



FOLKETINGETS  
OMBUDSMAND

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**Thematic report 2024**

# **Children and young people in partly closed residential institutions**

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## **1. Introduction**

The theme for the monitoring visits that the Ombudsman carried out in 2024 in the children's sector was children and young people in partly closed residential institutions and partly closed wards in residential institutions. The visits were carried out in cooperation with the Danish Institute for Human Rights and DIGNITY – Danish Institute Against Torture.

In order to shed light on the year's theme, the Ombudsman carried out monitoring visits to Denmark's seven partly closed residential institutions and partly closed wards in residential institutions. Three of the institutions offered special education (hereinafter called in-house school) which the Ombudsman monitored at the same time. During the monitoring visits, there was special focus on:

- Use of physical force
- Detainment and manual restraint
- Searches of persons and rooms
- House rules, TV surveillance, door alarms and information on rights
- Schooling in in-house schools
- Healthcare-related conditions

## **2. What have the monitoring visits shown**

### **2.1. Main conclusions**

- It is the Ombudsman's impression that staff at the visited institutions were generally committed and reflective in the work with the children and the young people.
- The institutions had a general focus on preventing and reducing the use of force and other interventions in the right to self-determination by using de-escalating behaviour and dialogue with the young people, followed by a review of the use of force with a view to future learning.
- Several of the institutions did not in connection with the placement inform the young people and the custodial parents etc. about their rights in relation to use of force and other interventions in the right to self-determination, including the right to complain to, respectively, the National Social Appeals Board and the placing municipality.
- The deadlines for recording and reporting use of physical force and other interventions in the right to self-determination were to a wide extent not observed, just as the reporting forms in several instances did not contain

a satisfactory description of the sequence of events in connection with the use of force or grounds for why the intervention was necessary.

- Generally, the institutions lacked sufficient knowledge of the rules on detainment and manual restraint that apply especially to the partly closed residential institutions and partly closed wards in residential institutions.
- Several institutions lacked knowledge of which house rules that are mandatory for children and young people in a partly closed placement, just as there in some instances was a lack of knowledge about the rules for enforcement of the mandatory house rules.
- The rules on exemption from classes in subjects and exemption from tests and examinations were to a wide extent not observed for the pupils of the in-house schools. In addition, there continue to be certain challenges regarding observance of the rules on schooling in all subjects and full hours.

## **2.2. General recommendations**

Based on the monitoring visits, the Ombudsman generally recommends that the partly closed residential institutions and the partly closed wards in residential institutions

- ensure that the deadline for recording a use of physical force and other interventions in the right to self-determination and the deadlines for reporting to and informing the relevant authorities and custodial parents etc. about this are observed
- ensure that the reporting forms on use of physical force and other interventions in the right to self-determination contain a satisfactory description of the sequence of events in connection with the intervention, including – in case of use of physical force – a description of how the child or young person was specifically conducted or manually restrained, together with grounds for why the intervention was necessary
- ensure that the staff have sufficient knowledge of the rules in the Act on Adult Responsibility that apply particularly to, among others, the partly closed residential institutions and partly closed wards in residential institutions, and that the institutions' written guidelines on the subject are updated
- ensure that the choice of using detainment and manual restraint is made only if there is a decision and a more specific framework for this from the municipal council

- ensure that children and young people and custodial parents etc. – in connection with the placement of the child or young person – are informed about their rights in relation to use of force and other interventions in the right to self-determination, including about the right to complain. In this context, the Ombudsman recommends that institutions – that have not already drawn up written material – consider drawing up written material on rights in general and the right to complain which can be handed out when the child or young person arrives at the institution
- ensure that the staff have sufficient knowledge of the rules of the Act on Adult Responsibility on the use of door alarms in the partly closed residential institutions and the partly closed wards in residential institutions.

The Ombudsman recommends in relation to the in-house schools that the institutions

- ensure that all pupils are taught in all subjects and full hours and that exceptions from this are only made if a pupil – based on a specific and individual assessment – is exempted from classes in one or more subjects or has teaching time reduced according to the applicable rules.

The Ombudsman will discuss the follow-up on the general recommendations and a number of other observations from the monitoring visits with, respectively, the Ministry of Social Affairs and Housing and the Ministry of Children and Education. The Ombudsman will also follow up on the general recommendations during future monitoring visits.

Based on the monitoring visits, the Ombudsman has started several cases on his own initiative. These include an investigation of when the deadline for recording detainment is calculated from and an investigation of the institutions' practice for TV surveillance of communal areas, with the scope for TV surveillance in the institutions in the areas that are not covered by the rules of the Act on Adult Responsibility regarding TV surveillance of indoor communal areas. Furthermore, the Ombudsman has started an investigation of a municipality's practice in relation to making decisions on detainment and manual restraint of children and young people. The partly closed residential institutions and the partly closed wards will be informed of the results of this investigation. Find more about the investigations below under item 4.4, item 6.2 and item 9.2.

### **2.3. Background for choice of theme and focus areas**

The Ombudsman's monitoring activities are especially directed at society's most vulnerable citizens, and the Ombudsman also prioritises visits to

institutions where the underlying rules provide a possibility for more extensive interventions.

The partly closed residential institutions and partly closed wards in residential institutions are aimed at children and young people with a negative and disruptive behaviour, substance abuse problems or criminal behaviour with a need for a longer course of treatment.

In the partly closed residential institutions and the partly closed wards in residential institutions, interventions can be carried out in the right to self-determination of the children and young people that go further than the interventions that are allowed in the open institutions. The more extensive interventions include right – following a decision by the municipal council – to detain the children and young people by locking outer doors and windows for a period of time and to manually restrain the children and young people. In addition, all indoor communal areas must be under TV surveillance, and there must be door alarms at the rooms of the children and young people.

