



**FOLKETINGETS  
OMBUDSMAND**

**Thematic report 2022**

# **Small private accommodation facilities for young people**

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## **1. Introduction**

Small private accommodation facilities for young people was the theme of those monitoring visits (within the theme) that the Ombudsman carried out in the children's sector in 2022 in collaboration with the Danish Institute for Human Rights and DIGNITY – Danish Institute Against Torture.

In order to elucidate the theme, the Ombudsman carried out a total of eight monitoring visits to accommodation facilities with generally eight to ten places for young people aged 13-17 years. One visit was carried out virtually due to COVID-19, while the other visits were carried out physically. The monitoring visits focused especially on:

- Use of physical force and search of person and room
- Return of runaways and detaining in connection with or during placement
- Drug testing
- Prevention and handling of alcohol and drug abuse, sexual abuse and self-harming behaviour
- Healthcare services.

## **2. What have the thematic visits shown?**

### **2.1. Main conclusions**

- The visited accommodation facilities used physical force and other restrictions of the right to self-determination to a limited extent, and the monitoring visits left the overall impression that the facilities were focused on handling conflicts in a pedagogical, constructive and dialogue-based way.
- Staff in several of the accommodation facilities had only a more general knowledge of the rules under the Act on Adult Responsibility for Children and Young People in Out-of-Home Care on, among other things, physical force, including on how physical force should be carried out in practice.
- The deadline for recording and reporting use of physical force and search of person and room was in several instances not observed, and the report forms often did not contain an adequate description of the course of events in connection with use of force.
- Several of the accommodation facilities did not in connection with the placement inform young people and custodial parents of their rights in relation to use of physical force and other restrictions of the right to self-determination.

- The monitoring visits left the overall impression that the accommodation facilities were focused to a relevant extent on prevention and handling of alcohol and drug abuse, sexual abuse and self-harming behaviour.

## **2.2. General recommendations**

On the basis of the monitoring visits, the Ombudsman generally recommends that private accommodation facilities

- ensure that the deadline is observed for recording use of physical force and search of person and room and for reporting to and informing the relevant authorities and custodial parents.
- ensure that report forms on use of physical force contain an adequate description of the course of events, including a description of how the child or young person was conducted or manually restrained, and the grounds for why the intervention was necessary.
- ensure that report forms on search of person and room contain an adequate description of the course of events, including a specification of whether or not the child or young person has been informed of the reason for the search and has been asked to hand over any effects voluntarily.
- ensure that staff are sufficiently familiar with the rules under the Act on Adult Responsibility for Children and Young People in Out-of-Home Care, including the rules on the use of physical force, and that the accommodation facilities have written guidelines on the use of physical force and other restrictions of the right to self-determination
- ensure that – in connection with the placement – children, young people and custodial parents are informed of their rights in relation to the use of force and other restrictions of the right to self-determination, including complaint access. In this context, the Ombudsman recommends that facilities consider drawing up written material on rights and complaint access that can be handed out on arrival
- ensure that drug tests are used in accordance with the relevant rules, including that general consent for the use of drug tests is obtained, either in connection with arrival or during the placement period if the need for being able to use a drug test arises, and that the placing municipality and custodial parents are informed that a drug test has been used and of the result of the test.

- ensure that medicines management is carried out in accordance with applicable rules and that instructions on medicines management are drawn up in accordance with the Danish Health Authority's national clinical guidelines on drawing up instructions.

The Ombudsman will discuss the follow-up on the general recommendations with, respectively, the Ministry of Social Affairs, Housing and Senior Citizens and the Ministry of the Interior and Health. The Ombudsman will also follow up on the general recommendations during future monitoring visits.

On the basis of the monitoring visits, the Ombudsman has raised an own-initiative case on the application of drug tests. Read more below in item 6.2.

### **2.3. Background for the choice of theme and focus area**

A number of conditions for children and young people placed outside the home are regulated in the Act on Adult Responsibility for Children and Young People in Out-of-Home Care (Consolidation Act No. 764 of 1 August 2019) and the appurtenant Executive Order and Guideline. These conditions include staff's access to using force and carrying out other restrictions of the right to self-determination of children and young people. In the interests of the legal rights of the children and young people, it is important that staff are familiar with these rules.

On that background, the Ombudsman wanted to examine conditions in small private accommodation facilities in order to uncover whether their staff are sufficiently familiar with the rules of the Act on Adult Responsibility concerning the subjects that the visits were focused on, cf. item 1 above.

