



FOLKETINGETS  
OMBUDSMAND

Thematic report 2018

# **Use of force and other interventions in asylum centres and in privately-run accommodation facilities for, i.a., children and young people with asylum background**

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## 1. Introduction

The use of force and other interventions in asylum centres for children and in private accommodation facilities for, among others, children and young people with asylum background was the theme for the monitoring visits to the children's sector in 2017 which the Ombudsman carried out in cooperation with the Danish Institute for Human Rights and DIGNITY – Danish Institute Against Torture.

### **CHILDREN AND YOUNG PEOPLE WITH ASYLUM BACKGROUND**

The theme concerned children and young people with an asylum background.

It encompassed children and young people

- who were either asylum seekers or rejected asylum seekers or
- who had been granted a residence permit.

The children and the young people were mostly unaccompanied underage foreign nationals.

The children and the young people were 10-18 years of age.

The children and young people who were asylum seekers or rejected asylum seekers were generally placed in asylum centres for children pursuant to the Danish Aliens Act while the children and young people who had been granted a residence permit were typically placed in private accommodation facilities pursuant to the Danish Act on Social Services.

### 1.1. What has the theme led to?

1.1.1. As mentioned above, the theme concerned the use of force and other interventions.

The visits showed that the majority of the centres and facilities visited use force to a limited extent in relation to the children and the young people, and that there is a general awareness of the need to ensure that the best interest of the child or the young person is given primary consideration when force is used.

However, the visits also showed that in several centres and facilities there is an inadequate knowledge of the legislation on the use of force.

On that basis the Ombudsman recommends in general that asylum centres for children and accommodation facilities ensure that the staff are familiar with the legislation on the use of force, and that guidelines on the use of force are in compliance with the legislation. The Ombudsman also recommends in general that the asylum centres and accommodation facilities ensure that children, young people, parents and personal representatives are informed of their rights in relation to the use of force when the children and the young people arrive at the institution.

Please see under Heading 2 for more details about the investigation's findings regarding the use of physical force.

The Ombudsman will discuss the follow-up on these general recommendations with the central authorities in the sector. In addition, the Ombudsman will follow up on the recommendations during his monitoring visits.

1.1.2. During the monitoring visits the Ombudsman also examined whether the visited institutions ensure that the municipality is informed when the institutions are concerned about the wellbeing of a child or a young person.

The visits showed that there is a general awareness of the duty to notify the municipality of children and young people who may have need of special support.

However, the visits also showed some problems in relation to the practice followed in regard to notification.

One problem is whether a close cooperation with the municipality may involve a risk that notifications about specific children and young people may not be sent to the municipality, even though it is required according to the rules on the duty of notification. The problem has presented itself in connection with several monitoring visits to accommodation facilities. The Ombudsman will discuss the question with the Ministry for Children and Social Affairs.

In one asylum centre for children the problem was that the centre did not send notifications to the municipality if the young person, about whom the centre believed it had a duty to send a notification, disappeared or stayed away from the centre before the notification was sent. The Ombudsman has decided to investigate this practice on his own initiative.

Please see under Heading 3 for more details about the findings of the investigation into the practice for notification.

1.1.3. In connection with the visits the Ombudsman also noticed other problematic issues in the asylum centres for children and private accommodation facilities.

The visits uncovered, among other things, that there are problems with the management of medicine at the accommodation facilities. The Ombudsman therefore makes the general recommendation that the accommodation facilities ensure that the management of medicine takes place in accordance with the existing rules. Please see more details on this under Sub-heading 4.2.

The Ombudsman has discussed the follow-up on this recommendation with the Ministry of Health and will also discuss it with the Ministry for Children and Social Affairs. In addition the Ombudsman will follow up on the recommendation during his monitoring visits.

Furthermore, monitoring visits to asylum centres for children have caused the Ombudsman to raise own-initiative questions with the Danish Immigration Service about the supervision of education in in-house schools in asylum centres for children and about which rules regulate the use of force in such schools. Please see more details on this subject under Sub-headings 5.2 and 5.3.

In addition, the Ombudsman is considering whether there are grounds for an own-initiative investigation of a private accommodation operator's use of a private company for, among other things, the use of force at an asylum centre for children according to the rules of the Danish Aliens Act. Please see more details on the case under Sub-heading 2.5.

Some issues the Ombudsman has chosen to discuss at meetings with the central authorities.

Among other things, several of the visited institutions offered addiction treatment to the children and the young people. On that background, the Ombudsman has discussed the right to addiction treatment and the treatment's content and effect with the Ministry of Health and he will also discuss the matter with the Ministry for Children and Social Affairs and the Danish Immigration Service. Please see more details about addiction treatment under Sub-heading 4.3.

During a monitoring visit to an asylum centre for children the Ombudsman noticed that information about the children and the young people and their health could be recorded in various places. The Ombudsman will therefore discuss record-keeping and the exchange of health information between the

asylum centres with the Danish Immigration Service. Please see more on this under Sub-heading 4.4.

