



News from the Danish Parliamentary Ombudsman

Prison and Probation Service should do more to ensure legal rights of inmates placed in disciplinary cells

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The Prison and Probation Service should do more to ensure the legal rights of inmates who are to be placed in disciplinary cells. This is the Ombudsman's assessment following monitoring visits to 11 local prisons, five state prisons and one immigration detention centre under the Prison and Probation Service.

Placement in a disciplinary cell is the most severe sanction available to state and local prisons when an inmate violates the rules of the prison. It may be imposed, for instance, if an inmate has been caught in possession of a mobile phone or drugs or has hit another person in the prison. Placements in disciplinary cells may be for up to 28 days, and an inmate placed in a disciplinary cell may be in solitary confinement for up to 23 hours a day. The use of disciplinary cells in Danish state and local prisons increased sharply from 2015 until 2018.

'Being placed in a disciplinary cell is very intrusive and involves a risk of adverse psychological effects. It is therefore important that the inmate knows his or her legal rights and that there is documentation that the decision was correct. In several of the cases we have reviewed this has not been the case, and the Prison and Probation Service should rectify this in future', says the Parliamentary Ombudsman, Niels Fenger.

Focus on due process protection

Before the sanction of placement in a disciplinary cell is imposed on an inmate, a disciplinary hearing is held. Records are made of the hearing.

The Ombudsman's visiting teams spoke with several inmates who did not understand what took place during the disciplinary hearing. Therefore they did not know that they were entitled to assistance during the hearing and to

appeal against the decision. At six of the 17 monitoring visits made, the visiting team recommended increased use of interpreters.

At 15 monitoring visits, the visiting team recommended that the management ensure an increased focus on taking notes of what has been found to be proved. For instance, there were several examples of inmates being charged with two breaches of prison rules where it was not clear whether the inmate had received a disciplinary punishment for both breaches. A case in point was an inmate who had been charged both with threatening behaviour and with violating a prison rule about 'corridor time' – however, it was not stated in the evidence assessment whether he was held to have committed both breaches.

Prevention of adverse psychological effects

The institutions visited by Ombudsman representatives had focus on the fact that placement in a disciplinary cell involves a risk of adverse psychological effects. However, there was a lack of guidelines on how adverse psychological effects may be prevented and what staff can and must do when there are signs that an inmate is suffering harm.

At a meeting with the Department of Prisons and Probation, the Ombudsman will discuss a number of potential initiatives to better ensure the legal rights of inmates and prevent adverse psychological effects during placements in disciplinary cells.

[Read thematic report on disciplinary cells](#)

Further information:

Niels Fenger, Parliamentary Ombudsman, tel. +42 47 50 91

Morten Engberg, Head of Department, tel. +33 13 25 12

FACTS

Themes for monitoring visits

Each year, staff of the Ombudsman's Monitoring Department carry out approximately 30 monitoring visits. About half of these visits have a specific theme which has been chosen for that year. In addition, staff of the Ombudsman's Children's Division conduct monitoring visits to institutions for children and young people.

Each year, the Ombudsman chooses one or more themes for the monitoring visits to be carried out during the coming year. The themes are chosen in collaboration with The Danish Institute for Human Rights and DIGNITY – Danish Institute Against Torture, both of which participate in the conduct of the monitoring visits.

[Thematic report 2018 on exclusion from association in the institutions of the Danish Prison and Probation Service](#)

[Thematic report 2017 on social psychiatry – security for residents in social residential institutions and in sector transfers](#)

[Thematic report 2016 on body searching and urine sampling](#)

[Thematic report 2015 on placement in security cells](#)

Further information about [the Ombudsman's monitoring visits](#)