



Õiguskantsler

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Inspection visit to Kodijärve Home

Dear Mrs Imbi Rego,

On 16 August 2021, advisers to the Chancellor of Justice carried out an unannounced inspection visit to Kodijärve Home (hereinafter ‘the care home’) operated by AS Hoolekandeteenused.

Living conditions at the care home are good. People are accommodated in five family houses. Most residents have a bedroom that they can furnish according to their own liking. In some rooms, two persons are accommodated. Toilets and washrooms are adjusted for people with mobility problems. The outdoor area with sports facilities and beautiful landscape around the care home left a good impression. People praised the helpfulness of the staff and the food offered at the care home. Residents of the care home like joint events, participating in the arts group and bathing in the lake. According to activity supervisors there is good teamwork, the employer enables a variety of training opportunities and immediate superiors are always accessible to discuss any problems at work.

Information exchange among staff is well organised. A comprehensive register of exceptional incidents is maintained. Well-considered guidelines for staff have been prepared on how to act in different situations (for instance, in the event of a resident becoming agitated) or what to do if someone starts feeling poorly.

Activity supervisors must fulfil different work duties and there are not enough staff to carry out all the duties. This means that it is not possible to take into account the individual needs of all care home residents, offer them sufficient developmental activities or create an environment which is safe for all.

To ensure security, each staff member should carry an alarm button and, if necessary, extra sets of this equipment must be acquired so that, while one set is charging, an employee can use another set.

The Chancellor asks that the care home ensure availability of the nursing service to the statutorily required extent.

Kodijärve Home operates in family houses built in 2013. The care home has a total of five houses accommodating 59 people.

The Chancellor's advisers together with a healthcare expert carried out a tour of the care home rooms, examined documents and interviewed staff and residents.

1. Privacy and living conditions

Family houses comprise single- and double-occupancy bedrooms. Each family house has two double-occupancy bedrooms and a communal room with a kitchen area. Each house has two toilets and showers. Toilets and washrooms are lockable from the inside.

The buildings have been adjusted for the needs of wheelchair-users. No bedridden persons were in the care home at the time of the inspection visit but one resident was still lying in bed as they were recovering from an operation.

Each house has a separate room where it is possible to do laundry and ironing. Clothes are washed in a washing machine under the guidance of an activity supervisor. Residents wear personal clothes marked with their name.

Bedrooms have been furnished according to residents' wishes and interests. Bedroom doors are lockable from the inside. Many residents also have a personal room key. Communal rooms are cosy and decorated with residents' handiwork and drawings. There are also many plants in the houses and on terraces. Pictograms help residents with finding the right room in the buildings. On the board in the living room, pictures of activity supervisors currently on duty in the house as well as other necessary information (e.g. daily schedule, date, staff contact information) have been presented.

Communal rooms and hygiene facilities were clean but toilet paper and paper towels for drying hands were missing in some toilets.

Some bedrooms looked disorderly and dirty. According to staff, primarily residents themselves must keep their bedrooms in order but only a few are able to independently cope with this task. For this reason, people tidy their rooms together with an activity supervisor or an activity supervisor themselves tidies the room. There are also some residents who do not allow anyone to tidy their room but also don't keep it clean themselves.

Activity supervisors do not have their own separate working room. It is presumed that an activity supervisor is constantly present with residents: supervising activities, helping with procedures, resolving conflicts. At the same time, an activity supervisor is also tasked with filling out various documents (activity plans, calendar plans, descriptions of exceptional incidents, and the like) and preparing a plan for organising excursions and events (doctor's appointments, excursions and other events).

An activity supervisor's computer workstation is located in the communal room of the family house and is visible and accessible to residents and visitors. In some family houses, there were notes on the wall or on a board by the activity supervisor's computer workstation containing information about the care home residents. For instance, one of the boards displayed instructions on administration of medication to people. Information concerning a person's health or other personal information necessary for organising the welfare service must not be visible to third persons. A processor of personal data must ensure security of data, which, among other things, means that data should only be accessible to duly authorised persons¹.

Living conditions at the care home are good. It is also positive that, with support from activity supervisors, residents' bedrooms are furnished in line with the individuality of each person. It should be observed that information concerning residents is not visible for all.

2. Staff and security

During the daytime, at least one activity supervisor is on duty in every care home house (08.00–20.00). In the evenings and at nights (usually between 20.00–08.00) two activity supervisors are present at the care home. Staff on the night shift are located in two buildings and also monitor (mostly via video surveillance) those residents in whose house no staff is present.