1.1.4. The Ombudsman has sent this report to all competent authorities in the sector: The Ministry for Children and Social Affairs, the National Board of Social Services, the local social supervision authorities, the Ministry of Immigration and Integration, the Danish Immigration Service, the Ministry of Health and the Danish Patient Safety Authority.

The purpose is to make the report known to the authorities so that it may be included in their deliberations regarding the matter.

The report has also been sent to the private accommodation facilities and asylum centres for children which the Ombudsman visited as part of the theme.

In addition, the Ombudsman has notified the following about the report: The Danish Parliament's Legal Affairs Committee, the Danish Parliament's Domestic and Social Affairs' Committee, the Danish Parliament's Health and Senior Citizens' Committee, the Danish Parliament's Immigration and Integration Committee, the Danish Parliament's Supervisory Board in accordance with Section 71 of the Constitutional Act, Local Government Denmark and the Danish Refugee Council.

Please see more details about the Ombudsman's thematic work under Sub-heading 6.2 in the Appendix.

## **1.2. Background for the choice of theme**

1.2.1. The Ombudsman's monitoring activities are especially aimed at the most vulnerable members of society. Characteristic of these vulnerable citizens is, among other things, that they have very few resources and that their rights can easily come under pressure. This can also apply to children and young people with an asylum background.

1.2.2. With this theme, the Ombudsman wanted to gain an increased insight into the conditions for children and young people with an asylum background and to examine these conditions in more detail.

In relation to the asylum centres for children it was important for the Ombudsman to get an impression of how the centres use the new rules in the Danish Aliens Act on the use of physical force in relation to unaccompanied underage foreign nationals which came into force on 1 September 2017.

During the visits to the accommodation facilities it was important for the Ombudsman to gain an insight into the way in which the facilities use the rules on the use of physical force in the Danish Act on Adult Responsibility.

Both in the asylum centres for children and in the accommodation facilities the Ombudsman wanted to examine whether the centres and facilities make sure that they notify the municipality when they are concerned about the well-being of a child or young person.

1.2.3. The theme started from some of the general focus areas which the Ombudsman uses during his monitoring visits.

The Ombudsman has for example a general focus on the use of force and other interventions and restrictions. The Ombudsman also has a general focus on relations, including the institutions' information to the children, the young people, parents and personal representatives about their rights.

In addition, the Ombudsman has, among other things, a general focus on education and health care matters, including the management of medication.

### **1.3. How did the Ombudsman proceed?**

1.3.1. The Ombudsman carried out nine visits with the aim of clarifying and examining the theme of the use of force and other interventions in children's asylum centres and private accommodation facilities for children and young people with asylum background, among others.

The visits involved five private accommodation facilities for, among others, children and young people with an asylum background. Furthermore, the visits involved four asylum centres for unaccompanied underage foreign nationals, including two centres for, among others, minors with street-oriented behaviour and a special placement facility for unaccompanied underage foreign nationals with a behaviour for which an ordinary asylum centre for minors does not have the capacity. In this report this special placement facility is included in the category 'asylum centres for children'.

One visit was unannounced while the other visits were announced in advance.

1.3.2. The theme focused on the following:

- use of physical force
- practice regarding notification of municipalities about children and young people.



1.3.3. The Ombudsman asked for the following information, among other things, from the institutions visited:

- guidelines for the use of force and information on how the child or young person and his/her representative or holder of parental responsibility are informed of their rights in relation to the use of force and other interventions in the right to self-determination, including any channel of complaint
- a list of the number of times when force has been used over the last three years with copies of the institution's five most recent reports of the use of physical force in relation to children and young people
- information on those children and young people who attend school, including the type of educational programme
- medication management instructions
- a list of notifications to the municipality over the last three years and what measures resulted from the notification
- a brief account of, among other things, how the institution ensures that the well-being of the child or young person is prioritised in measures concerning children and young people, including when force is used.

1.3.4. In the week leading up to the announced monitoring visits the Ombudsman sent a personal letter to each individual child and each individual young person and informed them of the visit and the possibility of having an interview with the visiting team. With the letter the Ombudsman enclosed a folder which described what the children and young people could for instance talk to the visiting team about. The folder, which is available in Danish and English, is annexed to this report.

In the case of the unannounced visit the staff and the monitoring team verbally informed the young people about the visit and the possibility of having an interview with the visiting team.

The purpose of this approach is to get to talk to as many children and young people as possible because they are a substantial and important source of information for the Ombudsman.

During the monitoring visits the visiting teams had talks with 44 out of a total of 74 children and young people. In addition, the visiting teams talked with relatives, personal representatives and guardians and staff, including teachers and management.

The talks concerned in particular use of physical force and the practice for notifying the municipality about the children and young people but also for instance health care matters, education and the interpersonal relationships between the children and young people.