The Ombudsman primarily visited facilities where the target group is young people with, among others, alcohol or drug abuse, self-harming behaviour and the like.

The aim of visiting accommodation facilities with this target group was to gain knowledge of how the facilities handle the young people's challenges and what type of addiction treatment the young people can access.

In this connection, among others the Act on Adult Responsibility's rules on search of person and room, return of runaways, detaining in connection with or during placement and drug testing may be relevant. In connection with the monitoring visits, the Ombudsman therefore wanted to examine whether the facilities are familiar with these rules and to what extent the facilities make use of the possibilities the rules afford.

Young people with an alcohol or drug abuse who are placed outside the home could potentially be vulnerable to exploitation of a sexual nature, among other things. The Ombudsman therefore wanted to examine whether the facilities have knowledge of, and guidelines for, prevention and handling of sexual abuse. In relation to young people with self-harming behaviour, the Ombudsman also wanted to examine whether the facilities have knowledge, including guidelines, regarding prevention and handling of self-harming behaviour.

Lastly, the Ombudsman wanted to shed light on the young people's access to healthcare and the medicines management of the visited facilities.

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

### *2.4.1. Material and information in connection with the visits*

Prior to the monitoring visits, the Ombudsman received information on a range of the accommodation facilities' conditions and specific reports on the use of force and other restrictions of the right to self-determination with a view to shedding light on, among other things, the chosen focus areas.

Immediately prior to the monitoring visit, the Ombudsman informed the young people of the visit with a view to speaking with as many young people as possible. During the monitoring visits, the visiting teams spoke with a total of 41 young people aged 13-17 years.

Furthermore, the visiting teams spoke with the parents of the young people (a total of 33 parents). In addition, the visiting teams spoke with the accommodation facilities' staff, including those responsible for medicines, and the visiting teams also obtained information about the facilities in connection with discussions with management.

### *2.4.2. The legal basis for monitoring visits*

The monitoring visits were carried out as part of the Ombudsman's general monitoring activities in accordance with the Ombudsman Act and as part of the Ombudsman's work to prevent that people who are or may be deprived of their liberty are exposed to for instance inhuman or degrading treatment, cf. the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

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

The Danish Institute for Human Rights and DIGNITY contribute to the cooperation with human rights and medical expertise. This means, among

other things, that staff with expertise in these areas participate on behalf of the two institutes in the planning, execution and follow-up regarding monitoring visits.

In addition, the Ombudsman has a special responsibility for protecting the rights of children according to, among others, the UN Convention on the Rights of the Child.

Generally, the Ombudsman's Special Advisor on Children's Issues participates in monitoring visits in the children's sector.

#### *2.4.3. List of visits in 2022*

On the Ombudsman's website, there is a summary of all monitoring visits in 2022, including the recommendations given to the individual accommodation facilities: [Completed visits in the children's sector in 2022 \(ombudsmanden.dk\)](https://ombudsmanden.dk)

### **3. Use of physical force**

#### **3.1. The rules**

In all actions concerning children, the best interests of the child shall be the primary consideration. This appears from the UN Convention on the Rights of the Child.

According to the Act on Adult Responsibility, staff at accommodation facilities can use physical force against a child or young person when certain conditions are met.

However, use of physical force must only be used as an exception. And use of physical force must never take the place of care and socio-pedagogical measures. In addition, use of physical force must always be in reasonable proportion to the aim and must be exercised as gently and briefly as circumstances allow, and with the greatest possible regard for the personal integrity of the child or young person. This follows from the general principles for use of force etc. in the Act on Adult Responsibility.



## **USE OF PHYSICAL FORCE**

### **Who and what**

Staff can *manually restrain* or *conduct* a child or young person to another room.

### **When**

Physical force can be used when the child or young person exhibits a behaviour, including persistent harassment, which *endangers the child or young person or others at the facility*.

### **Documentation and hearing**

The facility must *record* and *report* use of physical force.

The child or the young person must be *informed of the contents of the report* and be given the *opportunity to comment on the episode*.

### **Information**

On arrival at the facility, the child or young person and the custodial parents must be *informed of their rights in relation to the use of force and other restrictions of the right to self-determination*, including complaint access.

### **3.2. Extent of the use of physical force**

The visits generally left the impression that the accommodation facilities only use physical force towards the young people to a limited extent and that the facilities seek as much as possible to avoid using physical force and other restrictions of the right to self-determination.

