemizing the current legislation, concentrates on situations related to the need to share information between social welfare and healthcare, not beyond this, and does not include new openings related to processing information in multi-agency cooperation. An exemption is proposed in Section 47, which includes an interesting proposal for joint recording of information in multi-agency co-operation. However, the Section only discusses recording of information, not the actual right to share information in a multidisciplinary setting. The draft bill is expected to be discussed in the Parliament in September and is expected to come into force in January 2024.

**The interviewed experts from the Ministry of Social Affairs and Health mentioned that there are plans to reform the legislation more profoundly to ensure smoother multi-agency information exchange in certain situations.** This is likely to take place during the next government term. To prepare for this, as mentioned above, there is a government commissioned research project underway aimed to seek solutions for smoother multi-agency information exchange. The Ministry of Social Affairs and Health is also currently preparing a sub-regulation aimed to regulate in more detail different professionals' access to the Kanta information system.[25] This sub-regulation will include descriptions of different professional "profiles" and the access these "profiles" will have to information in the Kanta-system. It should be ensured that the Barnahus Units' statutory right to access information is considered in this sub-regulation. Furthermore, this regulation and its logic could be used in the future for ensuring access to information for a LASTA coordinator, a professional with a multidisciplinary coordination function.

Finally, it must be noted that **there is an on-going historical national restructuring of the healthcare and social welfare sector.** This means amongst other things that as of 1st of January 2023 most healthcare and social welfare services will be provided by the so-called Welfare Regions.[26] The restructuring will affect the positioning of both social welfare and healthcare providers, including e.g., child protection services and the

[25] The draft at lausuntopalvelu
[26] https://soteuudistus.fi/en/frontpage

Barnahus Units as well as includes regulation related to responsibilities in maintaining e.g.,, patient and customer registries.

## 2.2. The LASTA model - a good practice in multi-agency cooperation

The LASTA model has been developed by The National Institute for Health and Welfare and partners in several consecutive projects. The aim of the LASTA model is to ensure the best interest of a child via coordinated information gathering and exchange, to ensure the quality and efficiency of the criminal investigation, and to ensure that a child receives coordinated support.[27] The initial pilot took place in Southwest Finland in 2014–2016. An integral part of the model is the LASTA template, a template for information gathering, developed based on empirical research on indicators for potential abuse. The template can be used as a tool to ensure that all the relevant information is gathered from different authorities and their registries, including on e.g., child's family situation, possible earlier child protection interventions, and on the health and medical history of a child. The template is available at the THL's webpage, but it is not officially recognized by e.g., legislation.

In an ideal situation, the information is gathered and compiled to the LASTA template by a person dedicated for the task - a LASTA coordinator. The information gathering phase is usually followed by a multidisciplinary LASTA coordination meeting to determine the steps to be taken by each public authority.[28] **It is important to note that there is no legislation regulating the use of the LASTA model nor legislation giving a specific right to collect personal information for the purposes of the LASTA screening.** As the use of the LASTA model is not regulated by law, local circumstances, structures, and resources have molded the practical implementation of the model. Some examples on the use of the LASTA model, and their pros and cons, are described below.

- **"The TYKS model":** As mentioned, the LASTA model was initially developed in a pilot, which took place at the TYKS University Hospital area. Currently, there are two LASTA coordinators serving the Turku region positioned at the University Hospital's Children's Clinic (*Lastenklinikka, sosiaalipediatrian yksikkö*), where the initial pilot personnel were positioned at. Furthermore, one LASTA coordinator is positioned in Vaasa in the Barnahus Unit affiliated with Turku, and one in the Satasairaala hospital in Pori (at the pediatric polyclinic and pediatric surgery polyclinic, *lasten poliklinikka ja lastenkirurgian poliklinikka*), serving their respective areas. The placement of the LASTA coordinators (two at the TYKS Children's Clinic, one in the regional hospital in Pori, and one in

[27] https://thl.fi/fi/web/vakivalta/tyon-tueksi/lasta-seula-malli-tiedon-jakamiseen-ja-monialaiseen-yhteistyohon and Sinkkonen & Mäkelä.
[28] LASTA template

the Vaasa Barnahus Unit) is agreed in the contract between the Regional State Administrative Agency (AVI) and the TYKS. Currently, the LASTA coordinators in Pori and Vaasa are Barnahus-project staff, and the cost is covered by the project, not by the funding mechanism of the Organizing Act. Therefore, altogether roughly four person-years provide LASTA services for the TYKS University Hospital Area.

As the model has functioned in Turku for quite a few years, the police are aware of the possibility of using the LASTA screening and directly contacting a LASTA coordinator. There is a specialized child investigation at the Turku police, which is considered important for ensuring smooth cooperation. It is estimated that a large share of suspected cases is channeled to the LASTA screening. However, there are no official statistics available. Upon request from the police, a LASTA coordinator collects the child's health information directly from the patient registry and approaches a contact person at the social services as well as at the primary healthcare for other relevant information. The LASTA coordinators in Turku are nurses by education and have a long experience in collecting and analyzing information for the LASTA template. The LASTA coordinators' tasks at the Children's Clinic also include coordinating somatic examinations, which supports the overall coordination of a case.

The latest development is that the Barnahus Unit has positioned a psychologist to work within the local Police Station for three days a week. This means that the psychologist can directly support the police in gathering background information and share his/her expertise to support decision-making in a case, including e.g., deciding whether a case is investigated further or not. This has reduced the need to refer cases to the LASTA screening but has increased the amount of actual official requests for assistance directed at the Barnahus Unit, as the relevant cases are better identified. In Pori and in Vaasa, the LASTA coordinators receive requests for the LASTA screening from the local police, but the working model is not yet as established as in Turku. However, after the initial networking and trust building phase, there seems to be support for, and benefits in, conducting the screenings locally.

In Turku, the information gathering phase is followed by a multidisciplinary meeting in which professionals from the Barnahus Unit, from the child protection, the LASTA coordinator, the police and the prosecution are present. In the meetings it is discussed, which cases should be referred to an examination at the Barnahus Unit, which the police will handle using their own resources, and which cases will be handled by the child protection services. It was mentioned

that for the multidisciplinary coordination to be impactful, all the professionals must trust and respect each other's tasks and expertise.

The benefits of conducting the LASTA screening at the Barnahus Unit can be reflected in connection to the Turku model, even though the LASTA coordinators are not strictly speaking within the Barnahus Unit in this model. The benefits include the screening being completed by professionals having specialized expertise on the phenomena of child abuse and exploitation, which is key in identifying relevant background information. Furthermore, the Units' professionals are well conversed with the criminal investigation process and used to working with the police, which is not the case for most health and social care professionals.

- **The "Joensuu model":** In this model, the LASTA screening is initiated by a social advisor (*sosiaaliohjaaja*) working at the social welfare services (*palvelutarpeen yksikkö*) after receiving a report of a suspected abuse via a telephone hotline. The social advisor will use the LASTA template to gather relevant information from the social welfare's information system and prepare an official request for healthcare information based on Section 20 of the Act on the Status and Rights of Social Welfare Clients. The request for information is sent to a LASTA coordinator working at the police station, employed by the regional healthcare provider SiunSote. The LASTA coordinator has based on her position at the SiunSote direct access to the healthcare information system. The LASTA template is archived at the social service's information system as the information is also used for the statutory child protection needs assessment (*lastensuojelun palvelutarpeen arviointi*). The police can request for a social advisor (*sosiaaliohjaaja*) working at the police station to print the LASTA template from the social service's information system, and the template is archived at the police as pre-investigation material defined as "other materials", not available for the parties of the case. It has been agreed that the police inform the child protection services within a week whether a criminal investigation will commence, and if so, what actions the child protection can and cannot take, including whether the case can be discussed with a child/a family.

  The placement of the LASTA coordinator at the police station has been made possible by project funding. The LASTA coordinator and the police's social advisor form a "LASTA team" working in close collaboration with the child investigation team, including working physically on the same premises. The "LASTA" team can support the police in coordinating actions including e.g., considering when and how to inform the parents of the investigation, and

"interpreting" the relevant health and social welfare information in the LASTA template. The LASTA coordinator's tasks also include supporting a child throughout the criminal process ensuring e.g., that a child receives the needed support and healthcare services. There is a monthly coordination meeting amongst the representatives of the police, the LASTA coordinator and the social counselor, the leading social workers of the region, a medical doctor (*neuvolalääkäri*), and a person from the region's Barnahus Unit, if necessary. The aim of the meetings is to discuss general coordination issues and to learn together from past cases. Recently a weekly meeting has also been launched to discuss current cases, including discussing whether a case should be referred to the Barnahus Unit. In the past, very few cases were referred from this region to the Barnahus Unit, but recently the number of cases has increased due to the process and information exchange becoming clearer. Furthermore, a good practice developed in the region is that the experts from the Barnahus Unit travel to Joensuu to interview the children, not the other way around.[29]

The local professionals are very content with the model as it reduces workload and makes authorities' actions to support a child more meaningful. The clearly agreed process for coordination prevents duplicate work and makes the process faster due to the clearly agreed model for exchanging information and for agreeing on next steps. The gathering and exchange of information enables informed and faster decision making, including deciding whether a case will be processed in the criminal process or by other means. What is more, it was mentioned that it is considered very useful to coordinate communication towards the families, including ensuring that safeguards are in place for the child when the parents are informed. An additional benefit of the model is that a designated person (the LASTA coordinator) supports a child throughout the process as well as coordinates access to necessary services. It seems that the professionals engaged in the use of the model are committed to it as well as trust each other's professional views. The interviewees also mentioned that a prerequisite for the functioning of the model is that working time has been allocated specifically for the LASTA work, including police having investigators specialized in child investigations. According to the professionals it also makes a difference that the "LASTA team" is physically located at the police station.

The professionals interviewed mentioned that the greatest weakness of the model is that the LASTA coordinator cannot disclose health information directly to the police, because the police do not have a statutory right to access this information. Currently, a child's relevant healthcare information is recorded by the social

[29] Working paper, 2020, https://www.youtube.com/watch?v=Ym4Tetc3UY0 and interviews

services at the LASTA template, and the police can access a copy of the template as described above. This practice is based on interpretation of Section 18(3) of the Act on the Status and Rights of Social Welfare Clients. However, though Section 18 gives a social welfare provider a right to disclose information to the police in cases of suspected child abuse, there is no indication that it was the legislator's intention that the Section could be used also to share information with the police i.e., medical/health information accrued for the purpose of the social services. Healthcare information requested via Section 20 of the Clients Act is not social welfare authorities' own information, and there is no regulation allowing police to have access to this healthcare information requested via Section 20. It would be more justifiable and transparent to directly regulate police's right to access health/medical information for the purpose of the LASTA screening.

Despite these shortcomings, the "Joensuu model" is an excellent example of multi-agency cooperation. One of the interviewees noted that though the LASTA model is a totally voluntary model of cooperation, in their case it functions better than some of the statutory cooperation structures. The model and the additional practices developed in Joensuu (e.g., coordination in informing parents, dedicated support person for a child and organizing hearings close to a child's place of residence) are worth considering to be used more widely. However, the legislative basis for the model must be clarified if it is to be used more widely. Moreover, this model is based on local networking, which takes time and commitments, and specialized earmarked resources for the LASTA coordination were mentioned as one of the main factors for the model's success.

- **The "Lahti model"**: There are ongoing discussions to develop a so-called Lahti model, in which the HUS Barnahus Unit would purchase LASTA screening services from the Päijät-Häme Welfare Concern (*Päijät-Hämeen hyvinvointiyhtymä*), an entity responsible for providing primary healthcare in the Lahti area. The idea of the model is that LASTA screenings for cases from the Päijät-Häme area, which are currently carried out by the HUS Barnahus Unit, would be carried out locally. The local LASTA coordinator's tasks would also include networking and developing local multi-agency cooperation and ensuring local pathways to services for victims.

  In practice, the LASTA screening services would be purchased from the Welfare Concern's family services, (*lapsiperhepalvelut = neuvola + lastensuojelu*) via a separate service contract using project funds. The arrangement would be based on Section 2 of the Organizing Act which provides that the University Hospitals

are responsible for organizing the investigation services defined by the Act. The relevant government proposal specifies that "organizing" does not mean that the University Hospitals would have to necessarily produce the services themselves, but the services can be also purchased from other service providers.[30] The Lahti model arrangement would be considered purchase of services between two public service providers, and the arrangement would be financed using project funds.