1.3.5. The monitoring visits were carried out as part of the Ombudsman's general monitoring activities pursuant to the Parliamentary Ombudsman Act and as part of the Ombudsman's task of preventing that persons who are or who can be deprived of their liberty are exposed to for instance inhuman or degrading treatment, cf. the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Ombudsman's work to prevent degrading treatment, etc. pursuant to the Protocol is carried out in cooperation with the Danish Institute for Human Rights and with DIGNITY – Danish Institute against Torture.

DIGNITY and the Institute for Human Rights contribute to the cooperation with special medical and human rights expertise, meaning among other things that staff with expertise in these two fields participate on behalf of the two institutes in the planning and execution of and follow-up on monitoring visits.

The Ombudsman has a special responsibility to protect children's rights according to, among others, the UN Convention on the Rights of the Child. The Ombudsman's special advisor on children's issues participates in monitoring visits in the children's sector.

#### **1.4. What did the Ombudsman find?**

Based on the monitoring visits he carried out, the Ombudsman noted the following, among other things:

- There is a general awareness of ensuring that the well-being of the child or the young person is given primary consideration, also in connection with the use of force.
- The majority of the institutions visited use force to a limited extent.
- In several institutions, there is inadequate knowledge of the legislation on the use of force.
- A number of institutions have not updated, completed or drafted guidelines on the use of force.
- In many institutions children, young people, parents and personal representatives are not given sufficient information about their rights in relation to the use of force when the children and the young people arrive at the institution.
- There is a general awareness of the duty to notify the municipality about children and young people who may be in need of special support.
- There is no general basis for assuming that notification does not take place when there is cause to do so.
- There are problems with management of medication in private accommodation facilities.

- Many institutions face challenges with children and young people who have lost hope of a future in Denmark as a result of being refused a residence permit, who have substance abuse problems or a street-oriented behaviour, or who disappear.

## 2. Use of physical force

### 2.1. The rules

The best interest of the child shall be a primary consideration in all actions concerning children, says the UN Convention on the Rights of the Child.

The staff in accommodation facilities and asylum centres for children can use physical force towards a child or a young person. This follows from the Danish Act on Adult Responsibility and the Danish Aliens Act.

#### USE OF PHYSICAL FORCE

##### Who and what

*Staff can take hold of or lead a child or a young person to another room.*

##### When

Physical force can be used when the child or the young person exhibits a behaviour which *endangers the child or the young person or others at the location.*

##### Documentation and hearing

The institution shall *record and report* the use of physical force.

The child or the young person shall be informed of the report and have *the opportunity to make a statement.*

##### Information

The child or the young person and parents or a personal representative shall be *informed of their rights in relation to the use of force and other interventions in the right to self-determination*, including channels of complaint, when they arrive at the institution.

### 2.2. Extent and documentation

The visits showed that the majority of the visited institutions use force to a limited extent in relation to the children and the young people.

This conclusion is based partly on information from the institutions on the number of times when force was used over the last three years, partly on the

reports which the Ombudsman received in reply to his request that the institutions send him the five most recent reports on the use of physical force.

The overall result of the nine visits to accommodation facilities and asylum centres for children was that the Ombudsman received 18 reports on the use of physical force (a total of six reports from the five accommodation facilities and a total of 12 reports from the four asylum centres for children). It should be pointed out that with regard to the asylum centres for children the Ombudsman concentrated on reports concerning incidents which took place after the Aliens Act's new rules on the use of force came into force on 1 September 2017.

The Ombudsman reviewed the accommodation facilities' reports by use of the checklist form in Appendix 6.4, while the checklist form in Appendix 6.5 was used in reviewing the reports from the asylum centres for children. The review showed that there is a general awareness of ensuring that the best interests of the child and the young person is given primary consideration when force is used.

To a relevant extent, the review formed the basis for discussions between the visiting teams and the places visited.

On the basis thereof, the Ombudsman gave recommendations on for instance ensuring that the use of force is recorded and reported in time, that reporting forms on the use of force are adequately completed, that all uses of force are recorded and that the young people are informed about the recording of the use of force and are given the opportunity to accompany the report with their own account.

### **2.3. Knowledge of the rules and the drafting of guidelines**

2.3.1. Children and young people living in asylum centres for children and in accommodation facilities shall be treated with dignity, considerately and in accordance with their rights. In order to ensure this, it is for instance vital that the staff know the rules on the use of force and other interventions in the right to self-determination.

In connection with the monitoring visits the Ombudsman gave a number of recommendations that accommodation facilities and asylum centres ensure that the staff know the rules on the use of force and other interventions in the right to self-determination.

The Ombudsman also gave this recommendation to an accommodation facility which had not had any incidents involving the use of force, as it is

important that the staff know the rules if a situation arises where the use of force is necessary.