On that basis, the Ombudsman considers children and young people in partly closed residential institutions and partly closed wards in residential institutions to be a vulnerable group whose rights can easily come under pressure.

With the theme of 2024, the Ombudsman wanted to gain better knowledge of the partly closed residential institutions and partly closed wards in residential institutions which have not previously been a theme for the Ombudsman's monitoring visits in the children's sector.

In this context, the Ombudsman wanted to investigate whether the institutions were familiar with, among others, the special rules of the Act on Adult Responsibility that apply to partly closed residential institutions and partly closed wards in residential institutions.

At the same time, the Ombudsman wanted to examine whether the children and young people attending in-house schools in the partly closed residential institutions and partly closed wards in residential institutions receive the schooling that they are entitled to according to legislation, just as the Ombudsman wanted to examine the children's and young people's access to healthcare.

## **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 number of matters concerning the institutions together with concrete reports



of force and other interventions in the right to self-determination in order to shed light on, among others, the chosen focus areas.

Immediately prior to the monitoring visit, the Ombudsman informed the children and young people of the visit with a view to speaking with as many of the children and young people as possible. During the monitoring visits, the visiting teams had interviews with a total of 20 children and young people between 13 and 17 years of age.

In addition, the monitoring teams spoke with parents of the children and young people (31 parents in total). Furthermore, the visiting teams spoke with the institutions' staff, including in-house school teachers and those responsible for medicines, and the visiting teams gathered information about the institutions in connection with discussions with the institutions' 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 pursuant to the Parliamentary Ombudsman Act and as part of the Ombudsman's task of preventing that persons who are or who can be deprived of their liberty are exposed to for instance inhuman or degrading treatment; cf. the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

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

The Danish Institute for Human Rights and DIGNITY contribute "to the cooperation with human rights and medical expertise. Among other things, this means that staff with expertise in these fields from the two institutes participate in the planning and execution of and follow-up on monitoring visits.

In addition, the Ombudsman has a special responsibility for protecting the rights of children pursuant to, among others, the UN Convention on the Rights of the Child (the Children's Convention).

A special advisor on children's issues from the Ombudsman Office participates in monitoring visits to institutions for children.

#### *2.4.3. List of visits in 2024*

On the Ombudsman's website, there is a summary of all monitoring visits in 2024, including the recommendations given to the individual institutions.

[Monitoring visits to institutions etc. for children in 2024](#)



### 3. Use of physical force

#### 3.1. The rules

The best interests of the child shall be the primary concern in all actions concerning the child. So says the Children's Convention.

It follows from the Act on Adult Responsibility (Consolidation Act No. 1006 of 30 August 2024) that staff in partly closed residential institutions and partly closed wards in residential institutions are allowed to use physical force towards a child or young person when certain conditions are met.

However, 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, the force must always be in reasonable proportion to the aim. It must be carried out 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 a young person to another room.

##### When

Physical force can be used when the child or the young person exhibits a behaviour, including persistent harassment, which *endangers the child or young person or others* in the institution. Physical force can also be used in partly closed residential institutions and partly closed wards in residential institutions when the child or young person *violate mandatory house rules* and use of force is necessary in order to put a stop to the violation.

##### Documentation and hearing

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

The child or 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 institution, the child or young person and custodial parents must be *informed of their rights with regard to use of force and other restrictions in the right to self-determination*, including be given information on right to complain.

The rules on use of physical force in the Act on Adult Responsibility apply to all children and young people who are placed in a partly closed residential institution or a partly closed ward in a residential institution.

The rules also apply to children and young people attending in-house schools under the partly closed residential institutions and the partly closed wards in residential institutions. However, this does not apply to the rules on use of physical force to stop a violation of house rules, as the in-house schools are not included in the rules of the Act on Adult Responsibility on mandatory house rules.

On 1 July 2024, an amendment of the Act on Adult Responsibility came into force.<sup>1</sup> According to the new rules, physical force can also be used to take away a child's or young person's euphorants and in certain cases alcohol or when it is necessary to be able to temporarily confiscate a mobile phone and other electronic communications and gaming equipment.

The Ombudsman's review of the material and information from the institutions and feedback in connection with the monitoring visits is based on the rules that were in force at the time of the monitoring visits which all took place prior to the amendment of the Act.

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

At the times of the visits, the partly closed residential institutions and partly closed wards in residential institutions were each approved for between three and 26 partly closed placements. Prior to the visits, the Ombudsman obtained information about, among other things, the number of physical force episodes in the period between 2021 and 2023. However, one of the institutions had not opened until November 2023 and had not had any physical force episodes in 2023.

It appears from the submitted information that the annual number of physical force episodes varied very much between the institutions. No immediate correlation was found between the size of the institution and the number of physical force episodes. The annual number of physical force episodes per institution varied in 2023 from three to 117 episodes, and, in addition, the number of physical force episodes varied in the individual institutions in the individual years, for instance between 20 and 53 episodes.

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<sup>1</sup> The Act No. 680 of 11 June 2024 on amendment of the Social Services Act, the Act on Adult Responsibility for children and young people placed in care, and the Act on Legal Protection and Administration in Social Matters and the Act on Collection of Maintenance.

Two institutions in particular had experienced a relatively high increase in the number of physical force episodes in the period between 2021 and 2023. One of the institutions stated that many of the physical force episodes had been concentrated on one particular young person. The institution stated in addition that, since 2020, it had seen a development towards more serious self-harm and suicide risk.