The visited facilities explained to a relevant extent how they via pedagogical measures were focused on preventing use of force and other restrictions of the right to self-determination through, among other things, dialogue, de-escalating behaviour and Low Arousal. Most of the accommodation facilities also stated that they to a certain extent have access to external supervision in the form of for instance psychological assistance in relation to the work with the young people.

Prior to the visits, the Ombudsman obtained information about, among other things, the number of physical force episodes in the period 2019-2021. The received information shows that the individual accommodation facilities had a total of between 0 and up to 10 recorded physical force episodes towards young people under the age of 18 in this period.

### **3.3. Examples of reports**

The accommodation facilities must record the use of physical force on a specific form. The form appears from Appendix 1 a of the Executive Order on Adult Responsibility (Executive Order No. 810 of 13 August 2019 on Adult Responsibility for Children and Young People in Out-of-Home Care).

In connection with the monitoring visits, the Ombudsman obtained the most recent report forms concerning use of physical force from the seven facilities that had reported use of physical force in the period in question. The Ombudsman received a total of 28 report forms.

The review of the reports formed a basis for discussions between the visiting teams and the visited facilities during the monitoring visits.

#### *3.3.1. Observance of deadlines for recording and reporting the use of physical force*

If force has been used towards a child or a young person, pursuant to the rules on adult responsibility the accommodation facility's manager (or the deputy manager) must put the episode on record within 24 hours. The short deadline is primarily out of regard for the legal rights of the children and young people, but also out of regard for the staff involved in the episode.

Then the manager (or the deputy manager) of the accommodation facility must without undue delay – meaning as quickly as possible within 24 hours once the recording has been completed – send a copy of the report to the placing municipality and inform the custodial parents. By the end of the month, a copy of the report form must be sent to the local social supervision authority, and a municipal or regional operator, if any, must be informed.

Review of the received report forms showed that none of the seven accommodation facilities reporting use of physical force had fully observed the deadlines for recording and reporting the use thereof. One of the facilities, however, had only exceeded the deadline for reporting to the placing municipality in a single instance. In another facility, the failure to meet the deadline primarily concerned a single episode where the facility was in doubt about the duty to report. In addition, the background for exceeding the deadline in one of the other facilities was that the former practice had been to await the young person's comments about the report, but the facility had changed its practice when informed by the local social supervision authority that it is possible to send in the young person's comments afterwards.

Several of the reports did not contain any information on the custodial parents having been informed of a physical force episode.

On that background, the Ombudsman recommended four accommodation facilities to ensure that the deadlines for recording and reporting use of physical force be observed.

One of the facilities was at the same time recommended to ensure that all the facility's force episodes be recorded and reported.

On that basis, the Ombudsman generally recommends that the accommodation facilities ensure observance of the deadlines for recording a physical force episode and the deadlines for reporting to and informing the relevant authorities and custodial parents.

The Ombudsman has previously raised the question of how to understand the deadline for reporting to the local social supervision authority ('by the end of the month') with the, then, Ministry of Social Affairs and Senior Citizens (now the Ministry of Social Affairs, Housing and Senior Citizens). In a letter of November 2022 to the five social supervision authorities, the Ministry has stated that the deadline for reporting to the local social supervision authority 'by the end of the month' applies to the transition from one calendar month to another and that copies of the report forms for a current calendar month must thus be sent in at the end of that month (and not within a period of 31 days).

### *3.3.2. Documentation for the use of force*

A report must contain a description of what happened in connection with the use of force and the grounds for why the intervention was necessary.

An adequate description of the course of events in connection with a force episode and a precise account of how the child or the young person was conducted or manually restrained are prerequisites for being able to assess whether the use of force was in accordance with the rules of the Act on Adult Responsibility.

Some of the report forms that the Ombudsman received did not contain an adequate description of the course of events or of how the use of force was carried out, for instance how the child or young person had been conducted or manually restrained. Furthermore, many reports lacked other information, including information on inclusion of the young person, cf. read below in item 3.3.3.

On that background, the Ombudsman recommended to the seven accommodation facilities that had reported use of physical force that they ensure adequate completion of the report forms.

The Ombudsman generally recommends that it is ensured that report forms on the use of physical force contain an adequate description of the course of

events, including a description of how specifically the child or young person was conducted or manually restrained, together with grounds for the necessity of the intervention.

### *3.3.3. Inclusion of the young person*

Children and young people who have been involved in a physical force episode or other restrictions of the right to self-determination must be informed that the episode has been put on record and of the contents of the report on the episode. They must also be given the opportunity to comment on the episode. This follows from the adult responsibility legislation.