On that basis the Ombudsman generally recommends that asylum centres for children and accommodation facilities ensure that the staff know the legislation on the use of force.

2.3.2. As a general rule, force should not be used in relation to children and young people in accommodation facilities and asylum centres for children.

However, the use of force may be warranted in order to ensure the right to due care for children and young people. Thus, force may only be used as a last resort in the attempt to help a child or a young person after all pedagogical options have been exhausted.

This also means that situations may arise where regard for the child's or the young person's right to due care makes it necessary for the staff to use force. It is therefore important that the staff is familiar with the rules and that the staff in the situation actually use the necessary force out of a regard for the child's or young person's right to due care.

In one asylum centre talks with the staff could leave the impression that the staff withdrew in concrete situations instead of considering to employ those possibilities for using force which the Aliens Act provides. The Ombudsman's visiting team therefore advised the centre that it is not appropriate to withdraw in all cases.

Staff in another asylum centre did not take action towards the young people for security reasons but called the police. A young person in the centre asked when the staff would gain control of the hash smoking in the centre. The centre did not use the new rules in the Aliens Act on searching persons or rooms but, as aforementioned, called the police.

The Ombudsman recommended that it was ensured that the staff were aware of their authority according to the Aliens Act to use force and other interventions in the right to self-determination.

2.3.3. Local guidelines on the use of force that explain the legislation in an easily understood way – for instance in the shape of headlines – may help ensure that the staff are sufficiently familiar with the rules.

It is of course vital that such guidelines comply with the legislation, including new legislation with impact on how the staff is allowed to use force in relation to the children and the young people.

New rules in the Aliens Act on the use of force in relation to unaccompanied underage foreign nationals placed in an asylum centre came into force on 1 September 2017.

The Ombudsman recommended to all asylum centres for children that they update or complete guidelines on the use of force so that these comply with the new rules.

Regarding accommodation facilities, the Ombudsman recommended to one accommodation facility that it complete its guidelines on the use of force and ensure that the guidelines comply with the legislation, while another accommodation facility was recommended to consider drafting more detailed guidelines. A third accommodation facility was recommended to consider drafting guidelines.

On that basis the Ombudsman generally recommends that the asylum centres for children and the accommodation facilities ensure that guidelines on the use of force comply with the legislation.

#### **2.4. Information about rights**

It is important that children, young people, parents and representatives are informed of their rights.

When a child or a young person is placed at an asylum centre for children or an accommodation facility, the manager must inform the child or the young person and the custodial parent or the child's or young person's representative of their rights in connection with the use of force and other interventions in the right to self-determination, including any channels of complaint. This follows from the Act on Adult Responsibility and the Aliens Act.

As it is crucial that the child or the young person and parents and representatives know their rights in relation to the use of force, the Ombudsman has, as part of the monitoring visits, obtained data on how asylum centres and accommodation facilities provide this information.

The visits uncovered that the information that was given was not sufficient. Consequently, the Ombudsman made a number of recommendations.

On that basis the Ombudsman makes the general recommendation that asylum centres for children and accommodation facilities ensure that children, young people, parents and personal representatives are informed of their rights in relation to the use of force when the children and young people arrive at the centre or facility.

## **2.5. Use of private operator, including for the use of force**

In connection with monitoring visits to, among others, two asylum centres for children the Ombudsman learned that a private accommodation operator uses staff from a private company, and that staff from the company can, among other things, use force in relation to the residents. Accordingly, a guard from the company had used force in relation to a resident at the children's centre.

The Ombudsman is considering whether there are grounds for starting an own-initiative investigation of the accommodation operator's use of the private company.

To help him in his deliberations the Ombudsman has asked the Danish Immigration Service to state what tasks the company carries out for the operator and the basis for the operator using the company, including for the execution of force according to the rules of the Aliens Act.

In addition, the Ombudsman has asked the Immigration Service to state whether the cooperation agreement between the operator and the company contains what is required of the company. The case is still pending.

## **3. Notification of municipalities**

### **3.1. The rules**

The best interest of the child shall be a primary consideration in all actions concerning children, says the UN Convention on the Rights of the Child.

Staff in accommodation facilities and asylum centres for children shall observe the duty pursuant to the Danish Social Services Act of notifying the municipality when they are concerned about the well-being of a child or young person.

The purpose of the notification duty is to ensure that the municipality is informed of children and young people who may be in need of special support.

It follows from the Social Services Act that when a municipality receives a notification it must assess no later than 24 hours afterwards whether the health or development of the child or young person is at risk and whether there is consequently a need to initiate immediate measures regarding the child or young person. In addition, the municipality must ensure that all notifications are assessed in a timely and systematic manner in order to clarify whether the child or young person is in need of special support.

Furthermore, the municipality shall record the notifications centrally in order to sustain the planning of the measures.

**ENHANCED DUTY OF NOTIFICATION**

*Public-sector employees and others with public duties* have an enhanced duty of notification.