The visits generally left the impression that staff at the visited institutions were committed and reflective in the work with the children and the young people. The institutions were focused on preventing and reducing the use of physical force and other interventions in the right to self-determination, and management was paying attention to this aspect. The institutions used, among other things, de-escalating behaviour, Low Arousal and subsequent review at staff meetings of specific physical force episodes with a view to future learning

### **3.3. Knowledge of the rules, etc.**

Children and young people in a partly closed residential institution or partly closed ward in a residential institution must be treated with dignity, consideration and in accordance with their rights. It is therefore also important that the staff know the rules that apply to the use of physical force towards the children and young people.

Physical force must be carried out as gently and briefly as circumstances allow, and with the greatest possible regard for the integrity of the child or young person. This presupposes among other things that the staff know what restraining holds to use in connection with use of force.

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

During the monitoring visits, the visiting teams generally got the impression that the institutions were focused on ensuring the staff – for instance through training courses – were familiar with the rules of the Act on Adult Responsibility and that the staff knew about the conditions for use of physical force.

However, the Ombudsman did recommend one institution to ensure that staff and temporary staff have the necessary knowledge of the use of physical force, including of how physical force should be carried out in practice. It was also pointed out to another institution that the institutions must ensure that all staff have sufficient knowledge of how physical force is to be carried out in accordance with adult responsibility legislation.

The visits showed that the majority of the institutions had written guidelines or teaching material on the use of physical force and other interventions in the right to self-determination.

## **4. Detainment and manual restraint**

### **4.1. The rules**

A child or a young person in a partly closed residential institution or a partly closed ward in a residential institution can be detained by outer doors and windows being locked for periods of time when certain conditions are met.

Furthermore, a child or young person in a partly closed residential institution or a partly closed ward in a residential institution can be manually restrained on certain conditions regardless of whether the common criteria for the use of physical force have been met.

Detainment and manual restraint must be carried out in compliance with the general principles for use of force; cf. above under item 3.1.

### **DETAINMENT AND MANUAL RESTRAINT**

#### **Who and what**

##### *Detainment*

The municipal council can make a decision that a child or young person can be detained in the institution for up to five consecutive days and for a maximum of 30 days in total over a year. The municipal council's decision on detainment and manual restraint (cf. below) is made as an overall decision for one year at a time.

*The manager or the manager's deputy can – within the scope of the municipal council's decision on detainment – detain the child or young person.*

##### *Manual restraint*

The municipal council can make a decision that a child or young person can be physically restrained, regardless of whether the conditions for using physical force are met.

*The manager or the manager's deputy can – within the framework of the municipal council's decision on manual restraint – manually restrain the child or young person in a concrete situation.*

## **When**

### *Detainment*

The municipal council can make the decision that detainment can take place when it is of crucial importance for the socio-pedagogical treatment that the child or young person does not run away from the institution and when there is a risk that the health or development of the child or young person will suffer serious harm in connection with running away.

### *Manual restraint*

The municipal council can decide that manual restraint can take place when it is of crucial importance for the socio-pedagogical treatment and there is a risk that the health or development of the child or young person will suffer serious harm and if the child or young person has previously

1. run away from open institutions and it must be assumed that the child or young person will run away from the institution again
2. committed a crime and it must be assumed that the child or young person will commit new crimes
3. taken euphoriants and it must be assumed that the child or young person will be taking euphoriants
4. committed self-harm and it must be assumed that the child or young person will commit serious self-harm.

### **Documentation and hearing**

The institution must *record and report* detainment and manual restraint.

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

## **4.2. Extent of detainments and manual restraints**

Prior to the monitoring visits, the Ombudsman obtained information about the number of detainments and manual restraints in the period between 2021 and 2023.

The number of detainments varied between the institutions. In 2023, two institutions, of which one had not opened until 2023, had not recorded detainments. The rest of the institutions had recorded between nine and 26 detainments in 2023.

In addition, the submitted information showed that the institutions only used manual restraint to a limited extent. Thus, only two institutions had recorded manual restraints in 2023 (three and seven manual restraints, respectively).

In one of the visited institutions, no manual restraints had been recorded in the period between 2021 and 2023, while another institution had only recorded one incidence of manual restraint in the period between 2021 and 2023.

#### **4.3. Knowledge of the rules**

During the visits, the visiting teams got the general impression that, in several of the institutions, there was limited knowledge of the rules on detainment and manual restraint, including in relation to the application of the rules.

As it appears under item 4.2 above, the submitted information showed that the institutions only used manual restraint to a limited extent. The visits left the impression that particularly the detailed conditions for using manual restraint gave rise to doubt in the institutions. This could in some instances result in the reports not containing an adequate description of or adequate grounds for the manual restraint; cf. item 6.3 below.

The Ombudsman recommended three institutions to ensure that all staff members are sufficiently familiar with the rules in the Act on Adult Responsibility which apply especially to, among others, partly closed residential institutions and partly closed wards in residential institutions, including the conditions for detainment and manual restraint. The recommendation was given as a general recommendation on the necessary knowledge of the rules in the Act on Adult Responsibility that apply especially to these institutions, among others, including knowledge of the rules on mandatory house rules and the rules for enforcement of these; cf. item 8.3 below.

At the same time, the Ombudsman recommended three institutions to ensure that their internal guidelines or information material on detainment and manual restraint are in accordance with and describe the rules of the Act on Adult Responsibility on detainment and manual restraint.

Lastly, the Ombudsman recommended two institutions to update their internal guide on the Act on Adult Responsibility to also include the requirements of adult responsibility legislation which apply especially to, among others, partly closed residential institutions and partly closed wards in residential institutions.

In the light of this, the Ombudsman generally recommends that it is ensured that the staff have sufficient knowledge of the rules in the Act on Adult Responsibility that apply particularly to, among others, the partly closed residential institutions and partly closed wards in residential institutions, and that the institutions' written guidelines on the subject, if any, are updated.