The visits left the general impression that after use of force, the accommodation facilities spoke with the young people both about the episode and about the fact that it had been put on record and the contents thereof.

However, the Ombudsman did recommend to one facility to ensure that after use of physical force the young people be informed that the episode has been put on record and the contents thereof and be given the opportunity to comment on the episode. It was pointed out to another facility that its staff were not sufficiently mindful that after a force episode – and in addition to being given the opportunity to comment on the episode – the young person must also be informed that the episode has been put on record and the contents thereof.

Review of the actual report forms on use of physical force also showed that in most cases, the young person had had the opportunity to comment on the episode, but for several facilities, it did not appear clearly from the report form whether the young person had been made aware that the episode had been put on record and been informed of the contents of the report. As mentioned above in item 3.3.2, the Ombudsman recommended to seven accommodation facilities that the report forms be adequately completed.

### **3.4. Knowledge of rules etc.**

Children and young people placed in accommodation facilities must be treated with dignity, consideration and in accordance with their rights. To ensure this, it is crucial that staff are familiar with the rules that apply to use of physical force towards the children and young people.

Use of physical force must be applied as gently and briefly as circumstances allow and with the greatest possible consideration for the child's or young person's personal integrity. This presupposes, among other things, that staff know what restraining holds to use in connection with use of force.

Written guidelines on use of physical force can in this connection provide support and help in the daily work.

All the visited accommodation facilities had written guidelines on the use of physical force. During the monitoring visits, the visiting team received the general impression that staff were very reluctant to use force but also that staff in several of the facilities only had a mere general knowledge of the rules of the Act on Adult Responsibility, including how physical force ought to be carried out in practice in relation to for instance the use of gentle restraining holds.

Several of the facilities had young people in after-care, but staff were not aware that the rules on use of physical force in the Act on Adult Responsibility do not apply to young people in after-care.

Management in several of the accommodation facilities indicated that the limited knowledge of the rules is probably because physical force is seldom used. In this connection, the visiting teams stated that staff should have an adequate knowledge of the rules in any event, including the rules on what restraining holds to use if the need therefore arises. In addition, there were during several of the monitoring visits general discussions regarding the boundaries between care and force.

The Ombudsman gave five accommodation facilities a recommendation aimed at ensuring that staff had an adequate knowledge of the rules of adult responsibility legislation on, among other things, the use of physical force, including on how physical force should be used in practice.

At the same time, the Ombudsman recommended four accommodation facilities to ensure that the internal guidelines on the use of physical force are in accordance with and describe the central requirements of adult responsibility legislation.

In the light thereof, the Ombudsman generally recommends that the accommodation facilities ensure that staff have an adequate knowledge of the rules of adult responsibility legislation, including on the use of physical force, and that the facilities have written guidelines on the use of physical force and other restrictions of the right to self-determination.

### **3.5. Information on rights**

In connection with placement in an accommodation facility, the manager must inform the child or young person and the custodial parents of their rights in relation to the use of force and other restrictions of the right to self-determination, including the access to complain to the National Social

Appeals Board and the municipal council, respectively. This follows from adult responsibility legislation.

The visits showed that several accommodation facilities did not in connection with the placement inform the young people and the custodial parents of their rights in relation to the use of force etc.

The Ombudsman recommended five accommodation facilities to ensure that the young people and the custodial parents are informed on arrival of their rights in relation to the use of force and other restrictions of the right to self-determination, including access to complain to the National Social Appeals Board and the municipal council, respectively. One accommodation facility was given a recommendation aimed at ensuring that the information material was in accordance with the rules in the adult responsibility legislation.

On that background, the Ombudsman generally recommends that facilities ensure that, on arrival at the facility, children, young people and custodial parents are informed of their rights in relation to use of force and other restrictions of the right to self-determination, including complaint access. In this context, the Ombudsman recommends that facilities consider drawing up written material on rights and complaint access that can be handed out on arrival.

## **4. Search of person and room**

### **4.1. The rules**

It follows from the Act on Adult Responsibility that accommodation facilities can search a child or young person placed in the facility, or search their rooms, provided certain conditions are met. A search of person or room must be carried out in compliance with the general principles for the use of force, cf. item 3.1.

#### **SEARCH OF PERSON AND ROOM**

##### **When**

A search of person and room can be carried out when there are *specific reasons to assume* that the child or young person is in possession of items, where such possession means that order or security cannot be maintained.

##### **Who**

A decision to search a person or a room is *made by the manager or whoever has the authority to do so*.