This professional staff must notify the municipality if they are made aware or have reason to assume that a child or young person under the age of 18 *may have need of special support*.

**GENERAL DUTY OF NOTIFICATION**

*All citizens* have a general notification duty.

Anyone who becomes aware that a child or a young person under the age of 18 is being exposed to *neglect* or any other circumstances which are endangering the development and health of the child or the young person have a duty to notify the municipality.

**3.2. Extent**

3.2.1. The visits uncovered that there is generally an awareness of the duty to notify the municipality of children and young people who may be in need of special support.

Most institutions had sent one or more notifications to the municipality about specific children or young people, and a number of institutions had sent many notifications.

There were also instances where a municipality which a child or young person moved from notified the municipality which the child or young person moved to. Through such an inter-municipal notification, the municipality which the child or young person moves to is made aware of the needs of the child or young person and can thereby step in with support for the child or young person as early as possible.

On that basis the visits do not give grounds for assuming that – generally speaking – notification is not given when there is occasion for it.

3.2.2. Several accommodation facilities cooperated closely with the placing municipalities about the individual children and young people. Such a cooperation can be of vital importance to safeguarding the best interests of the child but the impression from the monitoring visits is also that a close



cooperation can carry a risk of reluctance to give notification in situations where notification should be given.

The notification duty applies regardless of a close cooperation with the municipality. Consequently, notification regarding a child or young person cannot be omitted, even though the accommodation facility cooperates closely with the municipality concerning the child or the young person.

The issue was discussed in connection with a number of monitoring visits to accommodation facilities.

The Ombudsman will discuss the issue with the Ministry of Social Affairs and the Interior.

### **3.3. Measures taken on the basis of notification**

The Ombudsman asked the institutions to state what measures the notifications had given rise to.

There were notifications which resulted in for instance a move to another asylum centre or to placement at an accommodation facility, and there were notifications which did not lead to any action being taken.

Some asylum centres housed children and young people with a street-oriented behaviour. These are typically young males who are moving around Europe and who are staying for short periods of time at the various centres. They are often substance abusers and can be difficult to reach with motivation and possible treatment. According to information received, just arranging a child consultation with a child or young person with street-oriented behaviour can be difficult, and the group is hard to handle in the municipal system, among other things because these individuals either disappear or do not wish to have contact with the authorities.

In a few cases, the Ombudsman has contacted the municipality about specific notifications in order to learn what action the municipality has taken in consequence of the notification. In one case the municipality would initiate a child protection examination, while the young person in another case was moved to another asylum centre which the municipality agreed to.

### **3.4. Notification of disappeared or absentee young persons**

In connection with a visit to a asylum centre for children the Ombudsman became aware that the centre does not send notifications to the municipality if the young person – about whom there is in the centre's opinion a duty to notify – disappears or stays away from the centre before the notification is sent.

Reportedly, in these cases the centre completes the notification but only sends it to the municipality when and if the young person returns to the centre. This means that a number of notifications are not sent.

In the visiting team's understanding, the reason for this practice is that it is not possible for the municipality to initiate any measures regarding the young person when this individual has disappeared or stays away.

The Ombudsman has questioned the Immigration Service about the described practice, including the fact that a young person has disappeared or stays away in itself can lead to a notification of the municipality. The case is still pending.

## **4. Health**

### **4.1. The rules**

The child has a right to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. So says the UN Convention on the Rights of the Child.

In general, children seeking asylum have the same right to preventive health care and health care services as resident children.

### **4.2. Access to health care and management of medication in accommodation facilities**

During the visits to asylum centres for children and accommodation facilities the Ombudsman examined the access of the children and young people to health care services and the management of medication which is of great importance to the patient safety of the children and young people.

The Ombudsman asked all the institutions for a copy of their instruction on the management of medication and for an account of the organisation of the children and young people's access to health care. During the visits the visiting teams asked additional questions, and they were typically also shown the medicine cabinet.

The Ombudsman did not give any recommendations to the *asylum centres for children* regarding access to health care or about management of medication.

Conversely, most *accommodation facilities* were recommended to ensure that the management of medication is carried out in accordance with the existing rules. The shortcomings were for instance that there was no name and no personal identification number on the medicine locker of the individual

young person and that the medication management instruction among other things did not concern medicine that was administered according to need. One accommodation facility had no medication management instruction at all.

On that basis the Ombudsman makes a general recommendation that accommodation facilities ensure that management of medication takes place in accordance with existing rules.

The Ombudsman has discussed the management of medication in accommodation facilities with the Ministry of Health.

In addition, the Ombudsman will discuss the issue with the Ministry of Social Affairs and the Interior.

#### **4.3. Substance abuse treatment**

Several institutions face challenges with children and young people who are substance abusers of for instance alcohol, cannabis or other narcotics.

In connection with the monitoring visits the Ombudsman obtained descriptions of the substance abuse treatment available at the institutions.