#### **4.4. Municipal decisions on detainment and manual restraint**

In connection with the monitoring visits, the Ombudsman obtained the most recent reporting forms on, among other things, detainment and manual restraint; cf. item 6 below. Furthermore, the Ombudsman asked the institutions to send him the municipal council's decisions which provided the grounds for the specific decisions to detain and manually restrain.

The visits revealed that in several instances where the institutions had detained or manually restrained a child or young person, there was no municipal council decision thereon which is a condition for detaining or manually restraining a child or young person in a partly closed residential institution or a partly closed ward in a residential institution.

The Ombudsman recommended four institutions to ensure that the choice of using detainment and manual restraint is made only if there is a decision and a more specific framework for this from the municipal council. In connection with one of the other monitoring visits, the visiting teams pointed this out to the institution's management.

In the light thereof, the Ombudsman generally recommends that it is ensured that the choice of using detainment and manual restraint is made only if there is a decision and a more specific framework for this from the municipal council.

The Ombudsman has stated an own-initiative investigation of a municipality regarding the municipality's practice in relation to making decisions on detaining and manually restraining children and young people in partly closed residential institutions and in partly closed wards in residential institutions. The investigation also includes the municipality's establishment of the framework for, respectively, detainment and manual restraint and the duration thereof.

### **5. Searches of persons and rooms**

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

It follows from the Act on Adult Responsibility that in partly closed residential institutions and partly closed wards in residential institutions, it is allowed to search a child or young person or their room when certain conditions are met. Searches of persons and rooms must be carried out in compliance with the general principles for use of force; cf. above under item 3.1.



## SEARCHES OF PERSONS AND ROOMS

### When

Searches of persons and rooms can be carried out when there are *specific reasons to assume* that the child or young person is in possession of objects that and this possession means that considerations of order and security cannot be observed.

### Who

Decisions to carry out searches of persons and rooms are *made by the manager or deputy manager*.

### How

Before a search, a child or young person is as a general rule entitled to *be informed of the reason* for the search.

#### *Search of person*

The search can be carried out by *patting the clothes* and *looking into pockets and shoes*, and the child or young person can be required to take off outdoor clothes, headgear and shoes.

#### *Search of room*

On searches of the child's or young person's objects in the room, the child or young person must generally be offered to *witness the search* or immediately afterwards be offered to *go over the search and its result*.

If less intrusive, metal detectors, scanners or the like can be used in the searches.

### Documentation and hearing

The institution must *record and report* searches of persons and rooms.

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

Objects found during the search can be confiscated if it is deemed necessary for considerations of order and security. A list must be made if objects belonging to the child or young person are confiscated. The child or young person must be informed of the confiscation and must receive a copy of the list.

According to the new rules of the Act on Adult Responsibility, which came into force on 1 July 2024 (cf. item 3.1 above), searches of persons and rooms

are also allowed if the conditions are met for temporarily confiscating a mobile phone and other communications and gaming equipment or for taking away alcohol.

The Ombudsman's review of the material and information from the institutions and feedback in connection with the monitoring visits is based on the rules that were in force at the time of the monitoring visits which all took place prior to the amendment of the Act.

### **5.2. The extent of searches of persons and rooms**

Prior to the visits, the Ombudsman obtained information about, among other things, the number of searches of persons and rooms in the period between 2021 and 2023.

The number of searches of persons and rooms in the institutions in 2023 varied from one search up to 42 searches. One of the institutions that had only recorded one search in 2023 had not opened until November 2023. In addition, the number of searches of persons and rooms varied in most institutions in the individual years, for instance between 14 and 33 searches of persons and rooms.

### **5.3. Knowledge of the rules**

During the visits, the visiting teams got the general impression that staff in most of the institutions had adequate knowledge of the rules on searches of persons and rooms. There were, however, some uncertainty in a few institutions in relation to the full content of the rules on searches.

The majority of the institutions had internal guidelines on searches of persons and rooms.

The Ombudsman recommended one of the institutions to ensure that all staff members have the necessary knowledge of the rules about searches of persons and rooms. Furthermore, the Ombudsman recommended two institutions to ensure that, in connection with searches of persons or rooms, a list is drawn up of confiscated objects which belong to a child or a young person, and that a copy of the list is given to the child or young person.

As stated under item 3.1 above, the Act on Adult Responsibility was amended with effect from 1 July 2024. The wording of the provision on searches of persons and rooms was thereby amended from 'the manager (...)' or the person authorised thereto' to 'the manager (...) or the manager's

deputy' [unofficial translation]. It appears from the explanatory notes<sup>2</sup> that 'the provision is made textually uniform with other provisions in the Act on Adult Responsibility'.

In connection with some monitoring visits, there was a discussion of the question of delegation of decision-making authority in connection with searches of persons and rooms. The Ombudsman will discuss the question at a future thematic meeting with the Ministry of Social Affairs and Housing.

## **6. The specific reports**

### **6.1. The obtained material**

The institutions must record and report use of physical force and other interventions in the right to self-determination in a specific reporting form. The reporting form is found in Appendix 1 a of the Executive Order on Adult Responsibility (Executive Order No. 263 of 15 March 2024 on Adult Responsibility for children and young people placed in care).

In connection with the monitoring visits, the Ombudsman received a total of 34 reporting forms on use of physical force, 32 reporting forms on detainment, 25 reporting forms on manual restraint and 31 reporting forms on searches of persons and rooms.

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

### **6.2. Compliance with deadlines for recording and reporting use of physical force and other interventions in the right to self-determination**

If physical force or other interventions in the right to self-determination have been used towards a child or young person, the placement institution's manager (or the manager's deputy) must, pursuant to the rules on adult responsibility, report the incident within 24 hours.