**How**

Before a search, the child or young person generally has the right to be *informed of the reason* for the search. Metal detectors, scanners or the like can be used during the search.

*Search of person*

The search may be carried out by *patting the outside of clothes and examining pockets and shoes*, and the child or young person may be required to take off coat, headgear and shoes.

*Search of room*

When going through the child's or young person's things in the room, the child or young person must generally be offered to *witness the search* or immediately afterwards be offered *a review of the search and its results*.

**Documentation and hearing**

The accommodation facility must *record and report* a search of person and room.

The child or young person must be *informed of the report and its contents* and be given *the opportunity to comment*.

Items found during the search can be confiscated if deemed necessary for reasons of order and security. A list must be compiled if items belonging to the child or young person are confiscated. The child or young person must be informed of the confiscation and receive a copy of the list.

**4.2. Extent of search of person and room**

Prior to the visits, the Ombudsman obtained information about, among other things, the number of searches of persons and rooms in the period 2019-2021. It appears from the forwarded information that the accommodation facilities carry out searches of persons and rooms very rarely. According to the information, four of the visited facilities had not carried out any searches at all during the period, three facilities had carried out a single search, while the last facility had carried out four searches during the period. Out of a total of seven searches, only one was search of a person.

A few of the accommodation facilities stated that – out of consideration for the relationship with the young people – they always contact the police instead of conducting the search themselves if they suspect that a young person is in possession of something illegal. One of the other facilities stated that they had also made use of the police several times instead of carrying out a search themselves. Some facilities stated that they had never carried out and would never carry out a search of persons themselves.

Several of the accommodation facilities stated that the facility always encourages the young people to hand over any items that the young persons are not allowed to have, and that the young people usually hand over the items voluntarily.

#### **4.3. Examples of reports**

Search of person and room must be recorded on the same form – and the same deadlines apply to reporting etc. – as for use of physical force, cf. item 3.3.1 above.

The review of the individual reports formed the basis for discussions between the visiting teams and the relevant visited facilities during the monitoring visits.

##### *4.3.1. Observance of deadlines for recording and reporting search of person and room*

The review of the report forms showed that the deadlines for recording and reporting search of person and room were not observed in all instances.

The Ombudsman recommended two out of the four accommodation facilities that had carried out such searches to ensure that the deadlines for recording and reporting search of person and room be observed.

The Ombudsman generally recommends that the accommodation facilities ensure that the deadline for recording search of person and room and for reporting to and informing the relevant authorities and custodial parents be observed.

##### *4.3.2. Documentation for search of person and room*

The majority of the received report forms did not contain an adequate description of the course of events etc. in connection with the search. The reports did not show for instance whether the young person had been informed of the reason for the search, whether the young person had been encouraged to hand over the object(s) of the search voluntarily or how the search went. In addition, several reports lacked information about inclusion of the young person, cf. item 4.3.3 below.

The Ombudsman recommended all four accommodation facilities that had carried out such searches to ensure that the report forms be adequately filled in.

The Ombudsman generally recommends that the accommodation facilities ensure that the report forms contain an adequate description of the course of events in connection with the search, including an indication of whether the



child or young person has been informed of the reason for the search and has been encouraged to hand over any items voluntarily.

#### *4.3.3. Inclusion of the young person*

The review of the report forms on searches of persons and rooms showed that in most instances, the young person was given an opportunity to comment on the episode, but it did not appear clearly from the forms whether the young person was informed that the episode had been put on record and the contents thereof. As mentioned under item 4.3.2, the Ombudsman recommended all four accommodation facilities that had carried out searches to ensure that the report forms be adequately filled in.

#### **4.4. Knowledge of the rules**

During the monitoring visits, the visiting teams received the general impression that staff at the majority of the accommodation facilities had a general knowledge of the rules on search of person and room but also that some of the staff were uncertain about a few central elements in the provisions.

The majority of the accommodation facilities had internal guidelines on search of both person and room. In several instances, however, the guidelines were not adequate or clear in relation to central requirements in the underlying rules. Among other things, it was not clear in all guidelines who can decide that a search is to be carried out or that a list must be drawn up of confiscated items belonging to the young person, and that the list must be given to the young person. Furthermore, it did not appear in all guidelines that search of persons only as an exception can be carried out and witnessed by persons of a different gender to the young person.