The LASTA coordinator would be positioned at the Welfare Concern's family services, (*lapsiperhepalvelut = neuvola + lastensuojelu*), and would be considered to have a right to access personal information on behalf of the Barnahus Unit, like in the TYKS model. In practice, the children who would benefit from the LASTA coordinator's services would be from the Päijät-Häme region and their personal data is stored in the regional information systems, to which a person positioned at the Regional Welfare Concern would have access to. In this model it would be important to ensure that when the University Hospital Unit, which has the right to process data, delegates the rights and obligations of data processing via a detailed data processing agreement required by the GDPR.[31]

If the Organization Act was clarified in respect to whether it is possible to delegate a Unit's right to access personal information, the Lahti model could have potential for more wider implementation. The core idea of the model, strengthening local ownership and development of local coordination structures, has benefits. Moreover, it could be beneficial to have the local LASTA coordinator tied via a contractual arrangement to a Barnahus Unit. In this way, the expertise of the Unit would be more evidently available to the coordinator, and the referral of cases to the Unit, when relevant, might become more structured and consistent. There is indication of this type of benefit in both the TYKS and Joensuu model. However, there are risks in implementing this model more widely, if it would leave room for different regional contractual arrangements, including purchasing LASTA screening depending on each University Hospital´s available resources. The current pilot in Lahti is financed by project funds.

- **The Helsinki pilot**: In Helsinki the LASTA-model has been piloted recently. There is a child investigation unit at the Helsinki police. The investigators of the unit decide the cases that are taken to the LASTA screening. Information for the

[30] HE 126/2008, p.10
[31] https://gdpr.eu/data-processing-agreement/

LASTA template is collected by a LASTA coordinator, who is currently a social worker from the HUS Barnahus Unit and has access to the relevant health information via her position, and contacts child protection for social welfare related information. The LASTA coordination meeting is held every three weeks. The participants are the police, prosecutor, child protection officer, LASTA coordinator, psychologist from the Barnahus Unit, and when needed a medical doctor. Only a few cases have been handled so far in the cooperation meeting. Some cases are directly referred to the Barnahus Unit and therefore, not handled in the LASTA meeting.

The benefit of the model based on the interviewees is that the child protection services are then more involved and aware of the process, and this benefits also the measures taken at the child protection. The structure of the LASTA meeting could still better support the child protection viewpoint as now it is rather pre-investigation focused. Social workers are not yet fully aware of the benefits of the coordination meetings and due to the nature of their work (frequent, urgent changes in priorities) not always able to take part in the meetings. The challenges of the model are that still very few cases are handled in the meeting. Further, the LASTA coordinators position is based on a temporary arrangement.

**In summary, the LASTA model seems to enable more coordinated actions between authorities, which means using resources more efficiently, and most importantly better ensuring a child's best interest.** The core of the model is gathering and exchanging information relevant for deciding how to process a case. Social welfare, health, and medical history information, when correctly interpreted, can indicate abuse, even when a sole separate incident would not be considered sufficiently serious to warrant a criminal investigation or the conclusion is that the case is better handled outside the criminal process. Multidicplinary expertise is also needed for ensuring that child developmental issues, child abuse as a phenomenon, as well as often related issues in guardianship disputes, and their influence on a child's account are correctly understood. In some of the pilots the screening also seems to lead to a better identification of cases which benefit from referral to a Barnahus Unit. The University of Tampere is at the moment conducting comprehensive research on the effectiveness of the LASTA model, including analyzing its impact on the duration of pre-investigation and gathering authorities' opinions on the usefulness of the model.[32] The findings of the research will be important for considering the further development of the LASTA model.

[32] https://tietokayttoon.fi/-/lasta-seula-malli-lapsiin-kohdistuvan-vakivallan-rikosepailyjen - selvittamisen-valineena

**However, from a judicial perspective, there is no sound legislative base for sharing confidential personal information for the purposes of the LASTA screening.** In the following sub-chapters 2.3 - 2.5, the rights and obligations of the relevant authorities to access and to share confidential personal information are discussed in detail to highlight the legislative challenges in multi-agency information exchange in the LASTA screening context. The analysis also incorporates the question, where a LASTA coordinator could be best positioned. Barnahus Units' specific right to access information is discussed in Chapter 3. Furthermore, currently multi-agency cooperation (including use of the LASTA) is dependent on local arrangements, which is not ideal, if the aim is to ensure equal access to services for all child victims. Therefore, in sub-chapter 2.6 the need to legislate on multi-agency cooperation structures in alleged child abuse cases is discussed.

## 2.3. Police access to information

The police have based on Section 4:2 of the Police Act a right to information needed for the police to perform its duties, irrespective of whether this information is confidential, unless access to information is "specifically restricted in legislation". Any restrictions in the special provisions will prevail over the general provision of the Police Act. Some specific restrictions can be found in the field of health and social welfare legislation.

Section 13 of the Patient Rights Act defines all patient files as confidential, and information on them cannot be given, unless a patient gives permission or if legislation defines a specific right to access the patient information. Specific exceptions in relation to criminal investigations can be found in the Code of Judicial Procedure (OK 17:14), in the Coercive Measures Act (PKL 7:3), in the Criminal Investigation Act (ETL 7:8.3) and in the Child Protection Act (LSL 25). The Code of Judicial Procedure (OK 17:14,2) provides that the court can oblige a medical doctor or other healthcare professional to testify, if the prosecutor prosecutes for an offense punishable by a maximum term of imprisonment of at least six years. The Criminal Investigation Act (ETL 7:8.3) refers to this Section, and provides that, if an offense is punishable by a maximum term of imprisonment of at least six years, or an attempt or involvement in such an offense, a healthcare professional must testify also in the pre-investigation. Similarly in these cases a healthcare professional must also share a confidential document, as it could be confiscated based on the Coercive Measures Act (PKL 7:3). Thus, the confidentiality of patient information is lifted when the police are investigating a crime for which the maximum term of imprisonment is at least six years. It follows that for lesser crimes (e.g., mild abuse, abuse, negligence, gross negligence, sexual harassment) healthcare professionals are not obliged to testify and, therefore, the police do not have access to a person's health and medical information in these cases, unless a patient gives a

healthcare professional a permission to testify on the information that has been revealed in the patient-medical professional relationship (OK 17:14,1).

There is one more exemption to the rule of confidentiality in the patient-medical professional relationship mentioned in the relevant literature: in cases where a healthcare professional him/herself has reported a suspected child abuse, the healthcare professional is considered to be able to disclose to the police all the information relevant for that particular case irrespective of confidentiality.[33] The duty to report includes suspicion of a sexual offense as defined in Chapter 20 of the Penal Code or an act provided for in Chapter 21 of the Penal Code to be punishable as an offense against life and health, for which the maximum punishment provided is at least two years imprisonment**.** Therefore, this includes a slightly wider scope of cases than based on the OK 17:14,2 but the confidentiality is lifted only in cases in which the medical professional has been the one reporting a suspicion. This is an interpretation of the meaning of the legislation in question, the right/obligation to testify is not specifically legislated, and the interpretation has not been tested in court. **To rectify this discrepancy between an obligation to report and the obligation to testify it would be best to amend the legislation to include the obligation/right to testify specifically for cases in which a professional has him/herself reported a suspicion of child abuse.**

Finally, the Patient Rights Act (Section 13,4) provides that a healthcare professional is allowed (but not obliged) to disclose confidential patient information to the police if the information is necessary to evaluate a threat or to prevent health or life-threatening violence. The Section only applies to a risk/threat of violence, not violence that has already taken place, though signs of violence can be signals of future threat. This right to disclose confidential information was added to the legislation after a particularly mishandled child abuse case, which led to several enquiries and changes in legislation. The relevant government proposal justifies the exemption as being necessary for preventing domestic violence, including lethal violence within a family. It is argued that disclosure of information to another authority only based on a particular request is problematic from the viewpoint of prevention and deterrence of violence. This means that e.g., police are not necessarily aware of information held by another authority and not able to request for such information though it might be useful for preventing violence. The right to disclose confidential information, if there is a suspected threat of violence was added to 13 different Acts, including the Patients' Rights Act. The government proposal fails to discuss in detail, how to define a situation surmounting to a threat of violence detrimental to health or life, and what is considered to be a

[33] Ellonen and Rantaeskola, p.32-33.

sufficiently serious threat.[34] This right to disclose information is not well known nor much used.[35]

The general rule of the Act on the Status and Rights of Social Welfare Clients is also confidentiality, but there are exceptions to this rule enabling sharing information between authorities. Relevant for this context is Section 18 of the Act, which provides that a social welfare providers can *upon request,* notwithstanding the consent of a customer or their legal representative, share information with the police, the prosecuting authority and the court, if it is necessary to investigate an offense under Section 15(10) of the Penal Code or for which the maximum penalty is at least four years' imprisonment. Confidential information can be also disclosed on social welfare's *own initiative* when an offense referred to above is suspected, or even for minor offenses, if the provider of social welfare *deems it necessary for the best interests of a child*. The explicit reference to the best interests of the child is significant. In the government proposal, this was justified by the fact that it allows social welfare professionals to share information relating to a child with another authority even when the child's parent or legal guardian may try to prevent this. Such situations may arise in cases of alleged or suspected abuse within the family or where the child's parent or guardian is closely linked to the suspect.[36] Finally, a social welfare professional has the same right as a healthcare professional to share confidential information when the information is necessary to evaluate or to prevent a serious threat of violence.

The Basic Education Act, the Act on General Upper Secondary Education, the Act on Vocational Education and Training, the Youth Act and the Act on Early Childhood Education and Care all include confidentiality clauses related to a student/child's personal information. However, personnel working in schools and kindergartens also have the duty to report suspected abuse to the police based on the Child Protection Act, and they must disclose any information relevant to that suspicion. The Student Welfare Act, which legislates on multidisciplinary support for students, includes detailed provisions on the information and registries[37] to be used by school psychologists and curators. The files and information created in school welfare and healthcare services are regulated by the Patient Rights Act and the Act on the Status and Rights of Social Welfare Clients respectively. Therefore, in practice, for example a school nurse or doctor is bound by the same confidentiality rules as any other medical professional. The aforementioned Acts (with the exception of the Student Welfare Act) also give

[34] HE 333/2014, p.4
[35] Katila, p.59 and interviews
[36] See also AOA 1949/4/11
[37] There is a pending government proposal HE 19/2022 aiming to ensure the merging of these registries to the national Kanta registry.

educational professionals the right to share otherwise confidential information, if the information is necessary to evaluate or to prevent a serious threat of violence.

**In summary,** the police can request for confidential information from patient files for investigating offenses punishable by a maximum term of imprisonment of at least six years. For investigation of lesser crimes, the police cannot request patient information nor request that a healthcare professional testifies in court. Social welfare professional can even with his/her own initiative disclose to the police information irrespective of the gravity of the crime, if this information is considered necessary for ensuring the best interest of a child. Though the police do have the right to request a variety of personal information, the police are probably not best positioned for conducting the LASTA screening in practice. The police do not have direct access to the relevant registries, and requesting the information is quite time consuming as well as not considered police's core duties. Moreover, the medical and social welfare information collected for the LASTA screening must be analyzed and interpreted, tasks for which a social and/or healthcare related understanding is needed.

## 2.4. Social welfare professionals' access to information

In the Act on the Status and Rights of Social Welfare Clients, the general rule is confidentiality of personal information accrued in the provision of social welfare services. A social welfare customer or his/her legal guardian can give permission to disclose this information (Section 16 of the Act). When the social welfare client in question is a child, consent can be given by the child's parent or a legal guardian or a child him/herself, if s/he can give valid consent. Section 17 of the Act regulates situations in which a permission has not been obtained, but disclosing the information is *necessary to determine the client's need for support or to organize care and support*. Information deemed necessary may be disclosed only if one of the three additional requirements mentioned in Section 17 are fulfilled. One of the requirements is that the information is needed to ensure the best interests of the child. Information may be disclosed based on this Section with another social welfare authority, a person or entity performing social welfare tasks on social welfare authority's behalf, or to another authority. Therefore, information can be shared e.g., between different units or providers of social services without a client's permission, if it is necessary e.g., to ensure the best interests of the child. As discussed above in relation to police's access to information, Section 18 of the Act on the Status and Rights of Social Welfare Clients regulates specifically the situation of disclosing information for the purposes of a criminal investigation.

In addition to the above-described rights to disclose information, Section 20 of the Act on the Status and Rights of Social Welfare Clients regulates social welfare providers'

*right to request* for confidential information, including health and medical information, when the information is *necessary* for the social welfare authority due to its statutory task, and the information is indispensable to determine a client's need for social welfare or to provide a service. Therefore, a social worker can request for information from e.g., patient files if s/he needs the information for determining a person's need for social support/care or to organize this support. Section 20 can be used also to request for information from a school or kindergarten for the purposes of defining and offering support. It could be interpreted that LASTA screening is done for the purpose of "determining need for and providing support", when the LASTA screening is used to ensure multidisciplinary support. However, this would be stretching the original aim of the Act, and still there would be no regulatory base for sharing the information further to the police. Finally, Section 22 of the Act on the Status and Rights of Social Welfare Clients gives the social welfare authorities the right to receive official assistance from other authorities and enables other authorities to share confidential information, which is needed to perform the requested assistance.

