



Thematic Report on Addiction Treatment

Doc. No. 14/00877-8

What has the theme led to?

Addiction treatment was one of the themes for the monitoring visits which the Ombudsman carried out in institutions for adults in 2013 in cooperation with the Danish Institute for Human Rights and DIGNITY – Danish Institute Against Torture.

On the basis of his monitoring visits, the Ombudsman generally recommends that accommodation facilities which provide alcohol and/or drug addiction treatment for adults and, as part of that treatment, use restrictive measures towards the addicts, make sure they enter into precise, written and voluntary agreements with each individual regarding which restrictions to be used towards him or her, prior to the person moving into the accommodation facility. The agreement should also state the possible consequences in case the resident breaches the agreement.

The Ombudsman will discuss the follow-up of this general recommendation with key authorities. In addition, he will follow up on the recommendation during his monitoring visits.

The Ombudsman has raised the question with the Department of the Prison and Probation Service whether the legal claim of treatment for drug addiction is respected when it comes to local prison inmates. He has also raised the question whether the treatment offered in local prisons only applies to inmates who speak Danish or possibly English.

The Ombudsman has discussed the issue of lack of continuity in addiction treatment in general with the Department of the Prison and Probation Service.

The Ombudsman has sent this report to the Department of the Prison and Probation Service, the Ministry of Health and Prevention, the Ministry of Children, Gender Equality, Integration and Social Affairs and to the National Board of Social Services. The purpose is to notify the authorities of the report so that the authorities can include it in their deliberations concerning this issue.

Please read more about the Ombudsman's work on various themes in the appendix to this report.

Reasons for the choice of theme

The Ombudsman addresses a number of general focus areas during his monitoring visits. Addiction treatment is part of the focus area on health factors.

The Social Services Act as well as the Health Act and the Sentence Enforcement Act hold guarantees on addiction treatment. According to the Social Services Act, the municipal authorities therefore have to offer treatment to substance abusers, and the offer has to be implemented no later than a fortnight after the treatment request to the municipality. Likewise, the municipal authorities offer free treatment to alcohol abusers in accordance with the Health Act. The treatment has to be started within a fortnight after the alcohol abuser has contacted the municipality and asked for treatment.

According to the Sentence Enforcement Act, inmates of the Prison and Probation Service's prisons and local prisons are entitled to free treatment for drug abuse unless the inmate is considered not suitable and motivated for treatment. To the extent possible, the drug abuse treatment has to be started within a fortnight after the inmate has asked the Prison and Probation Service for treatment.

The Act on Detention of Drug Abusers in Treatment gives on strict conditions access to the detention of drug abusers, and the Health Act also gives access – on strict conditions – to detain pregnant alcohol abusers. It was the Ombudsman's first impression that the Act on Detention of Drug Abusers in Treatment did not seem to be used in practice.

The Ombudsman's monitoring is particularly aimed at society's most vulnerable citizens. Some of the characteristics of the group of vulnerable citizens are that they usually have very few resources and that their rights may easily be put under pressure. This may also apply to substance abusers.

What did the Ombudsman do?

In 2013, the Ombudsman chose addiction treatment as one of the themes for his monitoring visits in institutions for adults. The theme was cross-sectional in the sense that addiction and addiction treatment were relevant in connection with the majority of the year's visits. The theme was relevant in relation to, for instance, prisons and psychiatric wards but also in connection with visits to accommodation facilities in the social services sector.

The theme had the following topics:

- The Ombudsman visited 13 accommodation facilities as part of the theme. 12 accommodation facilities treated addiction among adults (9 treated both alcohol and drug abuse, and 3 treated drug abuse only). The last accommodation facility was in the nature of a care centre especially for people who had been living with an addiction for many years and therefore had difficulties getting by in their own home.
- Prior to the monitoring visits, the Ombudsman asked the institution to explain to a relevant extent how the users' addiction treatment options were planned, including the number of users who had completed addiction treatment within the last three years.
- The talks which the Ombudsman's monitoring team had with management, staff, relatives and users at the facility in question also had addiction treatment as a focal point.

The monitoring visits were carried out as part of the Ombudsman's general monitoring activities pursuant to section 18 of the Ombudsman Act and as part of the Ombudsman's task of preventing exposure to for instance inhuman or degrading treatment of persons who are or may be deprived of their liberty, cf. the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Ombudsman's work to prevent degrading treatment etc. in relation to the Protocol is carried out in cooperation with the Danish Institute for Human Rights and with DIGNITY – Danish Institute Against Torture. DIGNITY and the Institute for Human Rights contribute to the cooperation with special medical and human rights expertise, meaning, among other things, that staff with this expertise participate in the planning and execution of and follow-up on the monitoring visits on behalf of the two institutes.

What did the Ombudsman find?