On the day of the inspection visit, four activity supervisors were on duty at the care home but occasionally only two of them were present. The staff explained that some their colleagues were on holiday and some were ill, and it had not been possible to find replacements. Two activity supervisors had to go to a doctor's appointment with residents during the day. Two food service attendants were also at work and helped the activity supervisors. However, ensuring the security of residents or organising their activities is not the duty of food service attendants.

It is commendable that a thorough table about exceptional incidents is maintained at the care home. According to the table, on occasions residents of the care home have assaulted the staff. In some cases, another resident has protected and assisted the staff member. The staff conceded that there had been situations where they felt endangered by a resident. There are also residents who disregard the rules applicable at the care home (e.g. a ban on smoking indoors) and become aggressive when reminded of the rules. In such cases, activity supervisors feel powerless because they are forced to tolerate violation of rules in order to prevent a dangerous situation.

During interviews, the staff mentioned that if a resident behaves inappropriately, they have either restricted or threatened to restrict their opportunities for smoking or access to sweets. The staff noted that, as a rule, such measures are not of help. Care home residents also admitted that there had been incidents where their opportunity to smoke had been reduced.

The difficulties faced by the staff are in practice understandable. However, only statutory measures may be used to ensure order and safety. The Social Welfare Act does not allow imposition of restrictions or sanctions against residents violating the applicable rules in a care home. A special care service provider has no legal right to apply disciplinary measures against clients. It is also inadmissible to threaten people with restrictions.² If the behaviour of a special care home resident becomes dangerous, they can be placed in a seclusion room (§ 107 [Social Welfare Act](#)). At the

¹ [European Union General Data Protection Regulation](#) Art 5(1)(f), Art 32(2); recital 83 of the [GDPR](#). See also the “[General guidelines for processors of personal data](#)” issued by the Data Protection Inspectorate.

² See also the Chancellor's [inspection visit](#) of 17 January 2019 to Valkla Home of AS Hoolekandeteenus (page 5).

same time, placement in a seclusion room may not be used as a punitive measure: it is intended as an exceptional measure under § 107(4) of the Social Welfare Act if immediate danger arises from an adult to the life, physical integrity or physical freedom of the adult themselves or others but verbal calming or application of other measures indicated by the doctor have been insufficient and if, to the service provider's knowledge, the doctor has not excluded the use of seclusion with respect to the specific adult person.

Kodijärve Home has no seclusion room. If a person becomes agitated, activity supervisors try to speak with them and divert their attention, and in extreme cases the police and ambulance are called.

The staff may use portable alarm buttons but the majority of the staff on duty during the inspection visit were not carrying an alarm button with them. For instance, one alarm button was missing a power source and another was currently charging.

According to the register of exceptional incidents, in some instances a person's need for assistance goes unnoticed in time because no staff member is present at a family house. Residents said that in the evenings and at nights when no staff member was present in their house, they used their personal mobile phones to call for assistance. If a person has no phone, then in the event of a concern they can go and look for an activity supervisor in another house or ask a fellow resident for help. At the same time, doors of family houses are kept locked at nights – residents are able to exit their house but cannot enter another house.

A special care service provider must ensure the security of care home residents, assist them in taking care of themselves, develop skills necessary to cope independently, and undertake other tasks prescribed by law (§ 100(1) and (2) [Social Welfare Act](#)). In order to ensure the requisite service, a care home must have enough staff.

Provision of the 24-hour special care service means that at least one activity supervisor [must](#) be present for every 30 service recipients and, according to the needs of residents, at least one more activity supervisor outside night hours. The Chancellor has [repeatedly](#)³ drawn the attention of 24-hour special care service providers to the fact that the law only lays down the minimum requirement. When determining staff numbers, a service provider must proceed from people's actual need for supervision and guidance, the configuration of rooms and engineering-related specifics and the functional possibilities of the institution (e.g. the existence of a lift). Planning of staffing levels should also take into account that activity supervisors should be able to have a proper rest during their working day (including staff on the night shift).

The Chancellor asks the care home to consider increasing the composition of staff directly dealing with residents. The security of care home residents and the possibility to call for assistance must also be ensured in the evening and at night. In resolving difficult cases, an activity supervisor must be able to rely primarily on cooperation among the care home staff and not count on assistance from residents. The notion that staff carry alarm buttons at all times needs promoting and, if necessary, an additional set of buttons acquired, so that a staff member can use a spare set while one unit of equipment is charging. Threatening care home residents with potential restrictions is not allowed.