Interestingly, the Child Protection Law does not provide for any specific rights to access information, but the provisions of the Act on the Status and Rights of Social Welfare Clients are used for requesting information in child protection services. The only exception is Section 41(2) of the Child Protection Law, which supplements Section 20 of the Clients Act, and which regulates that a social worker has the right to receive an opinion from other authorities, if necessary, in preparation for deciding on custody or foster care. An opinion may concern the child and his or her circumstances, but also include information related to the child's parents or other persons, if they are relevant to the decision-making. In this case, other authorities are not only required to provide information they might have, but to actively form an opinion on a particular case.[38]

**In summary,** social welfare professionals can request for information from other authorities if the information is necessary for the purpose of determining the need for and providing support. Social welfare can share information with other authorities when it is necessary for providing support or when it is necessary for investigating a suspected abuse. If social services would be the preferred place for positioning a LASTA coordinator, a specific right to information for the purpose of the LASTA screening should be legislated. Moreover, though Section 18 gives social welfare providers a right to disclose information to the police in cases of suspected child abuse, this Section does not grant the right to disclose with the police medical/health information accrued for the purpose of the social services. Therefore, a right to disclose all the information collected for the LASTA screening to other authorities in the multidisciplinary coordination,

[38] Kantanen, p.58

should be added to the legislation, alongside with regulating police right to use the health/medical information for the purpose of the LASTA screening.

## 2.5. Healthcare professionals' access to information

As discussed above, patient files are by default confidential, and consequently, patient information cannot be disclosed without the patient's consent even to another healthcare professional unless s/he is directly involved in the patient's care (Section 13(2) of the Patient Rights Act). The disclosure of patient files to another healthcare professional is possible only if it is necessary for the provision of care of the patient in situations where the consent of the patient cannot be received (Section 13(2.1-2) of the Patient Rights Act) or if an exception is regulated by law. These exceptions were discussed above under the police's right to information. Moreover, there is a statutory obligation to share patient information with the personnel of the Barnahus Units upon their request.

Social welfare service providers may share confidential information with a healthcare professional also without a client's consent, if the information is necessary for determining the need for or providing support, and if disclosing is e.g., necessary for ensuring the best interests of the child (Section 17). Thus, a healthcare professional could be given social welfare information if this information is necessary for determining need for and providing care. If a LASTA coordinator conducting LASTA screening were a healthcare professional, the same interpretation issue would arise as for the social welfare professional; can the LASTA screening be interpreted as "determining need for and providing support".

Healthcare professionals can be privy to pre-investigation information when they are performing a task for the investigation e.g., preparing an examination or a statement as requested by the police or taking part in the hearing of a child. Consequently, there is currently no clear legal basis for a healthcare professional to access pre-investigation information for the LASTA screening purpose. And finally, it is difficult to find a legal basis on which a healthcare professional could request a child's personal information from education providers for the purpose of the LASTA screening, notwithstanding the exception of the Barnahus Unit personnel.

Multidisciplinary cooperation is not generally seen as a task of healthcare providers to the extent it is seen as a task of a social welfare provider, and this is also reflected in the relevant legislation. Thus, healthcare professionals are bound by strict rules of confidentiality and have limited access to information from other authorities. If the LASTA coordinator was a healthcare professional (outside a Barnahus Unit), a separate legislative basis would be needed for ensuring statutory access to relevant information.

## 2.6. Legislating on multi-agency coordination structures

One of the questions posed for this analysis was whether multi-agency cooperation in child abuse investigation should be made mandatory. In the LASTA model a multidisciplinary coordination meeting is usually held after the initial information gathering. The form and the participants of the LASTA coordination meeting vary from place to place. However, there is no legislative obligation to coordinate child abuse investigation, whether in a form of a multidisciplinary network, expert group, a meeting, or in any other form. The interviewed persons mostly supported mandatory coordination structures for handling child abuse cases. The most often mentioned rationale was that cooperation and coordination between authorities should not depend on individuals, but it should be structural. It was argued that because a suspicion of violence and the following action (or inaction) by authorities can be a turning point in a child's life, it should be ensured via legislation that cases are handled in an efficient and coordinated manner. An expert in violence prevention noted that empirical research has shown that when measures to tackle violence are coordinated, also support to victims is more coordinated, and victims are better supported. Additionally, a concern was raised that, if coordination models (such as LASTA) are not regulated, there is a risk that a model will transform over time to suit e.g., local needs and circumstances, and will not ensure a uniform approach anymore. THL is currently preparing a national recommendation on violence prevention coordination structures intended to guide the future Welfare Regions.[39] However, the Welfare Regions are independent and can decide on their own structures and ways of providing services.

Some interesting examples of mandatory multidisciplinary cooperation can be found in current legislation, and these solutions can be used as an inspiration for considering legislating on a coordination structure for child abuse investigation. First, the new Act on the Organization of Social Welfare and Healthcare (612/2021) governing the provision of services at the future Welfare Regions explicitly regulates multidisciplinary cooperation. Section 8 of the Act regulates that: “There must be multidisciplinary expertise in the management of social and healthcare in the Welfare Region, which supports the development of high-quality and safe services, cooperation between different professional groups and the development of care and operating practices.” And Section 10 regulates that: “The Welfare Region must take care of identifying customer groups and customers who need coordinated services on a wide scale, coordinating social and healthcare and defining service chains and service packages, coordinating social and healthcare services *with other services* in the Welfare Region and utilizing customer information between different producers.” These are great principles for ensuring multidisciplinary cooperation, but still at quite an abstract

[39] https://blogi.thl.fi/tulevien-hyvinvointialueiden-vakivallan-vastaisen-tyon-rakenteiden-kehittaminen-etenee/

level, as well as mostly concentrating on supporting multidisciplinary cooperation between the health and the social welfare sectors.

Section 41 of the Social Welfare Act specifically recognizes the need for multidisciplinary cooperation and includes a mandatory obligation to, first, ensure that there is enough professional expertise available to evaluate a client's situation, and secondly, an obligation for professionals to participate, when requested, in a client's needs assessment and in the preparation of a client plan. The Section also regulates that social welfare services and other services should be planned to "form a coherent entity serving the best interest of a client". This is quite a demanding requirement as such. In the field of child protection, the need for multidisciplinary cooperation has been recognized, and it is mentioned in Section 14 of the Child Protection Law which obliges a municipality to set up a multidisciplinary expert group tasked to assist a social worker in the implementation of certain child protection measures.

Another interesting example of mandatory multidisciplinary cooperation can be found in the Act on the Reception of Persons Applying for International Protection and on the Identification of and Assistance to Victims of Trafficking in Human Beings. Section 38c of the Act defines the composition of a multidisciplinary expert group tasked to support the assistance system for victims of human trafficking in the assessment of assistance and protection needs. The multidisciplinary expert group is also responsible for ensuring a flow of information between the reception center and other authorities. The Section gives a specific right to share a victim's personal information to the expert group, also without the victim's consent, if the information is necessary for the assessment of needs for the organization of services or for the planning and organization of security measures. However, an interviewed expert mentioned that there are challenges in the work of the multidisciplinary expert group, and there are plans to remove the regulation from the law.

The above-mentioned Act has another interesting feature. Section 58 of the Act gives an extensive right to information for authorities responsible for making decisions related to, or providing services to, persons applying for international protection or being supported in the assistance system for victims of human trafficking. The right to information for migration related authorities was further expanded by an Act on the Processing of Personal Data in the Immigration Administration, which came into force in 2020. This new law is interesting in this context as it gives a very broad right to personal information for certain authorities. This was justified in the government proposal, amongst other things, by a need to balance fundamental rights, such as the protection of personal data and privacy, with the need to ensure smooth exchange of information between public authorities, which is also described as a key element of

good governance.[40] Similarly, this would be a very relevant argument for widening the right to exchange information between authorities in child abuse investigations. However, the broad right to personal information given to the migration related authorities has also been criticized for several reasons. It is claimed that authorities' right to exchange personal information is not supporting trafficking victims' access to support, but rather preventing victims from seeking assistance due to a fear that information is shared between authorities, including with those making restrictive decisions. The possible unforeseen consequences of widening right to information should be kept in mind in the development of the LASTA model and the related rights to information.

The final example is the Pupil and Student Welfare Act, which includes a quite elaborate structure for multidisciplinary cooperation to support a student's welfare. Section 14 of the Act regulates those measures for supporting an individual student are dealt with in a multidisciplinary group of experts. According to the government proposal, the group can consist of the following professionals depending on the case: a school nurse (*terveydenhoitaja*), a curator (*koulukuraattori*), a psychologist, a study counselor (*opinto-ohjaaja*), the student's class teacher (*ryhmänohjaaja*) and other teachers, when relevant.[41] The group and its representatives can only be appointed with the consent of the student or, if s/he is not in a position to assess the significance of the consent to be given, his or her guardian. The group of experts must appoint a case manager among its members. The Section also regulates that the members of the expert group may not use the confidential information received as a member of the expert group for other tasks than those related to student welfare. Section 19 of the Act regulates that the expert group can consult other relevant professionals, such as a medical doctor, and disclose to the professional the information relevant for the request. Furthermore, Section 20 defines recording in the multidisciplinary expert group. This regulation is the only regulation found in the field of social and healthcare, which clearly regulates recording of information in a multidisciplinary context. The Section defines who records, what is recorded as well as who has access to the records.

There are proven benefits in ensuring cooperation via set structures, and examples of mandatory multidisciplinary cooperation structures can be found in legislation. Cooperation can naturally also take place voluntarily, but as soon as the cooperation requires e.g., handling of confidential personal information, clear rules are needed. Indeed, only standardized structures and rules of operation can ensure equal treatment of victims. The interviewed professionals mostly supported mandatory coordination structures for handling child abuse cases. That being said, a police representative noted

[40] HE 18/2019, p.2
[41] HE 67/2013, p. 59, 65

that, from the perspective of the criminal investigation, the needed requirements for cooperation are already regulated by the Criminal Investigation Act. And a representative of the prosecution service noted that even though prosecutors have found LASTA coordination meetings as useful for the determination of whether to prosecute or not, in practice a mandatory requirement would need to be coupled with additional resources.

If coordination structures would be made mandatory, it needs to be decided, where coordination should be regulated and in what detail. It should be decided whether the requirement to cooperate is best to be added to each specific law regulating each authority's tasks (e.g., the Police Act, the Social Welfare Act, the Patient Rights Act) or if the cooperation requirement should be included in a separate act, e.g., "the Barnahus Law", describing the full process of investigating and supporting child victims of abuse. Both solutions have pros and cons, which will be further discussed in Chapter 5. It was mentioned in the interviews that it would be crucial to oblige all the relevant authorities to initiate multidisciplinary coordination. It was noted that a structure would not function if only one or some of the authorities are obligated to initiate coordination. It was also mentioned that, if the coordination would take place via a multidisciplinary expert group, the composition of the group should be defined by law ensuring the participation of all relevant actors.

If multi-agency cooperation was made a statutory requirement, correspondingly the right to process confidential personal information in this cooperation as well as regulations on recording must be clearly legislated. This could be solved for example by using a similar arrangement as in the Pupil and Student Welfare Act; a separate joint report accessible for all the professionals taking part in multidisciplinary work. Finally, in addition to a legislative obligation to cooperate, other motivators are also needed; resources, trust-building, management indicators which favor cooperation instead of working in silos, and training ensuring that different professionals understand the perimeters of each other's work. The physical proximity of the different actors was also mentioned as a factor for smooth cooperation.

# CHAPTER 3 Referral to a Barnahus Unit and services provided

## 3.1. The purpose of the Organizing Act

The Act on Organizing the Investigation of Sexual and Assault Offences against Children came into force in 2009. The Act was amended in 2013 expanding the scope of the law to also include physical abuse. Otherwise, the Act has not been revised except

for minor technical changes. The Act was created to improve access to and the quality of specialist services for child victims of abuse, and to improve regional coordination to ensure that in the pre-investigation as well as in the criminal process the situation of child victims would be better considered, and children's rights better fulfilled. The government proposal mentions that improving the situation of child victims requires expertise in the pre-investigation, in the assessment of harm caused and in developing pathways to necessary treatment and therapy services. To accomplish these aims, the cost of the relevant expert services was to be borne by the Central Government, and therefore legislated by a specific Act. Moving the costs of these services to the Central Government was also necessary due to a national agreement made at that time on the division of costs between the local and the Central Governance (*kunta-ja palvelurakenneuudistus/2007*).[42] The funding rationale has influenced the formulation of the Act, which is overall rather compact, and out of the eight sections only four regulate the actual specialist services, and the rest regulate the funding arrangement.

