



FOLKETINGETS
OMBUDSMAND



The Danish Parliamentary Ombudsman has been elected by Parliament. His task is to help ensure that administrative authorities act in accordance with the law and good administrative practice, thus protecting citizens' rights vis-à-vis the authorities. The Ombudsman investigates complaints, opens cases on his own initiative and carries out monitoring visits.

Annual Report 2018

The Danish Parliamentary Ombudsman

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To Parliament

In accordance with section 11(1) and (2) of the Parliamentary Ombudsman Act (consolidating Act no. 349 of 22 March 2013), I am hereby submitting my Annual Report for the year 2018.

Copenhagen, March 2019



JØRGEN STEEN SØRENSEN

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Contents

The Ombudsman institution in 2018	
Jørgen Steen Sørensen, Parliamentary Ombudsman	4
Limits to the use of news exclusives	
Louise Vadheim Guldborg, Director General, and Jacob Christian Gaardhøje, Deputy Head of Division	10
When a good question resolves the case	
Inge Birgitte Møberg, Deputy Head of Division, and Lisbeth Adserballe, Head of Division	18
Dry rules provide quality in public administration	
Jørgen Steen Sørensen, Parliamentary Ombudsman	26
Facts and figures about our monitoring activities	34
Overview of the year	
Summaries of selected statements	68
Extracts from news published in 2018	96
The year in figures	108
Statement of revenue and expenditure 2018	124
Organisation	130

**The Ombudsman
institution in**

2018



Jørgen Steen Sørensen
Parliamentary Ombudsman

Every year as Ombudsman – and also in 2018 – I have given many talks on the institution’s work. The talks usually give rise to discussions and questions. Mostly about cases we have investigated. But also many questions on what it is really like to be Ombudsman.

The last question is simple to answer in headline form: exciting, meaningful and educational.

But I am not usually let off that easily. Here is a selection of questions I am often asked – and my answers:

What is the most difficult thing about being Ombudsman?

It can of course be difficult to find the correct legal answers in the cases. But it is made a great deal easier by highly qualified staff, thorough processes and a good dialogue with the authorities. In my experience, clearly the most difficult thing is prioritising. The Ombudsman institution has just over a 100 staff and covers a public administration with 800,000 employees. It is by no means possible to investigate all cases. So what should I take up, and what should I leave? And how big are the problems I leave, I wonder?

The Ombudsman must be politically neutral – but is that possible?

Yes, absolutely. An Ombudsman has political opinions, just like everybody else. But he has to leave those opinions at home when he goes to work. Just like, for instance, judges. This is especially important to show in those – not very many but often intensively publicized – cases of political interest. Here, I must be particularly careful to lay out the legal arguments openly so that anybody can test them. And then trust in the outside world to understand that an assessment can well be legal even though it has political consequences.



It is said that it is a very personal post to be Ombudsman – so does it really feel like that?

Well, yes and no. The Ombudsman is the only one who is accountable to Parliament. And to a large extent the Ombudsman does represent the institution in the public mind. In that way, the post is very personal. But in the normal run of things, I feel it much less. There, the cases are put together by the legal staff. And though the Ombudsman has the final say, the best argument must win. That argument often comes from the legal staff, and not from me.

Can you as Ombudsman and watchdog be on good terms with the authorities?

Well, it is up to the authorities to determine whether they feel that they are on good terms with us. But basically, we do feel on good terms with them. We are very aware of the need to show them respect and a sense of their reality. I also think that this is the best way to get them to do the correct thing. The Ombudsman must first and foremost make sure that the citizens' problems with the authorities are resolved. The best way to do this is if we get on well with the authorities.

Does Parliament interfere in the Ombudsman's cases?

No. Once in a while, you may see individual members of Parliament express criticism of the Ombudsman's work. You have to take that as all in a day's work – and of course consider whether the criticism is correct. But Parliament never interferes in what cases I should investigate and what results I should arrive at. In return, you should not as Ombudsman count on Parliament

to come to the rescue if there are problems with the authorities. I have to find my own solution to the cases I myself decide to investigate.

Do you find it annoying that you can only be Ombudsman for 10 years?

I am very happy with my job, but generally no. Partly it is after all the law which decides that you can only be Ombudsman for 10 years, so that is just the way it is. And partly, for me personally, it is a good motivating factor that I have a set time period at my disposal, and then it is over. It helps get things done in time.

As I said above, these are some of the questions I am often asked. And some of my answers.

What 2018 more specifically has brought in the Ombudsman institution, you can read about in more detail in the following. About why dry legal rules on, for instance, the duty to take notes and keep records may be of great importance to the way schools deal correctly with children and young people. About the limits to the use of so-called news exclusives. About how good questions from the Ombudsman to the authorities may help citizens reach a quick resolution.

And about our overall activities in the year gone by.

Enjoy the report.



Jørgen Steen Sørensen

The fire cadets of the islands of Lolland-Falster's fire department is a programme for vulnerable 10- to 18-year-olds.



18/01225

Is it all right for the municipality to cease the payment of cash benefit because a citizen is paid compensation for pain and suffering after a work-related accident? Initially, a recipient of cash benefit did not get a reply to this question when he appealed against the municipality's decision to the Social Appeals Board. This was because the man had lodged the appeal too late, and the Social Appeals Board declined to consider the case.

If you have your own means of support, you cannot usually receive cash benefit. However, this does not apply to compensation for pain and suffering after a work-related injury. Therefore, the Ombudsman sent the man's complaint to him on to the Social Appeals Board in order for the man to get a reply as to whether the decision was wrong. In that case, this could be a reason to disregard the expiry of the deadline for appeal.

The Social Appeals Board now assessed that there was an evident error in the municipality's decision. Therefore, the decision was reversed so that the compensation was no longer included in the calculation on whether the cash benefit was to cease.

In 2018, the Ombudsman processed close to 100 complaints against decisions about social payments and sent approx. a quarter of them on to the authorities for a more detailed response. A number of the cases forwarded by the Ombudsman to authorities for their detailed response end up with a different outcome.



18/03865

A 14-year-old boy, who was placed outside the home, called the Ombudsman institution and said that he would like to stay the night at his grandmother's when he visited her. The staff member at the Ombudsman institution, with whom the boy spoke, telephoned the municipality and passed on the boy's wish. Subsequently, the boy wrote to the Ombudsman institution that he was dissatisfied with a number of things. Among others, that the municipality did not consider him old enough to manage his contact with his family. The Ombudsman institution sent the boy's points of complaint on to the municipality and informed him that he could contact the Ombudsman institution again if he did not receive a reply from the municipality, or if he was dissatisfied with the reply.

When children contact the Ombudsman's Children's Division, it is especially important that they be sent in the right direction. Often it is the municipality which has to get involved.



18/00852

When is a residence permit revoked if you leave Denmark? A citizen asked the Ombudsman a number of questions on the interpretation of a provision in the Aliens Act.

The Ombudsman replied that his jurisdiction does not extend to issuing general legal statements which are not connected to his processing of a complaint about a particular matter of the public administration. The citizen could contact the Ombudsman again if he had an enquiry about a specific case.

The Ombudsman's core task is to ensure that the authorities treat citizens in accordance with applicable law. Typically, he does so by reviewing specific decisions which citizens have received.



Limits to the use of news exclusives



Louise Vadheim Guldberg
Director General



Jacob Christian Gaardhøje
Deputy Head of Division

When the Government sends out a political message, it will often be in the form of a news exclusive to a selected news medium. But it is important that the ministries be aware that there are limits to when – and how – they can use news exclusives.

A ministry gives a story to a news medium, thereby hoping for a bigger and better exposure of the story and the ministry's messages than if the story were sent to all of the news media at the same time. The news medium on its part gets a news story before everybody else. This is the quite short explanation of the use of news exclusives.

It is, we believe, common knowledge that it is a high priority in the ministries to deliver political messages effectively and with optimal impact. In that context, news exclusives are an essential tool and have become a widely used way for the Government to communicate its messages.

But when ministries use news exclusives, the general administrative law principles of equality and legitimacy, among others, must be observed.

There are therefore limits to the use of news exclusives, and we at the Ombudsman institution have in recent years investigated a number of cases where these limits have been the pivotal point.

This article focuses on the way in which news exclusives are used in the ministries. No doubt there are similar issues in municipal administration.

The legal framework for news exclusives

The use of exclusives is not governed by legislation but the general administrative law principles of legitimacy and equality – which also apply to the authorities' press service – must be observed and provide a framework for when and how news exclusives can be used.

This implies that there must be legitimate grounds for the use of news exclusives in the individual case. A legitimate consideration may be the wish to obtain more detailed news coverage of a Government initiative – for instance a legislative proposal or another political initiative from the minister. Thereby, the Government's political initiatives lie within the core area of what a ministry can make the subject of a news exclusive.

The requirement of equality implies, among other things, that an authority which has given information to one news medium as part of awarding a news exclusive generally cannot decline to also give the information to another news medium who asks for it. This is also due to the general possibility for the public – including the media – to gain access to the files of the authorities.

And in addition, the authorities will, according to circumstances, have to give guidance on the possibility of getting access to files if a news medium shows particular interest in getting information about a case in which a news exclusive has been given to another news medium.

The general legal framework for the use of exclusives is described in more detail in, among others, Report No. 1443/2004, Chapter 9, English Summary on Civil Service Advice and Assistance to the Government and its Ministers.

Not all news items can be given as exclusives

The requirement of legitimacy means that the authorities cannot freely launch all new items as exclusives.

As mentioned above, the political messages of the Government and the minister can in general be communicated as news exclusives. However, if it is not a political message, there is not usually a legitimate reason for launching a matter as a news exclusive.

It is therefore necessary to distinguish between political matters and other matters.

This was precisely a central theme in a recent Ombudsman investigation of the use of a news exclusive by the Ministry of Justice. The Ministry had made an agreement with the DR (Danish Broadcasting Corporation) and the national

newspaper Jyllands-Posten that the two news media could bring the news as an exclusive that criminal proceedings would be instituted regarding the dissolution of the gang Loyal to Familia (LFT). (Case No. 2019-3).

The Ministry of Justice believed that this was a political matter – particularly based on the great political interest surrounding the case. However, the Ministry also stated to the Ombudsman that the news – among other things because of its special historic character, general impact and public interest – should not have been launched as a news exclusive.

The Ombudsman, however, did not find that the decision to institute proceedings against LTF could be deemed a case of a ‘political nature’. This is because a decision to institute criminal proceedings – among other things in the light of the so-called objectivity principle applying to the prosecution service – can solely be based on the objective assessments of the professional prosecution. Thus, criminal proceedings cannot be instituted based on political considerations.

Certain political cases cannot be launched as news exclusives

The Government’s political initiatives lie at the core of what a ministry can make the subject of a news exclusive.

But even if the cases are political in nature, it is not certain that there are legitimate reasons for launching them as news exclusives. This applies, for instance, if the case is of such public interest that the regard for getting extensive public coverage does not weigh heavily. As examples of such cases, Report No. 1443/2004 on Civil Service Advice and Assistance mentions, among other things, a decision to call a general election or to hold a public referendum and a decision to participate in a deployment of troops abroad.

So the Ombudsman agreed with the Ministry of Justice that the news that proceedings would be instituted for the dissolution of LTF should not have been brought as a news exclusive – but he did not agree with the Ministry’s grounds. The Ombudsman found that the news story could not be brought as an exclusive because it did not concern a political matter.

What are the ground rules for the use of news exclusives?

Just as there are limits for the types of news that can be communicated as a news exclusive, so are there limits to the way the authorities can act when they use news exclusives.

Here, it is again central that a news exclusive not be used for illegitimate purposes.

This means, among other things, that news exclusives must not be used to pressure journalists and news media into giving a specific slant to a story in such a way as to reflect positively on the authority. Nor can news exclusives – like all information – be withheld based on a wish to punish a particular journalist or news medium.

As mentioned above, it is also important to be very conscious of the principle of equality. This means, for instance, that when an authority has given a news exclusive to one news medium, it cannot generally decline to give the same information to another news medium asking for the same material. And dependent on the circumstances, the authority should advise the other news medium on the possibilities of gaining access to the information.

In other words, this means in practice that an agreement on a news exclusive can be blocked if another journalist requests access to files in time before the news exclusive goes public. One instance where this happened was when

Case No. 04.452

The Prime Minister’s Office had given a newspaper access to a speech which the Prime Minister was going to give on the European Union. The newspaper would run the speech as a feature article on the same day that the Prime Minister gave the speech. The day before the speech was due to be given, however, another newspaper also asked to see the speech. The second newspaper was denied access to the speech on the grounds that the first newspaper had already been granted access. The reason was that the Prime Minister’s Office wanted the speech to go out as a news exclusive.

The Ombudsman stated in the case that an authority’s interest in the launching of certain messages as news exclusives – in order to ensure effective coverage and optimal impact – cannot in itself be denied legitimacy. However, the regard for effective coverage etc. cannot claim such decisive weight against the statutory principle of free access to public records and the administrative law principle of equality that it can generally be used as grounds for withholding information from others or that others get delayed access.

Consequently, the Prime Minister’s Office should immediately have given access to the newspaper asking to see the speech, as there were no grounds for delaying the decision on access.

a newspaper asked the Prime Minister’s Office for access to a speech which had already been given to another newspaper. (Case No. 04.452).

Does this then also mean that there is a duty to provide a journalist who asks for it with information which has previously been given *verbally* as part of a news exclusive to another news medium? That is a separate question.

News exclusives given verbally

The then Ministry of Immigration, Integration and Housing had declined to give a journalist information which had previously been given verbally to another news medium. (Case No. 2017-25).

The Ombudsman determined that – contrary to what applies to access to documents – there are no written sources of law regulating this question. He therefore had to carry out his assessment of the case on the basis of the general administrative law principles of equality and legitimacy.

The Ombudsman found that it could on the one hand be argued that differential treatment is accepted already by allowing the use of news exclusives. You could therefore say that the additional differential treatment in declining to give the same information to another news medium is also legal. On the other hand, it could appear unfair that there would be a difference between the present situation and the situation where the information had been given as documents. In the latter situation, the documents should as a general rule have been handed over according to the Act on Access to Public Administration Files.

Both arguments were in the Ombudsman's opinion legally sound, and the Ombudsman therefore found that there were no grounds for criticising the actions of the authorities.

So the Ombudsman reached the conclusion that when a news exclusive is given verbally, other journalists cannot demand also to get the story.

Lawyer should have been informed first

Lastly, it has to be included that the authorities must always observe administrative rules and good administrative behaviour in the discharge of their duties. And this also applies when they use news exclusives.

For instance, a decision or a ruling with direct and not inconsiderable consequences for one or more individuals should not normally be made public without those individuals first being informed of the decision.

This was also a theme in the Ministry of Justice's use of a news exclusive in the announcement of the LTF case (please see above about this case). Thus, the Ombudsman agreed with the Ministry of Justice in that the Ministry should have informed LTF's lawyer about it before the news media were briefed. The Ombudsman found that the Ministry of Justice's planning of the course of events was clearly in breach of good administrative behaviour.

Consequences of breaking the rules on news exclusives

News exclusives are a communication tool which is used effectively in the ministries to communicate the policies of the Government and the minister. But if the legal framework for the use of news exclusives is breached, the consequences may be unfortunate.

For instance, in the LTF case it was the Ombudsman's opinion that the use of news exclusives in specific criminal cases can leave the impression that the Prosecution Service itself considers the case to be of a political character

and that irrelevant political considerations may therefore have been included in the case. The Ombudsman stressed that it was important that the authorities involved treated the case in all respects in a way which underpinned confidence in them. The Ministry of Justice's actions in the case had not underpinned such confidence. (Case No. 2019-3).

Professional political methods of communication, such as news exclusives, can thus be natural and effective tools in political cases. But there may be unfortunate consequences if they are, for instance, used in connection with the processing of specific criminal cases against individual citizens.



17/05835

The Ombudsman informed a local prison that he was coming on a monitoring visit to the local prison within a given time period. But the local prison was not informed of the exact date of the visit. Therefore, the programme for the visit could not be decided until the day of the visit, and it was not possible to schedule talks with inmates in advance.

During the visit, the monitoring team went round the local prison and invited inmates to participate in talks. Nine out of 16 inmates said yes. Through the talks with inmates, the monitoring team got an impression of the conditions at the local prison seen through the inmates' eyes.

The Ombudsman announces most monitoring visits to, for example, the Prison and Probation Service institutions. The reason is that it gives the monitoring team the opportunity to prepare the visit in the best possible way, including making sure management is present during the visit. However, sometimes monitoring visits are unannounced or – as in this case – partly announced.



18/03523

Poor maintenance, mould, lack of fireproofing and unfair rent billing: These were some of the issues which a man wrote about to the Ombudsman. The man specifically complained about his housing association and its caretaker and lawyer.

The Ombudsman considers complaints against the public administration, meaning public authorities. Therefore, in his reply to the man, the Ombudsman explained that he could not take any action regarding the housing association, the caretaker and the lawyer.

Generally, the Ombudsman does not consider complaints against private individuals and private enterprises and associations.



18/01902

The municipal job centre would no longer collaborate with a sick, arthritic citizen's representative. Following a rather long dispute about the citizen's entitlement to disability pension, the job centre wrote to the representative that her approach and lack of co-operation skills made her 'quite unsuited to look after a party's interests'. According to the job centre, the representative had complicated this case as well as previous cases unnecessarily.

In the letter to the Ombudsman, the representative pointed out that she normally performed well as a representative in cases at other municipalities. She found that the head of the job centre now prevented her from helping seriously ill citizens.

The mayor has the main responsibility for day-to-day operations in a municipal administration. Therefore, the Ombudsman sent the representative's complaint on to the municipality so that the mayor could initially consider the complaint about the job centre's decision.

Complaints about a municipality's case processing often have to be taken to the mayor before the Ombudsman can consider the case. For example, this applies to complaints about lack of replies to enquiries, about the municipality's case processing times and about municipal staff.



**When a good
question
resolves the
case**



Inge Birgitte Møberg
Deputy Head of Division



Lisbeth Adserballe
Head of Division

If a public authority itself becomes aware of an error, even before the Ombudsman has finished his investigation, both the Ombudsman and the authority can save resources. This will also provide quicker help to the citizen. Therefore, the Ombudsman always tries to ‘put the authority on the right track’.

Over recent years, we have in the Ombudsman institution had an increasing focus on asking clearly defined and precise questions of the authorities when asking for statements on cases – in order to clarify the real problem in the case. Experience shows that if an authority is helped along via such questions and acknowledges an error, then the authority is often itself interested in correcting the error immediately and thereby resolving the case.

This happened for instance in a case where a younger couple had built a noise-reducing fence facing a road (Case No. 17/03349). According to the authorities, the fence was much too high because an extra layer of earth had allegedly been placed there prior to the fence being built. The couple was therefore ordered to pull down the fence. Conversely, the couple explained that they had not placed any earth there but just levelled the existing ground prior to the fence being built.

We therefore specifically asked the authorities how they knew that an extra layer of earth had been placed there. When we asked for statements on the matter, we pointed out that, as the fence was only 1.8 metres high, 90 centimetres of earth would have had to be placed along the whole stretch of the fence for the authorities’ figures to be correct. Our points caused the appeal board to revoke the order to pull down the fence, as it was not possible to establish how much extra earth had been added. The noise-reducing fence, that had cost 250,000 DKK, could therefore remain in place.

Every 10th investigation stops after our first enquiry for a statement

The example with the noise-reducing fence does not stand alone. An analysis shows that the Ombudsman, on average, annually closes down about 25 cases after our first enquiry for a statement because the authority decides to reopen the case. Maybe 25 cases do not sound

like a lot, but it corresponds to 10 per cent of the Ombudsman's full investigations that do not go beyond this stage. In each of the 25 cases, the Ombudsman and the individual authorities save time and resources, and the citizen's case is resolved much faster than with a full Ombudsman investigation.

Because a full investigation may easily take several months. In a full investigation, the authority responds to our enquiry with a statement, followed possibly by more rounds of asking for statements from the authority, and often also for statements from the complainant as a party to the case. When all the facts in the case are clear and all necessary statements on the matter have been obtained, the case is concluded with a report or a statement from the Ombudsman. And possibly criticism.

But as shown, this process may be cut short in some cases after the first enquiry for a statement, and many resources may thereby be saved. The increasing focus on asking clearly defined and precise questions early in the case can be seen when you look back at the institution's history.

The Ombudsman's case processing seen over time

The Ombudsman institution saw the light of day in 1955.

In the first decades, an ombudsman investigation was normally opened as long as a complaint met the formal conditions and was not manifestly unfounded. The Ombudsman's questions when asking authorities for statements were often open-ended and broad-spectrum, as the process of asking for statements was typically initiated on the basis of what the complainant had written. The theme of a complaint was thus not normally specified or defined in any further

detail. Since then, the Ombudsman institution's method has evolved quite a bit, not least due to the increasing case load and the consequent need to prioritise resources.

It is certainly important that the Ombudsman can choose which cases and which aspects of a case he is going to investigate. Over the most recent decades, this possibility has been used to an ever greater extent.

Accordingly, the complaints undergo an initial screening, and if we assess that we cannot help the complainant achieve a better legal position, the complaint is closed as quickly as possible. This may happen even if we deem that minor errors have been committed. However, sometimes such complaints where minor errors have been committed may provide the basis for a general case if something indicates a systemic error.

Overall, we at the Ombudsman institution today put a lot of effort into the start-up phase of the cases in order to choose the right cases and issues for investigation and to set up these cases in the right way. But experience shows us that, in the long run, this will save resources overall which may be spent on other cases. And at the same time, this prevents a build-up of expectations in the complainants whom we have to disappoint in the end.

A corresponding approach is reflected when we endeavour to resolve the cases by asking the authorities one or two precise questions.

Questions with built-in answers

In some cases, we set out the legal basis when asking the authority for a statement and indicate that if the authority agrees with it, we will not spend more time on the case. It is phrased in another way, but the message is clear.

This happened in, among others, a case (Case No. 14/03892) where a journalist had asked the Fund for Better Working Environment and Labour Retention for access to files exchanged between the Fund and the Ministry of Employment. The Fund had denied access to the files with reference to the so-called rule on ministerial advice and assistance. But in order to be able to invoke this rule, there has to be a so-called superior/subordinate relationship between the ministry and the authority. The Fund for Better Working Environment and Labour Retention was then an independent body, and the rule on ministerial advice and assistance could therefore not be used. We set this out clearly when asking the Fund for a statement and wrote that if the Fund wished to reopen the case on that basis, it could just phone us up and tell us. The Fund did so, and we therefore withdrew our request for a statement and closed the case. Later, the Fund announced that the journalist had been granted full access to the files.

In other cases, our contribution is to draw the authorities' attention to a particular legal basis. This was for instance the case when a housing association was registered incorrectly in the IT systems of the Danish Customs and Tax Administration (SKAT) (Case No. 17/05126).

The incorrect registration meant that the housing association could not get the reduction of the public land value and therefore the tax reduction that the association was otherwise entitled to. The tax authorities did not believe that they could reopen the case within the framework of the law.

When asking the tax authorities for statements, we pointed out how the problem in the case could potentially be solved: A statutory provision allowed SKAT to correct an error on SKAT's own initiative, even though the possibil-

ities of reopening the case had otherwise been exhausted. We asked the tax authorities specifically what factors they had taken into consideration regarding the provision in question.

Subsequently, SKAT reviewed the case again and announced that the erroneous registration would be corrected so that the housing association would be able to claim its tax reduction.

Sometimes, there is no doubt that the authorities have decided a case on a correct legal basis – but it is still our immediate opinion that the authorities have not come to the correct conclusion.

The Tax Appeals Agency had, for instance, refused a lawyer's request for advance assurance that the Agency would reopen an appeal case. In other words, the Tax Appeals Agency would not promise to look into the case again even in the event that the lawyer succeeded in a similar case which was already being tried before the courts. The Tax Appeals Agency had based its refusal on the grounds that the appeal case did not concern the same legal issues as did the case before the courts.

We were puzzled by these grounds, as both cases were part of the same case set and directly concerned with the same issue. When we asked for an initial statement, we therefore asked why the case before the courts did not concern the same issue as the appeal case.

The Tax Appeals Agency subsequently changed its opinion so that an advance assurance to reopen the case was given after all. The lawyer then withdrew the complaint to us and we closed the case (Case No. 18/00407).

Authorities escape criticism

So we at the Ombudsman institution focus our efforts on putting the authorities on the right track when asking for statements – and in some instances this can mean that the cases are closed without a final statement containing criticism from the Ombudsman. This approach may cause surprise. For is the Ombudsman not letting the authorities escape too easily? They have, after all, made an error but they are not criticised for it.

For instance, should not the Fund for Better Working Environment and Labour Retention have been criticised when the Fund erroneously used the rule on ministerial advice and assistance? Or should not SKAT have been criticised when a registration error initially prevented a housing association from gaining a tax reduction? And had not the Tax Appeals Agency deserved the Ombudsman's rebuke when the Agency refused to give the lawyer an advance assurance to reopen the case? You can say that in all three instances, the authority initially committed an error which was not corrected until after we asked the authority for a statement.

The direct answer to that question is that it is not in itself a goal for the Ombudsman to utter criticism but rather that the citizen's problem is solved. And that the authority does not repeat the error.

But of course, cases do regularly crop up with such important errors that the Ombudsman chooses to conclude the case with a statement and criticism. Even though the authority acknowledges and corrects errors. When the Ombudsman chooses to express criticism in these cases, it is both due to a regard for the citizens' sense of justice but it is also a forward-looking attempt to warn the authorities against committing similar errors in the future.