Then the manager (or the deputy manager) must without undue delay, meaning as quickly as possible within 24 hours after the incident was recorded, send a copy of the reporting form to the placing municipality and inform the custodial parents. At the end of the month, a copy of the reporting form must be sent to the regional social supervision authority, and any municipal or regional operator must be informed. If the intervention has taken

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<sup>2</sup> Proposed Act No. L 188 of 30 April 2024 on amendment of the Social Services Act, the Act on Adult Responsibility for children and young people placed in care, the Act on Legal Protection and Administration in Social Matters and the Act on Collection of Maintenance, notes on Section 2(vi), p. 119 of the proposed Act.

place in an in-house school, it must also be reported to the municipality of location.

Overall, the visiting teams found during the monitoring visits that the deadlines for recording and reporting use of physical force and other interventions in the right to self-determination to a wide extent were not observed.

The review of the submitted reporting forms gave rise to a recommendation to three out of seven institutions to observe the deadlines for recording and reporting use of physical force and other interventions in the right to self-determination. One institution was recommended to ensure a continued focus on this, and one institution was reminded to observe the deadlines.

In addition, one of the same institutions was recommended to ensure that the custodial parents without undue delay are informed that force or other interventions in the right to self-determination have been used

On that background, the Ombudsman generally recommends to ensure that the deadline for recording use of physical force and other interventions in the right to self-determination and the deadlines for reporting to and informing the relevant authorities and custodial parents etc. about this are observed.

In connection with the monitoring visits, several institutions pointed to challenges with observing the deadlines for recording and reporting use of physical force and other interventions in the right to self-determination as a general problem. Several of the institutions had informed the Ministry of Social Affairs and Housing about this. The Ombudsman has passed on the institutions' feedback to the Ministry of Social Affairs and Housing.

On 19 March 2025, the Ministry of Social Affairs and Housing issued a draft for an amendment of the Executive Order on Adult Responsibility for children and young people placed in care by which the Ministry proposes a change in the deadline for recording use of force and other interventions in the right to self-determination from 24 hours to 72 hours. The proposed amendments are expected to come into force on 1 July 2025.

The visiting teams also discussed with several institutions whether the deadline for recording and reporting a detainment should be calculated from the implementation or from the cessation of the detainment. Some institutions calculated the deadline from the end time of the detention and had recorded reports of the detainment accordingly.

The Ombudsman has subsequently asked the Ministry of Social Affairs and Housing to decide when the deadline for recording detainment must be

calculated from. The Ministry has stated that it is the Ministry's assessment that recording of detainment in partly closed residential institutions must take place when the decision is implemented, and that this will be specified in an upcoming amendment of the Guidance Note on Adult Responsibility for children and young people placed in care.

### **6.3. Documentation for use of force and other interventions in the right to self-determination**

A report must contain a description of events in connection with a use of force or another intervention in the right to self-determination, together with grounds for why the intervention was necessary.

A satisfactory description of the events in connection with a use of force or another intervention, including, among other things, a precise description of how the child or young person was conducted or manually restrained, is a prerequisite for assessing whether the use of force or the intervention was in compliance with the rules in the Act on Adult Responsibility.

Some reports on use of physical force did not contain a satisfactory description of the events or of how the child or young person had been conducted or manually restrained. Furthermore, it was difficult to see in the description in some of the reporting forms whether the situation met the conditions for use of physical force.

In some instances, the description of the background for carrying out a detainment was so limited that it was difficult to assess whether the conditions for the detention had been met. In a number of cases, the report also did not say whether it was a management decision.

Some reports on manual restraint lacked a description of how the young person had been manually restrained, and in some cases the descriptions reflected a lack of knowledge of the specific conditions in the provision on manual restraint; cf. item 4.3 above.

In some cases, the reports on searches of persons and rooms did not contain a satisfactory description of the events or grounds for why the search was necessary. It was for instance in some cases difficult to see whether the conditions for carrying out a search had been met.

The Ombudsman recommended three institutions to ensure that reports on use of physical force and other interventions in the right to self-determination contain an adequate description of and the grounds for the intervention. Furthermore, it was pointed out to one institution that reporting forms must be completed satisfactorily.

The Ombudsman generally recommends to ensure that reporting forms on use of physical force and other interventions in the right to self-determination contain a satisfactory description of the events in connection with the intervention, including – on use of physical force – a description of how the child or young person specifically was conducted or manually restrained, together with grounds for why the intervention was necessary.

Some of the reporting forms submitted to the Ombudsman contained several types of interventions in the same form. In an information note of 31 January 2023 published on the Danish Authority of Social Services and Housing's website, the Ministry of Social Affairs, Housing and Senior Citizens (now the Ministry of Social Affairs and Housing) states that there must only be one intervention per reporting form.

Some institutions were themselves aware of this and had on that background changed their practice to only registering one intervention per reporting form. It was recommended to one institution to only register one use of physical force or one other intervention in the right to self-determination per reporting form.

#### **6.4. Inclusion of the child and young person**

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

The visits generally left the impression that – in continuation of both physical force episodes and other interventions in the right to self-determination – the institutions spoke with the children and the young people about the episode and about the contents of the record.

The review of the reporting forms also showed that in most cases the young people had had an opportunity to comment on the episode, but that some reports did not clearly state whether the child or young person had been informed of the record.

The Ombudsman did not give any recommendations on this subject.

### **7. Information about rights**

In connection with a placement in a partly closed residential institution or a partly closed ward in a residential institution, the manager must inform the child or young person and the custodial parents about their rights in relation

to use of force and other interventions in the right to self-determination, including right to complain to the National Social Appeals Board and the municipal council, respectively. This follows from adult responsibility legislation.