The Act obliges the University Hospital Districts (*yliopistollinen sairaanhoitopiiri*) to organize child abuse related examination services as regulated in the Act. The government proposal specifies that "organizing" does not mean that the University Hospital Districts would have to necessarily produce the services themselves, but the services can also be purchased from other service providers.[43] Section 5 of the Act regulates that a more detailed agreement on the provision of the services is to be completed between an AVI (at the time *Lääninhallitus*) and a University Hospital District. According to the government proposal the agreement should specify amongst other things, which services are provided by the University Hospital District itself and, which services are purchased, and if so, from which service providers. The Ministry of Health and Social Affairs also issued in 2009 a guidance to support the implementation of the law, including an agreement model template. This legislative solution has made it possible for the University Hospital Districts to take different approaches in providing the services.

Section 1 of the Act defines as the purpose of the Act regulating the conduct of medical examinations (*terveydenhuollossa tehtävä tutkimus*) to investigate a suspicion and to assess harm caused in suspected child sexual or assault offenses. The government proposal defines the examination to include an interview with the child, the necessary psychological, somatic, and other medical examinations and a statement based on the examination. In addition, interviews with parents/ surrogate parents can be included in the examination. An examination can be requested for children under 16 years and in special circumstances for children under 18 years.

[42] HE 126/2008, p. 6-7
[43] HE 126/2008, p.10

To be able to conduct an examination, Section 4 of the Act gives "examination units" a right to receive and to give information *necessary* for the purpose of an examination. The term "examination unit" is used in this Section (and throughout the law) without defining it. As discussed above the examination services can be provided by the University Hospital District itself or the services can be purchased. This poses challenges for the interpretation of who has the right to process confidential information for the purposes of an investigation. The GDPR requires that if the right to process personal data is delegated to a processor, the processor must be bound by a data processing agreement or some other legal act.[44] The agreement or legal act must stipulate in detail the roles and responsibilities in data processing, including how the data subjects' rights are guaranteed. This is also important in light that the Units or their "satellites" nowadays also conduct LASTA screening and so-called mass screenings (to be discussed below).

According to Section 4, an examination unit is entitled to receive information from the police, the prosecutor and the court requesting an examination. Based on the government proposal this includes such documents which are necessary for completing the examination and mentions that these documents are usually documents concerning the notification (of abuse) by the social welfare authorities. More importantly, the Section gives an examination unit the right to request information *necessary to carry out an examination* from state and municipal authorities and other public entities, from training providers, from social service providers, from health and medical service providers and professionals without prejudice to confidentiality provisions. Based on the government proposal, the right to information is only related to a child, not that of his/her parents. The proposal further clarifies that the right to information only includes materials/information necessary for preparing the requested statement[45]. In addition, the Section grants the examination unit a right to share a statement of the examinations to an entity providing care to a child, if this is necessary for ensuring care for the child. Finally, the Section includes regulation on the archiving of the information accrued for the purpose of and during the examination.

## 3.2. Current practices and legislative amendment need

The practical work of the Units as well as the context of the work has developed quite a lot since the enactment of the law. First, the LASTA screening model has been developed and has been taken into use in some of the Barnahus Units. Some Units are more involved in the LASTA screening while other Units do not consider the screening

[44] Article 28(3) of the GDPR

[45] HE 126/2008, p.11. Wording in Finnish: "Ehdotus mahdollistaisi välttämättömän lausunnon valmistamista tukevan tausta-aineiston kokoamisen"

as their task. In some of the Units the LASTA screening is also done as a so called "mass screening", which means that the police send a list of suspected cases (R (criminal report) or sometimes even S reports (pre-assessment report)) to a Barnahus Unit requesting for background information gathering.[46] This development is understandable because the LASTA model was initially developed in conjunction with one of the Barnahus Units, and also because the Barnahus Units are legislatively in the best position to complete the LASTA screening. However, the LASTA screening is not explicitly mentioned as a task of the Units in the Act nor in the government proposal, which clearly defines "examinations and interviews of children" as the tasks of the Units.

Moreover, Section 4 of the Act grants the right to access information necessary *for the purpose of an examination*. Therefore, not for collecting information for other purposes. Furthermore, the lack of legislative definition of the "examination units", the possibility to outsource examination services, and the practical development of "satellites" (as described in Chapter 2.2) which collect LASTA screening information o*n behalf of* the Units, has led to a variety of delegations of the right to information. Data protection related legislation has undergone major developments in recent years. The General Data Protection Regulation and its national counterparts require that it should be clear who is processing sensitive information (i.e., special category personal data), for what purpose and on which legal basis. Particularly in relation to the processing of personal data on the legal basis of a statutory obligation to do so, as is often the case when public authorities, the law should be explicit regarding which public authorities, entities or units are allowed to collect and process what types of personal data and for what purpose. The default position is that public authorities are allowed to delegate the processing of personal data to a (sub-)processor, but it has to be done in accordance with data protection law. Therefore, if the right to process personal data is delegated, the roles and obligations of data processing must be agreed upon e.g. in a detailed data processing agreement . T**herefore, if the LASTA screening is to be done at the Units, this should be included in the law as a particular task of the Units, coupled with legislating on a particular right to process sensitive personal information for the purpose of the LASTA screening.**

The amount of reported child abuse suspicions has increased since 2009 partly due to an amendment of the Child Protection Act lowering the threshold for reporting. As mentioned above, in 2013 the Units' mandate was also widened to include physical abuse, which naturally increased the number of potential cases to be referred to the Units. Out of all the reported suspicions only approximately one in five[47] are referred

[46] See also STM 32/2018, p.22
[47] THL 17/2020 p.168, STM 32/2018, p. 21

to a Barnahus Unit. Thus, the examination service is not provided in an equal manner to all child victims, which was the aim of the legislation in the first place. There is no obligation to request assistance from the Units nor criteria (outside the age requirement in Section 1) for referrals. According to the government proposal for the Organizing Act, an examination could be done for children under the age of 16, and if there are reasons for minors over the age of 16 years but not yet 18 years old. The proposal mentions specific reasons for examinations of a child *over 16 years:* a developmental disability or other mental growth and development problems or mental illness. When physical abuse was included in the scope of the law in 2013, the proposal notes that the age limit will remain the same. Though inconsistently, the part of the proposal that discusses the needed additional resources mentions that it is appropriate to refer the youngest (usually meaning children under 6 years of age), children in need of special support or children who have experienced severe violence to the Units.[48] It follows that the age limit mentioned in the resource discourse is different to the one mentioned in the purpose of the law.

The Police Guideline on Child Investigations does not provide additional criteria for requesting assistance from a Barnahus Unit. The Guideline merely repeats the text of the Organizing Act and the relevant government proposal, rather than explaining the process of requesting for assistance from a Unit.[49] The guideline refers to "small children or developmentally seriously delayed or stunted children" as children who could be interviewed by a specialist, leading a reader to suppose that only in these cases the Barnahus Units should be contacted.[50] It must be noted that as the prosecutor is already involved at this stage, the prosecutor can advise the police to request for expert support from an Unit. The new Police Handbook also explains in more detail the services and the support available at the Units as well as how to contact them. The Handbook mentions the age limit of the Organizing Act when defining which cases can be referred. However, the Handbook also mentions in the part discussing hearings, that usually the police (police officers with specific training for interviewing children) question normally developed children who are 7-17 years old, and official assistance is requested for hearing children under school age (i.e. under the age of 7) or with developmental disabilities or otherwise requiring special expertise.[51] The Handbook emphasizes that the Units can be consulted at a low threshold and explains how to formulate a request for assistance, and includes an example of the referral form.[52] To conclude, there is no criteria other than the age limit for referring cases to the Units. Moreover, the age limit is defined differently in different sources and based on the

[48] HE 127/2013, p. 4
[49] Police Guideline, p. 24-26
[50] Police Guideline, p. 28-29
[51] Police Handbook, p.78
[52] Police Handbook p. 90-92

interviews has in practice become much lower than initially legislated; from 16 years to basically children under seven. This was based on the interviews mostly due to lack of resources. The models in Chapter 5 take note of this development, and discuss whether all child victims under 16, or even 18 should have access to the specific services.

Moreover, currently certain offenses are left outside the scope of the mandate of the Units. First of all the law does not mandate examination of child victims of trafficking, because the crime of trafficking is not included in the scope of the Act. The phenomenon of child trafficking has been better identified in Finland in recent years. The most common forms of child trafficking identified have been sexual exploitation, such as coercion into prostitution, commercial sexual exploitation of a child, and sexual exploitation for or through the Internet. Additionally, cases related to coercion of children and youngsters into marriage or to criminal activity have been identified.[53] The crime of trafficking includes by definition the use of different means of power and control, which can have a devastating effect on the physical and mental wellbeing of a victim. Therefore, these child victims and the related investigations would also benefit from the expertise of the Barnahus Units. Another form of violence that is better understood and identified now than it was at the time of enacting the Organizing Act is honor-based crimes. Forms of honor-based violence are not criminalized as separate crimes in Finland[54], but are considered to be offenses such as abuse, coercion, illegal threat or persecution.[55] Honor-based violence is marked by subtle, and less subtle, forms of coercion and manipulation of the victims, investigations of which could benefit from the expertise of the Barnahus Units, but these offenses do not currently fall under the scope of the Act. Finally, there is an explosive increase in child sexual abuse material related offenses.[56] Procuring child sexual abuse material often leads to distribution and dissemination, which add onto the child victims' trauma. Moreover, research demonstrates a clear correlation between viewing child sexual abuse material and seeking direct contact with a child.[57] It is unclear how often internet-facilitated offenses are examined at the Barnahus Units and whether the Units have the expertise and resources to support these cases.[58] **If all child victims of abuse are to access Barnahus services in an equal manner, the scope of the Act should be revisited.**

[53] Kervinen and Ollus, 2019
[54] There is a Ministry of Justice working group considering the criminalization of forced marriage. The initial report of the working group was on comments in January 2022. https://valtioneuvosto.fi/hanke?tunnus=OM012:00/2021
[55] Väkivallaton lapsuus toimintaohjelma, p.480
[56] European Commission, 2020
[57] Insoll et al. 2022
[58] This is further analyzed in the training needs assessment completed as part of the Barnahus Finland project.

A concern raised in several sources was that the current legislation does not ensure a mental health assessment and treatment services to child victims and to families. Therapeutic services to child victims are in general not sufficiently centralized and coordinated and there are gaps in the service chain.[59] The proposal for the Organizing Act mentions the need to coordinate support and mental health treatment for child victims, but this was not legislated as a task of the Units, and therefore the cost of therapy treatment is not compensated via the funding mechanism of the Act. Some of the Units do provide treatment while others do not consider it as their task or do not have resources for providing these services. Moreover, as discussed above, most children never have contact with a Barnahus Unit and their access to treatment is dependent on local arrangements. This leads to children being in an unequal position in relation to access to therapy services. **Child victims' right to therapy services (e.g., to crisis support) should be included in the legislation to ensure equal access to treatment for all child victims.**

An important part of the work of the Units is interviewing/hearing children. The hearing can take place at the Barnahus Unit if the lead investigator decides to request for assistance for the hearing via an official request for assistance. Even when a child is heard by a Barnahus Unit expert, the lead investigator is responsible for ensuring that the hearing serves the needs of the criminal investigation, including e.g., that the possibility of a counter-examination is realized.[60] In practice, some Units prefer that children are heard at their own premises which are better suited for hearing children. In other Units, an expert from the Unit will travel to hear a child close to his/her place of residence e.g., at the local social services or at a local police station. Additionally, one interviewed expert had experience in interviewing a child whilst the police investigator was taking part remotely via an online connection. Hearing children will be discussed in detail in the following Chapter.