The Ombudsman recommended one accommodation facility to ensure that all members of staff are familiar with the rules on room searches. The Ombudsman also gave three accommodation facilities recommendations with the aim of ensuring that their internal guidelines on search of person and room describe the central requirements in the applicable rules. One of the other accommodation facilities was recommended the same, solely with regard to the guidelines for room searches, and was also recommended to consider drawing up internal guidelines on search of persons. Another accommodation facility was recommended to consider drawing up written guidelines for room searches, describing the central legislative requirements.

As it appears above under item 3.4, the Ombudsman generally recommends accommodation facilities to ensure that staff are sufficiently familiar with the rules of the adult responsibility legislation, and that the facilities have written guidelines on the use of physical force and other restrictions of the right to self-determination. This includes the rules on search of person and room.

In connection with some of the monitoring visits, the visiting teams pointed out to the accommodation facilities that confiscation of items must be recorded on the report form, which has an individual box for it.

#### **4.5. Information on rights**

As appears above under item 3.5, the Ombudsman generally recommends that the accommodation facilities ensure that – in connection with the child or young person being placed in the facility – children, young people and custodial parents are informed of their rights in relation to the use of force and other restrictions of the right to self-determination, including complaint access. In this context, the Ombudsman recommends that the accommodation facilities consider drawing up written material on rights and complaint access that can be handed out on arrival.

### **5. Return of runaways and detaining in connection with or during placement**

#### **5.1. The rules**

It follows from the Act on Adult Responsibility that when certain conditions have been met, accommodation facility staff can return a child or young person placed at the facility when the child or young person has run away. Furthermore, it can be decided that a child or young person placed in care can be detained at the accommodation facility in connection with or during placement. Return of runaways and detaining must be carried out in accordance with the general principles on use of force, cf. above under item 3.1.

#### **RETURN OF RUNAWAYS AND DETAINING**

##### **Who and what**

##### *Return of runaways*

As part of the duty of care, staff can return a runaway child or young person who has been placed at the facility. By '*return*' is meant that staff can manually restrain and conduct the child or young person back to the accommodation facility. By '*runaway*' is meant that the child or young person has left the accommodation facility with no intention of coming back.

##### *Detaining*

The Children and Young Persons Committee or the Juvenile Crime Board can decide that a child or young person placed in care can be detained at the accommodation facility for up to 14 days in connection with the

*placement*. It can also be decided to detain the child or young person at the accommodation facility for up to *14 days during the placement*. Such a detention can remain in force for *another 14 days* under special circumstances.

Staff can – within the scope of the decision to detain – physically restrain the child or young person in order to prevent the child or young person from leaving the accommodation facility.

### **When**

#### *Return of runaways*

Return of runaways can take place when the child or young person exhibits a behaviour that may result in *risk of harm for the child or the young person or for others*.

#### *Detaining*

Detaining can take place when it must be considered to be of decisive importance in order to meet a child's or young person's *special need for support*, and it is deemed to be of *decisive importance to the socio-pedagogical treatment*.

### **Documentation and hearing**

The accommodation facility must *record and report* return of runaways and detaining.

The child or young person must be *informed that it has been put on record and the contents thereof*, and be given the *opportunity to comment*.

## **5.2. Extent of return of runaways**

None of the visited accommodation facilities had carried out return of runaways within the last three years.

All visited facilities stated that they have or have had young people running away. However, the facilities do not return the young people by means of force but, on the contrary, use a pedagogical approach to the young people to make them return to the accommodation facility voluntarily. The accommodation facilities explained how they endeavour to establish a contact with a young person who has run away, for instance via telephone, text or social media. Several of the facilities also stated that if staff see a young person run away, they go after the young person with a view to persuading him or her to return voluntarily. The facilities stated that if they are worried about a young person who has run away, they will contact the police, and several facilities stated that if it becomes necessary to return the young

person by force, they will leave this task to the police in order not to damage the facility's relationship with the young person.

The majority of the accommodation facilities had internal guidelines on return of runaways, but it was the visiting teams' general impression that staff had a limited knowledge of the relevant rules. As mentioned under item 3.4, the Ombudsman generally recommends that the facilities ensure that staff are sufficiently familiar with the rules of the Act on Adult Responsibility. These include the rules on return of runaways.

The Ombudsman gave one accommodation facility a recommendation to ensure that the internal guidelines on the return of runaways describe the central requirements in the applicable rules.

### **5.3. Extent of detaining in connection with or during a placement**

Several of the visited accommodation facilities had had one or a few young people where a decision had been made to detain them. However, none of the facilities had needed to prevent the young people from leaving the facility. A few of the visited facilities told the visiting teams that they would refuse or consider to refuse to receive a young person if a decision has been made to detain him or her.