The visits showed that some institutions had to a certain extent drawn up written material about the young people's and the custodial parents' rights in relation to use of force etc., which was in most cases handed out in connection with the young person's placement. However, the visits also showed that a few institutions did not in connection with the placement inform the young people and the custodial parents of their rights in relation to use of force etc.

The Ombudsman recommended three institutions to ensure that the young people and custodial parents in connection with the placement are informed of their rights in relation to use of force and other interventions in the right to self-determination, including the right to complain to the National Social Appeals Board and the municipal council, respectively. One of these institutions was in addition recommended to revise its information material for the young people and the custodial parents to contain clear guidance on rights in general and the right to complain. Another of these institutions was also recommended to update the written guidance on complaint for parents to bring it into accordance with the rules of the legislation on adult responsibility.

On that background, the Ombudsman generally recommends to ensure that children and young people and custodial parents etc. – in connection with the placement of the child or young person – are informed about their rights in relation to use of force and other interventions in the right to self-determination, including on the right to complain. In this context, the Ombudsman recommends institutions that have not already drawn up written material to consider drawing up written material on rights in general and the right to complain which can be handed out at the time of the placement.

## **8. House rules**

### **8.1. The rules**

The manager of a partly closed residential institution and a partly closed ward in a residential institution must lay down a written set of house rules that state the specific rules and guidelines for staying in the institution (a mandatory set of house rules). It appears from the Executive Order on Adult Responsibility what a mandatory set of house rules must contain.

Apart from the mandatory house rules, other rules can be laid down in the non-mandatory set of house rules. These non-mandatory house rules must



be driven by objective considerations and cannot go further than the consideration for the placement institution's purpose allows.

In an open residential institution with a partly closed ward, the requirement for a mandatory set of house rules only applies to the partly closed ward. For the children and young people in the open part of the institution, a non-mandatory set of house rules may also be laid down, stating the specific rules and guidelines for staying in the institution.

## **HOUSE RULES**

### **Mandatory part**

A mandatory set of house rules must as a minimum contain rules on:

1. Wake-up time between 06:00 and 09:00 on weekdays
2. Wake-up time between 08:00 and 11:00 on weekends
3. Bedtime between 21:00 and 23:00 on weekdays
4. Bedtime between 22:00 and 24:00 on weekends
5. Quiet in the rooms between bedtime and wake-up time; cf. No. 1-4
6. Mandatory participation in classes, treatment and other scheduled activities
7. Good behaviour in communal areas, meaning behaviour that does not cause inconvenience for the community or for the safety and security of the children and young people and a behaviour with absence of unacceptably strong language and where violent, offensive and noisy behaviour is unacceptable
8. Ban on consuming and possessing alcohol and euphoriant drugs
9. Ban on smoking with the exception of specified outdoor areas within the institution's grounds
10. Visits, including time, duration and good behaviour on the part of the visitors.

Wake-up times and bedtimes may be dispensed with during holiday periods.

In addition, the house rules must contain rules on limitations for the possession and use of mobile phones and other electronic communications equipment, including that the children and young people must generally hand over their mobile phones in connection with activities that require their full attention.

### **Information**

The house rules must be *written down*. The children and young people *must be informed of the house rules*.

**Appropriate reactions**

In partly closed residential institutions and partly closed wards in residential institutions, staff can stipulate appropriate reactions to violations of the mandatory house rules. The reaction must have a pedagogical and educative purpose and must be laid down in accordance with, among other things, the general principles for use of force and other interventions in the right to self-determination. According to circumstances, appropriate reactions can be a warning, a ban on participating in certain activities for a time or taking away TV or games console for a time.

**Use of physical force**

Physical force can also be used in partly closed residential institutions and partly closed wards in residential institutions when the child or young person violates mandatory house rules and use of force is necessary in order to put a stop to the violation.

**Reduction or loss of pocket money**

*On grosser or repeated violations* of the mandatory house rules, the child or young person may get a reduction in or be deprived of pocket money for a limited period of time. A decision to do so must be made by the placing municipality.

**8.2. Implementation of mandatory house rules etc.**

In connection with the monitoring visits, the visiting teams focused on whether the institutions had included the mandatory house rules in their house rules and whether the non-mandatory house rules were driven by objective considerations.

In most instances, the institutions' house rules included the mandatory house rules. However, in some house rules there were a few shortcomings.

The Ombudsman recommended two institutions to revise their house rules so that it included all the mandatory house rules. Furthermore, the Ombudsman recommended to another institution that it revise the house rules so that it conforms with the rules in the legislation on adult responsibility.

The visiting teams generally got the impression that the institutions informed the children and young people of the house rules and that the house rules were also in most cases handed out to the children and young people on arrival or were displayed in the institutions.

The impression was that there was a focus on using dialogue with the child or young person in connection with violations of the mandatory house rules instead of using physical force or appropriate reactions.

Additionally, the possibility of asking the municipality to make a decision to take away or reduce pocket money seems to have been used only to a very limited extent. One institution stated that it had in a few instances reported violations of the mandatory house rules to the placing municipality, but the experience was that the municipality very seldom made a decision to take away pocket money.

### **8.3. Knowledge of the mandatory house rules**

In several institutions, the staff did not know which house rules are mandatory for children and young people in a partly closed placement.

Furthermore, in one institution the staff were not familiar with what could be an appropriate reaction for violation of the mandatory house rules. In another institution, there was a lack of sufficient knowledge that it is only a violation of the mandatory house rules – as opposed to any other house rules – that, if necessary, can lead to use of physical force in order to put a stop to the violation. See also under item 3 about the conditions for use of physical force.

On that background, the Ombudsman recommended three institutions to ensure that all staff members are sufficiently familiar with the rules in the Act on Adult Responsibility which apply especially to, among others, partly closed residential institutions and partly closed wards in residential institutions.