Finally, a few words on processing sensitive personal information at the Units. The Act on Organizing and its preparatory work define that the information related to an examination (including the request for assistance) and information accrued for the purpose of an examination are not considered patient files but are police documents. The confidentiality of criminal investigation documents is defined in the Act on the Openness of Government Activities. However, also other information on the children can be accrued at the Units, and because these documents are not considered patient files, there is a separate regulation in the Act on archiving this information.[61] Section 4 defines that this material must be stored for twelve years after a child has turned 18. In

[59] See e.g., THL 17/2020 and STM 32/2018
[60] Ellonen and Rantaeskola, p. 17
[61] HE 126/2008, p.7

practice the Units have archives separate from the Patient Registry to file these materials. However, as the work of the Units has evolved a bigger variety of sensitive personal information is being processed, than what was considered at the time of enacting the law. This includes e.g., the LASTA template, information collected for the LASTA mass screening, records of discussions of multidisciplinary coordination groups, as well as records related to treatment given by some of the Units. The lack of harmonized recording and archiving policies at the Units was remarked already in 2018 in an evaluation report commissioned by the Ministry of Health and Social Affairs. The report recommended harmonizing the recording policies of the Units.[62]As mentioned several times, the personal data processing requirements as well as the information systems used for processing information have evolved and interpreting the data processing requirements of the Organizing Act in conjunction with other legislative requirements can create confusion and uncertainties. **The recommendation to harmonize and to develop detailed guidance for the processing of personal data at the Units is still very valid, including considering clarifying the Organizing Act in this regard.**

# CHAPTER 4 Hearing a child

## 4.1. The principles of hearing

Hearing a child is an important step in the criminal process. The importance is highlighted by the fact that a recording of a child's pre-trial hearing can be used, and is usually used, as evidence in a trial (OK, Section 17:24). The fact that a child's pre-trial hearing directly becomes a part of a trial requires additional procedural care, and therefore, the Criminal Investigation Act regulates the hearing of a child in quite a lot of detail. To start with, a child shall be treated in a manner required by his or her age and level of development, and particular care shall be taken to ensure that the investigation measures do not cause him or her unnecessary inconvenience at school, at work or in other environments important to him or her (ETL, Section 4:7). This applies throughout the investigation, including in a hearing. Moreover, Section 7:5 and 7:21 of the Act regulate on sensitive and respectful treatment in hearings and on special requirements for hearing victims with specific protection needs, which also apply to children by default. Section 7:21 was added to the Act upon the implementation of the EU Victims' Rights Directive, and it requires that an individual assessment of a victim must be completed to identify specific protection needs during a criminal process. According to the Victims' Rights Directive, child victims are presumed to have specific protection needs due to their vulnerability. However, a child is also entitled to an individual assessment to determine his/her particular protection needs. If a victim is

[62] STM 32/2018, p.46 and 51

identified as a victim having specific protection needs, Section 7:21 provides for certain safeguards, such as arranging an appropriate space for the hearing, ensuring that all hearings are conducted by the same interrogator, and ensuring an interrogator of the same sex as the victim in certain cases, if the victim so wishes. These obligations can be waived, if the arrangements would cause considerable delay or harm to the investigation.[63] There are several other safeguards available for victims with special protection needs during a trial.

The details related to hearing a child can be found in Section 9:4 of the Criminal Investigation Act. The Section regulates that the hearing of a child under the age of 15 must be recorded. The recording requirement also applies to 15-17-year-old victims if they are in a need of particular protection and if they do not want to be present in the court. As this is an exemption to the general principles of criminal process, the questioning is regulated in a detailed manner. During the questioning consideration shall be taken of the special requirements that the level of development of the person being questioned places on the methods of questioning, the number of persons participating in the questioning and the other circumstances in the questioning. The person being questioned shall be notified in advance that the hearing will be recorded. The lead investigator can decide that also a person other than the criminal investigation authority may present questions to the person being questioned (e.g., Barnahus staff). The right to counter-examination must be ensured, and the public prosecutor has a right to be present in the hearing and to pose questions. The investigator or person conducting the questioning can nonetheless order that questions by above mentioned parties are submitted through him/her to the person being questioned. The Police Guideline on Child Investigations and the Police Handbook give more detailed instructions for hearing a child, and they both note that a child can be heard with support of or by a Barnahus Unit expert.[64]

Since the hearing of a child at a Barnahus Unit is carried out as official assistance to the police, the police are responsible for the appropriateness of the hearing for the purposes of the criminal investigation. This means that the police must play an active role in hearing the child including ensuring that the above-mentioned requirements, most notably that the requirements for recording and offering the possibility for counter-examination are fulfilled. The police should always be present when a child is heard, and the police should also be involved in planning the interview. The police can facilitate the interview by highlighting which issues are relevant to the suspicion of a crime and discussing with the employees of the Unit hypotheses and how these can be clarified in the interview. However, the police are not in the same room with the child

[63] See more at SM 14/2016
[64] Police guideline, p. 28-29 and Handbook, p.74

when a Barnahus Unit expert is interviewing him/her but should follow the interview from another room.[65] As noted in Chapter 3, in practice a hearing can take place at the Unit's premises, at a police station or in some other agreed location.

## 4.2. The place of hearing

The Criminal Investigation Act does not regulate the place of hearing. Section 7:21 includes the requirement that a hearing should take place in premises designed for the interrogation of a person in need of protection, if the person has been identified to need protection. This also applies to children. Moreover, the requirements of Section 4:7 on taking particular care that the investigation measures do not cause unnecessary inconvenience at school, at work or in other environments important to a child in question, are relevant for choosing the place of hearing. According to the Police Guideline, the premises for hearing children should have the equipment necessary for recording and be otherwise suitable for hearing a child.[66] It was noted in the interviews that there are not always child-friendly facilities, or child-friendly waiting areas at the police stations. The requirement of video recording equipment also limits the availability of appropriate facilities for hearing a child.

There has been a criticized practice to sometimes hear children at his/her school or kindergarten. The Parliamentary Ombudsman has noted that school is not an appropriate place for hearing a child for the purpose of a pre-investigation. In his decision the Ombudsman stated that the police must pay particular attention to ensuring that a child is not, because of a hearing, subjected to unnecessary inconvenience and risk of stigmatization in the eyes of his schoolmates and teachers. In the case in question, arranging the hearing at the school during the school day, the possibility of above mentioned harm and danger, despite the precautions taken, was obvious, and the police should have considered other options for the place of hearing.[67] The Police Guideline has still the following sentence under the topic "persons allowed in the hearing": "a legal guardian brings the child to the hearing and is present e.g., in a hearing at a school",[68] which might lead to an interpretation that a school is a suitable place for a hearing. The new Police Handbook includes a detailed description on child-friendly spaces, and by referring to the above discussed Ombudsman decision, advises that a hearing at a school or kindergarten should be very carefully considered. However, the Handbook is not a binding guideline.[69]

[65] Ellonen and Rantaeskola, p. 99
[66] Police guideline, p. 30
[67] EOAK/3150/2019
[68] Police Guideline, p. 31
[69] Police Handbook, p. 83-84

The Code of Judicial Procedure includes a possibility for different parties to the trial to take part in a trial via a video connection. This is possible, if the court deems it so, and if the conditions of the Code apply to the case, including e.g., the victim is under the age of 15 or a person in a vulnerable position. Videoconferencing is, indeed, used more and more in criminal trials in Finland.[70] There are no similar references to the possibility of videoconferencing in the Criminal Investigation Act nor discussion on the topic in relevant guidelines or literature, except the Police Guideline mentioning that a person other than the interviewer can follow a child's interview from another room via a video connection. An expert from a Barnahus Unit noted in her interview that she had taken part in a hearing in which the police officer was taking part via a video connection. There seem to be no legislative restrictions in using video connections in hearings as long as the other procedural rules are followed and the interaction with the child being heard is not hampered, including that the technology used is reliable and safe.

## 4.3. Persons who have a right to be present

Separate provisions of the Criminal Investigation Act regulate the persons who have the right to be present at the hearing of a child. A legal aid counsel and a support person have the right to be present when his or her client is being questioned unless the lead investigator prohibits this for substantial investigative reasons. (ETL, Section 7:12). If the person being heard is under the age of 15, the person responsible for his or her care and custody, or his or her legal representative has the right to be present in the hearing (ETL, Section 7:14). This usually refers to the parents of a child if they have the custody of the child. The investigator may prohibit the presence of the legal representative (e.g., the parents), if this person is a suspect in the offense under investigation or if his or her presence may otherwise be assumed to hamper the hearing. In these cases, the need to assign a statutory legal guardian should have been considered as discussed in Chapter 1. The legal representative being entitled to be present must be notified of the hearing, and at least one of them shall be reserved an opportunity to be present at the hearing. An exception may be made to the obligation to give notice and to the right to be present only if it is not possible to contact the legal representative, or if for reasons related to the criminal investigation it is not possible to give notice and reserve an opportunity to be present, because the suspect should be questioned without delay. If the notification and presence was not possible, a notice of the questioning and the contents of the record of the questioning shall be given as soon as possible to the legal representative (ETL, Section 7:15).

The Parliamentary Ombudsman has made reprimands on two cases in which a child was heard without a legal representative being present. In the first case, a child was heard at

[70] Hiilloskivi and Lilja

school in a case in which her mother was suspected of abuse. The mother was not informed of the hearing due to investigative reasons and no other support person was in attendance in the hearing. The Ombudsman ruled that a legal guardian should have been assigned before the hearing and the legal guardian should have had to be notified in advance and given the opportunity to be present at the hearing. The exceptions to this obligation mentioned in Section 7:15 were not applicable in the case, because a legal guardian had not even been applied for at the time of the hearing. The Ombudsman noted that because the application for a legal guardian and his right to be present had been disregarded, the best interests of the child had not been monitored in the case. Therefore, the Ombudsman considered that the hearing of the child in this case was manifestly unlawful and contrary to the best interests of the child. The reasoning given by the Ombudsman on the best interests of a child in pre-investigation discusses important principles. The decision highlights that the way the investigation measures are carried out must be assessed primarily from the child's point of view. The mental and physical conditions of a child to cope with the questioning are not the same as those of an adult. Therefore, the police should assess the conditions of a hearing and consider the child's need for a support person.[71]

In the second case, a child, whose parents were suspected of abuse, was heard without a legal representative. The lead investigator had justified the appointment of a legal guardian only after the first hearing by investigative reasons. The Parliamentary Ombudsman noted that there are no legislative grounds to delay the application for a legal guardian when the conditions for applying for one are met. Moreover, in this case the parents were already aware of the criminal offense suspicion against them. The child's social worker was present at the first hearing, and the Ombudsman considered whether the presence of the social worker was enough to fulfill the requirement of representation. The Ombudsman noted that even though the social worker held an official position and has under the Child Protection Act the responsibility to monitor the best interests of the child, a legal guardian is ordered not only to monitor the best interests of the child in a matter, but also to speak on behalf of the child in the process. The social worker in charge of the child's affairs does not have the right to speak on behalf of the child. The Ombudsman stressed again that the need for a legal guardian must be assessed from the perspective of the child. A criminal investigation is a challenging and distressing situation for the child in many ways, and the burden is exacerbated by the fact that his/her guardian is accused of an offense. Therefore, both legal certainty and the welfare of the child require that the need for a legal guardianship is assessed immediately after the case is initiated and that the application procedure is launched immediately, when considered necessary. According to the Parliamentary Ombudsman, if the parent cannot be informed of the hearing due to investigative

[71] EOAK/3150/2019

reasons, a legal guardian should be appointed for a child in an expedited process according to Section 79 of the Guardianship Act. This section allows the court to issue an interim guardian order without consulting the guardians if the matter cannot be delayed.[72] The practical challenges in the assigning of a legal guardian, including the interpretation of the requirements of the Section 79 of the Guardianship Act, are discussed in detail in the National Plan for the Development of Guardianship Services in Criminal and Child Protection.

## 4.4. Conclusions

Hearing a child is a decisive moment in a criminal investigation. The account of a child can be the only available evidence, and the hearing is also a unique (and potentially traumatizing) event in a child's life. Currently, in most cases the police (a specialized officer, whenever possible) hears a child, and only in a limited number of cases are referred to a Barnahus Unit. The criteria for requesting assistance for a hearing were discussed in Chapter 3 and it became evident that there is no clear guidance on when a case should be referred to a Barnahus Unit. It seems that, in practice, only cases concerning very young children or children with considerable developmental or other challenges are referred to the Units for a hearing. This leads to child victims being heard in somewhat different circumstances. The child can be heard at the Barnahus Unit by an expert specialized in hearing children, which can influence both the evidence accrued as well as the child friendliness of the hearing. Also, children heard at the Barnahus Units benefit from the Units' child-friendly premises. The Police Guideline also recognizes the need for child-friendly premises and some police stations can offer these facilities, but not all. Moreover, sometimes children are heard in an environment considered familiar and "comfortable" such as a school, but as discussed above, this is not anymore considered to be in the child's best interest as it interrupts his/her normal life circumstances.

The Barnahus project has proposed that satellite centers or functions providing facilities for hearing children in line with the Barnahus standards should be set up. These would be child- and family-friendly facilities where the children could be heard, when necessary, with an expert or with support from the Barnahus Unit. The idea is that these centers could be set up in a manner supporting multidisciplinary cooperation to also ensure pathways to support and care via a one stop shop. These family centers would be best suited for children whose consultation does not require special expertise at the most demanding level, which cases would be still heard at the Barnahus Units.[73] The current legislation does not pose barriers for this kind of development. Currently the

[72] EOAK 1299/2018
[73] 17/2020, p.168

only legislative requirement is to hear victims, who have particular needs, in facilities suitable for these persons, but the specific requirements are left open. It would be technically possible even to legislate on a specific place for hearing a child, but the greater challenge seems to be the availability of suitable spaces and resources for setting them up. Finally, the use of remote hearing to provide expert services for hearings more equally throughout the country could be researched and considered. The new remote working practices and the promising research results on the impact of the use of videoconferencing both for the credibility of evidence as well as for the wellbeing of the victims[74], could allow for totally new thinking and arrangements in hearing child victims.