This happened, for instance, in a case where the Ministry of Higher Education and Science postponed the reply to a journalist's request for access to a specific document until the Ministry had published the document in question. In reply to our enquiry for a statement regarding the time aspect of the case processing in relation to the Ministry's reply to the request for access to files and the publication, the Ministry conceded that it was not relevant to the question of access to include the regard for the time of publication, and the Ministry expressed regret at the processing of the request for access. The Ombudsman gave a statement in the case in which he termed the Ministry's case processing a matter for extreme criticism (Case No. 2018-17).

However, as outlined above, there is a group of cases characterised by quick help to the citizen and the freeing of resources for both the Ombudsman and the authority – resources which can then be used on other cases – if the case in question is closed already on the basis of the Ombudsman's enquiry for a statement.

Jakob is Mark's social education worker.
Mark is 16 years old – one of Denmark's
finest kayakers. The town of Maribo.



18/03210

'A daycare provider is a person who looks after children in the person's private home', a citizen wrote to the Ombudsman. The citizen was dissatisfied with an amendment to the Daycare Facilities Act which meant that she was no longer allowed to call her childcare services 'daycare' but had to use the term 'private childminding arrangement' in public contexts.

The Ombudsman wrote to the citizen that he was not able to help her as he cannot consider complaints about legislation.

The Ombudsman turns down cases outside his jurisdiction. In 2018, 484 cases were rejected on those grounds.



18/02752

The Department of Prisons and Probation informed the Ombudsman that an inmate was to be excluded from association, meaning that he was to be placed in solitary confinement, for more than three months.

The Department explained that the Court had decided that the inmate should undergo a psychiatric examination but there was no psychiatric ward capacity. Due to the inmate's aggressive behaviour, the Prison and Probation Service saw no other way than to place him temporarily in another institution and to continue his solitary confinement.

After approx. one week, the Department informed the Ombudsman that the psychiatric ward could now accommodate the inmate. Seeing that the exclusion from association thereby ended, the Ombudsman took no further action in the matter.

According to an agreement with the Department of Prisons and Probation, the Ombudsman is informed of extended exclusions from association (longer than three months) of inmates in the Prison and Probation Service institutions. This means that the Ombudsman has the possibility of monitoring the conditions of inmates who are excluded for longer periods of time – for example by visiting the institution.



During a visit to Tunis, Ombudsman staff participated in meetings with the Tunisian human rights commission which, among other things, considers individual complaints about violation of human rights. The Danish Ombudsman's expertise was a focal point for the commission, and as a result of the journey, the Ombudsman joined a collaboration with the commission which had already been initiated by the Danish Institute for Human Rights. As far as the Ombudsman was concerned, the collaboration would focus on complaint processing and understanding the Tunisian human rights commission's mandate.

Since the opening of the Parliamentary Ombudsman institution in 1955, the Ombudsman has worked at an international level – often in collaboration with ombudsman institutions abroad. However, collaboration can also be established with others who work with, for instance, complaint processing or the monitoring of institutions for weak or vulnerable citizens. Often, contact is established via Danish embassies or joint collaborators such as the Danish Institute for Human Rights.



18/00407

A lawyer complained because the Tax Appeals Agency had refused to give advance assurance to one of his clients that the Agency would re-open a case in which his client was liable for payment of a vehicle registration fee. The lawyer pointed out that his client's case was one of many cases about the same matter, and that he had brought a similar case before the courts on behalf of another client. The lawyer found that the Tax Appeals Agency should give advance assurance to reassess the case, which was now being processed at the Ombudsman institution, if he succeeded in the case that was brought before the courts.

When the Ombudsman asked the Tax Appeals Agency for an elaboration of the grounds for the refusal, the Agency changed its view. In spite of everything, the client was now offered an advance re-opening assurance. Subsequently, the lawyer withdrew the complaint, and the Ombudsman concluded the case.

Not often is a complaint withdrawn. But when it happens, it might be because the complainant has won the argument with the authority in the meantime.



**Dry rules
provide
quality
in public
admini-
stration**



Jørgen Steen Sørensen
Parliamentary Ombudsman

Two cases about municipalities' handling of children and young people show how important it is to observe the formal requirements for case processing.

Duty to take notes, record-keeping, requirements as to form, and documentation. These are not words that sound attractive in the current discussion regarding the right use of public sector resources. They evoke associations of so-called 'cold hands', time wasting, paper shuffling and academic bureaucrats.

But is that really always the right way of looking at it?

The Ombudsman institution is there to ensure that the public authorities observe the existing rules. But naturally we also reflect on the purposes of the rules and do our best to explain these purposes to the authorities. We probably all find it easier to remember to follow the rules if we do not only understand that they are there, but also why they are there.

I am not going to meddle in the discussion on whether or not there are generally too heavy demands for documentation etc. in the public sector. But I would like – from the real world – to give you a couple of examples that show that

rules, which at first glance may appear to be bureaucratic and formalistic, are based on important considerations. And that it can be difficult to use the 'warm hands' in the right way, if the rules are not observed.

Inadequate documentation in case from the town of Ry

The first example is the so-called Ry case which we concluded in October 2018.

A 16-year-old boy at a school in the small town of Ry in Jutland had back in February 2017 been subjected to an assault with a fire bomb. He sustained serious burns, and four boys of the same age were subsequently convicted as the perpetrators in the case.

Our Children's Division carried out an extensive investigation of the way in which the school and Skanderborg Municipality (as the responsible municipality) had handled the boys involved up until the violent assault. The impression was that the assault was the culmination of a lengthy, complicated and conflict-ridden chain of events

Main conclusions regarding the Ry case

'Significant errors have been committed in the case in relation to the rules in, among others, the Act on Access to Public Administration Files on the duty to take notes and keep records.

Significant errors have been committed in the case in relation to the rules in the Social Services Act on the duty of notification.

It is not possible today to establish the extent to which correct observance of the rules mentioned would have contributed to preventing the overall chain of events in the case, including the incident on 6 February 2017.

In my opinion, however, correct observance would – other things being equal – have been likely to help prevent it.

I cannot – within the framework of my basis of assessment – determine any other significant errors in the case, apart from those already mentioned.'

Published on 5 October 2018

Case No. 2018-28



and that this included a number of problems of, among other things, a pedagogical and social care nature.

But various legal errors had also been committed. This applied, for instance, in relation to the rules on the duty to take notes and keep records. Among other things, the school had generally not had any guidelines or uniform practice for taking notes, and there had not been one specific record-keeping system in use. Specifically, errors had been committed in relation to, for instance, decisions on exclusion from school with no notes having been made on the decisions, and in relation to e-mail correspondence and anonymous letters or e-mails to the school which had not been recorded and saved.

And here the reader may already come to a stop. A boy had been assaulted and seriously burnt. Four boys of a similar age had been punished. Children had been marked for life. And the Ombudsman was interested in the duty to take notes and keep records?

The explanation is that the non-observance of the rules had had serious consequences. The errors had impacted on, for instance, both the school's and the municipality's continuous overview of the long and conflict-ridden chain of events. The errors also meant that the school and the municipality afterwards found it difficult to explain and provide reasons for what had happened in the case.

Of course, it is not possible today to establish to what extent correct observance of the rules on the duty to take notes and keep records would have contributed to preventing the overall chain of events and, ultimately, the tragic assault. But we did have grounds for saying that correct observance – other things being equal – would have been *likely* to help prevent it.

Skanderborg Municipality has now launched a number of initiatives intended to ensure against similar errors in the future. That is, of course, good.

Duty to take notes and keep records as part of the administration's back bone

The rules on the duty to take notes and keep records are laid down particularly in sections 13 and 15 of the Danish Act on Access to Public Administration Files.

The fundamental provision on the duty to take notes in section 13 of the Act says, among other things, that in cases involving a decision an authority must as quickly as possible make a note of the contents of information about the factual basis of the case which the authority is made aware of, either verbally or in other ways (unless the information already appears from the case documents). The provision also states that an authority must, as quickly as possible, make a note on 'important case processing steps', which do not otherwise appear from the case.

The fundamental provision on keeping records in section 15 of the Act says, among other things, that documents received or sent by an administrative authority as part of administrative case processing in connection with the authority's activity must be recorded if they are important to the case or otherwise to the processing of the case. This must be done as soon as possible.

Why do we have these rules?

To a large extent, the rules on the duty to take notes and keep records serve the same purpose. They ensure, for instance, that there is clarity as to what the information in the case is,

that the information is under control, and that it is retrievable when needed. They also contribute towards the subsequent clarification of the course of events in a case. And they support the possibility of access to public files.

Maybe it is easier to understand the importance of the rules if you imagine that they were not there.

With regard to the duty to take notes, this would, for instance, mean that the processing of a case could be maintained at a verbal level without the possibility of subsequent documentation of the events in a case or without the possibility of access to public files. And that the authority – when the decision had to be made – had to base it on what perhaps successive staff could more or less randomly remember.

With regard to keeping records, it would, for instance, mean that the documents in the case could be stored in a scattered and random fashion – some on the computer, some in the drawer, a bit with other staff and a bit at home.

So the rules on the duty to take notes and keep records are not there for their own sake. They underpin important regards for making correct decisions, openness in the public administration and the possibility of subsequent responsibility. In that way, they are part of the back bone of good administration.

Case processing errors in a case from Randers

Specific cases are always the best illustrations of the importance of general principles. So let us take one more – a case from Randers, another town in Jutland, concluded in November 2018. Here, we have another kind of formal rules.

Concluding remarks in the Randers case

'On the basis of my review of the four selected cases about returns of children and young people in care outside their home which I have received and the municipality's statements, it is my opinion that the municipality's processing of the cases was overall a matter for severe criticism.

Children and young people placed in care outside their home are often vulnerable. Frequently, they do not have the same support from parents and family as other children and young people. They may have interests which are contrary to those of the parent, and they may be in a conflict of loyalty.

It is therefore very important that the authorities deal with their cases in accordance with legislation and ensure that they are given the special rights which follow from that.

These are, among others, the right to receive a revised action plan prior to their return, the right to be included through child consultations and the right (once they are over the age of 12) to be notified of the decision to return them to their home, which in my opinion should be in writing – or very quickly afterwards be confirmed in writing to the child or young person – and, in accordance with sections 22-25 of the Public Administration Act, be accompanied by grounds for the decision and guidance on appeal.'

Published on 7 November 2018

Case No. 2018-33



Back in November 2016, we at the Ombudsman institution were contacted by three members of Randers Municipal Council in regard to the municipality's 'Action Plan for Economic Stabilisation of Family Sector 2.0'. The three local council members were concerned about the action plan's consequences for, among others, children placed in care outside their home.

We did not go into the action plan itself in any detail, among other things because it stated expressly that every action had to be 'within the framework of the legislation regarding the field'. And that, for instance, decisions to return children to their home must be 'professionally sound to carry out'. But in order to ensure that that was actually so, we did ask for a list of cases from the first six months of 2017 involving the return to their homes of children and young people placed in care. Of those cases, we chose to review four as a random check.

The result was not good. In the Ombudsman institution, we do not have the expert knowledge needed to assess whether it was in the final analysis the right decision for the children to be returned to their home. But we could see that important case processing requirements had not been observed. Among other things, we could not see that consultations had been held with the children before the decisions to return them, such as the Social Services Act prescribes. Nor could we see that the action plans for the children – also prescribed by the Act – had been revised before their return.

Again, you could ask whether this is really so important. Is it not just paperwork? If the decision to return the child is the right one, then everything is surely all right, is it not?

The answer to that is that the two things cannot be separated. Because rules such as those

mentioned above are designed precisely to help make a correct assessment of whether or not the return of a child placed in care is the right decision to make and that, if so, the right follow-up is carried out. Consultations with children ensure, for instance, that the child can make his or her opinion known to the municipality so that the municipality can make a decision on the best possible basis. And revision of the individual action plan is intended to ensure that there is a settled and updated direction for where the focus for the individual child is to be after the return to the child's own home.

None of this seemed to have happened in the cases we took out for a random check. We therefore expressed serious criticism of the municipality and a general concern for the quality of the municipality's processing of cases regarding returns of children and young people placed in care outside their home.

Randers Municipality has subsequently given an account of how the municipality will ensure that the rules are observed in future. This is, of course, good.

'Cold' and 'warm' hands

I will return to the Ry case for a moment.

As I mentioned earlier, there were here a number of errors made with regard to, among other things, the duty to take notes and keep records. In this context, the authorities stated that the school had 'identified itself as a school which (...) has had its focus on learning, teaching and a solution- and development-orientated approach to the handling of conflicts or challenges regarding the individual pupil'.

This was undoubtedly true. And the school seemed to have prioritised such a focus higher than, for instance, rules on the duty to take

notes and keep records. I wonder if that does not apply to other schools as well. Most people who choose to work at a school are probably more passionate about the daily efforts on behalf of the pupils than about the duty to take notes and keep records.

But in many cases – for instance in the Ry case – this is actually a false contradiction. The Ry case is an example that correct observance of, among other things, the rules on the duty to take notes and keep records can be very important precisely in order to underpin 'a solution- and development-orientated approach to the handling of conflicts or challenges regarding the individual pupil'. Because how do you manage that approach if you do not have, for instance, an overview of the case? How do you then use those 'warm hands' in the right way?

I started this article by saying that I am not going to meddle in the discussion of whether or not there are generally too heavy demands for documentation etc. in the public sector. But I have tried to show that you should not always disparage rules which at first glance may seem formalistic and bureaucratic. They may mean more than you would think at first glance.

**17/02086**

A police district had denied a journalist access to files in an in-house report on the work of the local police and the country police in the police district. The report was based on, among other things, interviews with staff. The police did not find that the report held information about the factual basis of the case. Normally, the authorities are required to give access to such information.

The Ombudsman did not agree with the police in their assessment. In the Ombudsman's opinion, both strictly factual information as well as summaries of the staff's statements had to be disclosed.

The Ombudsman recommended that a new decision be made in the case. The police subsequently granted access to the report in its entirety.

The Ombudsman regularly notes that documents to which an authority has denied access contain information about the factual basis of a case – information subject to extraction which normally has to be disclosed.

**18/05030**

In November, one of the Ombudsman's staff members participated in the police deportation of two men, aged 26 and 69 respectively, to Afghanistan. The staff member was there when the police collected the 69-year-old from an immigration detention centre. At the airport, the group met up with the 26-year-old, who had been collected from a different immigration detention centre, and the police officers who escorted him. The Ombudsman's staff member monitored the deportation, which passed off peacefully, and at arrival in Afghanistan, Afghan authorities received the men. The Ombudsman's staff member subsequently took the next plane back to Denmark.

The Ombudsman monitors forced deportations carried out by the police. Therefore, one of the Ombudsman's staff members was present at seven forced deportations during 2018. Four of the deportations were completed, and three were aborted.

**18/03519**

'I feel thoroughly bullied by the Customs and Tax Administration', a man wrote in his complaint to the Ombudsman about having to pay dividend tax on some shares.

He pointed out that he came under a special provision, according to which dividend tax on shares purchased prior to 1 January 1996 was not taxable.

Because the dividend tax in actual fact was founded in an extraordinary distribution, the Ombudsman did not see any prospect of being able to help the man arrive at another outcome in the case.

If the Ombudsman does not find that he is able to help with a complaint, he can decide to conclude the case by making a brief statement of his grounds to the citizen. In 2018, the Ombudsman concluded 574 cases in this manner.

**18/00882**

A boy did not go with his preschool classmates on a trip to the theatre because he had been angry and loud earlier in the day when the class was on their break. The teacher decided that it was for the best that the boy had lessons at the school instead of going on the trip. The boy's father complained to the Ombudsman.

The Ombudsman stressed that the school had weighed the boy's behaviour against consideration of the other pupils. The Ombudsman did not find that he could assess the facts and particulars in another and better way than the school. Therefore, he wrote to the boy's father that he did not take any further action in the case.

The Ombudsman is a law graduate and deals especially with legal matters. Therefore, he does not usually have the expert knowledge to investigate the discretion within rule made by the authorities.





Monitoring activities 2018

Monitoring activities – adults and children

Where: The Ombudsman carries out monitoring visits to public and private institutions, especially institutions where persons are or may be deprived of their liberty, such as prisons, social care institutions and psychiatric wards.

Why: The purpose of the Ombudsman's monitoring visits is to help ensure that daytime users of and residents in institutions are treated with dignity and respect and in compliance with their rights.

The monitoring visits are carried out in accordance with the Ombudsman Act as well as the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Pursuant to this Protocol, the Ombudsman has been appointed 'national preventive mechanism'. The task is carried out in collaboration with DIGNITY – Danish Institute Against Torture and the Danish Institute for Human Rights, which contribute with medical and human rights expertise.

The Ombudsman has a special responsibility to protect the rights of children under the UN Convention on the Rights of the Child etc.

How: During monitoring visits, the Ombudsman often gives recommendations to the institutions. Recommendations are typically aimed at improving conditions for users of the institutions and in this connection also at bringing conditions into line with the rules. Recommendations may also be aimed at preventing, for instance, degrading treatment.

Monitoring visits may also cause the Ombudsman to open investigations of general problems.

Who: The Monitoring Department carries out monitoring visits to institutions for adults, whereas the Ombudsman's Children's Division carries out monitoring visits to institutions for children. The Ombudsman's special advisor on children's issues participates in monitoring visits to institutions for children and, if deemed relevant, in visits to institutions for adults.

Usually a medical doctor from DIGNITY – Danish Institute Against Torture participates in the visits, and often a human rights expert from the Danish Institute for Human Rights (IMR) will participate as well.

Monitoring activities – adults

Theme for 2018

Exclusion of inmates from association with other inmates in Prison and Probation Service institutions

Normally, it is possible for inmates in state and local prisons to spend time together, but an inmate may be excluded from association with other inmates, among other things to prevent escape, criminal offences or violent behaviour or in order to uphold safety in the institution.

Inmates may also choose voluntary exclusion from association. This often happens if an inmate feels threatened by fellow inmates.

An inmate who is excluded from association is placed in solitary confinement, and isolation may have adverse psychological effects. It is therefore important that the duration of exclusions is as short as possible and that exclusions are carried out as gently as possible.

As part of the theme for 2018, the Ombudsman's monitoring teams visited four closed prisons, four open prisons and nine local prisons, focusing especially on

- the specific conditions for inmates excluded from association
- the quality of reports on exclusions from association

Examples of important conclusions

- Exclusions from association in Prison and Probation Service institutions are generally carried out in accordance with the rules, but there is room for improvement of the documentation.
- There is no general guide for staff in Prison and Probation Service institutions on how to handle *voluntary* exclusions.
- The existing guide on *forced* exclusions from association does not cover all relevant topics.

The Ombudsman generally recommends

- that state and local prisons increase their focus on precise and adequate documentation in reports and weekly records concerning exclusions from association and ensure regular quality control
- that state and local prisons and the Department of Prisons and Probation monitor developments in the use of forced and voluntary exclusion from association and analyse the causes of the developments

Please see the Ombudsman's specific recommendations (extracts) in the table on pages 38-45.

Reports on the themes for our monitoring visits in recent years can be found at www.ombudsmanden.dk by clicking the small globe icon at the top of the site, selecting 'English' and choosing the heading 'About the Ombudsman' and then 'Publications'.

Cases concluded in 2018 in relation to monitoring activities

29 cases about suicide attempts, deaths etc. in Prison and Probation Service institutions or among persons in police custody. *Three of the cases resulted in criticism.*

Further, **six** cases were opened on the Ombudsman's own initiative (**four** of which in direct continuation of monitoring visits). *Two of the cases resulted in criticism or formal or informal recommendations.*

Selected investigations

Better prevention of suicides: In an immigration detention centre, there had been several incidents within a few years of detainees trying to commit suicide by hanging themselves from exposed pipes on the ceilings. The Ombudsman pointed out this trend to the authorities in charge. The authorities replied that they would ensure that the pipes were hidden. (News story published on 1 June 2018).

Tolerated residence is stressful: The Ombudsman investigated the conditions for persons with tolerated residence status who were required to reside in a departure centre and in fact resided there. His conclusion was that the overall conditions for this category of persons were to be regarded as very stressful and as severely restricting even basic aspects of living. However,

the Ombudsman was of the opinion that the general conditions for these persons did not contravene, for instance, the European Convention on Human Rights. (Case No. 2018-18 and news story published on 29 May 2018).

Information available in cases about suicides/ suicide attempts by inmates was inadequate:

In three cases about suicides/suicide attempts in the same local prison, the Ombudsman looked into, among other things, whether staff ought to have paid more attention to the inmates prior to the incidents and, for instance, should have checked on them more frequently or called in a doctor. The Ombudsman had no grounds for repudiating the authorities' assessment of the need for checking up on inmates or calling in a doctor, but in two of the cases, the Ombudsman criticised the absence of adequate information about the facts of the cases.

The Ombudsman called for increased awareness in relation to use of pepper spray: Based on a specific case, the Ombudsman urged the Prison and Probation Service to consider generally whether there was a need for taking steps to ensure that the rules are observed when pepper spray is used against inmates in Prison and Probation Service institutions. The Ombudsman also pointed out the importance of adequate documentation in such cases in order that the legality of the use of force can actually be verified. (News story published on 4 January 2019).

Where did we go in 2018?

When	Where	What	With whom did we speak?		Who also participated? ¹	
			Users ²	Relatives etc. ³	DIGNITY	IMR
	30 visits in total		259 talks	21 talks	29 visits	12 visits
22 Jan.	'Psykiatrisk Center Glostrup', Hvidovre Unit	Two bed units for general psychiatric patients	4	3	✓	✓
25 Jan.	'Psykiatrisk Center Amager'	Two 24-hour intensive psychiatric care units for general psychiatric patients	7	2	✓	✓
29 Jan.	'Kofoedsminde', Rødby	Five secure sections in a special institution for mentally deficient persons who have been sentenced to placement in an institution	8	0	✓	✓
8 Feb.	'Psykiatrisk Center Ballerup'	Two 24-hour intensive psychiatric care units particularly for general psychiatric patients	5	5	✓	
16 Feb.	'Køge Arrest'	Local prison particularly for persons remanded in custody during investigation of their case	9	0	✓	
20 to 21 Feb.	'Herstedvester Fængsel', Albertslund	Closed special prison particularly for persons serving time and needing psychiatric, psychological and/or sexological diagnostic evaluation and treatment	37	1	✓	✓
23 Feb.	'Halsebyvænge', Korsør	Unit in municipal social residential facility particularly for mentally deficient persons with a conviction	2	0	✓	✓

- 1) The Ombudsman collaborates with DIGNITY – Danish Institute Against Torture and the Danish Institute for Human Rights (IMR) on monitoring activities. Among other things, they participate in a number of monitoring visits.
- 2) Number of inmates, residents, patients etc. with whom the visiting teams had talks.
- 3) Number of relatives, guardians (including social security guardians), patient advisors etc. with whom the visiting teams had talks.

	Selected recommendations⁴
	Visits concluded with recommendations: 26 Visits concluded without comments: 4 Not concluded at the time of going to press: 0
	<i>The monitoring visit did not give rise to recommendations</i>
	<ul style="list-style-type: none"> • Record and analyse duration of restraints
	<ul style="list-style-type: none"> • Draw up guidelines on how to handle and prevent violence and threats among residents (anti-violence policy) • Ensure current instructions on how to handle medicines and inadvertent incidents etc. are available • Ensure each healthcare worker is given individual access to the Shared Medicine Card
	<i>The monitoring visit did not give rise to recommendations</i>
	<ul style="list-style-type: none"> • Increase focus on precise and adequate documentation in reports and weekly records concerning exclusions from association and ensure regular quality control • Improve documentation in reports on placements in security cells • Brief inmates after searches of their cells
	<ul style="list-style-type: none"> • Increase focus on precise and adequate documentation in reports and weekly records concerning exclusions from association and ensure regular quality control
	<ul style="list-style-type: none"> • Draw up directions on use of force and arrange training of staff • Prepare written information about rules of conduct etc. • Update and extend medicine directions so that they meet applicable requirements • Ensure procedures are in place for clearing out the medicine cabinet • Improve the availability of activities for residents to bring it up to the level of comparable social residential facilities

4) The table contains selected, abbreviated recommendations. The full recommendations can be found (in Danish only) at www.ombudsmanden.dk, where concluding letters on monitoring visits are published on an ongoing basis.



Where did we go in 2018?

When	Where	What	With whom did we speak?		Who also participated? ¹	
			Users ²	Relatives etc. ³	DIGNITY	IMR
27 Feb.	'Københavns Fængsler, Politigårdens Fængsel'	Closed prison section mainly for 'negatively strong' arrestees. The monitoring visit concerned the conditions for a remand prisoner who had been excluded from association for a long time	0 ⁵	0	✓	✓
5 Mar.	'Kalundborg Arrest' (partly announced visit)	Local prison particularly for persons remanded in custody during investigation of their case	9	0	✓	✓
14 Mar.	'Holstebro Arrest'	Local prison particularly for persons remanded in custody during investigation of their case	8	0	✓	
15 Mar.	'Regionspsykiatrien Midt', Viborg	Two bed units for forensic psychiatric patients	11	3	✓	✓
21 Mar.	'Center Bakkehuset', Videbæk	Two units in municipal social residential facility for adults needing specialised support 24 hours a day	0 ⁶	2	✓	
22 Mar.	'Sdr. Omme Fængsel' (partly announced visit)	Open prison particularly for persons serving time	4	0	✓	✓
5 Apr.	'Københavns Fængsler', Vestre Fængsel	Local prison particularly for persons remanded in custody during investigation of their case	5	0	✓	✓
10 Apr.	'Kragsskovhede Fængsel', Jerup	Open prison with a closed prison section, particularly for persons serving time	10	0	✓	

5) The inmate did not wish to speak with the visiting team.