Furthermore, the Ombudsman recommended one institution to ensure that all permanent and temporary staff know that it is only violations of the mandatory house rules that, if necessary, can be stopped by means of physical force. At the same time, the institution was recommended to update the internal guidelines on Act on Adult Responsibility so that it is clear that it is only violations of the mandatory house rules that can lead to use of physical force.

As appears above under item 4.3, the Ombudsman generally recommends that it is ensured that the staff have sufficient knowledge of the rules in the Act on Adult Responsibility that apply particularly to the partly closed residential institutions and the partly closed wards in residential institutions, and that the institutions' written guidelines on the subject, if any, are updated.

## **9. TV surveillance**

### **9.1. The rules**

It follows from the Act on Adult Responsibility that indoor communal areas in partly closed residential institutions and partly closed wards in residential institutions must be under TV surveillance. The TV surveillance must take place round the clock.

## **9.2. Use of TV surveillance**

The visits showed that not all communal areas used by children and young people in a partly closed placement are under TV surveillance.

In one of the institutions that was only approved for partly closed placements, TV surveillance was not installed in all of the institution's indoor communal areas. The Ombudsman therefore recommend the institution to ensure that indoor communal areas are under TV surveillance in accordance with the applicable rules of adult responsibility legislation.

Several of the institutions were approved for both partly closed placements and open placements. In two of these institutions, young people in a partly closed placement and young people in an open placement used the same communal areas that were not covered by TV surveillance. Only the communal areas where the young people in a partly closed placement were being detained were under TV surveillance.

In one of the other institutions approved for both partly closed and open placements, the young people in a partly closed placement were staying in separate buildings. The communal areas in the institution's partly closed wards were under TV surveillance. However, the institutions also had communal areas which were used by both young people in a partly closed placement and young people in an open placement. These communal areas were not under TV surveillance.

The Ombudsman has started an own-initiative investigation about the institutions' practice for TV surveillance of communal areas that are not only used by children and young people in a partly closed placement. Furthermore, the Ombudsman has included questions about the scope of TV surveillance in the institutions in areas that are not covered by the rules in the legislation on adult responsibility about TV surveillance of indoor communal areas.

## **10. Door alarms**

### **10.1. The rules**

In partly closed residential institutions and partly closed wards in residential institutions, door alarms must be installed at the entrance to rooms of the children and young people. Door alarms must be used in compliance with the general principles for use of force; cf. item 3.1 above.

## **DOOR ALARMS**

### **How**

Door alarms must be placed at the entrance to the rooms of the children and young people in the institution. The alarms must be able to register if anyone goes in or out of the doors of the rooms but not who it is. Staff will be alerted when the door to a room is opened.

### **Who**

A decision to use door alarms – meaning whether to switch on/activate the installed door alarms – is made by *the manager or the deputy manager*.

### **When**

Door alarms must be used when it is *necessary in order to ensure the observance of regulations or due to security considerations*.

In addition, door alarms must always be used in certain specified situations, among others when it is necessary for the sake of the child's or young person's own safety or when there have been physical conflicts between the children and young people, which make continued presence in communal areas unsafe.

### **Documentation**

There is *no duty to record and report* the use of door alarms.

## **10.2. Use of door alarms**

In one of the institutions approved for both open and partly closed placements, door alarms were only installed in the partly closed wards where young people could be detained. There were no door alarms in the rooms where the young people were living when they were not detained.

The Ombudsman therefore recommended the institution to install door alarms at the entrance to the rooms of young people in a partly closed placement.

Two institutions had a practice whereby door alarms were active in all rooms throughout the night. The door alarms were used without a current and concrete assessment of the grounds for doing so, as the institutions referred to their general experiences, for instance of how quickly the young people could come into conflict with each other. In a third institution, the door alarms were active round the clock, even though the purpose of activating the door alarms had been to avoid night wandering.

The Ombudsman therefore recommend the institution to ensure that door alarms be used in accordance with the relevant rules of the adult responsibility legislation. One of the institutions was also recommended to ensure that a decision to switch on a door alarm is always made by the manager or the deputy manager.

The Ombudsman generally recommends that it is ensured that staff are sufficiently familiar with the rules in the legislation on adult responsibility on the use of door alarms.

## **11. Stricter supervision**

The monitoring visits showed that in some instances and based on a concrete assessment, a number of the institutions kept quite a close eye on the children and young people.

One institution stated that the young people's risk profile was revised several times round the clock and formed the basis of the decision as to how much supervision and adult contact were currently needed for the individual young person. According to the institution, it could be necessary – for instance due to a risk of serious self-harm – that there was an adult stationed outside the young person's room or that there were restrictions in the young person's being allowed to leave the institution on his or her own. In other institutions, a young person would be monitored more closely if there were concrete reasons to assume that the individual was at special risk of running away or in need of euphoricants or liable to do self-harm. This could be by stationing a hallway guard at night, activating the door alarm system at the young person's room or by deciding that the young person could only participate in activities outside the institution if accompanied by an adult. It could also mean that an adult would follow after a young person leaving the institution in order to motivate the young person to come back.

The adult responsibility legislation does not contain a more detailed scope for how much supervision of or how close the adult contact with a child or a young person can be in for instance a partly closed residential institution or a partly closed ward in a residential institution. However, it follows from the legislation that it is the staff's responsibility to attend to the daily care for the children and young people, and this must be based on what is considered good and responsible parental care with a view to ensuring the best interests of the child or young person, including that the emotional and healthcare needs are taken into consideration. The possible intensity will depend on the necessary and current protection and educational considerations taken together with the other rights of the child or young person.