# CHAPTER 5 Proposed models for ensuring equal access to services

## 5.1. (Un)equal access to services

Currently there are what could be described as two "channels" into which child abuse investigations fall. The first one is a pretrial investigation completed by the police without a request for assistance from a Barnahus Unit. The police use their own expertise for investigating a case and for hearing a child. The Criminal Investigation Act has a strong emphasis on assigning only specifically trained officers to investigate child abuse cases, and there are continuous efforts to train police officers in hearing child victims. In some geographic areas, the police co-operate closely with the child protection services and the healthcare sector by e.g., taking advantage of the LASTA model. Therefore, the police receive background information e.g., from a Barnahus Unit, but outside of this, the police conduct the investigation themselves. As the LASTA model is not legislated nor used systematically throughout the country, the police have only in some cases available all the relevant background information on a child's situation. This can have an impact on the decisions made in the process including on whether to suspend an investigation or to prosecute. Additionally, the measures of different authorities are not necessarily coordinated, or the coordination is dependent on individual professionals' initiative. The pathway to therapeutic care for children going through this "channel" is also unclear and dependent on the awareness and discretion of the individual professionals working on the case.

The second "channel" includes the "about fifth" of the cases that are referred to the Barnahus Units via an official request for assistance. As discussed in Chapter 3 the referral of cases to the Barnahus Units is based on rather loose criteria. When an investigator does decide to refer a case to a Barnahus Unit, s/he can receive background

[74] Hiilloskivi and Lilja

information via the LASTA screening completed by the Barnahus Unit. The child can be heard at the Barnahus Unit by an expert specialized in hearing children, which can influence both the evidence accrued as well as the child friendliness of the hearing. Furthermore, the child can receive therapeutic support directly from the Unit (though this depends on the Unit and available resources) and/or the continuity of therapeutic support can be ensured via a referral to relevant services.

**This "channeling" means that in practice suspected child abuse cases are not processed in a similar manner using similar standards throughout the country. The following sub-chapters describe two possible models for organizing services in a manner that would enhance equal access to services which comply with the Barnahus Standards.** The proposed models are based on the legislative analysis and on the views of a limited number of experts heard for this report. The proposed models are prototypes and should not be thought of as necessarily excluding each other, but ideas and parts from each model could be handpicked to compose the most functioning solution. The prototypes can also be used to raise debate e.g., amongst policymakers and professionals. It would be advisable to hear more thoroughly experts in the field, including e.g., all current Barnahus Units' staff as well as regional actors to ensure that the chosen model has sound support amongst professionals. For example, a questionnaire directed towards policymakers and professionals could be developed to test the prototypes.

The first model is a centralized model in which the role of the Barnahus Units is widened, including adding the LASTA screening to the scope of the tasks of the Units. This model would require rewriting the Organizing Act as well as ensuring adequate resources for the Units to fulfill their new role. The second model proposes a decentralized use of the LASTA screening coupled with specialized expert services provided by the Barnahus Units. The second model would require defining LASTA screening as a statutory task for the relevant local authorities, deciding where to position the LASTA coordinators, as well as to ensure via legislative amendments, that all the relevant authorities have a right to process confidential personal information for the purpose of the LASTA screening. **The implementation of either of these models requires legislative and structural changes as well as resources. Both models also require that authorities have a wider right to share information, and therefore the implementation of either of the models require a thorough discussion on balancing between a child's right to privacy and right to support.**

## 5.2. Other developments to be considered

There are several ongoing reforms which will have an impact, or which should be considered in the development of the Barnahus services. The developments related to the creation of the Welfare Regions and the on-going legislative developments related to the processing of social welfare customer and patient information. Moreover, the Ministry of Health and Social Affairs announced in May 2022 that the Child Protection Act will be reformed[75], and this could create possible openings for the development of the "decentralized model". Further, the Ministry of Justice's recent report[76] proposed measures to improve the efficiency of the criminal process. The future implementation of these proposed changes could possibly serve as leverage in the reform of the Barnahus services. And finally, the future implementation of the recommendations of the National Plan for the Development of Guardianship Services in Criminal and Child Protection will have an impact on the context in which the Barnahus Services are provided.

The above-mentioned Ministry of Justice report proposes that violent crimes against children must be investigated, and the decision to prosecute must be made, as a matter of urgency. The question, whether mandatory timeframes would be useful, was posed also for this analysis, and it's a pleasure to see the recent development in this regard, even though the proposed solution is to legislate on urgency, not on a fixed timeframe. The solution is justified by the argument, that it is often difficult to anticipate all the needed investigation measures and the time required for completing them, in particular as violent and sexual offenses against children often require various external examinations and statements which have an effect on the length of the investigation beyond the control of the pre-investigation authorities.[77] Similar arguments were also presented in a recent research report on the duration of child sexual abuse cases, for which relevant professionals were interviewed on mandatory timeframes. Most of the interviewees were not in favor of mandatory timeframes, at least unless the timeframe would be coupled with significant additional resources. The research report estimates that statutory timeframes could even have a counterproductive effect as they would increase pressure on investigators, and even lead to turnover amongst staff, which has been identified as one of the factors lengthening investigations at the moment.[78] That being said, it could be argued that, if a mandatory timeframe was set, it would put pressure on ensuring that there are enough resources to meet the timeframes. This has been the case for e.g.,, mandatory timeframes as well as mandatory staff sizing

[75] https://valtioneuvosto.fi/-/1271139/lastensuojelun-kokonaisuudistuksen-tavoitteena-on-turvata-lasten
-hyvinvointi-ja-kehitys
[76] OM 14:2022, p.37
[77] OM 14:2022
[78] TEAS 3:2021, p.97

(*henkilöstömitoitus*) in certain sectors, most notable in healthcare. In any case, as the proposal for legislating on urgency hopefully proceeds soon, a question to consider from the Barnahus Units' perspective is, whether the requirement will create additional pressure on the Barnahus Units. Or whether there is a risk that the requirement will reduce the number of cases referred to the Barnahus Units, as already now lack of resources and time constraints were mentioned as reasons not to conduct multidisciplinary consultations and/or to refer cases to the Barnahus Units.

A National Plan for the Development of Guardianship Services in Criminal and Child Protection Matters has been commissioned by the Barnahus project and the extensive report includes a variety of proposals for improving the situation. Therefore, guardianship issues were left outside the scope of this analysis even though they can greatly influence how a child's case is processed. The above-mentioned Ministry of Justice report also includes a proposal to clarify Section 4:8 of the Criminal Investigation Act on assigning a legal guardian and proposes a duty to seek for a legal guardian also for child witnesses in certain cases, which would be a welcomed development.[79]

## 5.3. Model 1: Barnahus Unit centered model

As described, the work of the Barnahus Units has significantly developed since the enactment of the Organizing Act. Different projects, including the current national Barnahus project, have developed and boldly tested different practices to better support child victims of violence. Most notably, the LASTA screening model has been piloted, and has proven to improve coordination between authorities as well as enforced decision making in the best interest of a child. The ongoing empirical research on the LASTA model will produce further evidence on the impact of the model. The work of the Barnahus Units has expanded to include not only screening of cases, but also different forms of multidisciplinary cooperation as well as gradually increasing provision of therapeutic support. At the same time, forms of crime affecting children, police capacity and structures in child investigations, relevant legislation, structures of the social welfare and healthcare sector and e.g., information processing principles and systems have evolved, and continue to evolve. Therefore, it is about time to revisit the Organizing Act and to reconsider the aims and tasks of the Barnahus Units.

**This model's core idea is to rewrite the Organizing Act into a comprehensive "Barnahus law" that clearly defines the roles and responsibilities of the entities involved in interventions on alleged child abuse.** The new law would regulate the functioning of the Barnahus Units, their coordination on a national level, their

[79] OM 14:2022, p. 122-123

composition and tasks, but also the cooperation structure between the different authorities involved. A separate law would clarify the roles of the different actors and would describe the whole process more clearly compared to the current situation in which the legislation is spread across different sectors and legislation, and there is no statutory obligation to cooperate (refer back to the picture in Chapter 1 and the 37 laws in the legislative matrix). Naturally, parts of the process, like details of the criminal investigation, would remain in the respective separate laws. In any case, the legislative solution of introducing a separate "Barnahus law" could promote equal access to services for all child victims by creating one main channel through which all cases are handled. This was already the rationale at the time of enacting the Organizing Act, but the situation has evolved since, new needs have arisen from practice as well there have been international developments in the field, including the enacting of a Barnahus law in Slovenia and in Denmark.

To start with, the law should define the Barnahus Units more clearly. The definition could evolve from the current structure and positioning of the Units within the University Hospitals. Over the years, the units have accumulated specialized expertise of a high level, even by international standards, probably due in part to their close cooperation with academia and universities. It is important to recognize this existing specialized expertise of the Units at the legislative level when defining and developing the services. However, organizationally the Units could also be e.g., separate independent units providing services for child victims under one roof, or units functioning within some other entity then University Hospitals, such as within the police (which has also been proposed in the past) or within the new Welfare Regions. As the national structure of social welfare and healthcare service provision is currently being restructured around the Welfare Regions and new units and working models are developed in conjunction to this development, there could be several options for repositioning the Barnahus Units. **The positioning of the Units should be considered from the point of view, where the expertise of the units can thrive and develop further and considering what kind of structure best serves the criminal process and the best interest of a child.**

**A question to consider in this regard is: who is in the best position to direct** (*tulosohjata*) **the work of the Units**? Currently, each Unit is administratively a part of a University Hospital and as such directed by the administration of the University Hospital Districts. On the other hand, the tasks and the funds for the Units are directed via the AVI contracts. Based on the interviews, the AVIs have not actively sought to direct the substantive work of the Units. The role of the AVIs seems to have been to process the payment requests as regulated by the Organizing Act. The Ministry of Health and Social Affairs has the option to direct the work of the Units by giving official

guidelines (one was given at the time of enactment of the Organizing Act in 2009). If the scope of the work of the Units would be considerably widened as described below, it should be also considered whether the funding arrangement based on the number of outputs (examinations) produced by each Unit is feasible anymore. The use of funds could be directed by the Ministry of Health and Social Affairs or the THL (for example similarly to the funding arrangement of the safe houses). A direct budget responsibility under the Ministry or under the THL could contribute to a more integrated approach nationally, meaning providing similar services using similar standards in all the Units.

In this model, **the law would define the tasks of the Barnahus Units as the functions that require specialized expertise** (*erityisosaamista vaativat asiantuntijatehtävät*). These functions could include tasks such as examinations and interviews of child victims (as well as child witnesses and perpetrator if so decided), the LASTA screening, work supervision and consultative expert services to other authorities, therapeutic/crisis support to children and to families, and/or coordinating and developing pathways to therapeutic treatment. Currently, child witnesses (e.g., children witnessing domestic violence) or child perpetrators cannot be heard at the Units, nor cant receive other services from the Units. These children can be as traumatized, at a risk of retraumatization and/or difficult to question as child victims of direct abuse, so including them within the scope of work of the Units could be justifiable. Additionally, the scope of offenses which can be handled by the Units should be considered to also include e.g., emerging forms of crimes against children as discussed in Chapter 3. A thorough consultation with experts in the field should be completed to define the exact tasks of the Units. The question which will probably arise most debate is whether the LASTA screening should be the Units' task or not, since the Units should not be able to gather information it is determined that doing so is not their legal task. However, this model is based on the idea that the screening would take place at the Units or within their affiliations, because it is a way to ensure a uniform use of the LASTA screening nationally as well as it takes advantage of the Units' existing right to information. It must be noted that there is not yet empirical research evidence on the impact of the LASTA screening, and therefore resolving the below discussed questions must wait for the research results, which should be considered when deciding the role of the LASTA model in the future.

The Barnahus Law could include a detailed description of the different areas of expertise required at the Units. As mentioned in Chapter 3.2, the phenomenon of child abuse has evolved, including an explosive increase in online abuse, and this development should be considered regarding the expertise needed in the Units in the future. The position of a LASTA coordinator with an affiliation to the units should be described in the law to highlight the importance of the screening, to define the task for

which a wide right to personal information is given, as well as to ensure that a LASTA coordinator is positioned at each region. It should be ensured that the person's acting as LASTA coordinators should be different persons than those potentially hearing a child to ensure objectivity in each case. **The actual positioning of the LASTA coordinators could be designed based on the lessons learned in the pilots in Vaasa, Pori, in which a locally positioned Coordinators with an affiliation to the expert unit has proven to have advantages.** Thus, a possible solution is that a Unit's LASTA coordinator was positioned at the local/regional level (as kind of a satellite) to an appropriate entity via a contractual arrangement (if flexibility is wanted) or to a certain local/regional entity/structure chosen and defined in the law. When doing so the right to process personal information must be ensured either directly in the law or via a detailed data processing agreement. In this way, the coordinator would be able to build cooperation networks at the local level while at the same time having a direct connection to the expertise at the Barnahus Unit. This arrangement would also ensure a more uniform use of the screening and build expertise.