The substance abuse treatment could for instance be motivational, and there could be talks with for instance a substance abuse therapist or health care staff.

One institution measured the effect of the substance abuse treatment, and this showed that the institution had a high success rate. At another institution it was unclear how efficient the substance abuse treatment was.

A short – and typically unknown – time frame for the child's or young person's stay was a challenge in connection with the substance abuse treatment. To give an example, one institution had access to a substance abuse treatment centre but the measure did not work very well. This was because of the short time frame for the child's or young person's stay at the institution, combined with non-cooperation on the part of the child or young person.

At another institution the primary problem was that the young people disappeared before the treatment had started. Here as well, however, it was a challenge to motivate the young person to have substance abuse treatment. The young people had a great wish to get treatment but they were not stable enough for it.

The information the visiting team received on substance abuse treatment at the institutions visited varied. One institution expressed its satisfaction with

the treatment which had worked well, while the visiting team was informed at another institution that too little was done with regard to substance abuse, that substance abuse treatment should be put in place earlier, that the access to treatment should be easier and that the young people should receive help immediately.

Substance abuse in children and young people is a serious and worrying problem.

The Ombudsman has discussed the issue of substance abuse treatment with the Ministry of Health and will also discuss it with the Ministry of Social Affairs and the Interior and the Immigration Service.

#### **4.4. Record-keeping and exchange of health information**

A patient record documents, among other things, the treatment which the patient has received. This ensures documentation of relevant information about the patient, just as the patient record ensures that this information can be exchanged when and if there is a need for it. In this way, the patient record also helps to ensure treatment continuity.

During a monitoring visit to an asylum centre for children it turned out that information about the children and the young people and their health was recorded in five different places (Planner4U, a separate medical record, LetAsyl, EG Clinia and a physical case file with a health record which the young people often handed in).

The fragmentary structure of the patient record information had the result that the centre did not have a total overview of the young people's background, including any traumatisation and medical, asylum-related and social circumstances.

On that background, the record-keeping could carry the risk that the centre did not act on a sufficiently informed basis but primarily reacted to day-to-day events and thereby neglected to take measures directed at more fundamental problems.

The Ombudsman will discuss the record-keeping and the exchange of health care information between the asylum centres with the Immigration Service. In that context, the Ombudsman will among other things discuss what information should be passed on and retrieved when a child or a young person moves from one centre to another, what rules apply to record keeping and exchange of information, and whether there is a need to give guidance to the centres on the subject.

In another children's asylum centre, the health care staff only had contact with the representative who was provided for the young person according to the Aliens Act to safeguard his or her interests, if that representative contacted them. Furthermore, the representatives at the centre said themselves that they lacked information about the young people.

On that basis the Ombudsman recommended that the centre ensure that a representative pursuant to the Aliens Act – in accordance with the operator contract – is informed of all matters relating to the unaccompanied minor of which custodial parents are normally informed so that the representative has the information necessary to carry out his or her tasks regarding the minor.

When a representative is informed of, among other things, the young person's health conditions, the representative can also help ensure the continuity of treatment.

## **5. Education**

### **5.1. Education programme and lack of hope**

The child has a right to education. This follows from the UN Convention on the Rights of the Child.

The children and the young people attended for instance asylum school, in-house school at the asylum centre or introductory class in the Danish Folkeskole (the State/municipal school). The schools were not included in the monitoring visits but the Ombudsman obtained information about the curriculum offered to the children and young people because education is vitally important to the development of children and young people and their possibility of moving on with life.

There were challenges in several centres with children and young people who had lost hope and belief in a future in Denmark as a result of being refused a residence permit. This meant challenges with particularly a lack of motivation, dreams of the future, possibilities and aims for a better life. The visiting teams witnessed this issue both in asylum centres and in accommodation facilities.

The lost hope of a future in Denmark could for instance make it difficult to create a meaningful everyday life for the young people and to motivate them in connection with school, network and leisure interests in the Danish society. In one institution, some of these young people were awake at night, ate very little, and isolated themselves. In another institution a young person was exempted from education for the first 90 minutes of the morning because the

young person slept very badly at night after being refused a residence permit, and therefore found it difficult to get up in the morning.

### **5.2. Supervision of in-house schools at asylum centres for children**

During two monitoring visits to asylum centres for children, the Ombudsman was informed of the young people's schooling at the centres' in-house schools.

On that basis the Ombudsman has on his own initiative asked the Immigration Service to state how and how often inspection is carried out of whether education in, among others, the in-house schools live up to the rules and when the most recent inspection of the schools' teaching has taken place.

The Ombudsman has also asked the Immigration Service to state whether and if so how the Service follows up on inspection. The case is pending.

### **5.3. Use of force in in-house schools at asylum centres for children**

In schools, including in-house schools at asylum centres for unaccompanied under-age foreign nationals, situations may arise where it is necessary to use force in relation to the pupils.