6) The users' level of function made talks impossible.

Selected recommendations⁴

- Try to extend the inmate's time out of the cell with visits to the training facilities when deemed justifiable on safety grounds
- Draw up medicine directions and train staff in the directions
- Ensure unused medicines are handled in accordance with directions
- Draw up directions on abstinence treatment and monitoring of inmates with withdrawal symptoms
- Ensure unused medicines are handled in accordance with directions
- Ensure inmates do not perceive the use of a urine bottle at night as compulsory
- Ensure records of use of coercion contain specific information about grounds etc.
- Draw up guidelines on how to handle and prevent violence and threats among patients (anti-violence policy)
- Harmonise house rules
- Draw up guidelines on use of force and ensure training of staff with focus on gentle handling
- Conclude a written agreement on the terms when a private security and guard services company is used
- Increase focus on handling of medicines and healthcare documentation
- Increase focus on precise and adequate documentation in reports and weekly records concerning exclusions from association and ensure regular quality control
- Look into whether practice regarding sale of non-prescription medicines meets applicable requirements within the field
- Ensure systematic monitoring of inmates placed in disciplinary cell
- Amend internal guidelines on exclusions from association to conform with applicable rules
- Increase focus on precise and adequate documentation in reports and weekly records concerning exclusions from association and ensure regular quality control
- Monitor and analyse developments in number of exclusions from association
- Tighten up on labelling of medicines etc.



Where did we go in 2018?

When	Where	What	With whom did we speak?		Who also participated? ¹	
			Users ²	Relatives etc. ³	DIGNITY	IMR
11 Apr.	'Ringkøbing Arrest'	Local prison particularly for persons remanded in custody during investigation of their case	7	0	✓	
17 Apr.	'Esbjerg Arrest'	Local prison particularly for persons remanded in custody during investigation of their case	5	0	✓	
18 Apr.	The police detention facility in Esbjerg (unannounced visit)	Police detention facility particularly for persons who are unable to take care of themselves due to intoxication and who have been encountered by the police in a dangerous situation	0 ⁷	0	✓	
24 Apr.	'Helsingør Arrest'	Local prison particularly for persons remanded in custody during investigation of their case	9	0	✓	
25 Apr.	The police detention facility in Elsinore (unannounced visit)	Police detention facility especially for persons who are unable to take care of themselves due to intoxication and who have been encountered by the police in a dangerous situation	0 ⁷	0	✓	
8 May	'Østruplund', Otterup	Three units in a regional social residential facility for mentally deficient adults with a conviction or problematic behaviour	6	2	✓	
9 May	'Odense Arrest' (unannounced visit)	Local prison particularly for persons remanded in custody during investigation of their case	10	0	✓	

7) There were no persons placed in the detention facility at the time of the visit.

Selected recommendations⁴

- Update medicine directions to meet applicable rules
- Draw up directions on abstinence treatment and monitoring of inmates with withdrawal symptoms
- Ensure correct labelling and storage of medicines for inmates
- Handle unused medicines in accordance with directions and ensure procedures are in place for clearing out the medicine cabinet

- Increase focus on precise and adequate documentation in reports and weekly records concerning exclusions from association and ensure regular quality control
- Ensure unambiguity and clear agreements in relation to cooperation between healthcare workers, including precise framework delegation from doctor to nurse and updating of directions
- Ensure inmates can have private telephone conversations that cannot be overheard by fellow inmates

The monitoring visit did not give rise to recommendations

- Ensure prison's healthcare staff are informed about exclusions from association
- Ensure reports on temporary exclusions from association meet applicable requirements
- Rewrite medicine directions and make them more specific
- Ensure adequate labelling of medicines for the individual inmates etc.

- Introduce procedures for self-checking smoke alarm and electronic equipment in facility
- Increase awareness of adequate completion of detention reports
- Ensure persons placed in facility are monitored in accordance with applicable rules

- Extend existing directions on use of force with information about the special rules applicable for convicted persons in social residential facilities
- Draw up a policy on violence and threats among residents, including sexual abuse, and guidelines on reporting incidents involving violence and threats to the police

- Increase focus on precise and adequate documentation in reports and weekly records concerning exclusions from association and ensure regular quality control
- Be aware of how staff address inmates – also of remembering to knock before opening the door to a cell
- Implement request forms with a copy to the inmate to avoid complaints, doubts etc.
- Ensure focus on correct handling of medicines, on offering new inmates a medical examination etc.



Where did we go in 2018?

When	Where	What	With whom did we speak?		Who also participated? ¹	
			Users ²	Relatives etc. ³	DIGNITY	IMR
14 to 15 May	'Nyborg Fængsel'	Closed prison with, among others, a special section for 'negatively strong' arrestees	32	0	✓	✓
16 May	'Fonden Station Vest', Brovst	Private social residential facility for adults with impaired mental functioning and an extensive need for support	3	2	✓	
17 May	'Botilbud På Tværs', Farsø	Private social residential facility for adults with major behaviour disorders, including persons sentenced to placement in an institution	5	0		
7 to 8 June	'Nr. Snede Fængsel'	Open prison with closed sections, including disciplinary and solitary confinement sections	26	0	✓	
13 June	'Psykiatrien' – Aalborg University Hospital	Two bed units for forensic psychiatric patients	8	1	✓	
14 June	'Aalborg Arrest'	Local prison particularly for persons remanded in custody during investigation of their case	5	0	✓	
6 Sep.	'Enner Mark Fængsel', Horsens	Prison section (in closed prison) particularly for persons remanded in custody during investigation of their case and high-security section	10	0	✓	
26 Sep.	'Søbysøgård Fængsel', Årsløv	Open prison with closed section, particularly for persons serving time	14	0	✓	✓

Selected recommendations⁴

- Increase focus on precise and adequate documentation in reports on exclusions from association
- Draw up a policy on how to handle and prevent violence and threats among inmates (anti-violence policy)
- Make current framework delegation from doctor available to staff (instead of outdated directions)

- Draw up directions on use of force
- Draw up directions on staff assistance with administration of residents' finances
- Adjust existing medicine directions to meet applicable requirements

The monitoring visit did not give rise to recommendations

- Increase focus on precise and adequate documentation in reports on exclusions from association, including healthcare workers' contact with inmates excluded from association
- Management focus on overall developments in number, duration etc. of exclusions
- Improve written directions from doctor to nurses and increase focus on correct handling of medicines
- Look into how cooperation with psychiatric sector and outpatient addiction treatment facility can be strengthened

- Increase focus on correct record-keeping of use of coercion and observance of rules on medical attention and debriefings after coercion
- Record incidents of violence and threats among patients for the purpose of documentation, knowledge and learning
- Draw up guidelines on how to handle and prevent violence and threats among inmates (anti-violence policy)
- Give guidance to patients about the characteristics of 'timeouts' etc.

- Increase focus on precise and adequate documentation in reports on exclusions from association and ensure regular quality control
- Remember to knock before opening the door to a cell
- Respond as quickly as possible to calls at night from inmates wishing to use the toilet
- Ensure in cooperation with the doctor that directions on framework delegation and other relevant directions in relation to healthcare provision are drawn up

- Increase focus on precise and adequate documentation in reports and weekly records concerning exclusions from association and ensure regular quality control

- Increase focus on precise and adequate documentation in reports and weekly records concerning exclusions from association and ensure regular quality control
- Ensure that, in open sections, urine bottles are used at night only by voluntary agreement with inmates and that inmates are informed about this
- Draw up directions on handing out non-prescription medicines and on handling of unused medicines

Monitoring activities – children

Theme for 2018

Use of force and other interventions in asylum centres for children and in private accommodation facilities for, among others, children and young people with an asylum background

The theme of the monitoring visits carried out by the Ombudsman's Children's Division in 2018 focused on children and young people with an asylum background. The theme encompassed children and young people who were either asylum seekers or rejected asylum seekers or had been granted a residence permit.

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

As part of the theme, the Ombudsman's visiting teams visited five private accommodation facilities and four asylum centres for children. The visits focused especially on

- use of physical force
- practice regarding notification of municipalities about children and young people who may be in need of special support

Examples of important conclusions

- There is general awareness of ensuring that the well-being of the child or the young person is given primary consideration, also in

connection with use of force, and of the duty to notify the municipality about children and young people who may need special support.

- In several asylum centres and accommodation facilities, there is inadequate knowledge of the legislation on use of force.
- Many asylum centres and accommodation facilities face challenges with children and young people who have lost hope due to being refused residence, who abuse substances or have street-oriented behaviour or who disappear.

The Ombudsman generally recommends

- that children's asylum centres and accommodation facilities ensure
 - that staff are familiar with the legislation on use of force
 - that guidelines on use of force are in compliance with legislation
 - that children, young people, parents and personal representatives are informed about their rights in relation to use of force when children and young people arrive
- that accommodation facilities ensure that medicines are handled in accordance with applicable rules

Please see the Ombudsman's specific recommendations (extracts) in the table on pages 48-51.

Reports on the themes for our monitoring visits in recent years can be found at www.ombudsmanden.dk by clicking the small globe icon at the top of the site, selecting 'English' and choosing the heading 'About the Ombudsman' and then 'Publications'.

Cases concluded in 2018 in relation to monitoring activities

Nine cases were opened by the Ombudsman on his own initiative (**three** of which in direct continuation of monitoring visits). *Two of the cases resulted in criticism and informal recommendations, respectively.*

Selected investigations

Conditions to be improved for 15- to 17-year-old inmates in local and state prisons: Based on monitoring visits to two local prisons, the Ombudsman raised a number of questions regarding the treatment of inmates aged 15 to 17 years. The authorities provided information about new initiatives aimed at improving conditions for young people detained in local and state prisons. For instance, the authorities intended to introduce rules to ensure that young people serving time are offered schooling which bears comparison with that provided by primary and lower secondary schools. (News story published on 4 July 2018).

A boy was illegally monitored in an accommodation facility: An accommodation facility had, among other things, taken screenshots of the mobile phone of a boy placed in the facility, written down his conversations with his former foster family and forwarded the information to the municipality. No decision had been made by the municipality's committee for children and young people that the boy's communication was to be monitored. The Ombudsman criticised the illegal monitoring of the boy's communication and notified Parliament's Legal Affairs

Committee, the Minister for Children and Social Affairs and the municipal council of the case. (Case No. 2018-26 and news story published on 5 July 2018).

Children and young people placed in care outside their home are entitled to be taught in a school: Placement facilities without an in-house school are not permitted to provide the schooling for children and young people placed in care. Instead, these children and young people must be taught in, for instance, an in-house school of another facility or a primary and lower secondary school, possibly in a special needs class or school. This was the Ombudsman's conclusion following an investigation based on the schooling of a 14-year-old. On that basis, the Ministry of Education would send a letter to all municipalities about schooling in daytime care facilities and placement facilities without in-house schools. (News story published on 4 October 2018).

Rejected asylum children in Departure Centre Sjølsmark living under difficult conditions: Following two unannounced monitoring visits, the Ombudsman concluded that the conditions for children in Departure Centre Sjølsmark were liable to make their childhood substantially more difficult and to restrict their possibilities of a natural development and self-realisation considerably. At the same time, it was the Ombudsman's assessment that their conditions could not generally be presumed to violate international conventions, including the UN Convention on the Rights of the Child. (Case No. 2018-39 and news stories published on 20 December 2018 and 8 January 2019).

Where did we go in 2018?

When	Where	What	With whom did we speak?		Who also participated? ¹	
			Users ²	Relatives etc. ³	DIGNITY	IMR
	9 visits in total		44 talks	22 talks	4 visits	2 visits
31 Jan. to 1 Feb.	'Børnecenter Tønder'	Asylum centre for un-accompanied underage foreign nationals	5	2		
5 to 6 Feb.	'Alhambra', Ballerup	Private accommodation facility for, among others, children and young people with an asylum background	6	2		✓
5 to 6 Mar.	'Fonden Hugin & Munin', Aalestrup	Private accommodation facility for, among others, children and young people with an asylum background	4	3		
5 and 7 Mar.	'Ask4US ApS', Farsø	Special placement facility for unaccompanied underage foreign nationals with behaviour for which an ordinary asylum centre for minors does not have the capacity	7	4	✓	
10 to 11 Apr.	'Børnecenter Gribskov', Græsted	Asylum centre for un-accompanied underage foreign nationals including foreign nationals under 16 with street-oriented behaviour	8	1	✓	

- 1) The Ombudsman collaborates with DIGNITY – Danish Institute Against Torture and the Danish Institute for Human Rights (IMR) on monitoring activities. Among other things, they participate in a number of monitoring visits.
- 2) Number of children and young people with whom the visiting teams had talks.
- 3) Number of relatives, personal representatives and guardians with whom the visiting teams had talks.

	Selected recommendations etc.⁴
	Visits concluded with recommendations: 6 Visits concluded without comments: 0 Not concluded at the time of going to press: 3
	<ul style="list-style-type: none"> • Ensure staff are familiar with the rules of the Aliens Act on use of force • Ensure records are kept of incidents involving use of force, that incidents are reported within the deadline and that report forms are completed adequately • Amend house rules with information about possible consequences of violations
	<ul style="list-style-type: none"> • Ensure staff know the different rules on use of force against minors and adults • Ensure medicines are handled in accordance with applicable rules
	<ul style="list-style-type: none"> • Ensure staff are familiar with the rules of the Act on Adult Responsibility for Children and Young Persons in Placement Facilities on use of force • Ensure children, young people and parents are informed about their rights in relation to use of force when children and young people arrive at the facility • Ensure reporting of all incidents involving use of force
	<ul style="list-style-type: none"> • Ensure adequate documentation in reports on use of force – including information about who was involved and when the intervention took place • Ensure residents are informed about records of incidents of force being used against them and are given the opportunity to comment on the records • Review incidents involving use of force together with staff for the purpose of learning • Inform residents that they can contact the Danish Immigration Service anonymously about matters of concern • Ensure a general consent to drug tests is given <p><i>Case opened on the Ombudsman's own initiative about monitoring of in-house schools of placement facilities and about which rules are applicable to use of force in in-house schools. The case was still pending at the time of going to press</i></p>
	<i>Still pending at the time of going to press</i>

4) The table contains selected, abbreviated recommendations. The full recommendations can be found (in Danish only) at www.ombudsmanden.dk, where concluding letters on monitoring visits are published on an ongoing basis. The table includes information about cases taken up on the Ombudsman's own initiative following monitoring visits.



Where did we go in 2018?

When	Where	What	With whom did we speak?		Who also participated? ¹		
			Users ²	Relatives etc. ³	DIGNITY	IMR	
24 Apr.	Section for unaccompanied underage foreign nationals at 'Center Sandholm', Birkerød	Asylum centre for unaccompanied underage foreign nationals aged 16 or older with street-oriented behaviour	6	3	✓		
14 to 15 May	'Poseidon', Hurup Thy	Private accommodation facility for, among others, children and young people with an asylum background	3	2			
15 to 16 May	'Mind-move ApS (Busters Verden)', Sabro	Private accommodation facility for, among others, children and young people with an asylum background	2	2		✓	
30 to 31 Oct.	'Sortemosevej', Hjortshøj (unannounced visit)	Private accommodation facility for, among others, children and young people with an asylum background	3	3	✓		

Selected recommendations etc.⁴*Still pending at the time of going to press*

- Finalise guidelines on use of force so that they conform with legislation
- Consider preparing targeted, age-differentiated written information for the children and young people about their rights and duties

- Consider drawing up more detailed guidelines on use of physical force
- Ensure the individual child's/young person's medicine box is labelled with name and civil registration number
- Amend guidelines to specify that not only individual staff members but also management may report criminal offences to the police

Still pending at the time of going to press

Discussions, other activities etc. in relation to both children and adults

Discussions with key authorities

Dialogue with the relevant authorities – both at the local level in connection with monitoring visits and at central level – plays an important part in the Ombudsman's monitoring activities.

The Ombudsman has meetings with key authorities on a regular basis together with the Danish Institute for Human Rights and DIGNITY – Danish Institute Against Torture.

When	Who	Subjects (extracts)
23 May	Department of Prisons and Probation	Healthcare provision in Prison and Probation Service institutions Internal review of placements in security cells Addiction treatment of remand prisoners 15- to 17-year-olds being placed in state and local prisons Written information for 15- to 17-year-old inmates about their rights and duties
6 June	Ministry of Health	Record-keeping of immobilisations with restraint belts during stomach tube feeding Handling of medicines in private accommodation facilities The collaboration between psychiatric wards and social psychiatric residential facilities Passing on of information from hospitals to Prison and Probation Service – for instance in connection with monitoring after suicide attempts So-called satellite pharmacies of Prison and Probation Service
22 June	Ministry for Children and Social Affairs	Deadlines for recording and reporting incidents involving use of force Medical preparedness in connection with solitary confinement of children and young people with mental disorders in secure residential institutions Access to a toilet during solitary confinement in secure residential institutions Absence of action plans for children and young people placed in care outside their home Safety for residents in (social psychiatric) residential facilities

Other activities

- Meetings with foreign (including Nordic) ombudsmen or 'national preventive mechanisms' etc. with discussion and exchange of experience.
- Meeting with a representative from the UN Subcommittee on Prevention of Torture, etc. (SPT).
- Meetings with national monitoring authorities with discussion and exchange of experience.
- Together with DIGNITY – Danish Institute Against Torture and the Danish Institute for Human Rights, the Ombudsman held a meeting with civil society representatives. The objective of the meeting was to inform the participants about our monitoring activities and to obtain information about their experiences and gain inspiration through mutual dialogue.
- As part of the Danish children's ombudsman collaboration, the Ombudsman generally collaborates with the Danish National Council for Children and with Children's Welfare (a Danish organisation offering the Child Helpline, the Children's Chatroom etc.). As part of the collaboration, a dialogue meeting with focus on the well-being of schoolchildren was held with relevant interested parties.
- Following a statement from the Ombudsman, the Department of Prisons and Probation has issued a circular letter about investigation and processing of cases where an inmate complains about having been subjected to abuse etc. by Prison and Probation Service staff. (Circular Letter No. 9088 of 22 February 2018). The Ombudsman's statement concerned an incident where an inmate was pushed several times by a prison guard. (Case No. 2016-52 and news story published on 16 December 2016).
- The Ombudsman raised a number of questions about conditions for 15- to 17-year-old inmates in Prison and Probation Service institutions as part of his theme for monitoring visits to institutions for children in 2017 (young people in secure residential institutions, local prisons and state prisons). (News stories published on 5 September 2017 and 4 July 2018). Subsequently, a number of measures were taken:
 - The Prison and Probation Service has set up a feature in its management information system enabling regional Prison and Probation Service offices to see how many young people under the age of 18 are or were imprisoned on a specific day or during a specific period of time.
 - The Department of Prisons and Probation has drawn up professional standards for inmates under the age of 18. The standards are to support consistent compliance with the special rules applicable for inmates under the age of 18.
 - In 2018, Parliament passed an amendment to the Administration of Justice Act which means that the Minister of Justice lays down special rules on education for remand prisoners of compulsory school age.

Other results

- In January 2018, the Department of Prisons and Probation sent out new guidelines to Prison and Probation Service institutions about staff monitoring of clients who are deemed at a certain risk of endangering their lives. This step was taken in continuation of the Ombudsman's theme for monitoring visits to institutions for adults in 2014 (prevention of suicides and suicide attempts).

Monitoring activities

Disability accessibility

Monitoring visits to investigate disability accessibility

Where: The Ombudsman carries out monitoring visits to investigate the accessibility of public buildings, such as primary and lower secondary schools, other educational establishments, town halls, libraries, hospitals and polling stations.

Why: At the request of Parliament, the Ombudsman monitors developments regarding equal treatment of persons with disabilities. In this connection, the Ombudsman monitors, among other things, physical accessibility for persons with disabilities. The aim is to check that the rules intended to ensure that public buildings are accessible to everybody are observed.

How: During monitoring visits, the Ombudsman's monitoring team are shown around the buildings. The Ombudsman's monitoring teams bring along measuring equipment to check, for instance, whether the dimensions of toilet facilities for persons with disabilities and lifts are in accordance with building regulations.

Who: The Monitoring Department carries out the monitoring of accessibility. A wheelchair user from the Danish Association of the Physically Disabled and a consultant from the Danish Association of the Blind participate in these monitoring visits as consultants. In addition, the Ombudsman's special advisor on children's issues has participated in monitoring visits to primary and lower secondary schools.

Monitoring visit to investigate disability accessibility in 2018

When	Where	What
31 October	'Skjern Tekniske Skole'	Technical and vocational school

Examples of results in 2018

Outcomes of monitoring visits to investigate disability accessibility

In 2018, the Ombudsman concluded, among others, four cases about unannounced monitoring visits to investigate the disability accessibility of four polling stations for postal ballots in Funen which were carried out in connection with the municipal and regional election in November 2017.

The monitoring visits resulted in a number of recommendations, among others on signposting, tactile coating and toilet facilities for persons with disabilities. Three municipalities were recommended to change the height of the welcome/registration stands (the self-service facilities) to enable wheelchair users to use them without help. It was also recommended that the municipalities took steps to make them easier to use for visually impaired persons. In a couple of cases, the Ombudsman asked the municipalities to consider providing a special polling booth which was large enough to accommodate three persons, for instance a wheelchair user and two helpers, in an appropriate and proper way. All four municipalities have implemented the recommended changes.

The case about disability accessibility at 'Skjern Tekniske Skole' was still pending at the time of going to press.

Other activities

The Ombudsman collaborates with the Danish Institute for Human Rights and the Danish Disability Council to facilitate, protect and monitor the implementation of the UN Convention on the Rights of Persons with Disabilities. As part of this collaboration, the Ombudsman held meetings with the two institutions in 2018.

More information about the Ombudsman's activities in relation to equal treatment of persons with disabilities and the Ombudsman's reports on monitoring visits to investigate disability accessibility can be found at www.ombudsmanden.dk/handicap/ (in Danish only).

Monitoring activities

Forced deportations

Monitoring of forced deportations

What: The Ombudsman monitors forced deportations by the police of foreign citizens without legal residence in Denmark.

Why: The monitoring is especially aimed at ensuring that the police carry out deportations with respect for the individual and without unnecessary use of force. Thus, the Ombudsman assesses whether the police act in accordance with applicable law – including EU law and international human rights conventions – and good administrative practice.

How: The monitoring covers the period from the decision on forced deportation until the deportation is completed.

The Ombudsman reviews police reports and a number of concluded deportation cases. In addition, legal case officers from the Ombudsman's office participate in a number of deportations.

The Ombudsman's monitoring is particularly focused on use of force, separation of families, vulnerable groups, for instance persons with health problems, prior contact and information, the safety assessment prior to the deportation, aborted deportations and the deportation report.

Who: The Monitoring Department carries out the monitoring of forced deportations.

For more information about the Ombudsman's monitoring of forced deportations, please see www.ombudsmanden.dk/udsendelser/ (in Danish only).

Forced deportations¹ monitored in 2018²

When	Number of persons comprised by the deportation	Use of force during deportation?	Deportation completed?	
7 deportations in total	10 persons	1 deportation	4 completed 3 aborted	
1 May	1	No	Yes	
15 August	3	No	Yes	
18 September	1	No	No	
24-25 October	1	No	No	
18-19 November	2	No	Yes	
2 December	1	Yes	No	
11 December	1	No	Yes	

- 1) Deportation of foreign nationals who do not depart voluntarily can either be carried out through a supervised departure, where the departure from Denmark is supervised by police, for instance when the person boards a plane, or through an escorted departure, where police escort the person out of the country to his or her home country or a third country where s/he is entitled to take up residence. In 2018, all deportations monitored by the Ombudsman were escorted departures.
- 2) In 2018, the destinations of the deportations monitored by the Ombudsman were Nigeria, Germany, Afghanistan and Iraq.
- 3) At a number of deportations, the Ombudsman merely monitors the procedure from the time when the foreign national is picked up by police until boarding.

	Comments
	Cases completed without criticism of the police: 5 Cases still pending at the time of going to press: 2
	Forced deportation (partially escorted ³) of a 30-year-old woman by scheduled flight.
	Forced deportation of a 28-year-old woman and her sons by scheduled flight. The sons were three and five years old.
	Forced deportation (partially escorted ³) of a 24-year-old man by scheduled flight.
	Forced deportation of a 22-year-old man by scheduled flight.
	Forced deportation of two men of 26 and 69 years, respectively, by scheduled flight.
	Forced deportation of a 22-year-old man by scheduled flight. Force was used in the form of a transport belt with strapped hands and manual restraint. <i>Still pending at the time of going to press.</i>
	Forced deportation (partially escorted ³) of a 34-year-old man by scheduled flight. <i>Still pending at the time of going to press.</i>

Examples of important activities in 2018

Deportations in which Ombudsman representatives participated

In 2018, legal case officers from the Ombudsman's office were present at seven forced deportations of foreign nationals. The Ombudsman did not express criticism of the police work in any of the five concluded cases on deportations carried out in 2018. The Ombudsman assessed that the deportations were carried out according to Danish and international rules etc., including with respect for the individual and without unnecessary use of force. Further, the Ombudsman had no comments on the documentation in the cases. Two of the cases were still pending at the time of going to press.

Review of a number of concluded deportation cases

In 2018, the Ombudsman reviewed the case files in 77 deportation cases from 2016 and 2017 which had been concluded by the police. In five of these cases, the Ombudsman's review caused him to raise questions with the National Police. The cases were still pending at the time of going to press.

The other 72 cases did not give rise to comments.