**The tricky part is to define whether all alleged cases would be directed to the Units for screening.** So, in essence deciding, whether the LASTA screening would become an obvious part of the criminal investigation meaning that all criminal suspicions concerning alleged child abuse are "automatically" screened. The question can be considered from several different aspects; is it possible to define beforehand which cases benefit from screening, in other words, decide on a criterion for screening, secondly are their resources for screening all cases, and thirdly would decision making central to the criminal process move too far from the pre-investigation authorities. Should an obligation to refer (all) cases for screening be added to the Criminal Investigation Act or would it be enough to guide the referrals at the level of official guidelines? What about, should the requirement to contact a Barnahus Unit using an official request for assistance be removed from the law altogether and the cooperation for the purposes of the LASTA screening be based on a structure of cooperation? Or should a lead investigator continue to have the discretion on referring a case to a screening, coupled with training on the topic of child abuse as a phenomenon. The criminal investigation authorities are in any case the authority with the responsibility to ensure that accusations of crime are processed through a transparent and impartial process.

If some criteria for choosing cases for screening would be developed, what the criteria could be? Should the criteria be based on a child's age, on indicators considering each child's unique risk and resilience factors, on the type of crime being suspected, a combination of these factors, or something entirely else? Is it even possible to define such a criteria, because the whole point of the screening is to identify certain factors to

identify certain factors to decide what should the service path of the child consist of. Furthermore, such a pre-assessment would already require resources and knowledge. To consider resources, note can be taken of the lessons learned in the current pilots. In Joensuu all reported suspicions are screened. In the Turku model, it was estimated that four LASTA coordinators are needed to screen all the cases in the TYKS University Hospital area. This is not excessive considering the benefits the screening can produce both for authorities as well as for the children involved. Similar estimates would be needed for other regions based on current numbers of reported suspicions and based on the working time used for screening by the existing LASTA coordinators.

And what about the other services provided by the Barnahus Units, such as examinations, hearing children, work supervision and expert advice: should they be available only through an official request for assistance or via a more flexible arrangement? As the work of the police is more and more concentrated to specialized child investigation units (the development could be further enhanced by the Ministry of Justice proposal that also lead investigators should be specialized in child cases[80]), these units could form a natural collaborator with the Barnahus Units. The working relationship could include requesting for LASTA screening and other advice and support from the Barnahus Unit at a low threshold, not requiring cumbersome official requests, which are also time consuming. This could, upon agreement, also include e.g., placing Barnahus experts at police stations for certain periods or on rotating basis. This type of working model in Turku seems to have also clarified the identification of those cases which are referred to the Barnahus Unit for an examination. Finally, the role of child protection services in this model must be ensured, particularly as in some interviews it was brought up that child protection services sometimes feel left outside the Police-Barnahus cooperation. This should not be the case, as the child protection services have a statutory obligation to ensure the protection and wellbeing of the child in question.

**An important aspect of this model is to introduce a statutory obligation for multi-agency cooperation obliging authorities to coordinate actions around a suspected child abuse case.** This could be realized via the formation of a multidisciplinary expert group tasked to exchange information collected in the LASTA screening, when considered necessary, and to decide and to coordinate the measures to be taken. The expert group could be based on the model of the Pupil and Student Welfare Act, which includes a quite elaborate structure for multidisciplinary cooperation, and take some aspects from Section 41 of the Social Welfare Act regulating a mandatory obligation to ensure multidisciplinary expertise in the evaluation of a client's situation, and an obligation for professionals to participate, when requested, to this needs assessment and

[80] OM 14:2022, p.121

in the preparation of a client plan. Section 41 also regulates that the social welfare services and other services should be planned to form a coherent entity serving the best interest of a client. The processing of child abuse suspicions would also greatly benefit from this kind of requirement. The expert group would need to handle a case without a child's and/or guardian's consent. This is a similar approach to that taken in the expert group considering the needs for support and protection measures for a trafficking victim discussed in Chapter 2.6.

It was mentioned in the interviews that the composition of the expert group should be defined in the law, if such a group was made a statutory requirement. In the case of the Pupil and Student Act, the composition of the group is not legislated, but the government proposal notes professionals who are most likely to take part in the group. The Pupil and Student Welfare Act also gives the expert group a possibility to consult other relevant professionals. This solution allows for more flexibility. Section 41 of the Social Welfare Act requires that multidisciplinary consultations are held, but it does not define the professionals to be heard in these consultations. In the case of human trafficking victims' assistance system, the composition of the expert group is defined in law. The obligation to take part in the group was mentioned as a key in the interviews. This means that it is not sufficient to legislate on the composition of the group but also an obligation to take part. Further, it must be considered whether it is necessary to legislate in more detail on the work of the group, e.g., the right to personal information, the roles, and tasks. One option could be that the LASTA coordinators could have a role as a kind of a secretary of the expert group, including being given the obligation to record the decisions made (see below). **If a statutory expert group is considered an excessively burdensome solution, especially considering the very limited resources of the police, prosecution and the child protection services, another solution would be to legislate or guide via a sub-regulation on the formation of a protocol ensuring that information on the measures taken is shared between the authorities.**

The multidisciplinary working groups' right to information must be specifically legislated to ensure the right to exchange confidential information. This could be done via a similar arrangement as in Section 20 of the Student Welfare Act. It states that when the need for support for an individual student is discussed in the multidisciplinary expert group or when its members implement agreed support measures, the case manager chosen amongst the expert group is responsible for recording necessary information in a student welfare record (a separate record for this particular purpose). Other members of the expert group may also make such entries to the record without prejudice to their obligations of confidentiality. The creation of a student welfare record has enabled the sharing of information between the different professionals involved. Sharing information in a multi-agency group is not possible without this kind of specific

regulation. A similar arrangement might work for the LASTA model, and the recording of the decisions of the multidisciplinary expert group could be a sort of continuation to the LASTA template, which could be recorded and stored e.g., at the Barnahus Unit.

At the moment, there is uncertainty regarding where the information gathered for the LASTA screening should be archived as well as where to record the decisions of the current LASTA coordination meetings. The LASTA template has in most cases been considered to be a pre-investigation document because the information is collected upon a request from the police. If the LASTA-screening would become a core task of the Units, it could be considered that the information collected for the LASTA screening is recorded at the Units, and the police receive a summary analysis of the information relevant for the case. This would be justifiable, as all the information collected for the screening is not necessarily relevant for the investigation, so this kind of practice would reduce the amount of personal information processed which is in line with the principles of processing personal information. Furthermore, the information must be filtered to find the relevant information for the case as well as the information must be "translated" from e.g., medical language, and this could be done as a summary analysis. A counterargument for this type of summary analysis is that the information gathered is also relevant for the prosecution. It must be considered whether the information is collected only for the pre-investigation or also for the purpose of prosecution and as evidence to be used in trial. Finally, the child protection personnel interviewed for the analysis mentioned that the LASTA template includes information that would be of use in the statutory child protection needs assessment. If a summary of the collected information and the decisions of the expert group were recorded into a joint "LASTA report (*kertomus*)", the information would also be available for the child protection services. Though, the use of this information for other purposes should be legislated separately.

**In summary, the benefits of this "Barnahus law" model** are that it clarifies the roles of the different actors and would describe the whole process more clearly compared to the current situation. It has become clear that there is a need to legislate on a multi-agency coordination structure to ensure cooperation and coordination in child abuse cases. A separate Barnahus law is not the only way to accomplish this, but the obligation could also be added to existing legislation as in Model 2. However, a separate "Barnahus law" could promote equal access to services for all child victims by creating one main channel through which all cases are handled. The biggest challenge to this model is the feasibility of the idea that *all* alleged child abuse cases are screened at the Units. This would be the best solution from the point of view that all the cases receive a similar handling. Therefore, before abandoning this solution based on lack of resources, at least calculations should be made on the realistic number of LASTA coordinators needed at

the Units for screening all the suspicions. If screening all alleged child abuse cases is deemed unrealistic, the requiremtn could be limited to e.g. all alleged abuse within a family unit or all alleged abuse cases where the potential victim is under the age of 16. Additionally, the results of the TEAS impact research will provide arguments pro or contra this model. If the impact of the LASTA screening is proven to be significant for both the efficiency of the criminal process as well as the wellbeing of children, it would be reasonable to invest resources in completing the screening for all cases.

This model relies heavily on the specific expertise available at the Barnahus Units and further strengthens their role as centers of excellence. The downside of centralization is that the benefits of local level networking and cooperation are partly lost. The model provides a partial solution to this deficit by proposing that the LASTA coordinators could be positioned locally as satellites of the Units. The positioning of a coordinator locally would allow for some flexibility for local needs, but under the direction and expertise of the Units. To ensure a uniform approach also in these "satellites", the work of the LASTA coordinators should somehow be directed and/or guided at a national level. Moreover, the possibility of remote participation creates many opportunities for sharing the expertise of the Units, and these should be further developed in the future.

## 5.4. Model 2: LASTA model locally coordinated

This model relies heavily on the experiences in Joensuu, where a LASTA screening is completed through a practice agreed between the local child protection, police, and healthcare providers, including a referral to the Barnahus Unit when needed. Thus, like in Joensuu, **Model 2 is based on decentralization: tasking certain professionals within the basic services to complete the LASTA screening and the following coordination**. The special expertise would remain at the Barnahus Units, and their tasks could be also in this model widened to include e.g., work counseling or therapy support, if so desired. The discussion related to the criteria for requesting assistance from the Barnahus Units for expert support remains valid for this model.

The biggest question mark in this model is the positioning of the LASTA coordinator. Considerations include the available resources, the priorities of different authorities, the question which authority would be best positioned to coordinate multidisciplinary efforts, national organizational structures of different authorities, which influence scalability of the model. The LASTA coordinator could be positioned within the child protection services or in the future family centers. The positioning of a social worker as a LASTA coordinator at the Police could also have benefits, and there is already experience in positioning social workers at the police stations as part of the Anchor teams. Positioning the LASTA coordinator within healthcare is the least favored option,

at least from the perspective of legislation, because as discussed in Chapter 2.5 multidisciplinary cooperation is not generally seen as a task of healthcare providers, and this is also reflected in the legislation.

One of the aims of the upcoming Child Protection Law reform is to ensure that the protection needs of children are better met[81], and therefore the reform is a great opportunity to propose that the LASTA model would be an integral part of child protection. If this would be the solution, the law would have to also regulate specifically on the right to information for the purpose of the LASTA screening. As discussed in Chapter 2.4. even though social welfare services have an extensive right to confidential information for the purpose of "determining need and providing support", this does not include requesting information for the purpose of the LASTA screening. Moreover, while social welfare providers have a right to disclose information to the police when child abuse is suspected, there is no right to disclose to the police medical/health information accrued for the purpose of the social services. Therefore, a right to request for and to disclose information collected in the LASTA screening amongst authorities taking part in the multidisciplinary cooperation should be added to the legislation. Furthermore, the practical access of a LASTA coordinator positioned at the social services to health and medical information would need to be solved. This could be possible in the future via the Kanta registry as it will contain in the future both social welfare and patient files, and the access will be regulated to different professionals via a sub-regulation (as discussed in Chapter 2.1.).

It was noted in the interviews that, if the LASTA screening was made an obligatory task of child protection, this should be a separate position with earmarked resources, because the current workload is already too heavy. Additionally, in Joensuu it was highlighted that the model only functions because there are earmarked resources for the LASTA work. This is probably the biggest concern in this model: would resources really be directed to LASTA work across the country in a uniform manner? Another voiced concern was that, if the LASTA screening was done in each municipality in a decentralized manner, the level of expertise could be low and vary from place to place, in particular compared to the expertise available for this task at the Barnahus Units. The decentralized model would undoubtedly require developing expertise and networks in each locality compared to the centralized model in which the expertise already exists and could be spread via the satellites. A downside of this model could be also that a task central to the criminal process is set too far away from the authorities responsible for the criminal process. There is also a risk that the LASTA model would start to drift away from its original purpose and aims to meet the unique expectations and needs of

[81] https://valtioneuvosto.fi/-//1271139/lastensuojelun-kokonaisuudistuksen-tavoitteena-on-turvata-lasten-hyvinvointi-ja-kehitys

local structures and resources. This is also linked to the basic unsolved question of whether all cases should be screened or not. In this model, it is more likely in this model that, if the screening is not mandatory for all cases, the screening would be done using different criteria and depending on available resources in each location.