Based on monitoring visits to asylum centres for children, the Ombudsman has asked the Immigration Service to clarify what rules apply for a possible use of force at in-house schools at the asylum centres for children. The case is pending.



Jørgen Steen Sørensen

## 6. Appendices

### 6.1. Overview of institutions visited as part of the theme

When	Where	What
31 Jan. to 1 Feb.	Børnecenter Tønder	Asylum centre for unaccompanied underage foreign nationals
5 Feb. to 6 Feb.	Alhambra, Ballerup	Private accommodation facility for, i.a., children and young people with an asylum background
5 March to 6 March	Fonden Hugin og Munin, Aalestrup	Private accommodation facility for, i.a., children and young people with an asylum background
5 and 7 March	Ask4US ApS, Farsø	Special accommodation facility for unaccompanied underage foreign nationals with a behaviour not compatible with an ordinary asylum centre for minors
10 April to 11 April	Børnecenter Gribskov, Græsted	Asylum centre for unaccompanied underage foreign nationals, including unaccompanied foreign nationals under 16 with a street-oriented behaviour
24 April	Afdelingen for uledsagede mindreårige udlændinge i Center Sandholm, Birkerød	Asylum centre for unaccompanied underage foreign nationals of at least 16 years with street-oriented behaviour
14 May to 15 May	Poseidon, Hurup Thy	Private accommodation facility for children and young people with an asylum background
15 May to 16 May	Mind-move ApS (Busters Verden), Sabro	Private accommodation facility for children and young people with an asylum background
30 Oct. to 31 Oct.	Sortemosevej, Hjortshøj, <b>(unannounced visit)</b>	Private accommodation facility for, i.a., children and young people with an asylum background

## **6.2. The Ombudsman's work with themes**

### *Themes for monitoring activities*

Every year, the Ombudsman selects one or more themes for the year's monitoring visits, in cooperation with the Danish Institute for Human Rights and DIGNITY – Danish Institute Against Torture.

The choice of themes is particularly dependent on which areas are in need of an extra monitoring initiative. The Ombudsman will often select a narrow theme, such as for instance the Prison and Probation Service's use of security cells. Other times, the Ombudsman will select broad themes, such as for instance children and young people who, due to a substantial and permanent impairment of their physical or mental function, attend or reside at an institution.

The themes give the Ombudsman the opportunity to include current topics in his monitoring activities and also to make in-depth and transverse investigations of particular problematic issues and to gather experience about practice, including best practice.

A principle aim of any year's monitoring visits is to shed light on and investigate the year's themes. The majority of the year's monitoring visits will therefore go to institutions where the themes are relevant.

### *Thematic reports*

At the end of the year, the Ombudsman, together with the Danish Institute for Human Rights and DIGNITY – Danish Institute Against Torture, reports on the outcome of the year's monitoring activities.

The themes are especially reported in separate reports on the individual themes. In these reports the Ombudsman sums up and imparts the most important results of the themes.

### *General recommendations*

Results of the themes may be general recommendations to the authorities, such as for instance a recommendation to draw up a policy for the prevention of violence and intimidation between the users/residents.

General recommendations are based on the Ombudsman's experience of the field in question. Usually, they will also have been given as concrete recommendations to particular institutions during previous monitoring visits.

Typically, the Ombudsman will discuss the follow-up to his general recommendations with the central authorities. In addition, the Ombudsman will follow up on the recommendations during monitoring visits.



The general recommendations have a preventive aim. The basis for the preventive work in the monitoring field is that the Ombudsman has been appointed national preventive mechanism (NPM) according to the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The thematic reports are published on the Ombudsman's website, [www.ombudsmanden.dk](http://www.ombudsmanden.dk). In addition, the Ombudsman sends the reports to all relevant authorities so that the authorities can include the reports in their deliberations regarding the various sectors. The Ombudsman also informs the Danish Parliament, Folketinget, of the reports.

### 6.3. Folder

**Why are we coming to visit you?**

We are visiting you because we would like to know how you are in the place where you are living.

**You can visit our website at [www.boernekontoret.ombudsmanden.dk](http://www.boernekontoret.ombudsmanden.dk)**

**You can phone us at 33 13 25 12**

**Or send us an e-mail at [post@ombudsmanden.dk](mailto:post@ombudsmanden.dk)**

THE DANISH PARLIAMENTARY OMBUDSMAN

**Children's Division**

**What is the Ombudsman's Children's Division?**

In the Ombudsman's Children's Division we deal with the rights of children and young people. Children and young people can complain to us, and we visit places where children and young people are living.