³ Ibid., section 1; the Chancellor's [inspection visit](#) of 17 April 2019 to Tapa Home of AS Hoolekandeteenused (section 1); the Chancellor's [inspection visit](#) of 5 June 2020 to Taheva Sanatorium Foundation (section 1).

3. Therapy and recreational activities

Care home residents' daily activities are based on the calendar plan of each family house. A more detailed daily schedule could be found on the wall in some bedrooms, but each resident also has a personal [activity plan](#). As far as possible, residents are involved in ordinary activities in a family home: e.g. cooking, tidying the rooms and outdoor area, washing clothes. The maintenance schedule is observed. However, not all people can be involved in maintenance work because some do not cope with it while others simply do not wish to participate in this work.

It deserves acknowledgement that AS Hoolekandeteenused has prepared a comprehensive document form (called a client profile at the care home) which is of assistance in describing each resident's strengths, character traits and need for assistance. A form which has been filled out competently is useful in interacting with a person and is a basis for drawing up an activity plan.

However, examination of documents revealed that shortcomings have occurred in filling out the document on clients, or some of the documents contained questionable information. The activity plan also fails to reflect how dealing with the problems pointed out in a person's characterisation is planned. For instance, for a person who in their childhood had experienced sexual violence and neglect and who had also had complicated experiences in their adult life, the activity plan failed to contain information about the type of assistance that they might receive to alleviate the traumatic experience. The activity plan only noted that, if necessary, the person would be referred to a specialist doctor.

In documents drawn up about some persons, no substantive information was recorded in the sections supposed to provide an overview of the person's interests and how the staff and the environment should support them in acquiring new skills. For instance, remarks were merely limited to assessments such as "not interested" or "does not need". Based on such an assessment, it is impossible to plan the [required](#) developmental activities for a person receiving the special care service.

The care home is located in a place of natural beauty. The outdoor area at the care home is well maintained and enables various sports and joint activities. In good weather, residents spend much of their time in the fresh air. Family houses have terraces where tea drinking and other joint activities are arranged. During interviews, residents mentioned that they liked the vicinity of the care home, while some people would appreciate better possibilities for going to the town.

Unfortunately, many residents are rather passive, and the care home should make more effort to involve them in activities. On the day of the inspection visit, some residents were independently engaged in general handiwork (preparing a paper bowl, cutting strips of fabric). Some were busy in the kitchen corner (making preparations for lunch, laying the table). No other developmental and meaningful activities could be noticed.

The care home has a small activity room located in the third family house. There is no separate staff member in the activity room: the activities there are organised by a volunteer or by an activity supervisor from one of the other houses. On the day of the inspection visit, one volunteer was present. The activity room is mostly used for arts and handicrafts. The room has space for three to four residents at a time and is used according to schedule. According to residents, many of them mostly spend their days watching television. Some people have their own television set in their room. Activity plans also show that watching television is one of the main pastimes.

The staff conceded that they would like to organise more guided hobby activities for the residents, but current staffing levels mean that it is complicated to do so. Activity supervisors have a large number of duties: they must undertake the tasks of cleaner, cook, as well as carer. In addition, an activity supervisor is required to distribute prescription medication on time. Activity plans indicated that many people need individual attention and guidance. At the same time, activity supervisors admitted that they did not have enough time to deal with residents individually.

The Chancellor has [repeatedly](#)⁴ drawn the attention of special care service providers to the fact that a special care service may be directly provided only by an activity supervisor with the required qualifications (§ 86 [Social Welfare Act](#)). Assigning additional duties (e.g. cleaning communal rooms and hygiene facilities, cooking) to activity supervisors may impede them in performing their main tasks – offering residents daily meaningful and developmental activities. Therapeutic and developmental activities must be ensured for all care home residents. People must be offered activities in line with their specific nature and need for assistance and more activity supervisors should be hired if necessary.

In the interests of clients' well-being, the Chancellor asks that working arrangements and staff numbers at Kodijärve Home be reviewed and more care home residents be involved in dynamic and developmental activities. This would help residents to occupy their days and attain the objectives set in the activity plan. Personal characterisation of a care home resident is only useful if the relevant form is filled out thoroughly and an appropriate solution in the activity plan is offered to problems pointed out in it.

4. Nursing care

At the time of the inspection visit, 59 people were receiving the special care service at the care home. In view of this, the [statutorily](#) required nursing care services should be ensured to the extent of at least 59 hours a week. The Chancellor has [repeatedly](#)⁵ drawn the attention of special care service providers to the fact that statutorily required nursing care must be directly accessible to a person if necessary. In the event of a different interpretation, the minimum requirement for the nursing care service would become meaningless. Since a nurse is present at the care home only 21 hours a week (three times a week a nurse is present at the care home for 5–7 hours), people are not provided with nursing care to the statutorily required extent.