This model also includes regulating on a statutory obligation for multi-agency cooperation in suspected child abuse cases. The tasks and composition of the group, the right to exchange confidential information, as well as recording information, could be solved in a similar manner as in Model 1. The biggest difference would be that the place of the regulation would need to be decided. A possible solution could be the Child Protection Act. If this were the chosen solution, it should be considered whether it is sufficient to include an obligation aimed at other authorities in the Child Protection Act, or whether it is necessary to include a referral to this obligation also to e.g., in the Criminal Investigation Act to ensure that authorities are aware of the obligation. Or should the regulation be vise-versa, police being the authority responsible for ensuring the coordination of measures in Criminal Investigations. Recording information collected in the LASTA screening and accrued in the multidisciplinary expert group need to be also solved in this model. The new bill aiming to combine all the existing regulation on social welfare and healthcare customer information processing into one Act and the future legislation planned to complement this Act with more clear regulation on the sharing and recording of information in multi-agency cooperation, could be one option for regulating on these questions.

**To conclude**, the benefits of Model 2 are local ownership and development of local cooperation networks. However, the downsides are also linked to locality: the lack of centralized expertise, absence of centralized quality control, direction of working practices and services in a coherent manner. The question of ensuring equal access to specialist treatment services remains unsolved in this model. Each local multidisciplinary expert group could be tasked to consider the treatment needs and access to such treatment, but it is very likely that the services offered would vary from place to place, which would be less the case in Model 1. This model's strength could turn out to be the central role of the child protection services, which could in best case scenario ensure that there will be one authority with an overall picture on the situation of a child, and which will also continue to monitor the situation after a decision not to investigate (*tutkimattajättämispäätös*) or even after a trial. On the other hand, the model could be criticized for moving too far away from the criminal investigation or using the resources of the child protection to screen cases for the purposes of pre-investigation. Aside from the siloed aims of different authorities, any chosen model should be able to ensure the best interest of a child. Finally, this Model's practical implementation from a legislative as well as from resource distribution perspective is more complicated than

that of Model 1. Its implementation is more dependent on other developments such as the way in which the Welfare Regions decide to provide services and how the legislative reforms related to child protection law and the processing of patient and customer files will proceed. Furthermore, justifying the need for additional resources might be easier to argue in conjunction with a totally new law (the Barnahus law) than in conjunction with adjusting an existing law. This, also considering resources for child protection coming from a different source than the budget for Barnahus Units.

# Final remarks

A core question arising from the analysis is how to balance between children's right to non-violence and right to privacy. Both rights are protected by the Convention on the Rights of the Child. At first glance, it seems evident that a right to physical and sexual integrity must be put before the right to privacy. However, this is not as evident anymore, if the situation is assessed from the point of view of children as a group. A particular child's right to protection from violence could be ensured by giving authorities the right to access sensitive personal information, but at the same time, this could potentially infringe the privacy of hundreds of other children, in whose case the suspicions might prove to be false. Therefore, is it proportionate to legislate on the right to access personal information of potentially hundreds of children to prevent or to prosecute one case. Which legislative solution would serve the best interest of a child?

A core principle of the Convention on the Rights of the Child is the best interest of a child, which should be pursued in all decisions concerning children. The Guidelines of the Committee of Ministers of the Council of Europe on Child-friendly Justice profoundly incorporate the best interest of a child to all judicial proceedings.[82] Different authorities have different statutory tasks and follow different procedural principles and aims, and therefore may emphasize different aspects in the definition of the best interests of a child. Within the criminal justice system, it is commonly thought that the best interests of the child require collecting the best possible evidence for a conviction and safeguarding the procedural fairness. While at the Child Protection the best interest of a child can be assessed from e.g., the perspective how a child will cope with the criminal process and whether the process will ensure protection for a child in the future. From a mental health professionals' perspective, the best interest of a in addition includes concerns on how the situation and the various processes will affect the psychological wellbeing of the child as well as the treatment needs of the child. A true objective consideration of the best interest is more than complex. It is also important to ensure that a child's own perspective is heard, and therefore the position of the legal guardian, which has not been discussed much in this report, is of importance.

[82] https://rm.coe.int/16804b2cf3

The Convention on the Rights of the Child obliges States to ensure the best interest of a child also when drafting legislation. The Finnish legislative system considers the best interest of a child to a certain extent, including mentioning it specifically for example in the Child Protection Act and in the Aliens Act, but the best interest of a child is not included e.g., in the Criminal Investigation Act nor in the Code of Judicial Procedure. There has been criticism that the best interest of a child is not profoundly incorporated into the Finnish legislation, to law drafting processes, and to judicial practice.[83] The Ministry of Justice has recently published a Handbook on Child Impact Assessment for Legislators. The Handbook guides the assessment of child impacts in the drafting of statutes and emphasizes that when different solutions are considered, the options and their impact on children must be evaluated. A government proposal must state what has been considered to be the best interests of children, and on what grounds, as well how the interests of children in this matter were assessed.[84] In the development of legislation aiming to ensure child-friendly, coordinated, and inclusive services for children who have been victims of violence, the best interest of the child should be the driving force.

During the analysis, it became evident that child victims of violence do not receive all the support they should, because the measures of different authorities are not coordinated. As one expert noted, a suspicion of violence is a turning point in a child's life, and as there is a lot at stake, the legislation, structures, and professionals involved should work as efficiently as possible. This can be only realized if clear structures obliging cooperation are legislated, and the relevant authorities have the resources needed for the coordination. Finally, many of the interviewees noted that though there is room for development, the situation of child victims has greatly improved during the past decades. This is mostly thanks to professionals passionate about improving the situation of child victims. Professionals who have developed working methods, tested, and taken them into use boldly, and for example made the extra effort to reach out to another professional to better support a child. Applause to all of You!  In the future, irrespective of the possible statutory structures for multidisciplinary cooperation, there is a continuous need to build trust amongst professionals and understanding of the guiding principles, aims and structures of other professionals' way of working, to be able to work smoothly together.

[83] Helander, 2018 and Lapsiasiavaltuutetun kertomus 2022.
[84] Iivari & Pollari, p. 31-32

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https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/he_146+1998.pdf
HE 137/1999 vp Hallituksen esitys Eduskunnalle laeiksi sosiaalihuollon asiakkaan asemasta ja oikeuksista sekä sosiaalihuoltolain muuttamisesta ja eräiksi niihin liittyviksi laeiksi
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HE 252/2006 vp Hallituksen esitys Eduskunnalle lastensuojelulaiksi ja eräiksi siihen liittyviksi laeiksi https://www.finlex.fi/fi/esitykset/he/2006/20060252
HE 126/2008 laiksi lapsen seksuaalisen hyväksikäytön selvittämisen järjestämisestä
https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/he_126+2008.pdf
HE 222/2010 vp Hallituksen esitys Eduskunnalle esitutkinta- ja pakkokeinolainsäädännön uudistamiseksi
https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/he_222+2010.pdf
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https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/he_67+2013.pdf
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https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/he_127+2013.pdf
HE 164/2014 vp Hallituksen esitys eduskunnalle sosiaalihuoltolaiksi ja eräiksi siihen liittyviksi laeiksi
https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/he_164+2014.pdf
HE 333/2014 vp Hallituksen esitys eduskunnalle laiksi sosiaalihuollon asiakkaan asemasta ja oikeuksista annetun lain 18 §:n, potilaan asemasta ja oikeuksista annetun lain 13 §:n, perusopetuslain 40 §:n, taiteen perusopetuksesta annetun lain, oppilas- ja opiskelijahuoltolain 23 §:n, vapaasta sivistystyöstä annetun lain 21 a §:n,

ammatillisesta koulutuksesta annetun lain 43 §:n, lukiolain 32 §:n, yliopistolain 90 a §:n, ammattikorkeakoululain 65 §:n, nuorisolain, pelastuslain 86 §:n ja hätäkeskustoiminnasta annetun lain 20 §:n muuttamisesta
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HE 66/2015 vp Hallituksen esitys eduskunnalle laiksi esitutkintalain muuttamisesta ja eräiksi siihen liittyviksi laeiksi
https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Sivut/HE_66+2015.aspx
HE 40/2018 vp Hallituksen esitys eduskunnalle varhaiskasvatuslaiksi ja eräiksi siihen liittyviksi laeiksi
https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Sivut/HE_40+2018.aspx
HE 88/2018 vp Hallituksen esitys eduskunnalle laiksi lapsen huollosta ja tapaamisoikeudesta annetun lain muuttamisesta ja eräiksi siihen liittyviksi laeiksi
https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Sivut/HE_88+2018.aspx
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HE 241/2020 vp Hallituksen esitys eduskunnalle hyvinvointialueiden perustamista ja sosiaali- ja terveydenhuollon sekä pelastustoimen järjestämisen uudistusta koskevaksi lainsäädännöksi sekä Euroopan paikallisen itsehallinnon peruskirjan 12 ja 13 artiklan mukaisen ilmoituksen antamiseksi
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Supreme Court:

KKO 2019:50 - lapsen osallisuuden ja hänen näkemyksensä selvittämiseen lasta koskevassa asiassa sekä edunvalvojan määrääminen toisen vanhemman lähestymiskiellon vuoksi. Alaikäisten lasten toinen vanhempi määrättiin lähestymiskieltoon suojaamaan lapsia, kun toinen vanhempi käytti asiassa puhevaltaa lasten puolesta. Korkein oikeus määräsi lapsille puolueettoman edunvalvojan.

KKO:2016:24 - edunvalvojan ja 15-vuotta täyttänyt asianomistaja eriävät näkemykset rikosprosessissa ajettavista vaatimuksista.

KKO:2014:48 - hyvin nuoren lapsen kertomuksen näytön arviointi.

KKO:2013:97 - kysymys näytön arvioinnista lapsen seksuaalista hyväksikäyttöä koskevassa rikosasiassa ja erityisesti oikeudenkäynnissä vaikenevan asianomistajan esitutkintakertomuksen näyttöarvo.

KKO 2011:91 - katsottiin, että lääkärinlausunnot voitiin ottaa vastaan todisteina ja lääkäreitä sekä sairaanhoitajia saatiin kuulla asiassa todistajina, vaikka heillä ei voimassa olevien säännösten nojalla ollut ollut oikeutta kertoa rikosepäilyistä oma-aloitteisesti poliisille. (mm. OK 17 luku 2 § , OK 17 luku 23 § 1 mom 3 kohta , OK 17 luku 23 § 3 mom, EsitutkintaL 27 § 1 mom, EsitutkintaL 27 § 3 mom, Laki potilaan asemasta ja oikeuksista 13 § )

Parliamentary Ombudsman:

EOAK 1084/2019 https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/1084/2019
Esitutkinnan pitkä kesto, kun sekä alaikäinen vastaaja että asianomistaja.

EOAK/3462/2019 https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/3462/2019

Poliisia pyydettiin kiinnittämään huomiota sekä lapsien tekemiksi epäiltyjen että lapsiin kohdistuneiden rikosten esitutkinnan kestoon.

EOAK/1299/2018 https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/1299/2018
Edunvalvojaa ei määrätty, huoltajaa ei informoitu kuulustelusta. Sosiaalityöntekijä mukana kuulusteluissa mutta ei vastaa edunvalvojaa. Huoltajalle ilmoittamisesta voidaan poiketa, jos se on esitutkinnan mukaan perusteltua. Sosiaalityöntekijälle myös ilmoitettu, joten ei moitittavaa. Kiireellinen edunvalvojan hakeminen olisi pitänyt tehdä.

EOAK/3150/2019 https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/3150/2019 Lapsen kuulustelu koululla ei asianmukaista sekä edunvalvojan puuttuminen.

EOAK/2416/2020 - Kysymys esitutkinnan päättämisestä ”ei syytä epäillä rikosta” -perusteella. Alustavassa tutkinnassa ei esimerkiksi ole samoja oikeussuojatakeita kuin esitutkinnassa, mikä osaltaan puhuu sen puolesta, että sen käyttöalaa ei tule liikaa venyttää.

EOAK/5625/2020 - esitutkinnan kesto lapsijutuissa - ehdotetaan lainsäädännön muuttamista.
https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/5625/2020

Data Ombudsman:

None in compliance with the GDPR

5.4.2013 Sosiaalihuollon asiakastietojen ja terveydenhuollon potilastietojen käsittelystä palveluohjauksessa (only partly relevant)
https://www.finlex.fi/fi/viranomaiset/tsv/2013/20130165

7.6.2013 Kotihoidon tietojen käsittelystä (only partly relevant) discussing access to both patient and social welfare data in home care.
https://www.finlex.fi/fi/viranomaiset/tsv/2013/20130260?search%5Btype%5D=pika&search%5Bpika%5D=sosiaalihuollon%20asiakas