Considering that the practice described may, according to circumstances, have a character that – at least to a certain extent – must be presumed to restrict the children's and young people's right of freedom during the placement, the Ombudsman will discuss with the Ministry of Social Affairs and Housing at a coming thematic meeting whether such a practice is possible according to the Act on Adult Responsibility and whether it should be regulated in the Act so that the criteria for this are clear and uniform and so that a decision on this should be reported and be subject to the right to complain.

## **12. Schooling in in-house schools**

### **12.1. The rules**

A child has a right to education. This follows from the UN Convention on the Rights of the Child, among other things. The rules on primary and lower secondary school education are laid down in the Danish Folkeskole Act (Act on the Danish Municipal Primary and Lower Secondary School) with related executive orders and guidelines. Among other things, an executive order has been issued on special education and other special pedagogical assistance and quality agreements etc. in treatment and special education programmes and in children's and young people's homes.

Children and young people attending an in-house school have the same right to education as children and young people attending a Folkeskole (a Danish primary and lower secondary state or municipal school). This means that they must be taught the Folkeskole's full range of subjects and the number of hours laid down in the Folkeskole Act, unless they are exempted from lessons in one or more subjects or have their class hours reduced in accordance with applicable rules. In addition, the general rules on tests and examinations and on any exemption from them apply.

### **12.2. Quality agreement**

On 1 January 2024, new rules came into force on the framework for special education in in-house schools in institutions for children and young people placed in care.<sup>3</sup> The new rules contain an interim provision according to which the previous rules continued to apply up to and including 30 June 2024 for institutions for children and young people that prior to 1 January 2024 had entered into an agreement with the municipality of location until the institution for children and young people on 30 June 2024 at the latest had entered into a quality agreement. This was conditional on the institution for children and

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<sup>3</sup> Act No. 1544 of 12 December 2023 on amendment of the Folkeskole Act, the Child's Act, Act on Social Supervision and various other acts.



young people having submitted an application for a quality agreement before 1 April 2024.

The Ombudsman's monitoring visits to the three institutions that had an in-house school were all carried out before 30 June 2024. It was therefore the previous rules that applied at the time of the visits.

At the time of the visits, there were only drafts for quality agreements between the in-house schools and the relevant municipality of location. The Ombudsman has subsequently been informed that all three institutions have entered into a quality agreement with the municipalities of location, and the in-house schools are therefore covered by the new rules in the field.

### **12.3. Teaching all subjects and full hours**

In one of the institutions, it was doubtful if the institution was teaching all subjects and if all pupils got the required number of hours according to the Folkeskole Act. This had also been a focus point at a monitoring visit in 2021, and the Ombudsman therefore recommended the institution to continue to ensure that the rules on teaching all subjects and full hours be observed.

With regard to the two other institutions, there was information that the institutions offer teaching in all subjects and that full hours are taught.

### **12.4. Exemption from subjects and exemption from tests and examinations**

The visits showed that the three institutions with an in-house school generally did not observe the rules on exemption from lessons in subjects and exemption from tests and examinations.

According to the new rules on in-house schools (cf. item 12.2), the power to decide on exemption from lessons in subjects and exemption from tests has been transferred to a principal from another of the municipalities' schools, appointed by the municipal council. The power to decide on exemption from mandatory tests can also be transferred to a school principal in the municipality of location if this is specified in the quality agreement.

On that basis, no recommendations were given concerning exemptions, but the Ombudsman pointed out to two institutions that management – in cooperation with the municipality of location – must ensure that the rules on exemption from lessons in subjects must be observed. Similarly, the Ombudsman pointed out to all three institutions that management – in cooperation with the municipality of location – must ensure that the rules on exemption from tests are observed. Two of the institutions were made aware of the same thing with regard to exemption from tests.

In a meeting with the Ministry of Children and Education, the Ombudsman will discuss the role and responsibility of the in-house school principal in relation to the rules on exemption from lessons in subjects and exemption from tests and examinations after the decision-making power has been transferred to a school principal in the municipality of location.

In one institution, management stated that the Pedagogical Psychological Counselling Services (PPR) was generally not included in connection with the concrete decisions on exemption from subjects, as the young people most often were well-described when they arrived at the institution. So for most of the young people, there was already an updated pedagogical-psychological assessment (PPV) which took the question of schooling into account.

In a coming meeting with the Ministry of Children and Education, the Ombudsman will also discuss the possibility of exemption from subjects on the basis of a PPV that is updated but is not obtained by the institution.

### **12.5 Summary**

The Ombudsman generally recommends that in relation to the in-house schools it is ensured that all pupils are taught all subjects and full hours and that exceptions from this are only made if a pupil – based on a specific and individual assessment – is exempted from classes in one or more subjects or has teaching time reduced according to the applicable rules.

## **13. Health**

### **13.1. In general**

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

The visits generally left the impression that the institutions were focused to a relevant extent on the children's and young people's healthcare and their access to healthcare services.

Several institutions stated that they are cooperating with local medical practices and doctors and that, in connection with the placement, the young people often transfer to one of these, and that the institutions had entered or had plans to enter into a cooperation agreement with the regional child and adolescent psychiatric services.

### **13.2. Substance abuse**

The partly closed residential institutions or partly closed wards in residential institutions may receive children and young people who have ingested drugs

or have an actual substance abuse and who are therefore at risk of having withdrawal symptoms during the placement.

The Ombudsman recommended two institutions to ensure that staff have sufficient knowledge of observation and treatment of children and young people who have or are at risk of developing withdrawal symptoms or are under the influence of alcohol or drugs, for instance by drawing up written guidelines thereon. Another institution was recommended to ensure that all staff have the necessary knowledge of the institution's instructions on observation of children and young people with withdrawal symptoms.

Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'C' followed by a series of loops and a horizontal stroke at the end.

Christian Britten Lundblad