**This is what some children and young people have said to us:**

I love it when the staff do something nice with us on the weekend.  
Alan 14 years

Once, somebody on the staff got really angry with me. He gripped me so hard that I got scared.  
Ali 15 years

Sometimes I feel that the staff talk down to me and laugh at me.  
Mohammed 14 years

I would like to go to another school.  
Arash 17 years

I feel insecure, and I'm scared of one of the older boys.  
Yanis 13 years

I like living here, but I miss a grown-up to talk to when I'm feeling low.  
Sara 15 years

I think it's difficult to work out what you may and may not do.  
Berhane 16 years

Some good advice to the staff could be to ...

## 6.4. Check-up form on the use of physical force in accommodation facilities

FOLKETINGETS OMBUDSMAND

### Form on the use of physical force in accommodation facilities

Institution, including any specific unit: \_\_\_\_\_

Age of the child or the young person at start of the use of force: \_\_\_\_

Name of the child or the young person: \_\_\_\_\_

In general		
Has the standard form of Order 1707/2016, app. 1 a, been used	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No
Have the mandatory blue boxes been (largely) filled in	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No
Have the voluntary green boxes been (largely) filled in	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No

  

The intervention		
Physical use of force: .....	<input type="checkbox"/>	Duration: ____ hours ____ minutes
Does the description give grounds for doubt about the lawfulness of the intervention, including proportionality?	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No    Unclear
If yes, state reasons briefly _____		
_____		
Has the intervention been sufficiently documented?	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No    Unclear

### Inclusion of the child or young person

Has the child or the young person been informed about the report?  Yes  No  ~~No~~ info

Has the child or the young person had the opportunity to comment on the episode?  Yes  No  ~~No~~ info

Has the child or the young person commented on the episode?  Yes  No  ~~No~~ info

Has a solution been found on how the use of force can be avoided in future?  Yes  No  ~~No~~ info

Does the inclusion of the child or the young person give grounds for other comments?  Yes  No

State reasons briefly \_\_\_\_\_

\_\_\_\_\_

### Recording and reporting

Has the episode been recorded in the report form "within 24 hours"?  Yes  No  ~~No~~ info

Has a copy of the report form been sent to the placing municipality "without unfounded delay"/"within 24 hours after recording"?  Yes  No  ~~No~~ info

Has the custodial parent been informed "without unfounded delay"/"immediately after recording"?  Yes  No  ~~No~~ info

Has a copy of the report form been sent to the social supervision authority "by the end of the month"?  Yes  No  ~~No~~ info  Not relevant

Has the intervention been reported to the school municipality?  Yes  No  ~~No~~ info  Not relevant

NOTE: Special rules apply on recording and reporting an action which may be subject to (public) prosecution.

<b>Best interest of the child</b>			
Has the best interest of the child been a primary concern when using force, including in relation to the inclusion of the child or the young person?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	Unclear
Briefly state reasons for reply _____			
_____			
<b>Other remarks</b>			

## 6.5. Check-up form on the use of physical force in asylum centres for children

FOLKETINGETS OMBUDSMAND

### Form on use of physical force in asylum centres

Institution, including any specific unit: \_\_\_\_\_

The age of the child or the young person at start of the use of force: \_\_\_\_

The name of the child or the young person: \_\_\_\_\_

In general	
Does the report form give cause for comment	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, state reasons briefly _____ _____	
The intervention	
Physical use of force: ..... <input type="checkbox"/>	Duration: ____ hours ____ minutes
Does the description give grounds for doubt about the lawfulness of the intervention, including proportionality?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unclear
If yes, state reasons briefly _____ _____	
Is the intervention sufficiently documented?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unclear

### Inclusion of the child or the young person

Has the child or the young person been informed about the report?  Yes  No  ~~No~~ info

Has the child or the young person had the opportunity to comment on the episode?  Yes  No  ~~No~~ info

Has the child or the young person commented on the episode?  Yes  No  ~~No~~ info

Has it been ensured that the child or the young person understands what has been recorded on the report form?  Yes  No  ~~No~~ info

Has the child or the young person requested and been given a translation of the most important elements?  Yes  No  ~~No~~ info

Has a solution been found on how the use of force can be avoided in future?  Yes  No  ~~No~~ info

Does the inclusion of the child or the young person give grounds for other comments?  Yes  No

State reasons briefly \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### Recording and reporting

Has the episode been recorded in the report form "within 24 hours"?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	<del>No</del> info
Has a copy of the report form been sent to the Immigration Service "without unfounded delay"?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	<del>No</del> info
Has the representative of the child or the young person been informed "without unfounded delay"?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	<del>No</del> info
Has a copy of the report form been sent to the social supervision authority "by the end of the month"?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	<del>No</del> info Not relevant
Has the municipal operator been informed "by the end of the month"?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	<del>No</del> info Not relevant

Note: Special rules apply on recording and reporting of an act which is subject to criticism, including a potential criminal liability.

### Best interest of the child

Has the best interest of the child been a primary concern when using force, including in relation to the inclusion of the child or the young person?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	Unclear

Briefly state reasons for reply \_\_\_\_\_  
\_\_\_\_\_

### Other remarks

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_