Discussions

In 2018, the Ombudsman had dialogue meetings with the National Police, the National Immigration Centre, and North Zealand Police, the North Zealand Immigration Centre, about the Ombudsman's monitoring of forced deportations carried out by the police. In addition, the Ombudsman held a meeting with the Danish Refugee Council.

International collaboration

In 2018, legal case officers from the Ombudsman's office participated in European conferences in Finland and Greece about monitoring of forced deportations. In addition, legal case officers from the Ombudsman's office participated in a European course in the Czech Republic on monitoring of forced deportations.

Deportations organised by other EU countries

Pursuant to section 30 a(6) of the Aliens Act, the Ombudsman has the authority to monitor forced deportations organised by other EU countries, and a number of legal case officers from the Ombudsman's office are registered with the pool of forced-return monitors of Frontex, the European Border and Coast Guard Agency. A legal case officer from the Ombudsman's office was present in order to monitor the forced deportation of 43 foreign nationals by chartered plane from Germany to Russia carried out by German police in November 2018.

**18/00981**

'They are almost too kind', said a 17-year-old boy at an asylum centre when the Ombudsman's monitoring team asked how he liked the staff. He was pleased about living at the centre and had many good things to say about the staff. He had, however, wondered about the Danish way of socialising with young people. There was so much hugging and joking around that the young people did not take the staff seriously, according to the young boy. The young people came from a different culture and upbringing. He was of the opinion that the staff ought to draw the line more often. The Ombudsman's staff members passed on the boy's remarks to management who were surprised about his reflections but took them on board.

The Ombudsman's Children's Division carries out annual monitoring visits to institutions for children in order to monitor that their legal rights are observed. Legal case officers participate in the visits as well as a children's expert who is specifically concerned with the children's well-being.

**17/00799**

To be entitled to cash benefit, you have to be able to document that you have lived in Denmark for seven out of the last eight years. This became a problem for a homeless man with Danish citizenship who had been without income for two years and who had neither been to the doctor nor in contact with anybody else from the Danish authorities who could attest that he had been living in Denmark. The man gave information of three acquaintances with whom he had met on a regular basis during the two years but the authorities did not consider it relevant to take depositions from them. The man lost his right to cash benefit and was given integration benefit instead.

However, the Ombudsman was of the opinion that the authorities could not refuse to consider depositions from the man's acquaintances. After the Ombudsman had made his statement, the authorities took depositions from the three acquaintances. Subsequently, the man was granted cash benefit.

The Ombudsman's statement on the case was published as Case No. 2018-31 on www.ombudsmanden.dk and on www.retsinformation.dk, the official legal information system of the Danish state. Statements on selected Ombudsman cases are published on a regular basis in this way. In 2018, the Ombudsman selected 39 cases for publication.

**16/03029**

A sailors association had applied to the Allocation Committee for the Pool for Certain Magazines and Periodicals for a distribution grant for its members' magazine but had been turned down. The Committee emphasized that the main contents of the magazine fell under the category of 'hobby-like activities'. In order to get a grant, the magazine would have to focus on sports mainly.

While the Ombudsman was processing the case, news emerged that the Committee among other things put emphasis on whether the association applying for a grant was eligible for membership of DGI, a central association of Danish sports.

Urged by the Ombudsman, the sailors association obtained written documentation that it was eligible for membership of DGI.

On the basis of the new information, the Committee assessed that the sailors association met the conditions for grants in 2018.

If the Ombudsman assesses that a case can be concluded in a simple way, he will normally attempt to do so.

**18/03396**

The Danish Agency for International Recruitment and Integration refused a foreign chef's application for residence and work permit as a specialised chef at a restaurant in Denmark. The chef did not complain about the refusal to the Immigration Appeals Board because he had found work in another country in the meantime.

The owner of the restaurant did not understand the refusal and asked the Agency for guidance on the rules. Next, the owner complained to the Ombudsman because he was dissatisfied with the Agency's guidance and treatment of him.

The Agency had informed the owner of the restaurant that he could complain to the Ministry of Immigration and Integration about the Agency's guidance and treatment of him so the Ombudsman asked him to use that channel of complaint first.

Complaints can be lodged with the Ombudsman about authorities' case processing as well as about decisions made by authorities and about staff conduct.



Overview
of the year
2018

Summaries of selected statements

The Ombudsman regularly publishes statements (in Danish) on selected cases on www.ombudsmanden.dk and on www.retsinformation.dk, the official legal information system of the Danish state. Summaries are provided below of the statements which have been published on cases concluded in 2018. The summaries have been classified under the ministries etc. which had the remit for the relevant areas at the end of the year.

Ministry of Employment

No statements on cases concluded in 2018 have been published.

Ministry for Children and Social Affairs

The following statement on a case concluded in 2018 has been published:

2018-15. State Administration declined to consider appeal on the grounds that it had been lodged too late under the Building Act

A man appealed to the State Administration against a decision by his municipality to grant a planning permission to his neighbour.

The man had not been notified of the municipality's decision to grant the planning permission. However, following a subsequent request for access to documents, he received a copy of the planning permission and the guidance on appeal accompanying the permission. The guidance did not state who was entitled to appeal the decision, and when granting the man access to the material, the municipality did not give him any express guidance on whether he could appeal the decision, and if so, what the time limit was.

The State Administration declined to consider the appeal on the grounds that it had been lodged too late under section 24(1) of the Building Act – as the State Administration was of the opinion that the time limit was to be calculated from the date on which the man had received the municipality's reply to his request for access. However, the State Administration did not (expressly) consider whether the man was entitled to appeal under section 23(3) of the Building Act.

The Ombudsman found that the State Administration could not decline to consider the appeal on the grounds that it had been lodged too late without determining whether the man was entitled to appeal the municipality's decision. The Ombudsman stated that if the man was entitled to appeal under section 23(3) of the Building Act, he would also be a party to the underlying building case. As a party to the case, the man would be entitled, among other things, to be notified individually of the municipality's decision and to receive guidance on appeal.

In the Ombudsman's opinion the municipality's reply to the man's request for access did not fulfil the requirements to be considered to constitute individual notification and to contain adequate guidance on appeal. For this reason, the time limit was not to be calculated from the date on which the man had received a copy of the planning permission in response to his request for access.

Therefore, the Ombudsman found that the State Administration could not on the available basis decline to consider the appeal on the grounds that it had been lodged too late under section 24(1) of the Building Act.

The Ombudsman recommended that the State Administration reopen the case in order to reconsider whether it could consider the appeal.

Ministry of Energy, Utilities and Climate

No statements on cases concluded in 2018 have been published.

Ministry of Industry, Business and Financial Affairs

The following statement on a case concluded in 2018 has been published:

2018-38. Holiday home owner had the duty to maintain pipeline passing under his land

The chairman of a house owners' association complained to the Ombudsman on behalf of a holiday home owner because the municipality and subsequently the Danish Environment and Food Board of Appeal had imposed the duty to maintain a pipeline which passed under the plot of his holiday home on him.

The pipeline was used to carry surface water from a town to an inlet, and according to the complaint to the Ombudsman, the owner of the plot had no direct benefit from the pipeline. In addition, the owner had not been aware that the pipeline passed under his plot until his lawn was flooded because of a defect in the pipeline.

The pipeline had been included in the wastewater plan of the municipality for 1995 to 2010. On that basis, the pipeline was legally classified under the category of wastewater facilities from 1995 until 2010, with the consequence, among others, that it was the wastewater utility company that had the duty to maintain the pipeline during that period.

However, the pipeline was not included in the wastewater plan of the municipality for 2010 onwards – presumably because it had been decided to switch to separate sewer systems in the area. For this reason, among others, the pipeline could no longer be regarded as belonging to the category of wastewater facilities but was now to be considered a watercourse.

The Ombudsman could not criticise the decisions by the municipality and the Environment and Food Board of Appeal that the pipeline now had the status of a private watercourse under the Watercourse Act and

that the owner of the plot had the duty to maintain the pipeline unless otherwise provided.

The Ombudsman advised the owner of the plot – as the municipality and the Board of Appeal had also done – to contact the watercourse authority, i.e. the municipality, if he wished a different apportionment of the duty to maintain the pipeline.

Ministry of Finance

No statements on cases concluded in 2018 have been published.

Ministry of Defence

No statements on cases concluded in 2018 have been published.

Ministry of Justice

The following statements on cases concluded in 2018 have been published:

2018-18. Monitoring visit to Departure Centre Kærshovedgård – foreign nationals with tolerated residence status who were required to reside at the Centre

In October 2017, the Ombudsman carried out a monitoring visit to Departure Centre Kærshovedgård together with DIGNITY – Danish Institute Against Torture and the Danish Institute for Human Rights.

The visit focused on the conditions for foreign nationals with tolerated residence status who were required to reside at Kærshovedgård and in fact resided there. The visit comprised 13 persons who had had tolerated residence status and had been required to reside at the Sandholm asylum centre or at Kærshovedgård for up to 10 years.

The report prepared by the Ombudsman on the visit is to be regarded as a follow-up on the report prepared by the Ombudsman in 2014 on the conditions for the same category of persons, who were at that time placed at the Sandholm asylum centre.

Since 2014, the conditions for this category of persons had changed in a number of respects. A significant change was that they were now required to reside at Kærshovedgård, which is in overall terms considerably more isolated than Sandholm. On the other hand, in the case of a not insignificant proportion of persons with tolerated residence status, the requirement that they reside at Kærshovedgård had been terminated by a court or by the Danish Immigration Service. In the Ombudsman's opinion it could thus be noted that the hopelessness characterising the lives of persons with tolerated residence status had to a certain extent undergone a positive change compared to 2014.

The Ombudsman maintained his view from the 2014 report that the overall conditions for the category of persons on which the visit focused were to be regarded as very stressful and as severely restricting even basic aspects of living. However, the general conditions for these persons did not contravene, for instance, the prohibition of degrading treatment under the UN Convention Against Torture and the European Convention on Human Rights.

2018-19. Practice of processing several requests for access to documents or information together

In connection with his investigations of specific complaint cases concerning requests for access to documents or information under the Access to Public Administration Files Act, the Ombudsman became aware that, for resource reasons, some authorities had a practice of processing several requests for access to documents or information about the same subject together.

The practice consisted in grouping a number of more or less identical requests for access to documents or information about the same subject received by the authority within a certain period of time and releasing the same material, based on the most broadly worded request, at the same time to all those requesting access.

In two specific cases, the Ombudsman had criticised the authorities' procedure on the grounds that it was clear that it had resulted in longer processing times – in one of the cases because the request, which was for one document only, had been processed together with some very comprehensive requests.

These cases, among others, caused the Ombudsman to ask the Ministry of Justice for its opinion of the practice of processing several requests for access together.

The Ministry stated to the Ombudsman that in its opinion it is legal for authorities to process several requests together. However, in an effort to save resources, an authority is not permitted, for instance, to exceed the time limits set out by the Access to Public Administration Files Act.

In addition, the Ministry made some general comments on the organisation of the processing of requests which are grouped and processed together. Among other things, the Ministry pointed out that the processing must, to the greatest extent possible, be organised in a manner to ensure that the least comprehensive requests can be processed to conclusion as quickly as possible. In addition, decisions on subsets of the total material should be made on an ongoing basis if possible.

In essence, the Ombudsman concurred with the Ministry's views, and he concluded the case with reference to the Ministry having stated that it intended to inform the other ministries of its views on the organisation of the processing of requests which are grouped and processed together and to publish this information on the Public Access Portal (www.offentlighedsportalen.dk), an Internet portal set up by the Ministry which contains information about access to public records.

The Ministry of Justice subsequently informed the other ministries of its views and published the information on the Public Access Portal and on www.retsinformation.dk, the official legal information system of the Danish state.

2018-20. Remarks made by police officer to newspaper appeared as if made on behalf of police force. Summoning police officer to disciplinary hearing not an infringement of public employees' freedom of expression

A local police officer expressed his views to a newspaper on the effects of a duty system which had recently been adopted for police officers in the area. In the resulting article, the police officer was quoted with reference to his being a local police officer.

The regional police force found that the police officer's remarks appeared as if they had been made on behalf of the police force. The police officer was therefore summoned to a disciplinary hearing, at which it was stressed that in accordance with the press policy of the regional police force, contact with the press was the responsibility of the management and that employees could only make statements to the press with prior permission of their immediate superior.

The police officer was of the opinion that he had expressed his views in a private capacity and that the police force was restricting his freedom of expression as a public employee. For this reason, he complained about being summoned to the disciplinary hearing, stating, among other things, that he had no control over what job title was stated in the newspaper article. In addition, he found that it was of no significance whether he was quoted as a police officer as the local population knew who he was anyway, among other reasons because he was on the local council.

Both the regional police force and subsequently the National Police maintained that if the police officer had intended to express his views in a private capacity, he should have made sure that it appeared in the article that this was what he had done.

In the Ombudsman's opinion the quotation in the article was most likely to be understood as the police officer making statements on behalf of the police force. In addition, the Ombudsman took for his basis that the police officer had not informed the newspaper that his remarks were made in a private capacity and not on behalf of the police force.

On that basis, and because the police officer had not obtained prior permission to make statements on behalf of the police force – as required by the press policy – the Ombudsman could not criticise that the police officer had been summoned to a disciplinary hearing.

2018-27. Internal specialist assessment for use in connection with response to press enquiry was not part of case comprised by section 29 of Access to Public Administration Files Act

The Ministry of Justice had denied three journalists access to documents concerning the Ministry's communication with the Ministry of Immigration and Integration on account of an enquiry from a newspaper. The newspaper wished to publish a story about the press release issued by the Minister for Immigration and Integration on 10 February 2016 about separate accommodation of young asylum-seeking couples.

The documents of the case were internal documents and ministerial advice and assistance documents, which are in principle exempt from access. One of the documents contained an internal specialist assessment in final form. However, the question was whether this assessment was part of a case about a political initiative comprised by section 29 of the Access to Public Administration Files Act and was thus subject to extraction.

The Ombudsman stated that the case illustrated a number of difficult questions about the scope of application of section 29 of the Act which had not been addressed in the formulation of the provision. This was especially true of the question when an internal specialist assessment concerning a political initiative that has already been made public can be regarded as 'part of' the case about the political initiative within the meaning of section 29 of the Act. The Ombudsman found that the doubts in relation to this question had to be clarified in connection with the processing of specific cases in which the question arose.

In the specific situation, the Ombudsman found no grounds for repudiating the view of the Ministry of Justice that the specialist assessment was not 'part of' the case concerning the press release of 10 February 2016. In reaching this conclusion, the Ombudsman gave weight to the context of the internal specialist assessment (i.e. communication between two ministries about a response to a specific press enquiry) combined with its timing.

2018-35. Decision on re-incarceration of parolee was not brought before the court 'without undue delay'

On account of a parolee's non-compliance with the parole conditions, the Department of Prisons and Probation made a decision that the parolee was to be re-incarcerated to serve the balance of his sentence, and he was therefore returned to prison. The man demanded that the decision be brought before the court for review under section 112 paragraph (7) of the Corrections Act. The Department of Prisons and Probation did not forward the case to the court until almost two months later, and the inmate complained to the Ombudsman about the Department's processing time.

Under section 114(1) of the Corrections Act, a case such as the present must be brought before the court 'without undue delay'. The Ombudsman stated that in his opinion this means that the preparation

of a case which has been requested to be brought before the court under section 112 of the Act must progress continuously.

The Department of Prisons and Probation informed the Ombudsman that the long processing time was due to an error on the part of the Department. However, the Ombudsman pointed out that the Department had had several chances to discover the error as the inmate's lawyer had contacted the Department several times, requesting a reply to whether the case had been brought before the court.

The Ombudsman considered it very regrettable that the Department of Prisons and Probation had not ensured that the case was brought before the court sooner. In the Ombudsman's opinion a processing time of almost two months, including an eight-week period during which the case was at a standstill, was not in line with section 114(1) of the Corrections Act.

In addition, the Ombudsman decided to open an investigation on his own initiative of the Department's general practice in relation to bringing cases before the court under section 112 of the Corrections Act in the light of the requirement under section 114 of the Act that such cases must be brought before the court 'without undue delay'.

2018-36. Refusal of access to information about, among other things, resources used by police in connection with football match

A journalist requested access to information about the resources used by the police in connection with a specific football match.

The police district denied the journalist access in the form of an extract of data (section 11 of the Access to Public Administration Files Act) on the grounds, among others, that the police district did not have one or more databases from which information about the total economic resources used could be extracted.

It would be possible to extract information about the planned staffing during the match and about the working hours recorded for the staff on duty around the time of the match. However, access to the information was denied with reference to section 33 paragraph (1) of the Access to Public Administration Files Act. The police emphasised that granting access to the information would adversely affect specifically the handling of future matches between the two football clubs in terms of safety and prevention. Likewise, knowledge by the public of the planning by the police for the football match and the resources which the police had used in connection with the match would considerably impair the possibility of preventing breaches of the law at similar football matches and other similar events in the future.

The Ombudsman found no grounds for repudiating the statement of the police district and the National Police that, based on a specific assessment, it had been necessary for safety and prevention reasons to deny access to information about the resources used by the police in connection with the football match.

The National Police had stated that it was an established practice not to provide information about the level of police resources used in connection with major police operations, including in relation to football matches.

This occasioned the Ombudsman to point out that an established practice by the authorities concerned is not adequate grounds for denying access to information with reference to section 33 paragraph (1) of the Access to Public Administration Files Act – as a specific assessment of the necessity of denying access must be made in each individual case.

2018-39. Unannounced monitoring visits to Departure Centre Sjølsmark – conditions for children

In October 2017, the Ombudsman's Children's Division carried out two unannounced monitoring visits

to Departure Centre Sjølsmark. The first visit was carried out together with DIGNITY – Danish Institute Against Torture.

The visits concerned the conditions for children who are housed at the centre with their parents. The children and their families are rejected asylum seekers who do not assist in their deportation and are therefore required to reside at the centre.

The Ombudsman's assessment was that the children housed at the centre were generally to be regarded as living under difficult conditions. He assessed that this was not primarily due to the specific facilities etc. at the centre but to a greater extent to the simple fact that the children were required to reside at the departure centre instead of living in normal society.

Nevertheless, the Ombudsman did not find that the conditions for children at the departure centre could generally be presumed to violate the UN Convention on the Rights of the Child, the UN Convention Against Torture or Article 3 of the European Convention on Human Rights. Further, he stated that the question of the requirement for the families to reside at the departure centre is basically governed by the Aliens Act, i.e. regulated by the legislature. It would therefore be outside the Ombudsman's jurisdiction under the Ombudsman Act to take any further action on the question, among others, of the requirement to reside at the centre.

However, the Ombudsman pointed to some specific aspects of the centre – such as the eating arrangements and the leisure activities available – which could be changed with a view to improving the well-being of the children.

Ministry of Ecclesiastical Affairs

The following statement on a case concluded in 2018 has been published:

2018-25. Assigning a pew to the father of a candidate for confirmation was not a decision within the meaning of the Public Administration Act. Request for access to e-mail communication was to be decided under the Access to Public Administration Files Act

The Ombudsman could not criticise the outcome of a decision by the Ministry of Ecclesiastical Affairs that the father of a candidate for confirmation could not be given further access to e-mail communication between the candidate's mother and the vicar in connection with the confirmation.

The e-mail communication included information which related purely to pastoral care and was thus subject to the specific confidentiality provision in 2-5-20 of the Danish Law of King Christian V. The Ombudsman was precluded from investigating which of the information in the e-mail correspondence was subject to this provision as pastoral care is related to the tenets or doctrines of the Church, cf. section 9 of the Ombudsman Act.

The Ombudsman did not agree with the Ministry that the vicar's decision on where the father was to sit during the confirmation service was a decision within the meaning of the Public Administration Act. For this reason, the Ombudsman found that the father's request for access to the communication relating to this decision should have been decided under the Access to Public Administration Files Act.

In the Ombudsman's opinion the Ministry of Ecclesiastical Affairs should have asked to receive the files to which the father had been denied access before making its decision.

The Ombudsman had no grounds for criticising the Ministry's decision that Viborg Diocese was not disqualified from considering the father's appeals.

Ministry of Culture

The following statements on cases concluded in 2018 have been published:

2018-7. Refusal of access to information about fees payable to orchestra by Royal Danish Theatre

The Royal Danish Theatre gave a citizen access to a collaboration agreement between the Theatre and an orchestra except for information about the fees payable to the orchestra. In its decision, the Theatre referred to section 30 paragraph (2) of the Access to Public Administration Files Act on exemption of information on business matters or on matters pertaining to operations, among other information. The citizen appealed the decision to the Ministry of Culture, which upheld the Theatre's refusal of access to the information about fees.

The Ombudsman agreed that the information about the fees payable to the orchestra fell within the scope of section 30 paragraph (2) of the Access to Public Administration Files Act. However, the Ombudsman did not reach a final conclusion on whether section 30 paragraph (2) was applicable to the information to which access had been denied. He explained that in his opinion the case raised the question whether the orchestra had in effect waived the protection offered by section 30 paragraph (2).

The Royal Danish Theatre and the Ministry of Culture had not considered this question, and the Ombudsman therefore recommended that the Ministry reopen the case and make a new decision – in the light of what he had stated – on access.

Reopening the case would also give the Ministry the opportunity to consider the significance of certain aspects of the competitive situation of the orchestra.

2018-8. Neither status as trade union representative nor duty of loyalty imposed restrictions on TV station employee's freedom of expression – but criticism of TV programme was expressed in unreasonably offensive manner

In a comment on Facebook, an employee of the Danish Broadcasting Corporation (DR) who was a planner for some of DR's technical staff criticised a television programme with which she had no involvement in connection with her job. In her post on Facebook, she described the programme as having 'no balls whatsoever' and as representing 'the most unprofessional, failed, shitty journalism' on Danish television. Ever!'

Shortly afterwards, the employee was summoned to a talk where she received a letter stating that DR intended to give her a disciplinary warning on the grounds that her comment on Facebook was improper and had been expressed in an unreasonably offensive manner. In addition, DR questioned her loyalty and stated that as a trade union representative, she should, among other things, set an example to colleagues. DR also found that readers might be in doubt whether the employee had made the comment on behalf of DR.

After consulting the employee as a party to the case, DR decided solely to request that she be mindful of not making remarks expressed in an offensive manner about DR in future.

The Ombudsman found that DR had made significant errors during the case. In the Ombudsman's opinion there was no doubt that the employee had made the comment on Facebook in a private capacity. Further, the Ombudsman found that DR's letter about its intention to give the employee a disciplinary warning was liable to leave the impression that both the fact that she was a trade union representative and public employees' general duty of loyalty in themselves imposed special restrictions on her freedom of expression.

However, based on an overall assessment, the Ombudsman did not find sufficient grounds for criticising that DR considered the employee's comment to be unreasonably offensive and thus to have overstepped the limits of her freedom of expression. Therefore, the Ombudsman could not criticise that DR had on that basis requested that she be mindful of not making remarks expressed in an offensive manner about DR in future.

2018-13. Access to correspondence with the Royal House

A journalist asked the Ministry of Culture for access to letters exchanged between the Ministry and the Danish Royal House. The correspondence concerned The Crown Prince's participation in the International Olympic Committee (the IOC) in connection with a decision whether Russia was to be denied the right to participate in the Olympic Games in Rio in 2016 on account of doping.

The Ministry of Culture denied the journalist access to the correspondence with reference to, among other provisions, section 23(1) paragraph (1) of the Access to Public Administration Files Act on internal documents.

The Ministry stated, among other things – following discussion with the Ministry of Justice and the Prime Minister's Office – that it was of the opinion that any exchange of information between the Government and the Royal House on government policy should be regarded as taking place in connection with 'participation by the Royal House in the governing of the State', as the objective of such exchange of information was to ensure the neutrality of the Royal House in relation to political matters. The Ministry of Culture therefore assessed that the correspondence between the Ministry and the Royal House in the specific case took place in connection with 'participation by the Royal House

in the governing of the State' and that the Ministry and the Royal House were therefore to be regarded as one and the same authority.

The Ombudsman pointed out that when access is requested to correspondence of an administrative authority with the sovereign (or, for instance, The Crown Prince), this raises the question whether the correspondence is to be considered internal or external within the meaning of the Access to Public Administration Files Act. The answer depends on the nature of the correspondence, including whether it took place in connection with 'participation in the governing of the State'.

In relation to the specific case, the Ombudsman pointed out that The Crown Prince was elected member of the IOC in a personal capacity. According to the available information, The Crown Prince's tasks as a member of the IOC had at no time been carried out in connection with 'participation in the governing of the State'.

On that basis, the Ombudsman was of the opinion that the correspondence between the Ministry of Culture and the Royal House in the specific case did not take place in connection with 'participation by the Royal House in the governing of the State', and that therefore the Ministry and the Royal House could not be regarded as one and the same authority. As a result, the documents to which the journalist had requested access were in the Ombudsman's opinion not internal under section 23(1) paragraph (1) of the Access to Public Administration Files Act.

On that basis, the journalist was entitled to access to the documents unless access could be denied under other provisions in the Act.

The Ministry of Culture subsequently reopened the case.

Ministry of Environment and Food

The following statement on a case concluded in 2018 has been published:

2018-37. Authority for rules on loss of right to take out game licence and requirement to pass shotgun shooting test. Interpretation of transitional provisions on right to hunt with rifle or shotgun

A man had been entitled to hunt with a shotgun or a rifle before the Game Act came into force in 1994 but lost his right to take out an (annual) game licence under the so-called '10-year rule' of the Executive Order on Game Licences. Under the 10-year rule, any person who has not taken out a game licence within the last 10 years loses the right to do so.