On the basis of the completed visits, the Ombudsman noted the following, among other things:

- Monitoring visits confirmed that the Act on Detention of Drug Abusers in Treatment does not seem used in practice.
- Monitoring visits in accommodation facilities for substance abusers showed that restrictions of various kinds towards the substance abusers were used in the accommodation facilities, and that in many cases this is based on a (form of) agreement between the accommodation facility and the substance abuser.
- Monitoring visits in local prisons showed that inmates are only offered so-called motivational therapy with actual addiction treatment in mind at a later stage. Several monitoring visits showed that the motivational therapy is only offered to inmates who speak Danish or English.
- The visiting teams observed potential problems in the Prison and Probation Service in the form of a lack of continuity in the addiction treatment at sector transfers, e.g. on release from prison.
- Many of the accommodation facilities for substance abusers would like information about recidivism.

The Act on Detention of Drug Abusers in Treatment and restrictions towards abusers

The monitoring visits confirmed that the Act on Detainment of Substance Abusers did not seem used in practice. The reason for the non-use of the Act seems to be the perception that addiction treatment ought to be voluntary and come into force through motivation. Thus, the substance abuser act is not used in practice at accommodation facilities.

During his monitoring visits at the 13 accommodation facilities for substance abusers, the Ombudsman found a number of different restrictions which the accommodation facilities implemented or could choose to implement in relation to the residents. The restrictions were generally introduced on treatment grounds. The purpose of a restriction could be, for example, to ensure that the substance abuser did not have access to alcohol or at least to limit that access.

The Ombudsman found the following restrictions, among others:

- Restrictions pertaining to freedom of mobility, for instance:
 - o A rule that the resident when moving into the accommodation facility is always shielded which means that the resident is not allowed to leave the facility without being accompanied by staff. After 30 days of residency, the shielding is evaluated.
 - o A rule that the resident must have been “clean” for four weeks before the first weekend at home.
 - o A rule that the resident accepts restricted freedom of mobility, possibly a total curfew, if the staff assess that the resident’s sobriety (total abstinence from alcohol and other mood changing substances) is at risk and if other acute recidivism prevention plans do not seem useful.
 - o A rule that the resident is not allowed to leave the facility on his or her own and always has to inform the staff.

- Inspection of the residents’ luggage and rooms, for instance:
 - o A rule that the resident’s luggage is examined with the resident on arrival. Any medicines or things which the resident is not allowed to bring for the treatment will be looked after by management.
 - o A rule that the resident has to keep his or her room clean and tidy and make the bed each morning. Regular inspections will take place.
 - o A rule of an additional room inspection every Friday at noon.
 - o A rule that if there is suspicion of illegal drug/alcohol possession, an inspection of the room will be carried out by at least two members of staff and the resident.

- Opening the residents’ incoming post, for instance:
 - o A rule that parcels and letters have to be opened at the office so that the staff can see the content.
 - o A rule that if money is sent (to the inmate), this must be handed over to the staff who make a note of the amount and place the money in a plastic sheet or the like at the office.

- Testing for intoxicants, for instance:
 - o A rule that alcohol testing and urine testing will occur regularly without warning.
 - o A rule that all residents must have their urine tested on arrival (the same day).
 - o A rule that urine testing takes place under staff supervision.

- Restrictions on use of mobile phones and computers, for instance:
 - o A rule that the mobile phone is only to be used in the resident's room and outdoors and has to be turned off everywhere else on the premises.
 - o A rule that having a mobile phone is not allowed.
 - o A rule that internet access is not allowed.
 - o A rule that laptops are turned off at 11 pm every night by the staff.
 - o A rule that laptops are allowed at the facility but that there are rules for their use, e.g. that laptops are not allowed in the residents' rooms.

- Restrictions in access to the media, for instance:
 - o A rule that it is not allowed for the residents to bring a radio, CD player/walkman, computer, television or mobile phone into the facility. However, the resident is allowed to buy/read newspapers on Sundays.

The Act on Detainment of Substance Abusers in Treatment and the provisions in the Health Act about detaining pregnant alcohol abusers do not prevent the accommodation facility and the substance abuser from entering into individual agreements on rules for the stay at the facility and on demands and conditions for the substance abuser. It may be urine testing, alcohol testing and rules for release accompanied by staff in crisis situations, for example in connection with detoxing where there is a risk of recidivism.

Likewise, there is nothing to prevent an accommodation facility making a voluntary agreement with an individual resident about using certain restrictions as part of the addiction treatment, assuming it is clear to the resident which restrictions may be used towards him or her. The Ombudsman recommends that the facility enters into a written agreement prior to the resident moving into the facility.

The enforcement of an agreement between an accommodation facility and a resident – for example that the substance abuser cannot go on a trip out of the facility until he or she has been drug-free for 30 days – primarily has to be agreed upon by the facility and the resident. Therefore, it also has to be apparent from the agreement between the facility and the resident which consequences to expect if the resident breaches the agreement, for instance that the treatment may be stopped which in practice means that the stay at the accommodation facility has to come to an end.

At the same time, it is evident that an agreement between a facility and a resident cannot be enforced by e.g. physical force. This is because the conditions for using physical force in accordance with the rules that exist in this field, for instance in the Social Services Act, are not met in these situations.