Documents (calendar plans, exceptional incidents) revealed that several residents had difficulty with observing their treatment scheme. Some people have no understanding of their disease (absence of disease criticism), some people complain about the side effects of medicines. As a rule, people declining treatment are dealt with by an activity supervisor who is tasked with giving residents the medicines distributed into dispensers. The expert participating in the inspection visit pointed out that probably some people needed more explanations about the medicines and their disease, and in that case a nurse's consultation could be made better accessible to people. In view of memory problems as well as other predicaments experienced by care home residents due to their health, some people may need repeated explanations of the same matter.

The nurse does not have their own office at the care home and shares workspace with the client work manager and teamwork manager. The working room is small for three people. During the

⁴ The Chancellor's [inspection visit](#) of 17 January 2019 to Valkla Home of AS Hoolekandeteenused, pp 5–6; the Chancellor's [inspection visit](#) of 23 October 2019 to Vääna-Viti Home of AS Hoolekandeteenused (p 3); the Chancellor's [inspection visit](#) of 15–16 April 2021 to Viljandi Hospital Welfare Centre (pp 7-8).

⁵ See the Chancellor's [inspection visit](#) of 17 January 2019 to Valkla Home of AS Hoolekandeteenused, page 4.

inspection visit, the nurse was arranging medicine boxes, making use of the time when the office colleagues were currently not at work. It seemed that the nurse lacked space for storing medicines and other necessary supplies and documents. The nurse cannot receive patients in their working room. Care home residents can bring their grievances to the nurse's attention when the nurse is making a tour of the premises. As a rule, activity supervisors inform the nurse of residents' health problems.

A special care service provider is not obliged to ensure a separate office for a nurse. At the same time, it [must](#) be possible for a nurse to receive patients in privacy and [securely store](#) the necessary supplies and documents. Based on experience obtained during the inspection visit, it may be concluded that currently the nurse does not have enough room at the care home for storing medicines and other necessary supplies. Some people are accommodated in double-occupancy rooms, so that it might not be possible for them to speak with the nurse in privacy in their room. For this reason, the care home could consider finding a more suitable room for the nurse's work as well as storing medicines.

The Chancellor acknowledges the nurse's work in monitoring and documenting the health of care home residents. The Chancellor asks that the care home ensure availability of the nursing service to the statutorily required extent. The care home might consider setting up rooms which are more suitable for a nurse's work.

5. Combating the spread of the coronavirus

Staff have been trained to use personal protective equipment and an action plan has been agreed in the event of any of the residents getting infected or the risk of infection arising. Most employees and residents are vaccinated against Covid-19. People were vaccinated by the care home nurse.

In spring 2020, the care home imposed a restriction on visits to prevent the spread of the coronavirus SARS-CoV-2, as a result of which many residents have been unable to meet their loved ones for a long time. When imposing restrictions on visits, the Chancellor asks that it be kept in mind that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has not deemed it reasonable to impose a complete ban on visits in social welfare and healthcare institutions. [According to the CPT assessment](#), consideration should be given to whether residents could have meetings with next of kin in safe conditions, establishing requirements for physical distancing and use of personal protective equipment, as well as a [temporal restriction](#).

At the time of the inspection visit, visits to care home residents were allowed. Visitors had to notify their visit in advance and fill out a health declaration. Personal protective equipment had to be used during the visit and meeting in the fresh air was to be preferred.

Interviews with residents revealed that visitors were not allowed to use the care home toilet. The management of the care home explained that the reason for the prohibition was the wish to reduce the possibility of the virus reaching the care home. In view of the fact that the care home is located in a remote area, visitors to residents have no other decent option than use the care home toilet if necessary. Thus, consideration should be given to solutions that also enable visitors to use the toilet during the spread of the virus.

6. Assessment by the healthcare expert

The opinion by the healthcare expert involved in the inspection visit is appended to this letter. I ask you to form a position regarding the healthcare expert's observations and recommendations and send it to the Chancellor of Justice together with replies to the observations in the letter.

I expect your opinion by 17 January 2022 at the latest.

Yours sincerely,

Ülle Madise

Appendix: Healthcare expert's opinion on 4 pages

Copy: Ministry of Social Affairs, the Social Insurance Board, the Health Board, AS
Hoolekandeteenused