Several of the facilities had internal guidelines on detaining in connection with or during a placement.

The Ombudsman gave a recommendation to one accommodation facility to ensure that the internal guidelines on detaining in connection with or during a placement are in accordance with applicable rules.

## **6. Drug tests**

### **6.1. The rules**

According to the Act on Adult Responsibility, accommodation facilities can use drug tests when certain conditions are met.

#### **DRUG TESTS**

##### **When**

Staff can use a drug test when a child or young person suffers from drug abuse or there are *specific reasons to assume that the child or young person has ingested drugs.*

**General consent**

*Before a drug test is taken, the child or young person must have given general consent to the use of the drug test. For children under the age of 12, the custodial parents must have given general consent.*

The consent must be *informed, voluntary and explicit*. General consent can always be *withdrawn* by the child or young person and by the custodial parents.

**Voluntary participation in specific test**

*The participation of the child or young person in the drug test must be voluntary in the specific situation. The child or young person must not suffer any negative consequences if he or she will not submit to the test.*

**Briefing**

*The custodial parents and the placing municipality must always be informed that a drug test has been used in a specific situation and be informed of the result of the test. The briefing can take place verbally.*

**6.2. The use of drug tests**

The visited accommodation facilities had used drug tests to a varying extent, from a few tests and up to around a total of 50 tests over the last three years. One visited facility stated that it did not use drug tests out of regard for the relationship between staff and the young people and the facility's pedagogical work.

During the monitoring visits, the visiting teams received the general impression that the facilities were focused on ensuring that drug tests are used in accordance with the applicable rules. It was furthermore the general impression that a test is only carried out in the specific situation if the young person participates voluntarily. However, a few accommodation facilities overlooked that general consent to a relevant extent must be given to drug tests, for instance in connection with the start of the placement.

The Ombudsman recommended to two accommodation facilities to ensure that, to a relevant extent, general consent from the young people is obtained for the use of drug tests, either in connection with the start of the placement or during the placement period, if the need for using tests arises.

The majority of the accommodation facilities were focused on the requirement of informing the custodial parents about the use of a drug test, including the test result. On the other hand, some of the facilities did not or did not consistently inform the placing municipality when carrying out a test.

The Ombudsman recommended three accommodation facilities to ensure that the placing municipality be informed of the use of a drug test and of the test result. For one of the accommodation facilities, this recommendation also included information to the custodial parents.

The Ombudsman generally recommends that it is ensured that drug tests are used in accordance with applicable rules, including obtaining general consent to the use of drug tests, either in connection with the start of the placement or during the placement period, if the need for using tests arises, and that the placing municipality and custodial parents are informed that a drug test has been carried out and of the results of the test.

One of the accommodation facilities stated that the placing municipality is not necessarily informed following each individual test but that the facility sometimes 'pools' the briefings, just as the facility in one instance had agreed with a young person who was tested regularly that he would inform his parents himself.

At a meeting with the Ministry of Social Affairs, Housing and Senior Citizens, the Ombudsman subsequently discussed the question of 'pooling' the briefings and of leaving it to a young person to inform custodial parents. The Ministry has indicated that it is the Ministry's opinion that a briefing must be presumed to take place immediately after the drug test, that it is the placement facility which has the briefing duty and that this duty cannot be left to for instance the young person.

One of the accommodation facilities stated that drug tests are only used when the young people themselves want to have a test carried out, and that the facility does not in those instances brief the custodial parents and the placing municipality of the drug test, as, according to the facility, this would involve a risk of the young people not wanting to take the test. One of the other accommodation facilities also stated that they would not pass on the information in such an instance where the young person asked for a test to be carried out.

On that background, the Ombudsman has discussed the question of the underlying rules for testing in such instances with the Ministry of Social Affairs, Housing and Senior Citizens, and the Ombudsman has subsequently started an own-initiative investigation of the Ministry regarding the scope of the rules on drug tests.

A number of the accommodation facilities had internal guidelines concerning drug tests, and the Ombudsman made two facilities aware of a few matters concerning the facility's guidelines, which should be made clearer.

## **7. Prevention and handling of alcohol and drug abuse, sexual abuse and self-harming behaviour**

### **7.1. Prevention and handling of alcohol and drug abuse**

Several of the visited accommodation facilities received young people with addiction problems requiring treatment while other facilities stated that they do not generally receive young people with an active abuse. All visited accommodation facilities accounted to a relevant extent for the external cooperation with, among others, municipal treatment centres in relation to young people with addiction problems. A few of the facilities had an in-house addiction therapist.