Treatment guarantee for inmates in local prisons

According to the Sentence Enforcement Act and custody regulations, inmates in state and local prisons are entitled to free addiction treatment unless the inmate is assessed not suitable and motivated for treatment. This treatment guarantee not only applies to inmates serving long prison sentences. It also applies to inmates serving shorter sentences and for persons remanded in custody who are placed in local prisons – for a longer period of time in relatively many cases.

Monitoring visits to local prisons showed that, in practice, inmates in local prisons are offered addiction treatment that is intended – through individual or group therapy – to motivate the inmates to enter into proper treatment. Thus, the addiction treatment in local prisons resembles a so-called motivational therapy or pre-treatment. The question is whether this kind of treatment meets the requirements for addiction treatment according to the Sentence Enforcement Act and custody regulations.

The reason why other treatment is not offered in local prisons is due to practical problems in the local prisons, for instance that the individual local prison does not know for how long a person in remanded custody has to be imprisoned in the local prison. That makes it difficult to plan an actual treatment process.

Furthermore, several monitoring visits showed that the motivation treatment is offered solely to inmates who speak Danish or possibly English. The reason for this seems to be language barriers that were not easily removed, for instance by using an interpreter.

On that basis, the Ombudsman has decided to raise different issues with the Department of the Prison and Probation Service. The case is pending.

Continuity in addiction treatment in the Prison and Probation Service

In connection with the monitoring visits in 2013 in the Prison and Probation Service institutions, the Ombudsman received a long list of information about the addiction treatment in the institutions, including continuity of the treatment.

For instance, during a monitoring visit the Ombudsman was informed that there was focus on helping inmates with addiction problems continue their addiction treatment. During another monitoring visit, the Ombudsman was informed that many inmates dropped out of the treatment programme in connection with their release from prison. Dropping out could also happen because of transfer from local prison to state prison, because some inmates prioritised being closer to their families rather than serving time in a prison with addiction treatment or because inmates could not be in a treatment unit for security reasons.

Furthermore, there could be a shortage of space in the Prison and Probation Service's treatment units.

Inmates with addiction problems might also benefit from serving prison time in a drug-free ward but there were a shortage of space in such wards, and inmates could only apply for these wards on arrival to the prison, the Ombudsman was informed. One of the institutions said that transfer between institutions in general was a problem in relation to the different types of treatment.

The Ombudsman was also informed that the inmates by agreement with the addiction advisor were always able to continue the treatment on an outpatient basis if they were released from prison in the middle of a programme. The Ombudsman found that there were no statistics of what happened to the inmates after they were released from prison.

Moreover, in one institution the Ombudsman was informed that the therapists would typically not receive any information from any earlier therapists on the inmate's arrival. In another institution, it became clear that the institution disregarded an inmate's previous treatment prior to arrival so that a treatment already started could continue. Instead, the institution put more consideration into the inmate's treatment history in order to decide which treatment was of relevance to the inmate.

At the annual meeting in 2014, the Ombudsman discussed the general lack of continuity in addiction treatment with the Department of the Prison and Probation Service.

Information about recidivism

Many residential care facilities for substance abusers wanted information about the number of citizens nationwide who were drug-free after addiction treatment at the 24-hour facilities. The residential care facilities would also like information on how many of the drug-free citizens who continued being drug-free after e.g. one, two or five years and about which facility had the best recidivism statistics.

Copenhagen, 1 June 2015



Themes for monitoring visits

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

The selection of a definite theme depends especially on where an additional monitoring effort is required. The Ombudsman often selects a narrow topic such as placement in solitary confinement cell under the Prison and Probation Service. At other times, the Ombudsman selects broad themes such as institutions for adults and treatment of alcohol and drug abuse.

The themes enable the Ombudsman to include current topics in the monitoring visits and to undertake an in-depth investigation of certain issues and to gain experience of practice, including best practice.

A principle aim of the carrying out of monitoring visits during that particular year is to clarify and investigate the themes of the year in question. In consequence of this, the main part of the annual monitoring visits are undertaken in institutions where the topics are relevant.

Thematic Reports

At the end of the year, the Ombudsman reports on the outcome of the monitoring visits during the year in cooperation with the Danish Institute for Human Rights and DIGNITY – Danish Institute Against Torture.

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

General recommendations

The outcome of the themes may be general recommendations to the authorities such as, for example, a recommendation to draw up a policy for the prevention of inter-user violence and intimidation.

General recommendations are based on the Ombudsman's experience within the specific field. Such recommendations would normally be given to specific institutions during previous monitoring visits.

In general, the Ombudsman will discuss the follow-up on his general recommendations with key authorities. Furthermore, the Ombudsman will follow up on his recommendations during the monitoring visits.

The general recommendations are aimed at having a preventive effect. The reason for the preventive work within the monitoring area is based on the Ombudsman's task as National Preventive Mechanism pursuant to The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The thematic reports are published on the Ombudsman's website www.ombudsmanden.dk. In addition to this, the Ombudsman also submits the reports to the relevant authorities so that the authorities can include the reports in their deliberations regarding the various sectors.