The authorities now required that, in order to be entitled to go rifle and shotgun hunting, the man pass the rifle shooting test and the shotgun shooting test, which were introduced with the coming into force of the Game Act in 1994 and by an amendment to the Executive Order on Game Licences respectively.

In the man's opinion, there was no authority under the Game Act for the 10-year rule or the rules on a shotgun shooting test of the Executive Order.

In addition, he was of the opinion that he was in any case exempt under transitional provisions from the requirement to pass the rifle shooting test and the shotgun shooting test.

The Ombudsman could not criticise the authorities' view that there was sufficient authority under the Game Act for the 10-year rule and the rules on a shotgun shooting test of the Executive Order.

In addition, the Ombudsman could not criticise the authorities' view that the transitional provisions on exemption from the rifle shooting test and the shotgun shooting test did not apply to persons who had lost their right to take out a game licence under the 10-year rule.

Ministry of Taxation

The following statements on cases concluded in 2018 have been published:

2018-10. Own-initiative investigation of 30 cases processed by Customs and Tax Administration and National Tax Tribunal

In a general investigation opened on the Ombudsman's own initiative, the Ombudsman reviewed 30 cases, each of which had been processed by both the Danish Customs and Tax Administration (SKAT) and the National Tax Tribunal. The investigation was carried out under section 17(2) of the Ombudsman Act, which authorises general investigations by the Ombudsman of an authority's processing of cases.

The Ombudsman's investigation comprised the processing of the cases by both SKAT and the National Tax Tribunal, including the secretariat services provided by the Tax Appeals Agency. The investigation focused on the authorities' observance of rules and principles of administrative law, especially in relation to matters which may be said to have significance for furthering good, trusting relations between the tax authorities on the one hand and citizens and businesses on the other.

In the Ombudsman's opinion there were several instances of errors etc. which might be liable to affect relations between tax authorities and taxpayers. These errors concerned specific forms of conduct, inadequate registration of documents by SKAT, tax assessments based on estimates which did not appear to be founded on objective criteria, inadequate answers to arguments and views put forward by taxpayers and failure to establish whether time limits for tax assessment had been observed.

The Ombudsman sent a draft report to the tax authorities, asking them for their comments. In this connection, SKAT gave an account of a number of measures which had already been initiated or which would be initiated on the basis of the ombudsman's report.

The Ombudsman stated that, as far as he could judge, the measures pointed out by the tax authorities appeared very relevant. He added that it was important that the measures were implemented effectively and in a focused manner, and he asked SKAT to inform him about the measures which it would initiate in future as a consequence of his report.

2018-16. Inadequate registration of claims for refunds of dividend tax and inadequate guidance on website

A man complained to the Ombudsman because he had not received any replies to a number of letters which he had sent to the Danish Customs and Tax Administration (SKAT) five years earlier, claiming refunds of dividend tax. The case caused the Ombudsman to open a general investigation on his own initiative of SKAT's handling of older cases concerning claims for refunds of dividend tax.

SKAT informed the Ombudsman that for a number of years until 2016, it had not had an overview of the progression of cases concerning claims for refunds of dividend tax and only a limited number of such cases had been registered correctly. SKAT found this severely regrettable, and the Ombudsman agreed.

In addition, the Ombudsman was of the opinion that when it emerged that there were claims for refunds of dividend tax which had not been registered, SKAT should have taken such steps as it could in order to locate claims which had not been registered.

On its website, SKAT provided general guidance on the processing of cases concerning claims for refunds of dividend tax, but SKAT did not mention the possibility that claims might have gone astray. Therefore, the Ombudsman found that SKAT's guidance on its website could not be regarded as adequate. As SKAT could not exclude the possibility that there were still claims which had not been located, the Ombudsman recommended that SKAT consider updating its website with guidance in this respect.

In August 2015, all claims for refunds of dividend tax were put on hold because of suspected extensive fraud with such claims. The Ombudsman's investigation did not include aspects in relation to the suspected fraud or SKAT's initiatives in this connection.

2018-30. Panama Papers – requests by Danish Customs and Tax Administration for information from citizens and assessment of suspicion under Act on Due Process in Connection with the Public Administration's Use of Compulsory Intervention and Duties of Disclosure

Information from the so-called Panama Papers caused the Danish Customs and Tax Administration (SKAT) to send requests for material to a number of citizens. In these requests, SKAT stated that the citizens were required to send in information in order that it could be established whether they owed tax to Denmark.

After being contacted by the Tax Committee of the Council for the Danish Bar and Law Society, the Ombudsman decided to open an investigation on his own initiative of whether SKAT had complied with the rules in section 10 of the Act on Due Process in Connection with the Public Administration's Use of Compulsory Intervention and Duties of Disclosure on the privilege against self-incrimination. Under section 10 of the Act, a citizen is as a general rule not required to provide information to authorities if there is a specific suspicion that he or she has committed a criminal offence.

The Ombudsman stated that the requirement under section 1(1) of the Tax Control Act for citizens to account for the basis for information which they have reported in their tax returns was to be regarded as a duty of disclosure, which was subject to section 10 of the Act on Due Process in Connection with the Public Administration's Use of Compulsory Intervention and Duties of Disclosure.

The Ombudsman's investigation did not give him grounds to assume that there was generally a basis for specific suspicion, at the time at which the requests for material were sent out, against the citizens who were ordered to provide information. The Ombudsman therefore concluded that the rules on the privilege against self-incrimination had been observed. The Ombudsman's assessment was based on SKAT's general description of the information available at the time and of the procedure followed in the cases, as he had not looked into the individual cases about SKAT's requests for information.

In addition, the Ombudsman's investigation gave him no grounds for assuming that SKAT generally lacked a legitimate basis for asking the citizens for information concerning income years for which the ordinary deadline for assessment had expired.

The Ombudsman agreed with SKAT that an alteration should be made of the wording of the declaration of consent which SKAT had previously asked citizens who were under specific suspicion of committing a criminal offence to sign in cases where they wished to give their consent to provide information.

Prime Minister's Office

The following statements on cases concluded in 2018 have been published:

2018-5. Ministry could not refuse access to material on the grounds that it would shortly be made publicly available

The Prime Minister's Office partially refused a request from a journalist for access to correspondence between the Permanent Secretaries of the Prime Minister's Office and the Ministry of Immigration and Integration about the case of the then Ministry of Immigration, Integration and Housing issuing an instruction in February 2016 that no asylum seekers under 18 years of age were to be permitted to be accommodated in Danish asylum centres together with a spouse or cohabitee.

The Prime Minister's Office considered the correspondence to contain information which was to be released to the journalist under, among other provisions, section 28(1), first sentence, of the Access to Public Administration Files Act on the requirement to extract and grant access to certain information. In addition, the Prime Minister's Office was of the opinion that some documents of the correspondence were subject to the right of access.

However, the Prime Minister's Office released neither the information which was subject to extraction nor the documents which were subject to the right of access.

Instead, the Prime Minister's Office explained that the information and documents would be made publicly available on Parliament's website when the answer to a question asked by Parliament's Immigration and Integration Committee had been sent to Parliament. As authority for its decision, the Prime Minister's Office referred to section 28(2) paragraph (3) of the Access to Public Administration Files Act, which provides that there is no requirement to extract and grant access to information which is publicly available, and to section 40(1) paragraph (2) of the Act, under which an authority is not required to release material which is subject to the right of access if it is publicly available.

It was the impression of the Prime Minister's Office that the answer would be sent to Parliament at approximately the same time that it made its decision on the journalist's request for access. However, it turned out that the answer was not sent until two days later.

In the Ombudsman's opinion there was no basis for interpreting section 28(2) paragraph (3) and section 40(1) paragraph (2) of the Access to Public Administration Files Act as permitting authorities not to release material which is subject to the right of access in cases where the material has not yet been made publicly available but is expected to be so shortly. The Prime Minister's Office should therefore have released the material to the journalist when making its decision.

Further, the Ombudsman found that the material contained more information which was subject to extraction than assumed by the Prime Minister's Office. The Ombudsman therefore recommended that the case be reopened.

2018-24. Refusal of access to documents on the grounds of failure to specify subject

A journalist had asked the Prime Minister's Office for access to e-mails, if any, regarding ministerial matters received by the Prime Minister's Office within a specified time period from the private e-mail accounts of the Prime Minister and two employees.

The Prime Minister's Office denied the journalist access on the grounds that his request did not meet the requirement in section 9(1) paragraph (2) of the Access to Public Administration Files Act that a request for access must state the subject to which the case or document relates.

The Ombudsman stated that the starting point was clearly that the journalist's request did not meet the requirement in section 9(1) paragraph (2) because the subject of any e-mails of the nature concerned had not been specified. However, the question was whether the case involved such a 'quite extraordinary situation' as described in the White Paper on the Access to Public Administration Files Act that correspondence in itself might be regarded as the subject.

In the Ombudsman's opinion the term 'quite extraordinary situation' was to be understood in a narrow sense. On that basis, the Ombudsman had no grounds for repudiating the assessment of the Prime Minister's Office that the case did not involve a 'quite extraordinary situation' in which the correspondence in itself could be regarded as the subject. This applied despite the fact that – as a result of the purpose of his request – the journalist had no possibility of specifying the subject of any e-mails which might have been received by the Prime Minister's Office from the private e-mail accounts of the Prime Minister and the two employees.

Ministry of Health

The following statement on a case concluded in 2018 has been published:

2018-22. No illegal restriction of discretion in case about dentist's ownership of shares in pharmaceutical company

A dentist complained to the Ombudsman because the Danish Medicines Agency and the Ministry of Health had refused her permission to hold shares of a value exceeding DKK 300,000 at the time of purchase in a pharmaceutical company. Under the applicable rules, dentists require permission from the Danish Medicines Agency in order to hold shares of a value exceeding DKK 200,000 in, for instance, a pharmaceutical company. In their decisions to refuse the dentist permission, the authorities had referred to a recommended maximum limit of DKK 300,000, which was stated only in guidance notes on dentists' affiliation with, among others, pharmaceutical enterprises.

The dentist was of the opinion that by applying the recommended maximum limit to her case, the authorities had failed to exercise individual discretion as required by the rules. In other words, they had 'restricted the discretion which they were required to exercise by automatically applying guidance or policy'.

The dentist argued, among other things, that she should be granted permission as she did not use the products of the pharmaceutical company in her business as a dentist.

The Ombudsman stated that one of the objectives of the rules on permissions for health care professionals to have affiliations with, among others, pharmaceutical enterprises was to generally ensure the impartiality and credibility of health care professionals and patient confidence in their treatment.

Thus, under the applicable legislation, a decision whether share ownership could be permitted was not

to be based solely on whether it might have an actual influence on the applicant's prescription practice etc. – but also more generally on the nature of the company and the value of the applicant's ownership interest.

In addition, the Ombudsman stated that the authorities had explained that the maximum limit was a recommended limit.

On that basis, the Ombudsman could not criticise the authorities' refusal.

Ministry of Transport, Building and Housing

The following statement on a case concluded in 2018 has been published:

2018-2. Memorandum drawn up to form the basis for political discussions was comprised by the concept of 'environmental information'

The Ministry of Transport, Building and Housing had drawn up a memorandum on what the costs of shifting motorists from cars to trains would be. The memorandum was intended to form the basis for political discussions of modes of transport of the future.

A journalist who had written critical articles about the memorandum requested access from the Ministry to its correspondence with him and the publication for which he worked. The Ombudsman understood that the Ministry had complained to the journalist's editor-in-chief about his coverage of the memorandum.

The Ministry granted the journalist access under the Access to Public Administration Files Act to a number of files, and he subsequently requested access under the Environmental Information Act to the files to which he had been denied access.

The Ministry refused the journalist's request because it did not consider the information in the files to be environmental information.

In the Ombudsman's opinion it was most likely that the memorandum was an administrative measure which was likely to affect the elements of the environment, cf. section 3 paragraph (3) of the Environmental Information Act, which meant that it was comprised by the concept of 'environmental information'. In addition, the calculations and assumptions used in connection with the memorandum were environmental information in themselves, cf. section 3 paragraph (5) of the Act.

The files to which the journalist had requested access concerned the way in which the Ministry had handled the criticism that had been raised of the memorandum. The Ombudsman noted that the files concerned questions about the professional tenability of what was stated in the memorandum – and thus had a close connection with the memorandum in terms of contents. The Ombudsman was of the opinion that, at least under these circumstances, the information in the files was to be regarded as comprised by the concept of 'environmental information'.

Further, the Ombudsman referred, among other things, to the fact that one of the fundamental objectives of the rules on access to environmental information is more effective participation by the public in environmental decision-making.

On that basis, the Ombudsman recommended that the Ministry reopen the case.

Ministry of Higher Education and Science

The following statements on cases concluded in 2018 have been published:

2018-17. Ministry postponed granting access to report on radioactive waste until Government had policy statement ready for publication

A journalist asked the Ministry of Higher Education and Science for access to a report prepared by an interdepartmental working group on disposal of radioactive waste. It was clear to the Ministry just under two weeks after it had received the request that the

journalist was entitled to access to the report in full under the Environmental Information Act, but the Ministry decided to postpone its reply for about 10 days. The reason was that – because the issue of disposal of radioactive waste was politically very sensitive – the Ministry did not want to release the report to the journalist until it could be published on the Ministry's website together with a proposal for the Government's policy on the issue.

In the Ombudsman's opinion the Ministry was not entitled to postpone its reply to the journalist's request until the Government was ready to publish the report together with its proposal for a long-term solution in relation to the issue.

More specifically, the Ombudsman was of the opinion that the way in which the Ministry had handled the journalist's request was contrary to the rules of law applicable to the processing of such cases and contrary to very fundamental considerations and objectives behind the rules on access to public records. The Ombudsman therefore found that the way in which the Ministry had handled the case was a matter for extreme criticism.

In pursuance of section 24 of the Ombudsman Act, the Ombudsman notified Parliament's Legal Affairs Committee and the Minister for Higher Education and Science of the case. In addition, the Ombudsman notified Parliament's Higher Education and Research Committee.

2018-29. Certain of the pop-up messages displayed by the digital self-service system 'minSU' for, among other things, applications for educational grants were in effect decisions. The messages were subject to the duty of registration

In the Ombudsman's opinion the processing by the Danish Agency for Institutions and Educational Grants of so-called premature applications for educational grants by means of the self-service IT system 'minSU' was in some respects incompatible with the require-

ments on case processing set out in the Public Administration Act and the Access to Public Administration Files Act. These included the requirements to give grounds for decisions and guidance on appeal and the duty of registration.

The Ombudsman recommended that the Ministry of Higher Education and Science take steps to ensure that the Agency organised its processing of applications to comply with the requirements of administrative law.

In addition, the Ombudsman stated that he assumed that provisions on the earliest date on which an application could be submitted – which were published solely on the authorities' websites and mentioned in 'minSU' – would be stipulated in an executive order.

Ministry of Foreign Affairs

No statements on cases concluded in 2018 have been published.

Ministry of Immigration and Integration

The following statements on cases concluded in 2018 have been published:

2018-9. Incorrect guidance on www.borger.dk¹ about right to cash benefit or integration benefit

Following press coverage about allegedly misleading guidance on www.borger.dk about the right to cash/ education benefit or integration benefit, the Ombudsman opened a case on his own initiative with the Ministry of Immigration and Integration and the Agency for Digitisation about the guidance.

The Ombudsman stated that it was regrettable that the guidance on www.borger.dk only became correct after he had contacted the authorities.

At the time of the press coverage and the Ombudsman's letter asking the authorities for statements

on the matter, it was stated on the relevant page of www.borger.dk that www.borger.dk (i.e. the Agency for Digitisation) was responsible for the content of the page. However, the Ombudsman found that in a situation such as the present, the primary responsibility for initiating revisions of information on www.borger.dk in connection with, for instance, changes in legislation and practices had to rest with the authority which has the remit for the relevant area, in this case the Ministry of Immigration and Integration.

The purpose of guidance on www.borger.dk is to give citizens an overview and coherence in their digital communication with the public sector. However, the Ombudsman pointed out that, in addition, the work of the individual municipalities with their own websites would presumably be easier if – when choosing to provide information about the law in an area – they could provide correct information via a link to www.borger.dk.

2018-14. Refusal to read out internal e-mail which had been read out previously in another context

The special advisor to the Minister for Immigration and Integration read out an internal e-mail during a telephone conversation with a Member of Parliament from the Minister's party. The purpose of his reading out the e-mail was to help the Member of Parliament as he was to take part in a television debate about the issue which was the subject of the e-mail.

When a citizen who took an interest in the issue subsequently asked to have the e-mail read out as well, his request was refused. The Ministry disagreed with the man that it was required under the principle of administrative law on equality to read out the e-mail to him.

The Access to Public Administration Files Act does not govern questions of entitlement to obtain information verbally from authorities, for instance by having documents which are exempt from access read out;

1) A common public-sector portal providing a single point of access to the authorities' digital self-service solutions and information about public authorities and services

and the Ombudsman agreed with the Ministry that the two situations were also not to be treated identically under the principle of administrative law on equality.

The Ombudsman therefore could not criticise the Ministry's decision.

Ministry of Education

No statements on cases concluded in 2018 have been published.

Ministry for Economic Affairs and the Interior

The following statements on cases concluded in 2018 have been published:

2018-3. It is good administrative practice to explain and apologise for a significant case processing error to the citizen involved

A self-employed man, who owned several companies, went out of business in 2009. He subsequently received unemployment benefit from 2009 until 2011. However, the Employment Committee of the National Social Appeals Board made a decision in 2015 that the man was to repay DKK 466,090 of unemployment benefit before tax and interest because he had not sold his holding company or changed its objects clause to 'asset administration'.

During the repayment case with the authorities, the man pointed out that there had been no activity in the holding company since 2009. As documentation, he had sent in accounts and other documents. After being contacted by the Ombudsman on the matter, the Employment Committee changed its decision, and the demand for repayment of unemployment benefit was dropped.

The way in which the case had been handled by the Committee caused the Ombudsman to ask the Committee supplementary questions on his own initiative about its practice in cases of this type. In its statement to the Ombudsman, the Committee explained that its

decision on repayment in the specific case had been made on an inadequate basis because it had overlooked the accounts which the man had sent in.

However, when changing its decision on repayment, the Committee had not given the man an explanation of the error or apologised for the course of events resulting from the error. The Ombudsman agreed with the Committee that it should have done so – especially in the light of the amount which the man was originally ordered to repay.

As the Employment Committee had subsequently explained and apologised for the error, the Ombudsman took no further action on the matter.

2018-11. Processing time of State Supervisory Authority of Municipalities and Regions. Requirements on content of updates

A man complained to the Ombudsman about the processing time of the State Supervisory Authority of Municipalities and Regions (which supervises municipalities' and regions' observance of the legislation applying specifically to public authorities).

The Ombudsman stated that a processing time by the Supervisory Authority of more than 26 months until its decision not to open a case with the municipality about which the man had complained was too long. The processing time was far longer than the target average processing times for the Supervisory Authority for 2015, 2016 and 2017.

The man was given five updates by the Supervisory Authority while it was processing his case. Several of these updates were given following a request from the man for a reply to his complaint about the municipality. In the last two updates, the Supervisory Authority stated that it was not possible to give details of when a decision could be expected.

The Ombudsman stated that the Supervisory Authority should have sent updates to the man sooner than

it did and at its own initiative. In addition, the Ombudsman considered the content of some of the updates inadequate.

The Ombudsman agreed that precise information is not to be given about when a decision can be expected if this is not possible. However, the Ombudsman was of the opinion that in that case, the authority should inform the citizen about the reason(s) for the delay. The Ombudsman also found that in accordance with good administrative practice, updates from an authority should contain information about the time frame within which a decision can be expected based on, among other factors, the available information and the nature and type of the case.

The Ombudsman therefore recommended that in future, the Supervisory Authority ensure that the content of its updates be in keeping with his statement on the case.

2018-31. Cash benefit or integration benefit for homeless person. Documentation of residence. Guidance

In order for a person to be eligible for cash benefit, he or she must as a general rule be able to document that he or she has lived in Denmark, Greenland or the Faroe Islands for at least a total of seven out of the last eight years.

A homeless man claimed that he had been living in Denmark for the whole period. In this connection, he referred to the fact that his passport had expired in 2004. The man subsequently stated that three named persons would be able to attest his residence in Denmark.

The National Social Appeals Board declined to ask for declarations from the three persons, explaining that the persons did not represent 'an authority, an organisation or another official body' and that declarations from the man himself and his family and acquaint-

ances could not 'in themselves' constitute adequate documentation. The Board found that the man was entitled to integration benefit – not cash benefit.

The Ombudsman agreed with the National Social Appeals Board that section 11(7) of the Act on an Active Social Policy imposed a heavy burden of proof on the citizen – but that the rule did not change the fact that the authorities were required to investigate the case adequately in pursuance of the ex officio investigation principle. In the Ombudsman's opinion the National Social Appeals Board could not deny the homeless man's wish for witness statements to be included in the information on the basis of which the decision was to be made because the Board assessed that they would not be necessary or relevant for the decision.

Under EU law, citizens of the EU/EEA may be eligible for cash benefit even if they have been living in a country other than Denmark. In the Ombudsman's opinion the authorities should have guided the homeless man on the possibility of documenting residence in a country other than Denmark – considering that he might have lived in another country during the period at issue but nevertheless have retained his right to cash benefit.

The Ombudsman recommended that the National Social Appeals Board reopen the case.

Municipal and regional authorities etc.

The following statements on cases concluded in 2018 have been published:

2018-4. Information relating to new harbour facilities was environmental information

A man had asked a municipally owned self-governing harbour for access to information in material relating to the construction of new harbour facilities. The harbour refused the man's request with reference to provisions in the Access to Public Administration Files Act 2013.

In connection with the Ombudsman's investigation of the case, the harbour expressed its regret that it had not been mindful of the Environmental Information Act when making its decision. The harbour subsequently stated that it considered the information in some of the material to be subject to the Environmental Information Act. However, the harbour found that there was no right of access to the information under that Act either.

The Ombudsman found that the information in the material which the harbour did not consider to contain environmental information was in fact environmental information, and that therefore also the question of access to that information was to be considered under the Environmental Information Act. Some of the material in question contained information about budget figures for annual revenue and expenditure several years into the future for the new harbour facilities. Other material contained information about the lease of a site which was part of the new harbour facilities, including information about the use of the leased site and the lease period. Still other material contained information about a credit agreement between the harbour and KommuneKredit (an association with the objective of granting loans to municipalities and regions) relating to the financing of the new harbour facilities.

With regard to the harbour's refusal of access to the information contained in the material which it considered to be subject to the Environmental Information Act, the Ombudsman was of the opinion that the harbour had not made an adequate assessment of whether access to the information could be denied under the Environmental Information Act.

On that basis, the Ombudsman recommended that the harbour reopen the case in its entirety and make a new, overall decision on access under the Environmental Information Act.

2018-6. Refusal of access to information about fee for providing speaking announcements to public transport operator

A public transport operator refused a request from a journalist for access to information about the size of the fee received by a production company for providing speaking announcements for public transport. In its decision, the public transport operator referred to section 30 paragraph (2) of the Access to Public Administration Files Act.

The Ombudsman had no grounds for repudiating the operator's assessment that there would be a risk of the announcer and his production company suffering financial loss of some significance if information about the fee was released to the journalist. Overall, the Ombudsman could therefore not criticise the operator's refusal of access to the information.

The Ombudsman explained that there is a clear presumption that disclosure of information which falls within the scope of section 30 paragraph (2) will involve an obvious risk of significant financial loss to the enterprise or person to which or whom the information relates. In this connection, the Ombudsman pointed out that the public transport operator had contacted the production company several times for details of the risk of financial loss which would be involved in disclosing the information. The production company had explained to the operator, among other things, that a specific fee was agreed for each job for which the company/announcer was contracted, and that disclosure of the size of the fee agreed for one job could very likely weaken the company's hand in negotiations about the announcer's fees for future jobs. The production company also stated that it always regarded this type of information as confidential information on business matters/matters pertaining to operations, which it never disclosed to third parties.

In addition, the Ombudsman could not criticise the refusal of the public transport operator to grant access to the information according to the principle of extended openness.

2018-12. Disciplinary warning for posts on Facebook was an infringement of the freedom of expression of public employees. No requirement to raise criticism internally first

An employee of a municipal home care service criticised the manager and the working environment of the home care service in a post in a Facebook group for employees of the home care service. The employee criticised the manager of having hurled unjustified abuse at her and added that it was not the first time it had happened. She also stated that there had been several complaints about the manager and the working environment and that the trade union had therefore now called a meeting for all employees.

The posts also became known to people outside the group, and the municipality summoned the employee to a disciplinary hearing. In the municipality's opinion the wording and tone of her posts were too offensive and the posts contained undocumented information that there had been several complaints about the manager. The employee was subsequently given a written warning.

In the Ombudsman's opinion the employee's statement that her manager had hurled unjustified abuse at her was clearly within the limits to the freedom of expression of public employees. In addition, he did not find that the comment that there had been several complaints overstepped the limits of this freedom of expression. The written warning was therefore a violation of the rules on freedom of expression for public employees.

Further, the Ombudsman criticised that the municipality had demanded at the disciplinary hearing that in future the employee contact the management or use the internal channels for criticism of conditions within the home care service.

The Ombudsman recommended that the municipality reopen the case about the written warning and in this connection also make it clear to the employee that as a public employee she was entitled to express public criticism of the home care service without raising her criticism internally first.

2018-21. Foundation not subject to Access to Public Administration Files Act

A newspaper article stated that the foundation *Fonden Aarhus 2017* – which was, among other things, responsible for carrying out the *European Capital of Culture 2017* project² – had denied the newspaper access to information about how it was spending its budget of approximately DKK 500 million.