It was the visiting teams' general impression that the facilities were focused to a relevant extent on summoning a doctor for the young people on suspicion of withdrawal symptoms. Some of the facilities stated that they offer alternative treatments against, among other things, withdrawal symptoms, such as NADA acupuncture and hypnosis.

The Ombudsman gave no recommendations concerning prevention and handling of alcohol and drug abuse. However, it was pointed out to one accommodation facility that in connection with withdrawal symptoms, a medical review – and possible treatment – should to a relevant extent be offered to the young people prior to or concurrent with the implementation of alternative treatment forms such as hypnosis and acupuncture. At one of the other facilities, the visiting team indicated to the facility's management that it was the visiting team's assessment that there was a need for an increased focus on withdrawal symptoms and signs of withdrawal symptoms.

### **7.2. Prevention and handling of sexual abuse**

It was the visiting teams' general impression that the visited accommodation facilities to a relevant extent were focused on prevention and handling of sexual abuse. All the accommodation facilities had in-house material on handling of sexual abuse. In this connection, there was a discussion with several of the accommodation facilities on the fact that it is important that the material states, which signs of abuse staff must pay attention to.

At the same time, it was the visiting teams' general impression that the facilities at staff meetings etc. were mindful of talking about suspicions and handling of sexual abuse.

The Ombudsman recommended one accommodation facility to ensure that staff have knowledge of signs of sexual abuse and the procedure to follow on

suspicion of abuse, possibly by clarifying the in-house guidelines on the subject.

Several of the accommodation facilities stated that they have or have had young people who have been victims of sexual abuse prior to the placement, and that there is a focus on ensuring that they receive relevant help during the placement in the form of psychological counselling, among other things.

A few facilities mentioned that they have had young people who sugar dated. In addition, several of the facilities indicated that the young people's behaviour on the internet is a challenge in relation to, among other things, sharing pictures etc., but that the facilities are in general mindful of talking with the young people about good behaviour online.

### **7.3. Prevention and handling of self-harming behaviour**

The majority of the visited facilities stated that they have or have had young people with self-harming behaviour. One of the facilities stated that more or less all the young people placed at the facility exhibit self-harming behaviour at the time of the placement. The primary form of self-harm is cutting.

To a relevant extent, the visited facilities explained that young people with self-harming behaviour have access to psychological counselling and that staff have access to external supervision in relation to the handling of young people with self-harming behaviour.

The majority of the accommodation facilities had in-house material on the subject, and the Ombudsman gave no recommendations concerning prevention and handling of self-harming behaviour. However, it was pointed out to one accommodation facility that the facility should consider drawing up written guidelines on prevention and handling of self-harm and suicide attempts.

## **8. Health**

### **8.1. General**

A child has a right to the enjoyment of the highest attainable standard of health, access to facilities for the treatment of illnesses and rehabilitation of health. This follows from the UN Convention on the Rights of the Child.

During the visits, the visited facilities accounted for the young people's access to healthcare services, including treatment by general medical practitioner, dentist and specialist doctors. The visits generally left the impression that the facilities were focused to a relevant extent on the young people's health-related conditions and their access to healthcare services.



The visited facilities stated that the young people typically change to the local medical centre or a local general practitioner when they are placed at the facility. Some of the facilities stated that there is often a lack of adequate medical information in the form of health status information etc. for the young people when they arrive, and that it can take some time to get the young person's previous doctor etc. to send the information.

Several facilities indicated that they have a well-functioning cooperation with the psychiatric sector while a few facilities described various challenges in the cooperation with the psychiatric sector in the form of waiting times, lack of evaluation or treatment offers, among other things, for young people who also have an addiction problem.

## **8.2. Healthcare procedures**

Correct medicines management is crucial to patient safety, and the Danish Health Authority has issued national clinical guidelines partly on drawing up instructions and partly on prescription and management of medicines.

The Ombudsman gave one accommodation facility a recommendation to ensure that the applicable guidelines for healthcare responsibilities are observed, including for medicines management, unintended events and for instruction and supervision of staff. Another accommodation facility was recommended to ensure that the facility's instructions on medicines management and practice concerning medicines management follow applicable guidelines, among other things with regard to dispensing of PRN medicine.

The Ombudsman generally recommends facilities to ensure that medicines management is carried out in accordance with applicable rules and that instructions on medicines management are drawn up pursuant to the Danish Health Authority's guideline on drawing up instructions.

Sincerely,



Niels Fenger