The grounds given by the foundation for denying the newspaper access were that the foundation was not subject to the *Access to Public Administration Files Act*.

One question to be addressed by the Ombudsman was whether the foundation was subject to the provision in section 3(1) paragraph (2) of the *Access to Public Administration Files Act*, under which the Act is applicable to all activities carried out by 'independent institutions, associations, foundations etc. established under private law which are engaged in public sector activities on an extensive scale and are subject to intensive public regulation, intensive public supervision and intensive public control' (unofficial translation).

2) The city of Aarhus had been elected 'European Capital of Culture' for 2017 by the EU Council of Ministers.

The other question was whether the foundation was subject to the provision in section 4(1) of the Access to Public Administration Files Act, which states that the Act is applicable to all activities carried out by companies etc. which are more than 75 per cent owned by Danish public authorities, with the exception of companies listed on a stock exchange and subsidiaries of listed companies.

In the Ombudsman's opinion the foundation was subject to neither section 3(1) paragraph (2) nor section 4(1) of the Access to Public Administration Files Act. On that basis, the foundation thus did not fall within the scope of the Act.

2018-23. Municipality's decision not to take part in television programmes during election campaign did not restrict employees' freedom of expression

A municipal chief executive informed the municipal council and the executive board that the municipality did not wish to take part in television programmes in connection with the municipal elections in November 2017.

The decision was not communicated to the employees of the municipality, either verbally or in writing. Instead, the employees learned about the decision from press coverage. The press coverage gave the impression, among other things, that the employees 'had been gagged' and that the municipality had refused the press access to its workplaces.

In the Ombudsman's opinion the municipality's decision did not restrict its employees' right to express their views in a private capacity. Thus, they could still express their views in a private capacity within the limits described in the guidance notes on public employees' freedom of expression issued by the Ministry of Justice.

However, the Ombudsman stated that the press coverage might have caused uncertainty among employees of the municipality about their right to express their

views. In the Ombudsman's opinion it would therefore have been most appropriate if the municipality had taken steps immediately following the press coverage to actively inform its employees about their right to express their views in a private capacity.

The municipality stated to the Ombudsman that it was very regrettable if some employees were or had been in doubt about the scope of their freedom of expression. After being contacted by the Ombudsman, the municipality had sent a newsletter to all its employees informing them about the freedom of expression which they had as public employees. In addition, the issue of freedom of expression was discussed at a meeting of the municipality's top committee on contributory influence and co-determination.

On that basis, the Ombudsman took no further action on the matter.

2018-26. Boy in care outside his home subjected to illegal monitoring by accommodation facility and municipality

An accommodation facility had, among other things, taken screenshots of the mobile phone of a boy placed in the facility and written down his conversations with his former foster family. The facility had subsequently forwarded the information to the municipality responsible for the placement.

The Ombudsman stated that the boy's communication had been monitored – and that in his opinion it had been monitored illegally because no decision had been made by the municipality's committee for children and young people that the boy's communication was to be monitored.

In addition, the Ombudsman stated that the municipality had had a very significant role in the matter and had in his opinion contributed to a high degree to the boy's communication being monitored by the accommodation facility.

Further, the Ombudsman was of the opinion that even if the authorities obtain consent for the monitoring of the communication of a child or a young person in care outside his or her home, whether from the child or young person or from a person with parental responsibility, it is not possible to dispense with the requirement that the municipality's committee for children and young people must make a decision that the communication is to be monitored before such monitoring can be initiated.

The Ombudsman pointed out that as a result of the fact that no decision had been made, the special legal guarantees in relation to decisions on monitoring the communication of children in care outside their home had not been observed.

In the Ombudsman's opinion the boy's legal rights had been severely infringed.

The Ombudsman decided to notify Parliament's Legal Affairs Committee, the Minister for Children and Social Affairs and the municipal council of the case in pursuance of section 24 of the Ombudsman Act.

Further, the Ombudsman asked the municipality to inform him how it would in future ensure that it observed the rules on initiating monitoring of the communication of children and young people in care outside their home.

2018-28. School and municipality made significant errors in handling of conflict-ridden case involving pupils

A 16-year-old schoolboy suffered serious burns when he was hit by a bottle of burning petrol. Four boys of the victim's age, who were also pupils at his school, were convicted as the perpetrators in the case. Following the incident, some citizens contacted the Ombudsman as they were concerned about and dissatisfied because of inadequate action by the school and the municipality prior to the incident.

The Ombudsman subsequently decided to investigate certain aspects of the case on his own initiative.

In his statement on his investigation of the case, the Ombudsman noted that significant errors had been committed in relation to the rules of, among other things, the Access to Public Administration Files Act on the requirement to take notes and the requirement to keep records.

The Ombudsman assessed that these errors had had an impact both on the school's and the municipality's ongoing overview of the case and on their subsequently being able to explain and provide reasons for what had happened and been done in the case.

The Ombudsman also noted that significant errors had been committed in relation to the rules of the Social Services Act on the requirement for public employees to notify the municipality if a child or a young person is or may be in need of special support.

Thus, for instance, the Ombudsman was informed that it 'had not been the practice' of the school to 'give notifications to a pronounced extent' if the social services department was already involved in a specific case concerning a pupil and measures under Part 11 of the Social Services Act had already been initiated. The Ombudsman agreed with the authorities that this involved a risk that notifications were not given in accordance with section 153(1) of the Social Services Act.

Overall, the Ombudsman took into account that the school had not to the relevant extent given notifications to the municipality under the rules of the Social Services Act.

The Ombudsman stated that it was not possible to establish to what extent correct observance of the above-mentioned rules would have contributed to preventing the overall chain of events, including the

incident in which the 16-year-old boy suffered burns. However, the Ombudsman was of the opinion that correct observance of the rules would – other things being equal – have been likely to contribute to preventing the chain of events.

2018-33. Municipality made significant processing errors in four cases about returns of children and young people in care outside their home

The Ombudsman carried out an investigation of a municipality's processing of four cases about returns of children and young people who had been placed in care outside their home. The cases investigated by the Ombudsman were randomly selected from a total of 12 cases about returns in which the municipality had made decisions within a specified period of time.

In the Ombudsman's opinion the municipality's processing of the cases was overall a matter for severe criticism.

One reason for this was that in none of the four cases the municipality appeared to have revised the children's or young people's action plans before their return and specified the further measures to be taken in connection with their return. In addition, the municipality did not appear to have carried out a consultation with the child or young person about his or her return in any of the four cases before making its decision.

Further, in the three cases in which the children or young people were aged 12 or over, the municipality did not appear to have communicated to them its decisions that they were to be returned home. In the Ombudsman's opinion the decisions should have been communicated to them in writing – or have been confirmed to them in writing very soon after the decisions had been made – and under sections 22-25 of the Public Administration Act, the grounds for the decisions should have been stated and the decisions should have been accompanied by guidance on appeal.

In two of the decisions, the parents had not been given adequate grounds by the municipality for its decision. Further, the municipality had failed to notify its committee for children and young people in accordance with the provisions of the Social Services Act in connection with the return of a young person who had been placed in care without his parents' consent.

Overall, the Ombudsman's review of the cases gave cause for general concern about the municipality's processing of cases about returns of children and young people in care.

The Ombudsman therefore asked the municipality to inform him how it would in future ensure that cases about returns would be processed in accordance with the legislation and in accordance with what was stated in his report.

On account of the nature of the case, the Ombudsman found cause to notify the municipal council of the case. Further, as the issues involved in the case could be of general relevance in cases about returns of children and young people in care, the Ombudsman also decided to notify the National Social Appeals Board and Local Government Denmark (the association and interest organisation of the 98 Danish municipalities) of his report.

2018-34. Information in case about renewal of alcohol licence was not environmental information

The Licensing Board of the City of Copenhagen partially refused a man access to two documents which were part of a case about renewal of an alcohol licence for a pub. One of the documents was a recommendation for the Board's decision prepared by the Secretariat to the Board, the other was the Board's decision. The Board's partial refusal of access was subsequently upheld by the Culture and Leisure Committee of the City of Copenhagen.

The man complained to the Ombudsman because the authorities had made their decision under the Access to Public Administration Files Act as he was of the opinion that the decision should have been made under the Environmental Information Act.

In the Ombudsman's opinion the decisive factor in whether the decision should have been made under the Environmental Information Act was whether the information in the case was comprised by section 3 paragraph (3) of the Environmental Information Act. Under the provision, information concerning measures affecting or likely to affect the elements of the environment is environmental information.

The Ombudsman found that a decision to renew or not to renew an alcohol licence was a 'measure', and that the same applied to a secretariat recommendation for the decision.

The question was subsequently whether they were measures 'affecting or likely to affect the elements of the environment'.

Based on an overall assessment, the Ombudsman was of the opinion that it was most likely that the information in the case was not comprised by the concept of environmental information as he did not find that the decision made by the Licensing Board and the Secretariat's recommendation 'were likely to affect the elements of the environment' within the meaning of section 3 paragraph (3) of the Environmental Information Act.

In this connection, the Ombudsman gave weight to, among other things, an opinion provided by the European Commission and the fact that in the case at hand, the specific measures did not in themselves relate to any environmental matters and could only have an indirect impact on the environment.

The Ombudsman therefore could not criticise that the authorities had not considered the request for access under the Environmental Information Act.

Other authorities etc. within the Ombudsman's jurisdiction

The following statements on cases concluded in 2018 have been published:

2018-1. Receipt and handling by Labour Market's Holiday Fund of communications sent via Digital Post

A complaint from a citizen caused the Ombudsman to open a general investigation on his own initiative with the Labour Market's Holiday Fund about its ability to reply to communications sent to it via Digital Post³. The Ombudsman's investigation showed, among other things, that the Fund used an IT solution which was flawed in respect of both recipient and sender functionality. As a result, the Fund had had problems replying to some of the communications which it had received via Digital Post.

The Ombudsman stated, among other things, that citizens are entitled to use Digital Post in communication with public authorities which are connected to the Digital Post service as 'public senders'. This follows from section 8 of the Act on Digital Post from Public Senders. As a result of this right, the authorities in question must be able to receive and handle communications sent via Digital Post.

The Ombudsman was understanding of the fact that the legal and technical framework conditions for the Fund's connection to Digital Post as a public sender had caused the Fund problems. The Ombudsman appreciated that IT solutions can be quite complex and that, depending on the circumstances, this can also be very much the case with special IT solutions at the individual authority. Nevertheless, it is an authority's

3) A digital letterbox service by which citizens and businesses can communicate with public authorities

responsibility to ensure that the IT solutions which it uses comply with the requirements of administrative law. Thus, it is the responsibility of the Labour Market's Holiday Fund to ensure that, as a public sender, it is able to receive and handle communications which are sent to it via Digital Post.

As the Fund had replied – after the Ombudsman had opened the case – to all communications which it had received via Digital Post and had taken relevant measures in order to avoid a similar situation in the future, the Ombudsman took no further action on the matter.

2018-32. Minutes of board meetings from company had not been 'received by' Danish central bank

The Danish central bank, Danmarks Nationalbank, denied a journalist access to minutes of board meetings of Bankernes Kontantservice A/S, a company set up by the Danish Bankers' Association and the central bank to improve the safety and efficiency of cash handling for Danish banks.

The minutes had been sent to the Governor of the central bank at his workplace at the central bank. The Ombudsman was informed that the Governor had been appointed a member of the board of the company by the central bank.

The grounds given by the central bank for its refusal of access were that the minutes had not been received by the central bank in its capacity as an authority and were therefore not subject to the right of access under section 7(1) of the Access to Public Administration Files Act.

The Ombudsman pointed out that the circumstance that the minutes had been sent to the Governor of the central bank and had been registered in the electronic records system of the central bank did not in itself have the consequence that the minutes could be considered to have been 'received by' the central bank. In this connection, the Ombudsman gave weight to information that the material was kept separate from

the other cases of the central bank and was subject to access restriction and that it had not been used in any other cases of the central bank.

The Ombudsman was of the opinion that the fact that the secretary to the Governor, the Head of Cash Supply and the Chief Legal Officer of the central bank also had access to the minutes was not grounds for considering the minutes to have been received by the central bank.

The Ombudsman explained that based on the White Paper on the Access to Public Administration Files Act, it is to be presumed that a public employee who has been appointed a member of the board of a company by the authority by which he or she is employed may spar with, for instance, employees of the authority who have special expertise in a specific field without the consequence that any material to which such employees are given access in this connection is to be considered to have been received by the authority.

On that basis, the Ombudsman could not criticise that the central bank had denied the journalist access to the minutes.

**17/04311**

A woman was dissatisfied because the Greater Copenhagen Light Rail had denied her access to the tenders from the first round of tendering for the light rail project.

The Ombudsman contacted the Procurement Appeals Board, which informed him that the Board considered appeals against decisions about access to information regarding public tendering procedures.

Hence, the Ombudsman forwarded the woman's complaint to the Procurement Appeals Board in order for the Board to determine whether it could consider the woman's complaint about the decision from the Greater Copenhagen Light Rail on access.

The Appeals Board then considered the woman's complaint.

The Ombudsman cannot consider complaints which another authority can consider. On receiving a complaint, the Ombudsman therefore checks if there is a channel of complaint or appeal which has not been exhausted.

**18/02308**

A daily newspaper brought a number of articles about a mayor's visit to a hairdressing salon in the municipality. During the visit, a video about the salon had been recorded and was now to be found on YouTube. The video showed the mayor getting a haircut and which hair products the hairdresser used. According to a law professor quoted in the newspaper, it was a violation of the local authority mandate that the mayor in this way participated in a kind of advertisement for a specific business.

The Ombudsman made an enquiry about the case to the National Social Appeals Board which had already asked the municipality for a statement. The National Social Appeals Board came to the conclusion that the municipality had violated the local authority mandate. The Ombudsman subsequently stated that he would take no further action in the matter.

The Ombudsman may take up a matter for investigation on his own initiative, based on for instance media coverage.

**18/02625**

During the summer of 2018, the Ombudsman received a number of enquiries from citizens who had received a letter from the municipality about a freeze on land tax increases on their properties. In the meantime, the municipality was going to grant the citizens a loan corresponding to the increase. A woman wrote, among other things, that it was an incapacitation of her that she could not herself decide whether she wanted a loan or to pay straightaway.

In his replies to the citizens, the Ombudsman wrote that he could not help because the scheme on a freeze on land tax increases for the years 2018-2020 was prescribed by law and that it was evident from the legislative history of the law that the loan would be granted automatically. For that reason, the individual owner did not have to apply to the municipality for the loan, and the owner could not reject the scheme.

The jurisdiction of the Ombudsman does not extend to complaints about Parliament and the contents of acts passed by Parliament. Nor can he otherwise engage in questions of a legislative political nature.



Extracts from news published on the Ombudsman's website in 2018

The number of subscribers to the Ombudsman's e-mail service where an e-mail is sent out each time a news story is published (in Danish) on the Ombudsman's website was 3,883 as at 31 December 2018. To subscribe to the service, go to www.ombudsmanden.dk/nyhedsbrev/.

The Twitter account @ombudsmanden_ had 1,619 followers.

In the autumn of 2018, the Ombudsman started sending out press releases in addition to news stories. Press releases are more factual and are typically about processes in major cases. Press releases are published on the Ombudsman's website and distributed via Twitter but, unlike news stories, they are not sent to subscribers to the Ombudsman's e-mail service. The following pages only contain news stories, not press releases.

5 January

New Deputy Director General of Ombudsman institution

Lise Puggaard will be the new Deputy Director General of the Ombudsman institution from 1 April 2018.

12 January

The judgement in the Paposhvili case – the Ombudsman's role

A number of media have asked the Parliamentary Ombudsman if he is going to take up the case of the way in which the Ministry of Immigration and Integration has handled the judgement by the European Court of Human Rights on 13 December 2016 in the so-called 'Paposhvili case' and its implications for, among others, cases about humanitarian residence permits.

...

The Ombudsman is following the case, and after the upcoming consultation to which the Minister for Immigration and Integration has been summoned about the case, he will decide whether he has a basis for taking any initiatives in relation to the matter.

16 January

Ombudsman asks City of Copenhagen clarification questions about right of employees to pass on information to press

The Ombudsman has just asked the City of Copenhagen for a new statement in the case about the right of employees to pass on information to the press.

17 January

New initiatives to ensure action plans are made for children placed in care outside their home

Some children who have been placed in care outside their home do not have an action plan despite the fact that this is a statutory requirement and important for the individual child. But now several initiatives are being taken to ensure action plans are made for children placed in care outside their home, the Ministry for Children and Social Affairs writes in a reply to the Ombudsman.

Following monitoring visits to residential institutions for children in care, the Ombudsman carried out an investigation of 26 cases about action plans, 20 of which gave rise to criticism. In May 2017, the Ombudsman therefore asked the Ministry for Children and Social Affairs whether it intended to take any measures as a result of his investigation.

18 January

Problems in relation to use of force in secure residential institution

The number of incidents involving use of physical force was high, the documentation was inadequate in some instances and several incidents had been recorded and reported too late to the relevant authorities.

These were things the Ombudsman's visiting team learnt during a monitoring visit in May 2017 to Egely, a secure residential institution for, among others, young people who are remanded in non-prison custody during investigation of their case. For this reason, the Ombudsman has now sent the institution a number of recommendations.

19 January

Ombudsman asks further questions in 'Ry case'

After going through comprehensive material in the so-called 'Ry case', the Parliamentary Ombudsman has now sent a number of questions to the municipality and the school of the boys involved in the case. The questions concern, among other things, the practices of the municipality and the school in relation to documentation of relevant information, in relation to notifications of the municipality under the Social Services Act that a child or a young person is or may be in need of special support and in relation to temporary exclusions of pupils from lessons and considerations whether to transfer pupils to another school.

The case emanates from the incident which took place on 6 February 2017 in the town of Ry where a 16-year-old boy suffered serious burns when he was hit by a bottle of burning petrol. Four boys of his age have subsequently been convicted as the perpetrators in the case.

24 January

Ombudsman to focus on exclusion of inmates from association with other inmates

In 2018 the Ombudsman's Monitoring Department will have special focus on the form of solitary confinement which is called exclusion from association.

1 February

Digital communication with citizens is the Labour Market's Holiday Fund's own responsibility

The Labour Market's Holiday Fund has developed its own IT solution in order to be able to communicate with citizens and businesses via Digital Post from public senders¹.

In a recent statement, the Ombudsman concludes that it is the Fund's responsibility to ensure that the IT solutions which it uses function.

6 March

Ombudsman to focus on children with asylum background

This year, staff of the Ombudsman's Children's Division are going to visit a number of children's asylum centres and private accommodation facilities for, among others, children and young people with an asylum background – as the theme chosen for the monitoring visits by the Ombudsman's Children's Division in 2018 is children with an asylum background.

9 March

Ombudsman takes up case about primary and lower secondary school demanding that pupils bring their own laptop to school

'In future, pupils will (...) be expected to bring their own IT equipment, i.e. a laptop, to school.'

This was the message which the parents of pupils in their third year at a primary and lower secondary school in Sønderborg received in the summer of 2017. One of the parents subsequently complained to the Parliamentary Ombudsman about the message.

The Ombudsman has now taken up an investigation of whether the school and the municipality have gone too far in the light of the statutory principle that educational materials are to be provided free of charge in primary and lower secondary schools. (...)

13 March

Authorities should explain and apologise for significant errors to the citizens involved

If an authority has made a significant error in relation to a citizen, it is not enough simply to remedy the error. Often the authority should also give the citizen involved

¹) A digital letterbox service by which citizens and businesses can communicate with public authorities

an explanation of the error and in certain cases an apology as well. That follows from good administrative practice.

For this reason, the Ombudsman has stated in a letter to the Employment Committee of the National Social Appeals Board that the Committee should have given a formerly self-employed man an explanation of a significant case processing error which meant that he was at first ordered to repay unemployment benefit received over a period of two and a half years. (...)

22 March

Tax authorities following up on critical report from Ombudsman

In a major investigation, the Ombudsman has identified a number of problems of significance for citizens' trust in the tax authorities. The findings of the investigation have just been sent to the tax authorities with a view to enabling them to improve their processing of cases.

23 March

Criticism of television programme expressed by employee of Danish Broadcasting Corporation was too offensive

Public employees have extensive freedom of expression. However, there are a few restrictions. For instance, an employee of the Danish Broadcasting Corporation (DR) went too far in criticism on Facebook of one of DR's television programmes. This is the conclusion of a recent statement from the Ombudsman.

27 March

Ombudsman asks questions about initiatives following Paposhvili case

The Ombudsman has been following the case of the way in which the Ministry of Immigration and Integration has handled the judgement by the European Court of Human Rights on 13 December 2016 in the so-called 'Paposhvili case' and its implications for, among others, cases about humanitarian residence

permits. The Ombudsman has now asked the Ministry of Immigration and Integration to inform him what the Ministry is doing to rectify the situation and ensure that a similar situation does not occur again.

4 April

Ministry postponed granting access to report until policy statement was ready

If a citizen is entitled to access to public records, the records must be released to the citizen as soon as possible. That means that an authority is not permitted to postpone granting access to documents until, for instance, it is politically convenient to release them.

For this reason, the Parliamentary Ombudsman finds it a matter for extreme criticism that the Ministry of higher Education and Science waited about 10 days until it sent a report to a journalist because the Ministry wanted to release the report itself together with a press release about the Government's policy statement on the issue.

18 April

New Annual Report: focus on being constructive

'Unfortunate', 'regrettable', 'a matter for criticism' – these are terms which many authorities associate with the Ombudsman institution. And although criticism remains a fundamental tool of the institution, the Ombudsman explains the subtleties of the issue in his Annual Report for 2017, which has just been published. In particular, he emphasises that the institution's objective can never per se be to find errors made by authorities – but to contribute to solutions.

23 April

After nine years patients still cannot see who has accessed their medical records

In 2007, Parliament inserted a provision in the Health Act aimed at enabling patients to see who had accessed their medical records and when. At the time, the Minister for Health stated that efforts would be

made to ensure that patients would have access to the logs from 1 January 2009 at the latest.

Today patients have access to certain log data, for instance via Sundhedsportalen, the electronic healthcare platform combining a patient's medical records into one record – which has only been implemented in two of the five regions in Denmark, however. Thus, full access for all patients to log data is not yet a reality. For this reason, the Ombudsman has notified Parliament of the case.

7 May

Correspondence between Crown Prince and IOC in principle subject to right of access

Correspondence between the Government and the Royal House about The Crown Prince's tasks as a member of the International Olympic Committee (the IOC) is in principle subject to the right of access. So says the Ombudsman in a recent statement.

22 May

Ombudsman to look into new grounds given for withholding correspondence about Crown Prince and IOC

In a statement of 24 April 2018, the Ombudsman concluded that letters exchanged between the Government and the Royal House about The Crown Prince's tasks as a member of the International Olympic Committee (the IOC) are not internal documents within the meaning of the Access to Public Administration Files Act, and that for this reason they are in principle subject to the right of access. (...)

The Ministry of Culture has now made a new decision on the matter. Some information has been released to the journalist who had requested access to the correspondence, but other information is still being withheld – this time with reference to other provisions of the Act. The Ombudsman is now to look into the Ministry's new decision as the journalist has complained to the Ombudsman again.

23 May

Claims for refunds of dividend tax may have gone missing at Customs and Tax Administration

For a number of years until 2016, the Danish Customs and Tax Administration (SKAT) did not register claims for refunds of dividend tax correctly. As a result, SKAT did not have an overview of the cases, and claims may have gone missing.

The Ombudsman has now asked SKAT to consider providing information about the problem on its website, stating that claims for refunds of dividend tax may have gone missing and that affected citizens should contact SKAT.

29 May

Ombudsman maintains assessment of conditions for foreign nationals with tolerated residence status

Following two monitoring visits in October 2017 to Departure Centre Kærshovedgård, the Parliamentary Ombudsman maintains his previous assessment of the conditions for foreign nationals with tolerated residence status who are required to reside at a centre. The visits were carried out as a follow-up to similar monitoring visits in 2012 and 2014 to the Sandholm asylum centre, where persons with tolerated residence status were placed at that time.

30 May

Update on Ombudsman investigation of 'Ry case'

Journalists and others have been taking an ongoing interest in the Ombudsman's investigation of the so-called 'Ry case' – including in when the Ombudsman expects to conclude his investigation.

The case emanates from an incident which took place on 6 February 2017 in the town of Ry where a 16-year-old boy suffered serious burns when he was hit by a bottle of burning petrol.

...

The Ombudsman expects to be able to conclude his investigation by the end of September.

31 May

Ombudsman opens case about minor inmates' association with adult inmates in Prison and Probation Service institutions

...

In connection with monitoring visits to two closed prisons – Ringe Prison and Nyborg Prison – the Ombudsman has become aware that minor inmates have association with adult inmates. The rules on minor inmates' association with adult inmates set out in the executive order on the handling of 15- to 17-year-old offenders placed in Prison and Probation Service institutions do not apply to these two prisons. For this reason, the Ombudsman has now asked the Department of Prisons and Probation and the Ministry of Justice which guidelines apply to minor inmates' association with adult inmates in the two prisons.

1 June

Concrete measures will be taken to prevent suicides in immigration detention centre

Exposed pipes on the ceilings of the immigration detention centre Ellebæk will soon be hidden. This is the result of the Ombudsman pointing out that in recent years several detainees have attempted to commit suicide using the pipes.

7 June

Legal to group and process several requests for access to documents or information together, but time limits must still be observed

When an authority receives several requests for access to documents or information about the same subject, it is legal for it to process the requests together to save resources. But the authority must still comply

with the time limits set out by the Access to Public Administration Files Act for each individual request.

This is the message after the Parliamentary Ombudsman has raised the question with the Ministry of Justice, which has now sent information to all other ministries about the issue.

11 June

The People's Political Festival 2018: How fierce should Parliament's watchdogs be?

The country's top watchdogs check that the public sector complies with rules and regulations – and does so in an efficient manner. But how fierce should a watchdog be?

This question has been the subject of vociferous debate over the last year, and at the People's Political Festival 2018, the question will be addressed directly to the country's top watchdogs. This will happen when Hans Engell², who will chair a debate on the issue in Parliament's tent on Friday from 9 to 10 a.m., questions the Parliamentary Ombudsman, the Auditor General and the majority of the members of the Public Accounts Committee.

15 June

Resident safety in social psychiatric residential facilities should be improved

After visiting 13 social psychiatric residential facilities in 2017, the Ombudsman concludes that more should be done for resident safety.

20 June

Municipal employees did not have their freedom of expression restricted

A couple of weeks before the municipal elections in 2017, employees of the Regional Municipality of Bornholm could read in the press that they 'had been gagged' by the head of the municipal administration.

2) A former Minister of Justice, now a political commentator

The Ombudsman has now investigated the matter and concludes that the municipality did not infringe its employees' freedom of expression.

21 June

Remarks by Permanent Secretary about Access to Public Administration Files Act

The Permanent Secretary of the Ministry for Economic Affairs and the Interior made some remarks at an internal meeting in the Ministry some time ago about access for the public to information and documents in relation to work carried out by the Ministry. This was stated in several media reports.

...

Parliament's Legal Affairs Committee has summoned the Minister for Economic Affairs and the Interior to a consultation about the remarks made by the Permanent Secretary. For this reason, the Ombudsman has informed those requesting that he open an investigation that he will await the consultation before deciding whether to take up the case.

29 June

Ombudsman decides not to open case about remarks by Permanent Secretary in relation to Access to Public Administration Files Act

The Parliamentary Ombudsman is not going to open an investigation of remarks in relation to the Access to Public Administration Files Act made by the Permanent Secretary of the Ministry for Economic Affairs and the Interior.

2 July

Ombudsman calls for real and lasting improvements in response times of Ministry of Justice in cases about access to documents or information

In many cases, journalists and others who request access from the Ministry of Justice to documents or information have to wait much too long for a reply. In

2017, almost one in every 10 cases took more than 100 working days to process, and in several of these cases, the processing time was more than 200 working days.

The problem has existed for several years, and for this reason the Ombudsman has now expressed serious concern to the Ministry of Justice. He has also asked the Ministry for a statement about what specifically the Ministry is doing or intends to do to solve the problem.

4 July

Ombudsman recommends initiatives to improve protection of legal rights of detained young people

When a minor in a secure residential institution is placed in solitary confinement or otherwise subjected to the use of force, the institution should ensure that the incident is reported adequately and within the deadline for reporting such incidents.

This is one of a number of recommendations made by the Parliamentary Ombudsman as part of his investigation of conditions for young people detained in secure residential institutions and local and state prisons. The Ombudsman's recommendations are aimed at improving the protection of the legal rights of these young people.

5 July

15-year-old boy subjected to illegal monitoring by accommodation facility and municipality

A 15-year-old boy who had been placed in care outside his home had his communication with his former foster family monitored for a prolonged period of time. The monitoring consisted, among other things, in staff of the accommodation facility in which the boy was placed taking screenshots of his mobile phone and writing down his conversations without his knowledge. The information was subsequently forwarded to Esbjerg Municipality, the boy's home municipality.

The Ombudsman states that the course of action was illegal and that the boy's legal rights were severely infringed. He also states that Esbjerg Municipality had a very significant share in the responsibility for what happened.

6 July

Assessment of policy proposals by Ministry for Economic Affairs and the Interior

According to reports in several media, civil servants of the Ministry for Economic Affairs and the Interior have been asked by the Minister for Economic Affairs and the Interior to assess the effects of a number of potential policy proposals.

In this connection, questions have been raised about whether this is in accordance with the rules on ministers' use of assistance from the civil service.

...

The Ombudsman is now awaiting the outcome of proceedings in Parliament in relation to the matter before deciding whether to take any action.

6 July

Non-disbursement of child support payments is due to problems with collection by Customs and Tax Administration

Increasing numbers of single parents have not received child support payments because the Danish Customs and Tax Administration (SKAT) has not collected payments due to them from the other parent, the Ombudsman reports in a statement which has just been published.

28 August

Parents of children with disabilities may be entitled to higher pension contributions

Parents who receive compensation for loss of earnings because they look after their disabled children at home

may be entitled to higher pension contributions. This follows from a decision made and published by the National Social Appeals Board after the Ombudsman raised a question about the state of the law.

4 September

Assessment of policy proposals by Ministry for Economic Affairs and the Interior

As matters now stand, the Ombudsman has decided not to take up a case with the Ministry for Economic Affairs and the Interior about the limits to assistance from the civil service to ministers.

24 September

Faster replies to appeals against refusals from municipalities and regions of access to documents or information

Journalists and others who appeal to the National Social Appeals Board against a refusal by a municipality or region of a request for access to documents or information can now expect a considerably faster reply than previously.

For an extended period of time, the Ombudsman has been monitoring developments in the processing times of the National Social Appeals Board for appeals against refusals by municipalities and regions of access to documents or information.

25 September

Ombudsman raises questions about use of news exclusive in case about dissolution of Loyal to Familia gang

On 28 June 2018, several media reported that the Prosecution Service would bring a case before the courts to try to have the Loyal to Familia (LTF) gang dissolved.

The Parliamentary Ombudsman is now raising questions about the Ministry of Justice's use of a news exclusive in the case – including about the timing of the Ministry's notification of LTF's lawyer.

1 October**Primary and lower secondary schools cannot require or expect pupils to bring their own laptop to school**

Public primary and lower secondary schools in Denmark are based on the principle of free schooling. This means that they can neither require nor expect pupils to bring their own laptop to school. As he also did in a previous case, the Ombudsman has emphasised this in a case involving Sønderborg Municipality which he has just concluded.

4 October**Placement facilities without an in-house school are not permitted to teach children and young people placed in care outside their home**

Children and young people who have been placed in care outside their home are entitled to proper schooling. This means, among other things, that accommodation facilities without an in-house school are not permitted to provide the schooling for these children. So says the Ombudsman in a statement on an investigation which he has just concluded.

5 October**Significant errors in 'Ry case'**

On 6 February 2017, a 16-year-old boy in the town of Ry was attacked with a fire bomb. Four boys of his age were subsequently convicted as the perpetrators in the case.

On investigating the action of Skanderborg Municipality and the school of the boys in the years leading up to the attack, the Ombudsman concludes as follows in a statement on the case:

- Significant errors have been committed in the case in relation to the rules of, among other things, the Access to Public Administration Files Act on the requirement to take notes and the requirement to keep records.

- Significant errors have been made in the case in relation to the rules of the Social Services Act on the requirement for public employees to notify the municipality if a child or a young person is or may be in need of special support.

22 October**Procedure followed by Customs and Tax Administration in cases opened on the basis of information from Panama Papers was correct**

The Danish Customs and Tax Administration (SKAT) complied with the rules when, based on information from the so-called Panama Papers, it wrote to a number of citizens, stating that they were required to send in information in order that it could be established whether they owed tax to Denmark. This is the Ombudsman's conclusion after investigating, among other things, whether SKAT complied with the rules on the privilege against self-incrimination. The Ombudsman's assessment is based on SKAT's general description of the information available at the time and the procedure followed in the cases.

1 November**Ombudsman raises questions about cases concerning cancellations of residence permits of Somali families**

The Parliamentary Ombudsman has today raised questions with the Ministry of Immigration and Integration about cancellations of residence permits of Somali families.

5 November**Serious concern about processing times of Ministry of Immigration and Integration in cases about access to documents or information**

Journalists and others requesting access to documents or information from the Ministry of Immigration and Integration generally have to wait too long for a reply. This is the conclusion of a recent statement from the Ombudsman.

7 November

Serious errors in cases about returns of children in care outside their home

Before a municipality can return children who have been placed in care outside their home to their parents, it must fulfil a number of case processing requirements. The purpose of this is to safeguard the best interests of the children to the greatest extent possible.

On being informed about the 'Action Plan for Economic Stabilisation of Family Sector 2.0' of Randers Municipality, the Ombudsman carried out an investigation of four randomly selected cases about returns of children and young people who had been placed in care outside their home by the municipality. The Ombudsman's investigation shows that in all four cases, serious errors were committed in relation to the child or young person.

26 November

Consequences for affected children of development in collection of child support payments are very worrying

Single parents increasingly have to wait for child support payments due to them.

...

This is contrary to the expectations about which the then Danish Customs and Tax Administration (SKAT) informed the Ombudsman in 2016.

28 November

Ministry of Justice promises faster replies to requests for access to documents or information

For an extended period of time, the Ministry of Justice has had difficulty meeting the requirements set out in the Access to Public Administration Files Act and the explanatory notes to the Act on processing times in cases about access to documents or information. However, it is anticipated that a number of specific

initiatives will result in real improvements in processing times from the turn of the year, the Ministry of Justice writes to the Parliamentary Ombudsman.

20 December

Children at Departure Centre Sjælsmark living under difficult conditions

The conditions for children at Departure Centre Sjælsmark are liable to make their childhood substantially more difficult and to restrict their possibilities of a natural development and self-realisation considerably. This is the Ombudsman's conclusion based on unannounced visits to the centre. He says, among other things, that the children's everyday life appears to be characterised to an appreciable extent by anxiety, loneliness and feelings of unpredictability.

21 December

Death leads to initiatives by Prison and Probation Service

The Ombudsman has investigated a case of a man dying in January 2016 in the Herstedvester prison shortly after having been detained in Vridsløselille, a facility for foreign nationals detained under the Aliens Act. The case has been covered by the media.

Following an internal investigation of the case, the Prison and Probation Service informed the Ombudsman that it had concluded that a number of errors had been made in connection with the man's detention in Vridsløselille. On that basis, the Prison and Probation Service has now implemented a number of measures to prevent the same errors occurring again.

All news stories can be read in full (in Danish) at www.ombudsmanden.dk.

**18/04183**

Suspicion of systematic violation of the collective agreement was the reason why a doctor complained to the Ombudsman. The doctor was of the opinion that the hospital he had worked at had used foreign labour for unlawful overtime and paid wages that were not in accordance with the collective agreement. The doctor had already attempted to involve the union but had been turned down.

A collective agreement between the Region running the hospital on one side and the union on the other is an agreement between management and labour. Only the Region is within the Ombudsman's jurisdiction. Therefore, the Ombudsman could solely address one of the parties of the collective agreement, and for that reason he declined to consider the case.

Generally, the Ombudsman holds back on considering complaints about matters which are based on agreements made between the public and the private sectors – for example agreements made between management and labour.

**18/02589**

A prisoner complained that staff had used force against him by using handcuffs. The prisoner was well aware that he could complain to the Department of Prisons and Probation but he still wrote directly to the Ombudsman. This was because the Department returned all his letters unopened to the prison, according to the prisoner.

One of the staff members at the Ombudsman institution telephoned the Department of Prisons and Probation and asked if this was true. The Department replied that this was not correct. Therefore, the Ombudsman sent the prisoner's complaint on to the Department of Prisons and Probation in order for the Department to consider the complaint.

In general, the Ombudsman's case processing is in writing. But the staff members at the Ombudsman institution can also choose to clarify matters over the telephone if this makes things easier in the present situation.

**18/00724**

'The fact is that I personally believe that Sweden is going to have a problem when it comes to the way the interpretation of the law is being twisted and turned.' This is how a woman started off her e-mail in Swedish to the Ombudsman. The e-mail was about authorities' use of forcible means and coercion. However, since the enquiry did not concern Danish authorities but conditions in Sweden, the Ombudsman declined to consider the matter.

The Ombudsman can only consider complaints about Danish authorities.

**17/03494**

A general housing association on Amager (a part of the City of Copenhagen) wanted to build 58 new residences in an existing housing branch instead of establishing a branch with its own finances. This was approved by the municipality. A tenants' association wrote to the Ministry of Transport, Building and Housing and pointed out that the municipality's approval was in contravention of the Act on Social Housing.

The Transport, Construction and Housing Authority replied on the Ministry's behalf and declined to consider the case. The tenants' association subsequently complained to the Ombudsman.

The Ombudsman was of the opinion that the Transport, Construction and Housing Authority should look at the case again. Hence, he sent the case back to the Authority.

The Transport, Construction and Housing Authority reassessed the case and determined that a decision had been made in contravention of the Act on Social Housing. The Authority wished to point this out to the municipality.

When the Ombudsman receives a complaint, he sometimes initiates a more detailed case investigation. In other instances, the Ombudsman merely asks the authority to look at the case once again and for example give the citizen more detailed grounds for the decision.



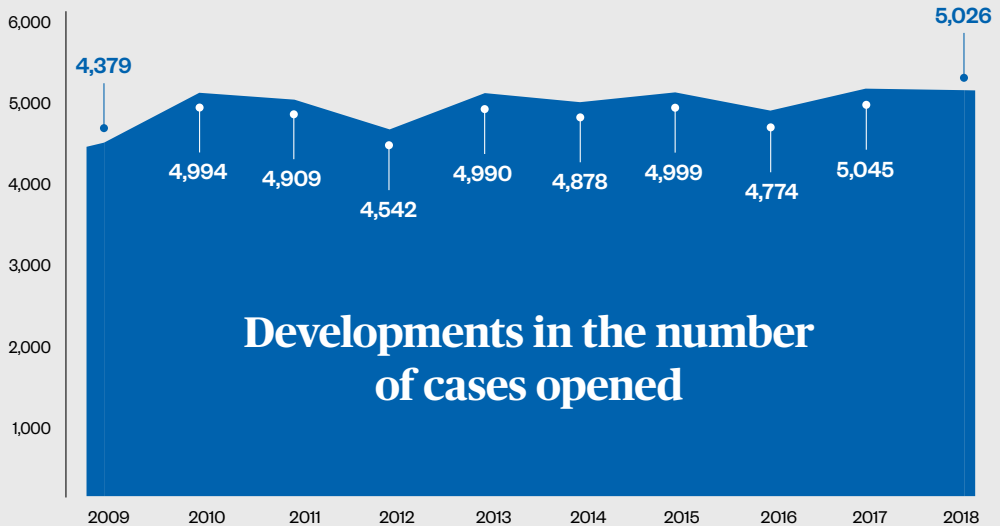
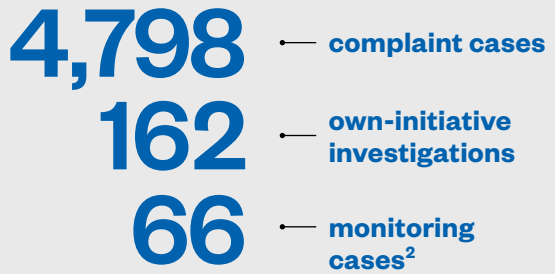
The year in figures

The following pages contain key figures for the cases processed by the Ombudsman in 2018. More information about the Ombudsman's work and the rules governing the Ombudsman's activities can be found on www.ombudsmanden.dk.

Cases opened in 2018¹

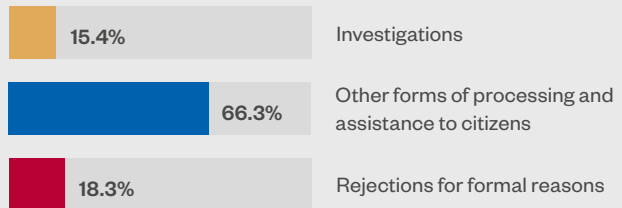
5,026

- 1) Administrative cases are not included. In addition, cases selected for collective review in connection with general own-initiative investigations are not normally included.
- 2) Comprise monitoring visits to institutions for adults and for children, monitoring visits to investigate physical accessibility for persons with disabilities and monitoring of forced deportations of foreign nationals. See pages 34-62 for information about the Ombudsman's monitoring activities.

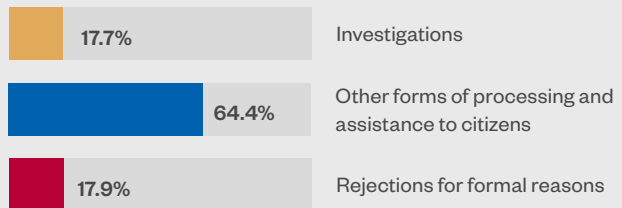


Concluded cases

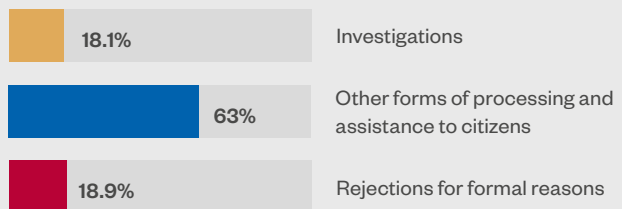
2018
4,955 cases



2017
5,062 cases



2016
4,682 cases

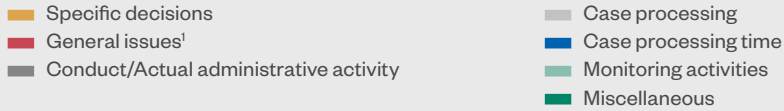


What was the outcome of the cases?

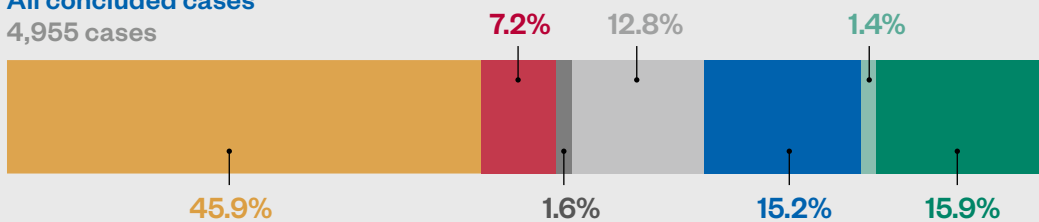
	Concluded cases
1. Investigations	
Full investigations	190
– of which cases with criticism, formal or informal recommendations etc.	121
Shortened investigations ¹	574
Investigations, total	764
2. Other forms of processing and assistance to citizens	
Various forms of intervention in cases where the possibilities of having them processed by authorities had not been exhausted	1,889
– of which cases forwarded to authorities	1,096
The Ombudsman's review of the cases did not result in further investigation	948
Answers to enquiries, guidance etc.	449
Other forms of processing and assistance to citizens, total	3,286
3. Rejections for formal reasons	
Complaints which were submitted too late to the Ombudsman	119
Cases where the complaint/appeal options to authorities had not been used – and could no longer be used	42
Cases which related to courts, judges or matters on which a court had made or could be expected to make a decision – and which were thus outside the Ombudsman's jurisdiction	154
Cases which concerned matters relating to Parliament, including legislative issues, and which were thus outside the Ombudsman's jurisdiction	78
Complaints which related to other matters outside the Ombudsman's jurisdiction, including private legal matters	252
Complaints which were not clarified sufficiently to enable investigation and complaints which were withdrawn	221
Cases in which the Ombudsman declared himself disqualified	7
Anonymous approaches	32
Rejections for formal reasons, total	905
Total (1-3)	4,955

1) Shortened investigations comprise primarily cases in which the Ombudsman reviewed a complaint but decided not to obtain statements from the authorities because it was unlikely that a full investigation would result in criticism or recommendations. The category of shortened investigations also includes, among others, cases which were reopened by the authorities after the Ombudsman asked them for a statement.

What did the cases concern?



All concluded cases 4,955 cases

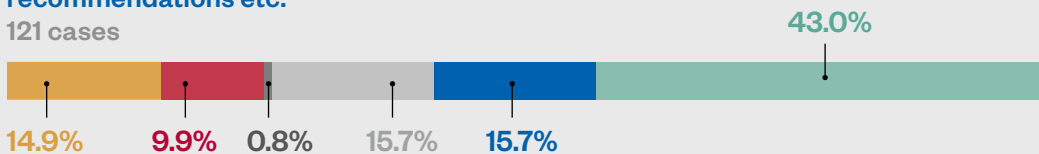


Investigations 764 cases



Cases with criticism, formal or informal recommendations etc.

121 cases



1) The category 'General issues' comprises, for instance, the overall conditions in an institution or the question whether the enabling act provides a sufficient legal basis for the provisions of an executive order or whether an authority's general practice in a specific area is acceptable.

Which authorities etc. were involved?

Cases concluded in 2018 – by authority etc.

Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
A. Central authorities etc. (within the Ombudsman's jurisdiction)					
Ministry of Employment					
The Department	0	2	11	2	15
Labour Market Insurance	1	2	46	6	55
Danish Working Environment Authority	0	0	1	0	1
Unemployment Insurance Complaints Centre	0	0	4	0	4
Board of Equal Treatment	0	1	1	0	2
LD (Employees' Capital Pension Fund)	0	0	0	1	1
Employees' Guarantee Fund	0	2	1	0	3
Danish Agency for Labour Market and Recruitment	0	2	3	0	5
Total	1	9	67	9	86
Ministry for Children and Social Affairs					
The Department	1	3	4	1	9
Danish National Board of Adoption	0	0	1	0	1
Danish Supervisory Board of Psychological Practice	0	4	3	1	8
The State Administration	2	6	85	16	109
Total	3	13	93	18	127

1) The cases in Section A of the table have been classified under the ministries existing at the end of the year. Concluded cases relating to authorities which have been moved to another ministry, closed down or reorganised have as a general rule been classified under the ministries/authorities which had the remit for the relevant areas at the end of the year.

Cases concluded in 2018 – by authority etc.

Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
Ministry of Energy, Utilities and Climate					
The Department	0	0	6	0	6
Energinet	0	0	1	1	2
Danish Energy Agency	0	1	5	0	6
Danish Geodata Agency	0	0	1	1	2
Agency for Data Supply and Efficiency	0	0	1	0	1
Valuation Authority	0	1	4	0	5
Total	0	2	18	2	22
Ministry of Industry, Business and Financial Affairs					
The Department	0	2	8	0	10
Psychiatric Patients' Board of Complaints	0	0	3	2	5
Energy Board of Appeal	0	3	3	1	7
Company Appeals Board	0	1	2	0	3
Danish Business Authority	0	0	7	1	8
Danish Consumer Ombudsman	0	2	6	0	8
Danish Competition and Consumer Authority	0	0	1	0	1
Danish Competition Appeals Board	0	0	1	0	1
Danish Environment and Food Board of Appeal	1	4	22	2	29
Danish Appeals Boards Authority	0	1	0	1	2
Danish Patent and Trademark Office	0	0	1	0	1
Danish Town and Country Planning Board of Appeal	0	10	16	0	26
SOLVIT Centre Denmark	0	0	1	0	1
Danish Maritime Authority	0	0	1	0	1
Total	1	23	72	7	103
Ministry of Finance					
The Department	0	4	6	0	10
Agency for Modernisation	0	3	2	0	5
Total	0	7	8	0	15

Cases concluded in 2018 – by authority etc.

Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
Ministry of Defence					
The Department	0	2	6	0	8
Danish Emergency Management Agency	0	0	1	0	1
Royal Danish Air Force	0	0	2	0	2
Danish Defence Intelligence Service	0	0	1	0	1
Danish Ministry of Defence Personnel Agency	0	1	3	0	4
Jaeger Corps	0	0	1	0	1
Defence Command Denmark	0	0	1	0	1
Total	0	3	15	0	18
Ministry of Justice					
The Department	3	17	45	8	73
Local prisons	1	2	16	2	21
Department of Civil Affairs	0	4	7	6	17
Danish Data Protection Agency	0	6	16	1	23
Independent Police Complaints Authority	0	0	5	0	5
Department of Prisons and Probation	2	16	40	9	67
Criminal Injuries Compensation Board	2	3	18	2	25
State prisons	14	8	115	3	140
Regional offices of the Prison and Probation Service	13	26	30	2	71
The police	1	3	104	14	122
Danish Security and Intelligence Service (PET)	0	0	3	1	4
Danish Medico-Legal Council	0	0	2	3	5
Director of Public Prosecutions	0	4	13	4	21
National Police	1	15	21	3	40
State Prosecutors	0	15	35	3	53
Danish Intelligence Oversight Board	0	0	0	1	1
Immigration detention centres and departure centres	2	0	6	0	8
Total	39	119	476	62	696

Cases concluded in 2018 – by authority etc.

Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
Ministry of Ecclesiastical Affairs					
The Department	1	1	10	1	13
Deaneries	0	0	1	0	1
Dioceses	0	0	0	1	1
Total	1	1	11	2	15
Ministry of Culture					
The Department	2	1	4	0	7
Danish Broadcasting Corporation (DR)	1	5	12	1	19
The Royal Theatre	1	0	0	0	1
Media Board	0	0	1	0	1
Radio and Television Board	0	1	2	1	4
Agency for Culture and Palaces	0	0	6	0	6
Total	4	7	25	2	38
Ministry of Environment and Food					
The Department	1	1	6	1	9
Danish Veterinary and Food Administration	0	0	3	0	3
Danish Coastal Authority	0	0	1	0	1
Danish Agricultural Agency	0	1	4	1	6
Environmental Protection Agency	0	1	7	1	9
Nature Agency	0	2	4	0	6
Total	1	5	25	3	34

Cases concluded in 2018 – by authority etc.

Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
Ministry of Taxation					
The Department	1	4	11	3	19
Director of Legal Protection	0	1	2	1	4
Regional joint tax and assessment appeals boards	0	3	0	0	3
Danish Debt Collection Agency	3	3	18	3	27
National Tax Tribunal	0	36	12	9	57
Danish Motor Vehicle Agency	0	0	3	0	3
Regional tax appeals boards	0	2	2	0	4
Tax Appeals Agency	3	23	7	7	40
Danish Tax Agency	3	4	35	9	51
Danish Gambling Authority	0	0	1	0	1
Danish Customs Agency	0	1	0	0	1
IT and Development Agency	0	0	1	1	2
Danish Property Assessment Agency	0	1	3	2	6
Total	10	78	95	35	218
Prime Minister's Office					
The Department	1	2	4	0	7
Total	1	2	4	0	7
Ministry of Health					
The Department	0	13	18	1	32
Psychiatric Appeals Board	0	4	4	0	8
Danish Medicines Agency	0	1	2	0	3
National Committee on Health Research Ethics	0	0	1	0	1
Statens Serum Institut (SSI)	0	0	1	0	1
Danish Agency for Patient Complaints	0	9	35	1	45
Danish Patient Safety Authority	1	2	14	4	21
National Health Data Agency	0	0	2	0	2
Danish Health Authority	0	1	6	0	7
Disciplinary Board of the Danish Healthcare System	0	5	12	0	17
Total	1	35	95	6	137

Cases concluded in 2018 – by authority etc.

Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
Ministry of Transport, Building and Housing					
The Department	2	4	18	2	26
DSB (Danish State Railways)	0	0	3	1	4
Danish Road Safety Agency	0	2	8	2	12
Accident Investigation Board Denmark	0	0	1	0	1
Danish Transport, Construction and Housing Authority	0	3	16	2	21
Danish Road Directorate	0	2	9	1	12
Total	2	11	55	8	76
Ministry of Higher Education and Science					
The Department	2	1	2	0	5
State Educational Grant and Loan Scheme Board of Appeal	0	3	4	0	7
Danish Agency for Science and Higher Education	0	2	5	0	7
Danish Agency for Institutions and Educational Grants	0	2	15	1	18
Educational establishments	1	1	24	2	28
Total	3	9	50	3	65
Ministry of Foreign Affairs					
The Department	0	3	12	1	16
Danish Fellowship Centre	0	0	1	0	1
Danish embassies, consulate generals etc. in foreign countries	0	0	1	1	2
Danish Fisheries Agency	0	0	1	0	1
Total	0	3	15	2	20

Cases concluded in 2018 – by authority etc.

Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
Ministry of Immigration and Integration					
The Department	4	5	36	29	74
Danish Agency for International Recruitment and Integration	0	0	8	0	8
Immigration Appeals Board	0	13	16	8	37
Danish Immigration Service	0	4	28	4	36
Total	4	22	88	41	155
Ministry of Education					
The Department	0	4	2	0	6
Special Education Appeals Board	0	3	3	2	8
National Agency for Education and Quality	0	4	13	0	17
Educational establishments	0	0	1	1	2
Total	0	11	19	3	33
Ministry for Economic Affairs and the Interior					
The Department	0	5	17	9	31
National Social Appeals Board ²	4	173	341	57	575
Statistics Denmark	0	0	2	0	2
Finance Committee	0	0	3	0	3
State Supervisory Authority of Municipalities and Regions (under the National Social Appeals Board)	1	7	10	4	22
Total	5	185	373	70	633
Central authorities etc., total	76	545	1,604	273	2,498

2) The figures do not include cases where the authority with prime responsibility was a board to which the National Social Appeals Board provides secretariat assistance.

Cases concluded in 2018 – by authority etc.

Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
B. Municipal and regional authorities etc. (within the Ombudsman's jurisdiction)					
Municipalities	25	76	1,068	170	1,339
Regions	9	8	67	19	103
Joint municipal or regional enterprises	0	0	3	0	3
Special municipal or regional entities	1	1	4	3	9
Total	35	85	1,142	192	1,454
C. Other authorities etc. within the Ombudsman's jurisdiction³					
Other authorities etc. within the Ombudsman's jurisdiction	10	13	123	14	160
Total	10	13	123	14	160
D. Authorities etc. within the Ombudsman's jurisdiction, total					
Central authorities etc., total (A)	76	545	1,604	273	2,498
Municipal and regional authorities etc., total (B)	35	85	1,142	192	1,454
Other authorities etc. within the Ombudsman's jurisdiction, total (C)	10	13	123	14	160
Total	121	643	2,869	479	4,112

3) The figures comprise private institutions which fall within the Ombudsman's jurisdiction in connection with OPCAT or in the children's sector and other institutions etc. which have been included under the Ombudsman's jurisdiction. In 2018, the Ombudsman decided in pursuance of section 7(4) of the Ombudsman Act that his jurisdiction was to extend to Freja Ejendomme A/S to the extent to which the company is subject to the provisions of the Access to Public Administration Files Act.

Cases concluded in 2018 – by authority etc.

Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
E. Institutions etc. outside the Ombudsman's jurisdiction					
1. Courts etc., cf. section 7(2) of the Ombudsman Act	0	0	0	89	89
2. Dispute tribunals, cf. section 7(3) of the Ombudsman Act	0	0	0	18	18
3. Other institutions, associations, enterprises and persons outside the Ombudsman's jurisdiction	0	0	24	287	311
Total	0	0	24	394	418
F. Cases not relating to specific institutions etc.					
	0	0	393	32	425
Grand total (A-F total)	121	643	3,286	905	4,955

Processing times

Types of cases and outcomes		Average processing time ¹	Targets and results
Complaint cases and own-initiative investigations	Investigations	5.7 months	Concluded within 6 months Target: 70% Actual: 64%
			Concluded within 12 months Target: 90% Actual: 90%
	– of which cases about access to public records ²	45 working days (from maturity date)	Investigated cases about access to public records concluded within 20 working days from maturity date Target: 45% Actual: 35%
			Investigated cases about access to public records concluded within 40 working days from maturity date Target: 90% Actual: 57%
	Other forms of processing and assistance to citizens and rejections for formal reasons	1.5 months	Concluded within 3 months Target: 90% Actual: 82%
			Concluded within 6 months Target: 98% Actual: 94%
Monitoring cases ³	4.6 months (from date of monitoring visit)	Concluded within 6 months from date of monitoring visit Target: 80% Actual: 73%	

- 1) Processing times are given in *calendar days*, except for cases about access to public records, where they are given in *working days* – as in the Access to Public Administration Files Act. The 'maturity date' for a case is the date on which it was ready for final processing after the Ombudsman had received the necessary information and statements from the citizen and the authorities.
- 2) Complaint cases concerning access to public records under the Access to Public Administration Files Act, the Environmental Information Act, the Administration of Justice Act etc., with the exception of cases concerning the right of a party to a case to obtain access to documents of the case and cases of persons requesting access to information about themselves. In 2019, a division dedicated to processing cases about access to public records will be set up at the Ombudsman's office with a view to, among other things, increasing our capacity in the area and reducing the processing times for these cases.
- 3) Monitoring cases comprise concluded cases concerning monitoring visits made to institutions for children and for adults, monitoring visits to investigate physical accessibility for persons with disabilities and monitoring of forced deportations of foreign nationals. See pages 34-62 for information about the Ombudsman's monitoring activities.

Other facts

The Ombudsman declared himself **disqualified** in seven cases in 2018. Parliament's Legal Affairs Committee assigned these cases to Henrik Bloch Andersen, High Court Judge. The Ombudsman's office provided secretariat assistance in connection with the processing of the cases.

The Faroese Lagting (the Parliament) did not ask the Ombudsman to act as **ad hoc ombudsman** for the Faroese Parliamentary Ombudsman in any cases in 2018. The Inatsisartut (the Parliament of Greenland) asked the Ombudsman to act as ad hoc ombudsman for the Ombudsman for Inatsisartut in six cases.

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Statement of revenue and expenditure 2018

The Ombudsman's ordinary activities

	DKK
Revenue	
Revenue	2,000
Total revenue	2,000
Expenditure	
Wages and salaries, pension costs	64,368,000
Rent	4,573,000
Staff and organisation, including staff welfare	602,000
Continuing training/education	1,013,000
Books and library	161,000
Specialist databases	1,274,000
Newspapers and journals	246,000
Communication	872,000
Computer systems – operations and development	2,357,000
Computer hardware	229,000
Telephony and broadband	994,000
Premises – repairs and maintenance	1,101,000
Furniture, fixtures and fittings	649,000
Cleaning, laundry and refuse collection	236,000
Heating and electricity	447,000
Premises – other expenditure	259,000
Travel	310,000
Entertainment and meals	102,000
Contribution to financial support scheme for trainees	321,000
Stationery and office supplies	170,000
Postage	48,000
Other goods and services	1,693,000
Total expenditure	82,025,000
Total expenditure (net)	82,023,000
Government appropriation	84,700,000
Result for the year	2,677,000

Public service pensions

	DKK
Revenue	3,381,000
Expenditure	2,213,000
Result for the year	1,168,000

Collaboration agreement with Ministry of Foreign Affairs

	DKK
Revenue	1,492,000
Expenditure	1,492,000
Result for the year	0

Collaboration project with China

	DKK
Revenue	839,000
Expenditure	839,000
Result for the year	0

**16/02658 and 17/03093**

'It can't be right that my farm is not considered a commercial property!'

This was a farmer's reaction when he could not get a tax deduction in the drainage contribution for the amount of water he used for his small beef cattle livestock.

The Ombudsman forwarded the farmer's complaint to the Ministry of Energy, Utilities and Climate in order for the Ministry to make a statement about the understanding of the concept 'commercial property' in the Act on Wastewater Payment. The farmer was now given a thorough guidance about the concept by the Danish Energy Agency – and the case ended with him getting the deduction which in his opinion he was entitled to.

In certain cases, the Ombudsman initially chooses to forward a complaint to the relevant ministry. In this way, the ministry is given the opportunity to make a general statement on the understanding of the ministry's own rules. This approach can be sufficient in finding a solution for the individual citizen.

**18/04977**

'A small dog murders an even smaller dog', wrote a man in his complaint about the police investigation of the attack on his dog which had been savaged.

The police had started to investigate the matter but had decided to end the investigation. The dog owner was dissatisfied with this because it meant that the case was not solved. Therefore, he made an appeal against the police's decision to the State Prosecutor.

The State Prosecutor had made a decision in the case in July 2017 but it was not until November 2018 that the Ombudsman received a complaint from the dog owner. There is a deadline of twelve months for lodging a complaint with the Ombudsman. Since the deadline was not observed here, the Ombudsman declined to consider the case.

In 2018, the Ombudsman rejected 119 complaints solely because they had been lodged later than twelve months after the grievance took place.

**18/02305**

A female old-age pensioner had too large a fortune for her to be eligible for health service supplement. In the written refusal to grant the supplement, the municipality had also informed the woman of the balance of her husband's bank account.

It was understandable that the municipality had to know the husband's bank account balance in order to assess if his wife was eligible for health service supplement. But the husband wondered why the municipality passed on such information. In his complaint to the Ombudsman, he wrote: 'The bank considers such information very confidential in opposition to the municipality, and the bank is not willing to inform my wife of these matters'.

The Ombudsman forwarded the complaint to the municipality so that the municipality itself could inform the husband of which rules allowed the municipality to pass on information of his bank account balance. The Ombudsman also advised the man on how to complain to the Data Protection Agency.

According to practice, the Ombudsman does not normally consider matters which the relevant authority has not had an opportunity to consider.

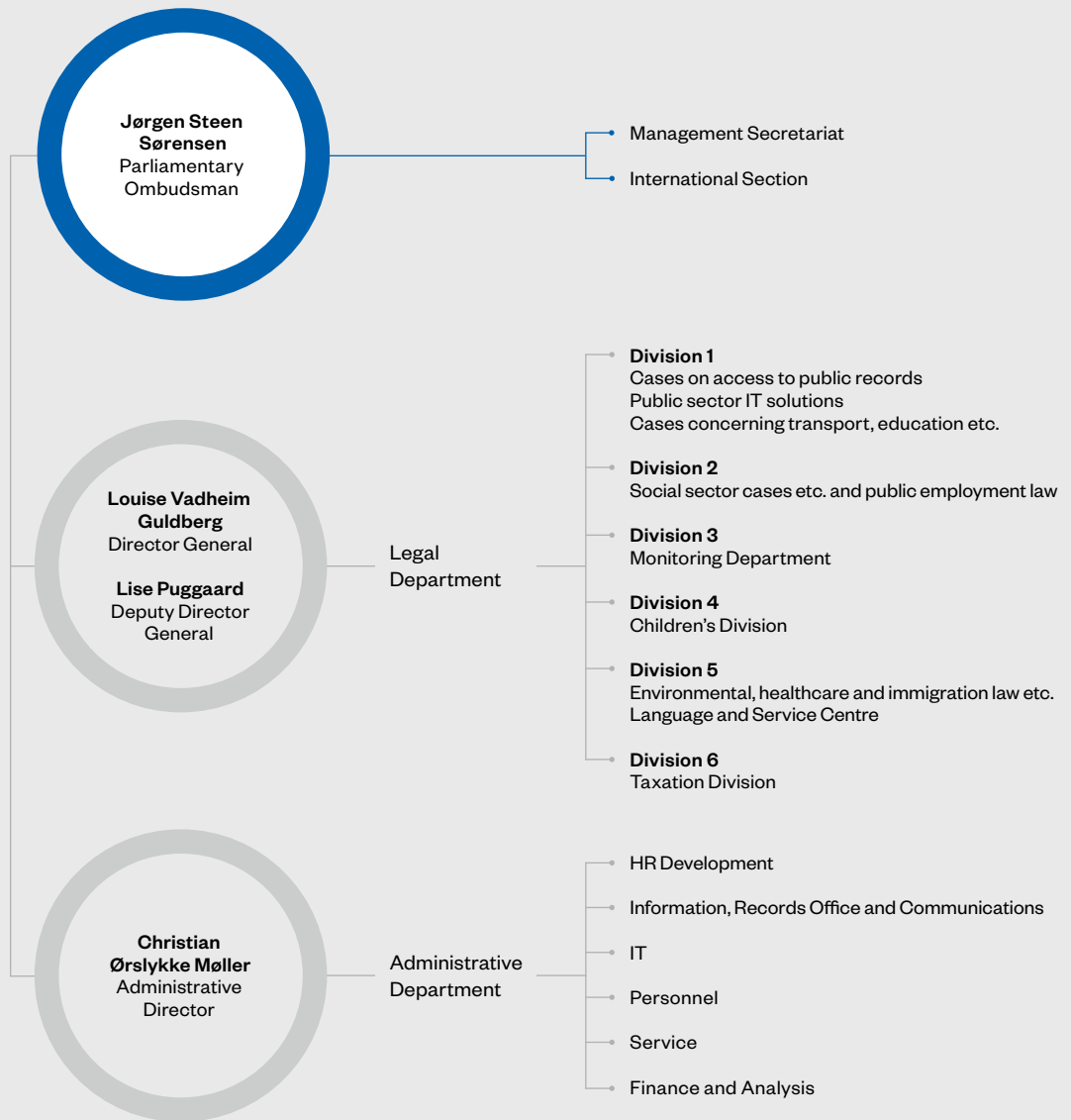


Organisation

As at 31 December 2018

Management

Departments



Management





Management Secretariat and International Section





Division 1





Division 2





Division 3





Division 4





Division 5





Division 6





Administrative Department





Employees and core responsibilities as at 31 December 2018

Management

Jørgen Steen Sørensen, Parliamentary Ombudsman
Louise Vadheim Guldberg, Director General
Lise Puggaard, Deputy Director General
Christian Ørslykke Møller, Administrative Director

Management Secretariat

Jens Møller, Chief Legal Advisor
Kaj Larsen, Chief Legal Advisor
Jacob Berner Moe, Special Communications Advisor
Anne Djurhuus, Management Coordinator
Jannie Svendsen, Executive Secretary

International Section

Klavs Kinnerup Hede, Director of International Relations
Christian Ougaard, Special Legal Advisor

Division 1

Cases about access to public records

Public sector IT solutions

Cases concerning transport, education etc.

Kirsten Talevski, Senior Head of Division
Jacob Christian Gaardhøje, Deputy Head of Division
Kristine Holst Hedegaard, Deputy Head of Division
Janne Lundin Vadmand, Special Legal Advisor
Sofie Hedegaard Larsen, Special Legal Advisor
Anna Stamhus Thommesen, Legal Case Officer
Lene Levin Rybtke, Legal Case Officer
Mai Vestergaard, Legal Case Officer
Marta Warburg, Legal Case Officer
Rune Werner Christensen, Legal Case Officer
Stine Harkov Hansen, Legal Case Officer
Tina Andersen, Legal Case Officer
Emma Brøndal Grünfled, Legal Student Assistant

Key subject areas of cases processed

- Access to public records
- Market and consumer issues, companies etc.
- Elections, registration of individuals, weapons, passports, permissions to appeal etc.
- Transport, communication, roads, traffic etc.
- Education and research
- Ecclesiastical affairs and culture
- Public sector IT solutions

Division 2

Social sector cases etc. and public employment law

Karsten Loiborg, Senior Head of Division
Camilla Bang, Deputy Head of Division
Linette Granau Winther, Deputy Head of Division
Pi Lundbøl Stick, Deputy Head of Division
Bente Mundt, Senior Consultant
Mette Ravn Jacobsen, Special Legal Advisor
Dennis Toft Sørensen, Legal Case Officer
Kirsten Broundal, Legal Case Officer
Mai Gori, Legal Case Officer
Marie Helqvist, Legal Case Officer
Mette Kildegaard Hansen, Legal Case Officer
Frederik Sindberg Walther, Legal Student Assistant
Sara Lysemose Sørensen, Legal Student Assistant

Key subject areas of cases processed

- Social security and labour market law
- Public employment law

Division 3

Monitoring Department

Morten Engberg, Senior Head of Department
Erik Dorph Sørensen, Deputy Head of Department
Stine Marum, Deputy Head of Department
Ulla Birgitte Frederiksen, Special Legal Advisor
Hanne Nørgård, Legal Case Officer
Katrine Rosenkrantz de Lasso, Legal Case Officer
Marie Nyborg Kvist, Legal Case Officer
Morten Bech Lorentzen, Legal Case Officer
Nina Melgaard Ringsted, Legal Case Officer
Rikke Malkov-Hansen, Legal Case Officer
Jens Petersen, Disability Consultant
Torben Olesen, Disability Consultant
Jeanette Hansen, Senior Administrative Assistant
Emilie Egevang, Legal Student Assistant
Signe Worsøe Larsen, Legal Student Assistant

The Monitoring Department is in charge of the Ombudsman's monitoring activities in relation to adults, which include in particular:

- State prisons
- Local prisons
- Halfway houses under the Prison and Probation Service

- Police detention facilities for intoxicated persons
- Psychiatric wards
- Social and social psychiatric residential facilities
- Asylum centres
- Non-discrimination of persons with disabilities
- Forced deportations of foreign nationals

The Monitoring Department especially processes specific cases involving:

- Sentence enforcement and custody
- The police and criminal cases
- Psychiatric healthcare and conditions for psychiatric patients
- Social care institutions

Division 4

Children's Division

Susanne Veiga, Senior Head of Division
 Ann Thagård Gregersen, Deputy Head of Division
 Christina Ladefoged, Deputy Head of Division
 Rikke Ilona Ipsen, Special Legal Advisor
 Irene Rønn Lind, Special Advisor on Children's Issues
 Ida Wiegand Justesen, Legal Case Officer
 Pernille Helsted, Legal Case Officer
 Peter Kersting, Legal Case Officer
 Sabine Heestermans Svendsen, Legal Case Officer
 Signe Nelson, Legal Case Officer
 Yasaman Mesri, Legal Case Officer
 Ida Alberte Chur Rasmussen, Legal Student Assistant
 Morten Pilgaard Pedersen, Legal Student Assistant

The Children's Division carries out monitoring visits to public and private institutions for children, such as:

- Social care institutions and private accommodation facilities for children placed in residential care
- Foster families
- Schools, including private schools
- Asylum centres
- Hospital wards and psychiatric wards for children
- Daycare facilities

The Children's Division especially processes specific cases involving:

- Support measures for children and juveniles
- Social services for children
- Family law (contact etc., child and spousal support and adoptions)
- Primary and lower secondary schools, continuation schools and private schools

- Institutions for children
- Other cases with a particular bearing on children's rights

Division 5

Environmental, healthcare and immigration law etc.

Language and Service Centre

Vibeke Lundmark, Acting Senior Head of Division
 Karina Sanderhoff, Deputy Head of Division
 Camilla Schroll, Legal Case Officer
 Christine Hagelund Petersen, Legal Case Officer
 Lucienne Josephine Lokjær Bak, Legal Case Officer
 Morten Juul Gjernundbo, Legal Case Officer
 Sverre Kjeldgaard Johansen, Legal Case Officer
 Ditte Hector Degner, Legal Student Assistant

Key subject areas of cases processed

- Environment and planning
- Building and housing
- Energy
- Food and agriculture
- Municipalities and regions etc.
- The non-psychiatric healthcare sector
- Foreign nationals
- The law of capacity, the law of names, foundations, trusts and the law of succession

Language and Service Centre

Karina Sanderhoff, Deputy Head of Division
 Gurli Søndergaard, Senior Language Officer
 Lisbeth Nielsen, Senior Language Officer
 Marianne Anora Kramath Jensen, Senior Language Officer

Core responsibilities

- Production data
- Translation
- Proofreading
- Letters of confirmation and other minor case processing steps
- Replies to communications sent for our information
- Contact to external translators

Division 6

Taxation Division

Johannes Martin Fenger, Senior Head of Division
 Lisbeth Adserballe, Senior Head of Division
 Inge Birgitte Møberg, Deputy Head of Division

Jørgen Hejstvig-Larsen, Deputy Head of Division
Elizabeth Bøggild Monrad, Special Legal Advisor
Michael Gasbjerg Thuesen, Special Legal Advisor
Uffe Habekost Sørensen, Special Legal Advisor
Anne Djurhuus, Legal Case Officer
Marianne Halkjær Ebbesen, Legal Case Officer
Marjanne Kalsbeek, Legal Case Officer
Marte Volckmar Kaasa, Legal Case Officer
Martin Dyhl-Polk, Legal Case Officer
Professor Jan Pedersen, LLD, External Consultant,
Aarhus University
Jimmi Hilkeb, Legal Student Assistant

Key subject areas of cases processed

- Direct taxes
- Indirect taxes, including value-added tax, etc.
- Levying and collection of taxes
- The Guide for Authorities on the Ombudsman's website

Administrative Department

Core responsibilities

- Finance and analysis
- Personnel
- HR development
- Organisational development
- Information and communications
- IT
- Service and maintenance
- Records office

Christian Ørslykke Møller, Administrative Director

HR Development

Lisbeth Kongshaug, Head of HR and Development
Jannie Svendsen, Senior HR and Development
Administration Officer

Information, Records Office and Communications

Karen Nedergaard, Head of Information, Records
Office and Communications
Julie Gjerrild Jensen, Senior Communications Officer
Eva Jørgensen, Senior Communications Officer
Birgit Kehlet-Hansen, Senior Library Assistant
Carsten Christiansen, Senior Records Assistant
Denise Schärfe, Senior Records Assistant
Harriet Lindegaard Hansen, Senior Records Assistant
Julie Mie Lauridsen, Senior Records Assistant

IT

Seyit Ahmet Özkan, IT Administrator
Uffe Larsen, IT Officer
Kevin Pedersen, IT Student Assistant

Personnel

Mette Vestentoft, Special Legal Advisor
Lone Gundersen, Senior Personnel Officer
Neel Aggestrup, Senior Personnel Officer
Stine Holst Gamain-Nørgaard, Senior Administrative
Assistant

Service

Jeanette Schultz, Head of Service
Lisbet Pedersen, Receptionist
Flemming Wind Lystrup, Service Assistant
Niels Clemmensen, Service Assistant
Annitta Lundahl, Housekeeper
Charlotte Jørgensen, Housekeeper
David Jensen, Housekeeper
Kirsten Morell, Housekeeper
Suphaporn Nielsen, Housekeeper

Finance and Analysis

Torben Frimer-Larsen, Head of Finance and Analysis
Jeanette Schultz, Head of Service
Mathias Brix, Finance and Analysis Student Assistant

The public sector seen through the lens

‘The public sector’ is an abstract concept. What does the public sector really look like? In each year’s Annual Report, we leave it entirely up to a photographer to give us his or her take on that.

Nils Lund Pedersen (born in 1968) has been a freelance photojournalist for the past 20 years. He trained in the city of Aarhus and has lived and worked in Copenhagen and Odense, and, as a completely new thing, he is now based in the town of Maribo on the island of Lolland. He has made and contributed to several books, among others ‘Fyn – Mennesker og steder’ (*Funen – People and Places*) and ‘Punkt 636’ (*Point 636*), a picture book on the reform of municipal structures. Further, he was one of the jury members at the ‘Danish Press Photo of the Year 2011/2012’.

In Nils Lund Pedersen’s words: ‘The public sector is everywhere. It permeates our lives. Not as something scary but as an omnipresent safety net, built up through many years of welfare state. It exists in the biggest of cities and the smallest of villages. And protects us.

With my new local community of Maribo on the island of Lolland as my starting point, I have found areas in the public sector where a hand is helping, securing, protecting and monitoring our shared community and the individual person.

I have made a virtue of steering away from the offices to find more exciting visual expressions. But also to show the diversity of the public hands working for the greater good of society.’

